

This Universal Periodic Review (UPR) submission is a joint submission by the Tolerance and Diversity Institute and Forum 18.

The Tolerance and Diversity Institute (TDI)¹ has the following goals: to foster freedom of religion and belief and tolerance in Georgia; to facilitate civic engagement; promote multiculturalism, secular principles and the idea of espousing state neutrality in the field of religion; to enhance networking and policy dialogue between religious minority communities and the government; to strengthen the capacities of religious communities in the field of advocacy and counteraction to discrimination; and to research and monitor state policy on the protection of minority rights.

Forum 18² provides truthful, original, detailed, and accurate monitoring and analysis of violations of freedom of thought, conscience and belief in Russia, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan, Azerbaijan, Georgia, occupied Ukrainian territory, and Belarus. We also provide analyses on freedom of religion and belief in Turkey.

1. In the 2015 UPR review, Georgia received 16 recommendations touching on freedom of religion and belief-related issues; 15 were accepted and one was noted³. Most of the recommendations Georgia accepted have not been implemented, and many in varying degrees remain relevant today.

Need to protect *everyone's* freedom of religion and belief

2. Freedom of religion and belief is not limited to minorities. For example, there are within the majority belief community – the Georgian Orthodox Church, which receives large state subsidies and many state privileges⁴ – those who do not agree with the Georgian Orthodox Church's and the state's discriminatory approach and support the human rights of all. But because of pressure they feel they must remain silent⁵. Therefore legislative and practical steps need to be taken to protect *everyone's* freedom of thought, conscience and religion in line with international human rights law.

RECOMMENDATION:

- The State should without delay take legislative and practical steps to protect *everyone's* freedom of thought, conscience and religion in line with international human rights law.

The State Agency for Religious Issues

3. Since its creation in 2014, the State Agency for Religious Issues (SARI) has systematically

¹ <http://www.tdi.ge/en>

² <http://www.forum18.org>

³ See http://www.upr-info.org/sites/default/files/document/georgia/session_23_-_november_2015/recommendations_and_pledges_georgia_2016.pdf

⁴ Freedom of Religion and Belief in Georgia (2010-2019), Tolerance and Diversity Institute, 2020. http://tdi.ge/sites/default/files/tdi-report-freedom_of_religion_in_georgia_2010-2019.pdf, pp 23 ff

⁵ See eg. GEORGIA: Who needs a Religion Law? Forum 18, 15 August 2019 http://www.forum18.org/archive.php?article_id=2501

increased the obstacles to everyone being able to exercise freedom of religion and belief. This was evident from the start when, in 2015, it published a Strategy for the development of religious policy of the state of Georgia⁶. The document was openly discriminatory. “It is the major and traditional religions existing in Georgia, together with religious minorities and individuals, that can create particular benefit for the public,” it stated. The division of religious communities into undefined categories of major, traditional, and minorities contributed to the already existing discriminatory environment⁷. The SARI Strategy also stated that “the religious policy of the State should be formulated in view of the discourse on internal and external security” – not a human rights based approach including the exercise of freedom of religion and belief by all.

4. Among the numerous highly problematic aspects of the strategy was a wish to pass a Religion Law which would, among other things, interfere with the autonomy of religious communities and restrict which communities might gain legal status. The SARI backed the passage of such a draft Religion Law by parliament in 2019⁸. Rather than ensuring freedom of religion and belief for all, the State via the SARI focused on how to obstruct this freedom.

5. Among its activities obstructing Georgia’s implementation of its legally binding international human rights obligations, the SARI has repeatedly since its inception: interfered to back municipal council decisions to block the building of new non-Georgian Orthodox places of worship by Muslims, Jehovah's Witnesses, and Protestants⁹; and blocked Muslims and other communities from regaining their historical places of worship¹⁰.

6. On 1 March 2016 the Council of Europe’s European Commission against Racism and Intolerance (ECRI) highlighted serious concerns about the SARI and recommended that “the Georgian authorities scale up their support for the Council of Religions [under the auspices of the Public Defender¹¹ - the Ombudsperson]. The authorities should in particular task the newly created State Agency for Religious Issues to cooperate with the Council of Religions and utilise the Council’s expertise and recommendations”¹². On 5 March 2019 ECRI stated that “the situation that had originally given rise to this priority recommendation persists and that the State Agency for Religious Issues has not taken any serious steps to cooperate with the Council of Religions, as recommended by ECRI. ECRI therefore considers that this recommendation has not been implemented”¹³.

