



ახალგაზრდა ადვოკატები
YOUNG BARRISTERS

Freedom of Belief and Religion in Georgia

The analysis of the topic and recommendations

NGO „Young Barristers“
September, 2013
Tbilisi

The contents¹

1. For analysis
2. The factual circumstances
3. Conclusion
4. Recommendations

¹ Electronic version of monitoring results is available on the official web-page of the organization:
www.barristers.ge

1. For analysis

Since the political changes in October 2012, more attention has been paid to protection of constitutionally guaranteed right about the freedom of belief and religion in Georgia. The events occurring in different regions of the country clearly showed the violation of the religion minority rights. Non-governmental organizations, government officials and the experts expressed their opinions several times by public statements and evaluations about the difficulties based on religion background taking place in Nigvziani, Tsintskaro, Samtatskaro and finally in Chela, Adigeni municipality on the 26th of August, 2013. The Georgian government reacted immediately to the last event. „The construction of the minaret in village Chela, Adigeni municipality and the response by state agencies to it have aroused tensions in the society. The building of the minaret was done without the relevant permission. The freedom of religion is guaranteed by the Constitution of Georgia and the Government of Georgia will not allow restriction of this right. Therefore, state agencies are obliged to act with extreme caution while exercising their powers, especially when religious feelings of citizens are at stake.“² Despite this, the conflict between the people of different religions is in need of proper evaluations. The decisions need to be made to prevent the conflict from further development and to regain the characteristic, tolerant environment in the country. The issues of controversy on religious grounds have become a matter of discussion for social groups. In different parts of the country, from October 2012 to August 2013, four major conflicts which occurred between Orthodox Christians and the Muslim Georgians, showed the evidence of some strong analysis:

1. How objective are the stated prerequisites, which cause the tension and intolerance between congregations?
2. Do the problems on religious grounds show the real controversy or it refers to artificial complications of the case?
3. How well does the Georgian government protect the freedom of belief and religion of its own citizens?
4. What responsibilities does the Patriarchate of Georgia, authorities of certain religions and government agencies have in order to solve the problems on religious grounds?
5. How big is the interest from Islamic states, active social groups and the countries with hostile attitude towards Georgia about the conflicts on religious grounds in the country?
6. What national mechanisms and resources are available to be used in order to prevent the possible tensions on religious grounds and to make it possible to create equal environment for any citizen despite their religious beliefs?

During the research of problems on religious grounds in different parts of Georgia, The organization paid attention to the fact that controversies between Orthodox Christians and Muslim Georgians were regular and continuation of the discussion between parishioners about religious beliefs was artificially creating the tension, making the violation of minority rights stand out. The situation outlined some trends, according to which the Georgian state can not adequately protect the constitutional rights of religious minorities, the Orthodox Autocephalous Church can not ensure the protection of freedom of belief and religion, the violations of religious rights are hindering the democratic process and show the malfunctioning of state institutions. Religious conflicts became part of the Georgian politics as well. Parliamentary Opposition ("United National Movement") has estimated that, „Increased number of conflicts on religious grounds or other incidents in the country have raised constant concerns in the public since November of last year. Unfortunately, for the past few months the government has not fulfilled its responsibilities regarding the incidents taking place such as the ones in Tsintskaro and Samtatskaro. The state authorities did not stand for defending the civil rights and preventing

² The statement by the State Minister of Georgia for Reintegration, Mr. Paata Zakareishvili. 9th of September, 2013.

violence. Moreover, some of state officials made unreasonable statements, and thereby contributed to worsen the situation in the country. ³ The discussion about religious issues on different locations of Georgia acquired the character of political manipulation, causing even more complicated environment for institutional dialogue.

Throughout this process, the aim of organizations is to clarify:

- How do such actions correspond with current legislation?
- Who should respond to the specific facts related to the issue, who has the expertise to regulate the issue?
- Is there a problem with the mentality of Georgian society?
- How to solve the issue, using the state methods or should the alternative approach be found, which will result in a more effective way of solving the problem?

³ Official statement by the parliamentary opposition, the 26th of August, 2013

2. The factual circumstances

The high interest by civil society and the media in freedom of belief and religion in Georgia first appeared in November 2012. The controversy between the eco-migrant, Muslim communities from Adjara and local Orthodox Christians started over the specially arranged place for praying, in Nigvziani, Lanchkhuti municipality. The eco-migrant Adjarians created a praying place out of the ordinary house, which caused protest from some of Orthodox Christian inhabitants. On November 5, 2012, during the Human Rights and Civil Integration Committee meeting the decision was made to explore the conflict at the spot in Nigvziani. During the meeting, the chairperson of committee Eka Beselia announced that they had decided to let the Muslim population continue praying at the building. According to the Chairperson of the Committee, the conflict was artificially provoked and the construction of the mosque had not been the subject of discussion.⁴