⁶ The Assessment of the Strategy for the Development of Religious Policy of the State of Georgia, 2015. <http://tdi.ge/en/news/216-assessment-strategy-development-religious-policy-state-georgia>

⁷ Freedom of Religion and Belief in Georgia (2010-2019), Tolerance and Diversity Institute, 2020. http://tdi.ge/sites/default/files/tdi-report-freedom_of_religion_in_georgia_2010-2019.pdf

⁸ See eg. GEORGIA: Who needs a Religion Law? Forum 18, 15 August 2019 http://www.forum18.org/archive.php?article_id=2501

⁹ GEORGIA: State obstructs building new non-Georgian Orthodox places of worship, Forum 18, 5 November 2013 http://www.forum18.org/archive.php?article_id=2118

¹⁰ GEORGIA: Government and Orthodox block Muslims regaining mosque, Forum 18, 28 February 2017 http://www.forum18.org/archive.php?article_id=2260

¹¹ <http://tolerantoba.ge>

¹² Fourth report on Georgia published on 1 March 2016 (CRI(2016)2) <http://rm.coe.int/fourth-report-on-georgia/16808b5773> paragraphs 97-103

¹³ Conclusions on Georgia published on 5 March 2019 (CRI(2019)4) <http://rm.coe.int/ecri-conclusions-on-the-implementation-of-the-recommendations-in-respe/1680934a7e> pp 5-6

7. As a result of the SARI's sustained hostility to the exercise of freedom of religion and belief, as the Council of Europe's Advisory Committee on the Framework Convention for the Protection of National Minorities noted in 2019¹⁴: "religious minorities ... express a low level of trust towards the State Agency on Religious Affairs. They express higher confidence in the work done by the Council of Religions [under the auspices of the Public Defender¹⁵]. The possibility, within the Council of Religions, to engage horizontally with 33 religious communities in an independent framework was praised and should be valued accordingly."

RECOMMENDATIONS:

- As the State Agency for Religious Issues has consistently since its inception acted against the exercise of the freedom of religion and belief, the State should abolish the State Agency for Religious Issues.

- As the Council of Europe's Advisory Committee on the Framework Convention for the Protection of National Minorities has recommended, the State should "formalise and make compulsory the consultation of the ... Council of Religions under the auspices of the Public Defender of Georgia on matters of potential concerns for the persons and communities they represent"¹⁶.

State attempts to impose impermissible limitations on freedom of religion and belief

8. The Government has repeatedly tried to undermine the legal framework for the exercise of freedom of religion and belief, as well as ignored constructive civil society recommendations – for example from the Council of Religions at the Public Defender's Office - to facilitate improved implementation of Georgia's international obligations.

9. In 2017, the ruling Georgian Dream party presented to Parliament draft amendments to the Constitution which would have allowed restrictions on freedom of religion and belief based on vague criteria, including "state [national] security or public safety", a restriction on freedom of religion and belief international law does not allow. The ruling party's amendments also would have added new restrictions on freedom of religion and belief based on the vague and undefined criteria of "state [national] security or public safety", "the prevention of crime", and "the implementation of justice"¹⁷.

¹⁴ Third Opinion on Georgia adopted on 7 March 2019 (ACFC/OP/III(2019)002) <http://rm.coe.int/3rd-op-georgia-en/1680969b56> pp. 25-25

¹⁵ <http://tolerantoba.ge>

¹⁶ Third Opinion on Georgia adopted on 7 March 2019 (ACFC/OP/III(2019)002) <http://rm.coe.int/3rd-op-georgia-en/1680969b56> p. 47

¹⁷ GEORGIA: Constitutional changes to impose impermissible freedom restrictions? Forum 18, 21 September 2017 http://www.forum18.org/archive.php?article_id=2316

10. The Government's proposed changes to the Constitution were heavily criticised by human rights defenders and the Council of Europe's Venice Commission, as the changes would have seriously and against international law restricted the freedom of religion and belief and other fundamental freedoms¹⁸ as well as posing the risk of more arbitrary state interference in the exercise of those freedoms. After intense pressure from non-Georgian Orthodox religious communities, non-governmental organisations, lawyers and international organisations, the Government agreed to remove the changes which would have legitimised violations of Georgia's international human rights obligations in the area of freedom of religion and belief and retained the previous Constitutional provisions¹⁹.

11. In 2019, ruling Georgian Dream Party Deputy Sophio Kiladze with the SARI began moves to introduce a Religion Law to Parliament. Deputy Kiladze, as Chair of Parliament's Human Rights and Civil Integration Committee, convened a meeting of a working group of religious communities, the Public Defender, and non-governmental organisations. The announced aim was to find possible solutions to challenges faced by religious communities. However, as Bishop Rusudan Gotsiridze of the Evangelical-Baptist Church said: "It was claimed that the goal was to discuss problems, but leaders of religious communities who have strong ties with the SARI started claiming that they wanted a Religion Law. The Working Group seems to be a way of disguising where the demands for a Religion Law come from." The adoption of a special law on religion or introducing new regulations to the existing legal framework was raised at the very first meeting. Only the leaders of state-funded religious communities backed this, and there was strong disagreement within some of their communities about this²⁰.

12. Georgia already has an adequate legal framework for freedom of religion and belief issues, and most religious communities do not see a need for a law or more regulations. They see a Religion Law as a State attempt to establish a hierarchy of state-favoured religious communities and to possibly remove legal status from religious communities the authorities dislike²¹.

13. Deputy Kiladze's working group and the SARI totally ignored the already existing May 2017 recommendations from the Council of Religions under the Public Defender, drafted by religious communities and human rights defenders. These address how the government, state institutions including Parliament and the SARI, and the media can solve challenges to freedom of religion and belief.²²

¹⁸ GEORGIA: Constitutional changes to impose impermissible freedom restrictions? Forum 18, 21 September 2017 http://www.forum18.org/archive.php?article_id=2316

¹⁹ *Constitution of Georgia* (786- Departments of the Parliament of Georgia, 31-33, 24/08/1995), art. 16.

²⁰ GEORGIA: Who needs a Religion Law? , Forum 18, 15 August 2019 http://www.forum18.org/archive.php?article_id=2501

²¹ Statement by the Council of Religions under the auspices of the Public Defender of Georgia, 1 February 2019. Available in Georgian at <http://www.tabula.ge/ge/story/143716-religiata-sabcho-religiur-organizaciebze-kanonis-shemushaveba-dghis-tsesrigs>

²² Recommendations developed by the Council of Religions under the auspices of the Public Defender of Georgia, 2017 http://tolerantoba.ge/failebi/inglisuri_broshura_sasxalxo___damcveli__1__44654.pdf

14. The challenges the Council of Religions recommendations address include but are not limited to: effectively investigating crimes committed on religious grounds; unequal and discriminatory treatment of different religious communities in taxation and other matters; obstacles to the construction of non-Georgian Orthodox places of worship; returning buildings confiscated in Soviet times to their rightful owners; and the promotion of an environment that facilitates freedom of religion and belief in public schools.²³

15. The Tolerance Centre under the auspices of the Public Defender, which coordinates the work of the Council of Religions, also strongly opposes a Religion Law. The Council of Religions has convened eight meetings to discuss the threat of such a Law, bringing together most of the Council's 32 religious communities and organisations with lawyers and human rights defenders. Neither Deputy Kiladze nor SARI Chair Zaza Vashakmadze have proposed implementing the Council of Religions' recommendations as – in Kiladze's words - “solutions to the existing problems”²⁴.

RECOMMENDATIONS:

The State should:

- implement in full the recommendations developed in 2017 by the Council of Religions under the auspices of the Public Defender.

- make no further attempts to legally restrict the exercise of freedom of religion and belief beyond the legitimate limitations permitted by international human rights law.

Discriminatory legal provisions

16. Even though the Constitution establishes high standards for human rights protection, Georgia's legal framework still includes some laws and regulations that unjustifiably restrict rights of non-Georgian Orthodox communities and create unequal conditions. Among the inequalities embedded in the legislation are over acquisition of property by religious communities and tax regulations.

17. In 2018, the Constitutional Court granted two complaints of religious communities on tax inequality and discriminatory provisions of the Law on State Property. The Court ruled that the norm of the Tax Code (Article 168(2)B), which allowed VAT exemption without the right of deduction in relation to the construction, restoration and painting of churches and temples commissioned only by the Patriarchate of the Georgian Orthodox Church, was discriminatory and unconstitutional in relation with Article 14 of the Constitution (“Equality before the law”).²⁵

²³ Recommendations developed by the Council of Religions under the auspices of the Public Defender of Georgia, 2017 http://tolerantoba.ge/failebi/inglisuri_broshura_saxalxo_dameveli_1_44654.pdf

²⁴ GEORGIA: Who needs a Religion Law? , Forum 18, 15 August 2019 http://www.forum18.org/archive.php?article_id=2501.

²⁵ Judgment N1/2/671 of the Constitutional Court of Georgia. 3 July 2018

18. The Constitutional Court also ruled that the part of the Law on State Property which allowed property transfer free of charge only to the Georgian Orthodox Church was also unconstitutional²⁶.

19. In relation to both issues, the Court stated that discrimination could be eliminated by fully revoking privileges as well as by extending them to substantially equal entities. However, Parliament had not by 31 December 2018 taken any measures to implement the Court's judgments, so the parts of the laws which the Court had found unconstitutional were in law revoked. Under Georgian law, this means that no religious community – including the Georgian Orthodox Church – can legally receive these privileges.

20. Since these Court judgments, state property has not been transferred to the Georgian Orthodox Church free of charge. However, state property has been transferred to the Church under Article 3 of the State Property Law at a token sum such as 1 Lari.

21. Other parts of the State Property Law allow discriminatory treatment of non-Georgian Orthodox Church communities, as do other laws and legal agreements.

22. The Tax Code exempts only the Georgian Orthodox Church from taxes on property or land used for non-profit purposes (Article 201, Part 1(A)). Under the State's Constitutional Agreement with the Georgian Orthodox Church²⁷, only the Georgian Orthodox Church is exempt from paying import tax and VAT on imported items.

23. On 7 May 2019 nine religious communities appealed to the Constitutional Court to find as discriminatory the parts of the Tax Code which exempt the land only of the Georgian Orthodox Church from taxation.²⁸ This case is pending.

24. Also under the State Property Law, only the Georgian Orthodox Church can acquire: non-agricultural State-owned land through a direct sale (Article 3(1)), agricultural State-owned land with a fee or free of charge (Article 3(2)), and State-owned property through an exchange of an equivalent property into state ownership (Article 3(5)).

25. As the Georgian Orthodox Church is wealthy and has long received substantial state funding and land transfers²⁹, the financial concessions embedded within the law are significant for the Church's finances. Large scale financing by the State of the Georgian Orthodox Church and transfers of State land to the Church continue to the present day, and transparency is lacking about both the amounts involved and the purposes of these State donations³⁰.

²⁶ Judgment N1/1/811 of the Constitutional Court of Georgia, 3 July 2018

²⁷ The Constitution Agreement was signed between the State and the Georgian Orthodox Church in 2002. See Freedom of Religion and Belief in Georgia (2010-2019), Tolerance and Diversity Institute, 2020
http://tdi.ge/sites/default/files/tdi-report-freedom_of_religion_in_georgia_2010-2019.pdf, pp. 21-23

²⁸ Constitutional claim N1442 (date of registration: 7 May 2019).

²⁹ See the research of Transparency International Georgia on this topic

<http://www.transparency.ge/en/search?type=All&topic=All&keyword=%22Georgian+Orthodox+Church%22>

³⁰ Freedom of Religion and Belief in Georgia (2010-2019), Tolerance and Diversity Institute, 2020
http://tdi.ge/sites/default/files/tdi-report-freedom_of_religion_in_georgia_2010-2019.pdf, pp 47 - 55

26. In addition, the State Property Law bans the free of charge transfer of ownership or commercial sale of State-owned religious buildings (functional and non-functional), the ruins of such buildings, and the land on which they are located (Article 4(1), Para L)³¹. This stops non-Georgian Orthodox religious communities from receiving property that belonged to them before the Soviet period.

27. Nine religious communities appealed on 12 August 2019 to the Constitutional Court to declare as discriminatory those parts of the State Property Law which prevent non-Georgian Orthodox communities acquiring or exchanging State-owned property (Articles 3(1)(2)(5))³². This case is pending.

RECOMMENDATIONS:

The State should without delay bring to Parliament and back measures to:

- eliminate the discrimination in legislation granting privileges and certain rights to only the Georgian Orthodox Church;
- implement the decisions of the Constitutional Court of 3 July 2018 that declared provisions of the State Property Law and Tax Code discriminatory and unconstitutional;
- change the State Property Law so that all religious communities (registered as legal entities of public law, as well as legal entities of private law) enjoy the same rights as the Georgian Orthodox Church;
- change the Tax Code to ensure it treats all religious communities (registered as legal entities of public law, as well as legal entities of private law), without any exceptions as equal and without any discrimination between them;

The State and all local councils should without delay publish the full details of all past, present, and future financial grants and transfers of property to the Georgian Orthodox Church and any other religious community, as well as providing full details of the purposes of these financial transactions and land and property transfers.

Non-implementation of laws protecting the exercise of freedom of religion and belief

28. Restricting freedom of religion and belief is punishable in law. The Criminal Code prohibits unlawful obstruction to holding worship and religious rites, discrimination against a person due to their faith or religion, and interference with the establishment of a religious community. Violations are punishable by fines, imprisonment, or both. Furthermore, crime committed with a motivation of religious intolerance is regarded as an aggravating circumstance for all crimes.

³¹ Freedom of Religion and Belief in Georgia (2010-2019), Tolerance and Diversity Institute, 2020. http://tdi.ge/sites/default/files/tdi-report-freedom_of_religion_in_georgia_2010-2019.pdf, p. 69

³² Constitutional claim N1440 (date of registration: 12 August 2019).

29. However, the law is not always enforced. For example there have been in recent years serious violations of Muslims' freedom of religion and belief, which have occurred throughout Georgia in: Nigvziani (in 2012); Tsintskaro (in 2012)³³; Tsikhisdziri (in 2013)³⁴; Samtsatskaro (in 2013)³⁵; Chela (in 2013)³⁶; Kobuleti (in 2014); in Mokhe (in 2014)³⁷; and in Adigeni (in 2016)³⁸.

30. Typically in these cases, Muslims were prevented from carrying out religious rituals and keeping their places of worship, some Muslims being banished from their homes and verbally abused by some of the Georgian Orthodox population. The State and agencies such as the police take no effective action to stop such actions and punish the perpetrators.³⁹ In the village of Chela the State even dismantled the minaret of the village mosque and not only tolerated but even fostered the violence. According to victims and witnesses, as the minaret was being demolished police used physical violence, causing injuries of varying degrees of severity against Muslims who tried to protest⁴⁰. Similarly, police also violently attacked Muslims in the village of Mokhe when they protested against the demolition of their mosque⁴¹.

31. These criminal acts committed in Samtatskaro in 2013, Chela in 2013, Mokhe in 2014, and Kobuleti in 2014 as well as other cases remain unsolved in 2020, with perpetrators apparently including police officers remaining unpunished. Police did not recognize the Muslims involved as victims of crime, and details of the progress or results of allegedly ongoing investigations have not been made public. The authorities have even declared some of the cases closed⁴².

³³ GEORGIA: Will police protect Muslim prayers from mobs? , Forum 18, 4 July 2013
http://www.forum18.org/archive.php?article_id=1854

³⁴ Freedom of Religion and Belief in Georgia (2010-2019), Tolerance and Diversity Institute, 2020
http://tdi.ge/sites/default/files/tdi-report-freedom_of_religion_in_georgia_2010-2019.pdf, p. 89

³⁵ GEORGIA: Will police protect Muslim prayers from mobs? , Forum 18, 4 July 2013
http://www.forum18.org/archive.php?article_id=1854

³⁶ Minaret conflict in Chela, Georgia, still unresolved, Democracy and Freedom Watch, 12 November 2013
<http://dfwatch.net/minaret-conflict-in-chela-georgia-still-unresolved-23762-24029>

³⁷ Tolerance and Diversity Institute (TDI), Joint Statement of CSOs Concerning Violation of Muslims' Rights in Village Mokhe, 23 October 2014 <http://tdi.ge/en/statement/joint-statement-csos-concerning-violation-muslims-rights-village-mokhe>

³⁸ Freedom of Religion and Belief in Georgia (2010-2019), Tolerance and Diversity Institute, 2020.
http://tdi.ge/sites/default/files/tdi-report-freedom_of_religion_in_georgia_2010-2019.pdf p.94

³⁹ GEORGIA: Will police protect Muslim prayers from mobs? , Forum 18, 4 July 2013
http://www.forum18.org/archive.php?article_id=1854

⁴⁰ Minaret conflict in Chela, Georgia, still unresolved, Democracy and Freedom Watch, 12 November 2013
<http://dfwatch.net/minaret-conflict-in-chela-georgia-still-unresolved-23762-24029>

⁴¹ Analysis of occurrences in Mokhe village, Tolerance and Diversity Institute, 3 November 2014
<http://tdi.ge/en/news/164-analysis-occurrences-mokhe-village>

⁴² Freedom of Religion and Belief in Georgia (2010-2019), Tolerance and Diversity Institute, 2020
http://tdi.ge/sites/default/files/tdi-report-freedom_of_religion_in_georgia_2010-2019.pdf, pp. 86-94

32. The forced resignation of Vagif Akperov, the former Sheikh of the state-funded Administration of All Muslims of Georgia, is a clear case of the State's intrusion into the autonomy of religious communities. On 27 December 2013 he was summoned to the Interior Ministry where, according to him, he was threatened with the dissemination of his personal information and ruining of his reputation if he did not resign. Interior Ministry staff present at the meeting also hinted that his family would experience certain problems if he refused to resign, continued to attend a mosque, or talked to human rights organisations and media instead about this occurrence. As a result of the pressure, Akperov wrote a resignation letter, as dictated by Interior Ministry officials⁴³.

33. In April 2016, after the joint appeal of the Public Defender and Vagif Akperov, the Prosecutor's Office launched an investigation into the alleged abuse of power by a state official⁴⁴. As of July 2020, Vagif Akperov has not been recognised as a victim, no one has been charged and the case remains open⁴⁵.

RECOMMENDATIONS:

The Interior Ministry should:

- respond promptly to all crimes committed with religious intolerance as an apparent motive, treat this as the law requires as an aggravating circumstance, and be guided by the fundamental principle of the protection of all persons' human rights;
- swiftly and with justice conclude its long delayed investigations of apparent interference with the human rights of Muslims in Samtatskaro (2013) and Kobuleti (2014), including without further delay bringing prosecutions on adequate criminal charges against the perpetrators;

The Prosecutor's Office should:

- investigate alleged crimes committed on the grounds of religious intolerance – especially those against Muslims in the villages of Chela (2013) and Mokhe (2014) - in a timely and effective manner and respond appropriately to the cases of alleged abuse of official powers by Interior Ministry officers;
- recognise as victims the affected Muslims in the cases of crimes committed on grounds of religious intolerance, including without further delay bringing prosecutions on adequate criminal charges against the perpetrators.

⁴³ Freedom of Religion and Belief in Georgia (2010-2019), Tolerance and Diversity Institute, 2020. http://tdi.ge/sites/default/files/tdi-report-freedom_of_religion_in_georgia_2010-2019.pdf, p.95

⁴⁴ Report of the Public Defender of Georgia on the situation of protection of human rights and freedoms in Georgia, 2016 <http://ombudsman.ge/res/docs/2019062409381087477.pdf>, p. 55

⁴⁵ Freedom of Religion and Belief in Georgia (2010-2019), Tolerance and Diversity Institute, 2020. http://tdi.ge/sites/default/files/tdi-report-freedom_of_religion_in_georgia_2010-2019.pdf, p.95

- in a timely and efficient manner conduct an investigation into the alleged case of forced resignation of the former Sheikh Vagif Akperov of the Administration of Muslims of All Georgia, including without further delay bringing prosecutions on adequate criminal charges against the perpetrators;
- publish updated information about ongoing investigations of the cases (of Chela and Mokhe in particular) and maintain transparency of the investigation. It should also state when it intends to bring prosecutions on adequate criminal charges against the perpetrators.

Denials of building permits for non-Georgian Orthodox Church communities

34. The most common instrument the State uses against non-Georgian Orthodox religious communities is denial of permits for the construction of new places of worship. This is often done via the State Agency for Religious Issues intervening with municipal councils to either deny building permits or cancel permits which have been issued. The Georgian Orthodox Church also often intervenes to stop such building permits being issued⁴⁶.

35. One prominent illustration of this problem is the denial from 2013 onwards of permission for a mosque Muslims in Batumi want to build⁴⁷. In 2017 the Foundation for the Construction of a New Mosque in Batumi applied to Batumi Council for a permit to build a mosque on a plot the Foundations owns. Batumi Council denied the construction permit. The Foundation appealed against the decision that year in Batumi City Court, and in September 2019 the Court upheld part of the appeal and established that discrimination against Muslims was a factor. The Court returned the case to Batumi Council for reconsideration, but the Council appealed against the Court's decision to Kutaisi Appeal Court. On 4 December 2019 the Foundation lodged an appeal for Batumi Council to be ordered to issue a construction permit. The case is still pending. Such problems also affect communities such as Jehovah's Witnesses, Catholics and Protestants⁴⁸.

RECOMMENDATIONS:

The State should:

- take urgent practical action to end all discriminatory actions by local councils in considering whether or not to grant building permits to any religious communities;
- and require all administrative bodies it controls, such as the State Agency for Religious Issues, to stop making any interventions in building permit decisions which are not required by law.

⁴⁶ GEORGIA: State obstructs building new non-Georgian Orthodox places of worship, Forum 18, 5 November 2013 http://www.forum18.org/archive.php?article_id=2118

⁴⁷ GEORGIA: State obstructs building new non-Georgian Orthodox places of worship, Forum 18, 5 November 2013 http://www.forum18.org/archive.php?article_id=2118

⁴⁸ GEORGIA: State obstructs building new non-Georgian Orthodox places of worship, Forum 18, 5 November 2013 http://www.forum18.org/archive.php?article_id=2118

Non-return and illegitimate transfer of buildings of non-Georgian Orthodox Church communities

36. Another systemic problem religious communities face is the restitution of their property confiscated during the Soviet times. Neither of the two property-related recommendations accepted by Georgia in the 2015 2nd UPR cycle⁴⁹ has been implemented.

37. Since Georgia regained its independence in 1991, only the Georgian Orthodox Church has regained any property confiscated during the Soviet period. This takes place under the terms of the State's Constitutional Agreement with the Georgian Orthodox Church⁵⁰. No law or regulation governs the restitution of places of worship and similar confiscated property to other religious or belief communities.

38. The Armenian Apostolic Church, the Catholic Church, the Evangelical-Lutheran Church, and the Jewish and Muslim communities have all found that they cannot regain their historical property. The main obstacles to religious communities – particularly the Armenian Apostolic Church and the Catholic Church - regaining their own property are resistance from the Georgian Orthodox Church (which has also claimed that it owns some of the property that belonged to other communities), and the discriminatory actions of the State⁵¹. The State has also given the Georgian Orthodox Church the property of other religious communities⁵².

39. The State has not compiled a publicly accessible inventory of confiscated property or calculation of damages sustained by religious communities under the Soviet regime. Nor has the State developed any policy for the return of religious communities' property. There are no legal regulations which would allow religious communities to legally demand that their property be returned, or for fair compensation to be provided. Combined with the State's discriminatory actions in favour of the Georgian Orthodox Church when it claims to own property that belonged to other religious communities, the absence of a restitution policy compounds the discrimination faced by all non-Georgian Orthodox religious communities when they attempt to regain their own historical property⁵³.

⁴⁹ Italy (rec. 118.34): 'Strengthen efforts to promote freedom of religion and belief and to protect the rights of persons belonging to religious minorities, including by adopting measures both to address episodes of intolerance and hate speech against religious minorities and to solve outstanding issues related to the ownership and maintenance of places of worship and properties belonging to religious minority groups;' Armenia (rec. 118.35): 'Continue steps towards the recovery of physical and moral damage to the religious denominations suffered during the Soviet era.' Georgia supported these recommendations.

⁵⁰ The Constitutional Agreement between the State and the Georgian Orthodox Church was signed in 2002. See Freedom of Religion and Belief in Georgia (2010-2019), Tolerance and Diversity Institute, 2020 http://tdi.ge/sites/default/files/tdi-report-freedom_of_religion_in_georgia_2010-2019.pdf, pp. 21-23

⁵¹ GEORGIA: Government and Orthodox block Muslims regaining mosque, Forum 18, 28 February 2017 http://www.forum18.org/archive.php?article_id=2260

⁵² Freedom of Religion and Belief in Georgia (2010-2019), Tolerance and Diversity Institute, 2020 http://tdi.ge/sites/default/files/tdi-report-freedom_of_religion_in_georgia_2010-2019.pdf, pp. 106-118

⁵³ Freedom of Religion and Belief in Georgia (2010-2019), Tolerance and Diversity Institute, 2020 http://tdi.ge/sites/default/files/tdi-report-freedom_of_religion_in_georgia_2010-2019.pdf, pp. 106-118

40. Instead of a restitution policy, the Government via the State Agency for Religious Issues in 2014 started funding four non-Georgian Orthodox religious communities (Muslim, Jewish, Roman Catholic and Armenian Apostolic). The basis for this was Article 2(1) of the resolution establishing the State Agency, which states that the government “is committed” to partially compensate religious communities against losses sustained during Soviet times. These four religious communities were allegedly selected by the State Agency based on three characteristics which do not necessarily relate to past confiscation of property: the current size of a particular religious community, the number of clergy, and the number of places of worship. For example, a religious community which has suffered a large number of past confiscations may have few places of worship today. As more religious communities than the four state-funded communities experienced confiscations and other losses, this is itself an indication of the State’s discriminatory approach.

41. Even communities receiving state funding do not necessarily receive back their past confiscated property. For example, in 2017 the State gave the Tandoyants Surb Astvatsatsin Armenian Apostolic Church in Tbilisi to the Georgian Orthodox Church⁵⁴. The Georgian Orthodox Church immediately and illegally started work causing even more harm to the already seriously damaged church⁵⁵. The Armenian Apostolic Church’s attempts to legally challenge this blatant injustice have been rejected with the claim that it could not show proof of its current ownership of the building. As the church was state-owned – as a result of Soviet-era confiscation – before the state gave it to the Georgian Orthodox Church this was an impossible demand from the court. However, there is extensive documentary and archaeological evidence that the church was the property of the Armenian Apostolic Church before it was confiscated. The Church’s legal struggle to regain its own property is continuing⁵⁶.

42. The majority of places of worship of non-Georgian Orthodox communities are historical monuments, but despite this are decaying due to the State’s negligence. For instance, the Armenian church of Surb Nshan in Tbilisi is under State ownership and in a very poor state of repair. In 2016 Tbilisi Council allowed a neighbouring landowner to start construction of a building which threatened further damage to the Church. In January 2019 Tbilisi City Court refused to recognise the Armenian Apostolic Church as a party whose rights and interests have been violated, preventing it from bringing this case. The Church appealed in March 2019 to Tbilisi Appeal Court and the case is still ongoing⁵⁷.

RECOMMENDATIONS:

⁵⁴ Government of Georgia transferred Tandoyants temple to the Orthodox Church <http://www.tdi.ge/en/news/495-government-georgia-transferred-tandoyants-temple-orthodox-church>

⁵⁵ TDI and EMC call on the State to immediately put a stop to the illegal acts of damaging the Tandoyants Historical Armenian Church <http://tdi.ge/en/news/544-tdi-and-emc-call-state-immediately-put-stop-illegal-acts-damaging-tandoyants-historical>

⁵⁶ Freedom of Religion and Belief in Georgia (2010-2019), Tolerance and Diversity Institute, 2020. http://tdi.ge/sites/default/files/tdi-report-freedom_of_religion_in_georgia_2010-2019.pdf, pp. 110-112

⁵⁷ Freedom of Religion and Belief in Georgia (2010-2019), Tolerance and Diversity Institute, 2020. http://tdi.ge/sites/default/files/tdi-report-freedom_of_religion_in_georgia_2010-2019.pdf, pp. 112-113

The State should:

- publicly measure and quantify the extent of the damage and confiscations of property and land inflicted by the Soviet regime on religious communities;
- create an appropriate and non-discriminatory legal framework to return all confiscated property and land to its original owners or provide fair compensation, including establishing non-discriminatory procedures to identify the original owners;
- immediately suspend the transfer of disputed property and land to the Georgian Orthodox Church until an appropriate and non-discriminatory legal framework has been created to return all confiscated property and land to its original owners or provide fair compensation, including establishing non-discriminatory procedures to identify the original owners;
- reclaim all property and land belonging to non-Georgian Orthodox Church religious communities which has been transferred to the Georgian Orthodox Church, including creating a non-discriminatory legal framework for compensation to be paid to the historical owners for damages to buildings and land caused since Soviet-era confiscation;
- when historical ownership can be clearly established, return currently State-owned religious buildings confiscated during the Soviet period to their historical owners, whether these are of the Armenian Apostolic Church, the Catholic Church, the Evangelical-Lutheran Church, Muslim, Jewish or other communities.
- as the case of the Armenian Apostolic Tandoyants Surb Astvatsatsin Church in Tbilisi is legally significant as a precedent establishing the right of religious communities to win the right to return of their historic property, the State should immediately publicly review the legitimacy of its transfer of this church to the Georgian Orthodox Church in 2017, and immediately halt all forms of construction, archaeological or other works being carried out by the Georgian Orthodox Church.

Illegal censorship of non-Georgian Orthodox literature at borders

43. When people from non-Georgian Orthodox religious communities, especially Muslims, enter Georgia, customs officials often illegally check any religious texts they may have. Custom officials also impose the similarly illegal demand that permission to import texts is given by either the Georgian Orthodox Church, or for Muslims the state-funded Administration of All Muslims of Georgia⁵⁸.

⁵⁸ Freedom of Religion and Belief in Georgia (2010-2019), Tolerance and Diversity Institute, 2020.

http://tdi.ge/sites/default/files/tdi-report-freedom_of_religion_in_georgia_2010-2019.pdf, pp 44 - 45

⁵⁹ Available in Georgian at <http://www.ombudsman.ge/geo/191127024139religia/saqartvelos-saxalxo-damcvelma-muslimebis-mier-saqartvelos-sazgvriss-kvetisas-religiis-nishnit-pirdapiri-diskriminacia-daadgina>

44. Despite the Public Defender in 2017 making recommendations to end these illegal actions by state officials⁵⁹, the discriminatory practice of creating obstacles for non-Georgian Orthodox religious communities and individuals importing religious books still exists⁶⁰.

45. For example, in December 2019, customs officials halted customs clearance of Ahmadi Muslim texts, demanded that the Ahmadi Muslim Association have written permission to import the books from the state-funded Administration of All Muslims of Georgia, and insisted that the texts of Ahmadi Muslim books must be checked by customs officers.

RECOMMENDATIONS:

The Interior Ministry and the Finance Ministry's Revenue Service should:

- immediately implement the Public Defender's 2017 recommendations to end illegal actions and discrimination against religious communities by state officials at the state's borders.

- invite organisations suggested by the Public Defender to train border police and customs officers in human rights, non-discrimination, the freedom of religion and belief, and professional ethics.

Violations of children's, young people's, parents' and guardians' freedom of religion and belief

46. The Law on General Education, adopted in 2005, recognises religious neutrality and non-discrimination as one of the core principles of public schools. However, there are frequent and systemic practices of religious indoctrination in favour of the Georgian Orthodox Church, such as teachers being forced to attend Georgian Orthodox Church lectures and celebrate in schools Georgian Orthodox holidays⁶¹.

47. Similarly, school textbooks often fail to represent Georgia's religious, ethnic and cultural diversity and encourage hostile stereotyping against beliefs and ethnicities identified in textbooks as non-Georgian – which can include Georgian communities with a history of many centuries in Georgia⁶².

RECOMMENDATIONS:

The Education, Science, Culture and Sport Ministry should:

⁵⁹ Available in Georgian at <http://www.ombudsman.ge/geo/191127024139religia/saqartvelos-saxalxo-damcvelma-muslimebis-mier-saqartvelos-sazgvris-kvetisas-religiis-nishnit-pirdapiri-diskriminacia-daadgina>

⁶⁰ Freedom of Religion and Belief in Georgia (2010-2019), Tolerance and Diversity Institute, 2020. http://tdi.ge/sites/default/files/tdi-report-freedom_of_religion_in_georgia_2010-2019.pdf, pp 44-46

⁶¹ Freedom of Religion and Belief in Georgia (2010-2019), Tolerance and Diversity Institute, 2020. http://tdi.ge/sites/default/files/tdi-report-freedom_of_religion_in_georgia_2010-2019.pdf, pp 133 - 134

⁶² Freedom of Religion and Belief in Georgia (2010-2019), Tolerance and Diversity Institute, 2020. http://tdi.ge/sites/default/files/tdi-report-freedom_of_religion_in_georgia_2010-2019.pdf, pp 134 - 136

- establish a unit to monitor and respond to freedom of religion and belief violations in public schools, with the participation of human rights defenders and the Public Defender's Office;
- with the participation of human rights defenders and the Public Defender's Office raise awareness among and prepare guidelines for school administrators and teachers on protecting everyone's freedom of religion and belief in public schools;
- follow the guidance in the Organisation for Security and Co-operation in Europe's (OSCE) Toledo Guiding Principles on Teaching about Religions and Beliefs in Public Schools⁶³ on preparing curricula for teaching about religions and beliefs, recommended procedures for assuring fairness in the development of curricula, and standards for how they could be implemented;
- produce textbooks reflecting Georgia's diversity of beliefs and ethnicities and promoting respect for everyone's human rights, including in textbooks on historical events, literary texts, and civic values.

Obstacles to celebrating holidays in accordance with the precepts of one's religion or belief

48. The law regulating labour relations defines seven secular and 10 Georgian Orthodox Church religious holidays. No holidays celebrated only by non-Georgian Orthodox communities living in Georgia are legally recognised as public holidays, and no alternative legal provision is made for these holidays to be marked. This causes problems such as difficulties in celebrating non-Georgian Orthodox holidays, and for Jewish and Seventh-day Adventist school students taking centralised state examinations on Saturdays⁶⁴.

RECOMMENDATION:

The State should consult the Council of Religions under the auspices of the Public Defender on how best to recognise and facilitate the celebration of the holidays of non-Georgian Orthodox religious communities, and implement the Council of Religion's recommendations.

Preventing non-Georgian Orthodox communities training clergy and theologians

49. According to the Law on Higher Education, only the Georgian Orthodox Church can establish a higher theological educational institution and offer bachelors, masters, and doctoral degrees in theology⁶⁵. This obstructs other religious communities from training clergy and offering theological education.

⁶³ Toledo Guiding Principles on Teaching about Religions and Beliefs in Public Schools, OSCE, 2007
<http://www.osce.org/odihr/29154>

⁶⁴ Freedom of Religion and Belief in Georgia (2010-2019), Tolerance and Diversity Institute, 2020.
http://tdi.ge/sites/default/files/tdi-report-freedom_of_religion_in_georgia_2010-2019.pdf, pp 82 - 83

⁶⁵ Law on Higher Education, Article 47.



50. For example, in 2016 the Supreme Spiritual Administration of Muslims requested permission from the Education, Science, Culture and Sport Ministry's National Centre for Educational Quality Enhancement to open an Islamic institution to offer degree-level theological education. Permission was refused as the Law on Higher Education allows only the Georgian Orthodox Church to offer degree-level theological education⁶⁶.

RECOMMENDATIONS:

The State should bring to Parliament and back changes to the Law on Higher Education to end the Georgian Orthodox Church's monopoly on degree-level theological education, and to allow other religious communities and recognised universities to offer degree-level theological education.

(END)

⁶⁶ Freedom of Religion and Belief in Georgia (2010-2019), Tolerance and Diversity Institute, 2020
http://tdi.ge/sites/default/files/tdi-report-freedom_of_religion_in_georgia_2010-2019.pdf, pp. 81-82