The second incident between the Orthodox Christians and the Muslim Georgians occurred in Tsintskaro, Tetrtskaro municipality, on the 29th of November, 2012. The controversy was quickly over after the Prime-minister of Georgia and Catholicos-Patriarch of Georgia made statements calling for peace. On November 30, 2012, representatives of Public Defender's office visited the village Tsintskaro and heard the explanations from the leader of the local mosque, Marad Gorgomeladze . According to his explanations, some of the local Orthodox Christian population protested practicing of the freedom of belief ad religion by Muslim population. There was also pressure on Gorgomeladze on religious grounds. Specifically, on November 29, 2012, local population verbally abused and threatened Gorgomeladze that if he did not stop construction of the mosque, they would burn his house and expel hm from the village. The Public Defender's petition also states that another incident took place in Tsintskaro on November 30, 2012 as well. Namely, some of Orthodox Christian population protested execution of some Muslim religious ceremonies. The protests grew into a verbal conflict, but after the intervention of the law enforcement authorities the situation was solved and the performance of religious rituals by the Muslim population was not hindered.

The most extensive case of the violation of the freedom of belief and religion occurred in Samtatskaro, Dedoplistskaro municipality. It is reported that on May 24, May 31, June 7 and June 28, 2013 the Muslim worshipers were disturbed to practice their traditional Friday prayers. According to the local Orthodox parish, the reason for the conflict was purchasing a private property by "Administration of Muslims of all Georgia" for religion practicing reasons. The traditional prayer before the purchase of the building, weas practiced in the houses of families which does not meet the requirements set by the Islam religion. ⁵

The first religious conflict occurred on May 24, 2013, in Samtatskaro when the traditional Friday prayer was being said, people were reading the Koran, and getting ready to pray. The conflict arose right at that moment and was resolved only after the officials of "Administration of Muslims of all Georgia" left the village. Consequently, local Muslims were unable carry out Friday prayers. The building where Muslims gather and carry out prayers is open since April 2013 which has caused the disagreement between eco-migrant Adjarians and the local Muslims. Residents of the village have demanded the close down of the building. Georgian Prime Minister issued a formal statement regarding the incidents in Samtatskaro. "I address this letter to the people of Samtatskaro – Please, obey the laws. We are trying to negotiate to allow minorities to fulfill their religious beliefs. If this does not happen in a way of negotiation , we will use the laws to the fullest extent possible . In this particular region the process is very complicated, religious minorities are unable to carry out their Friday prayers."⁶

⁴ <http://1tv.ge/news-view/43674>

⁵ According to ISLAM, Traditional Friday prayer (Juma) should be said in a building where there are no permanent resident.

⁶ Official statement by the Prime-minister of Georgia, Bidzina Ivanishvili on July 3, 2013.

Catholicos-Patriarch of Georgia met the Muslim population of Samtatskaro, and proposed his house for praying. The Patriarch expressed his belief that what happened in Samtatskaro was artificially provoked conflict and certain individuals had interest in it. "I am grown in a family where our closest relatives were Muslim Kists. My mother and my father used to put the carpets in the best room where they were praying. We were praying in another room in front of icons. People from both sides are my spiritual children. I will never allow one of the sides to be oppressed. For those who want to pray, you can come to me and pray. We are one flesh and blood and we should help each other. This is what I can say. Do not listen to provocateurs "- said the Patriarch.⁷

On August 26, 2013, the country faced another conflict on religious grounds. This time it was arisen after the statement by Revenue Service in which the decision was made to take down the minaret and keep it in the warehouse. The minister explained that the minaret was illegally brought on the territory of Georgia and had not met some requirements of the custom laws. Revenue Service responded to the events taking place in Chela, on August 26 and published the statement on August 29 which explained the reasons of dismantling the minaret. As it was mentioned in the statement, the commodity price examination was completed and it was returned to its owner. In addition, the minister said that a minaret construction was returned on the expenses of the Revenue Department. The anxiety was expressed by Muslim Georgians in Adigeni during the process of dismantling a minaret. The police arrested 20 Georgian Muslims, who, two days later, were gradually released. Minaret was demolished. Residents of Chela protested it on the same day from Akhaltsikhe district headquarters, but later they moved to Batumi.

On August 29, 2013, the existence of minaret in Akhaltsikhe was protested by the Orthodox parish, and later, based on the agreement of Georgian Patriarchy and Muslim officials the minaret was stored on neutral location on August 30. Adigeni incident was considered over as of the September 30th, 2013, but because of lack of necessary documentation the minaret has not been raised yet.

⁷ The statement of Chatholicos Patriarch of Georgia, on the 10th of July, 2013.

3. Conclusion

The controversies on religious grounds in Georgia occurring in October and November 2012 and August 2013 showed the necessity to raise legal awareness and civic education in the country. The confrontations over religious differences in Nigvziani, Tsintskaro, Samtatskaro and later in Chela have shown that the public there has intolerant attitude towards the different opinions, in this case towards the different religious beliefs. The government needs to work on these issues to prevent further development of the conflicts. Thomas Hammarberg, EU Special Adviser, writes in his report about Georgia: „The forthcoming law on the prevention and sanction of acts of discrimination against minorities and others would require the establishment of a mechanism to promote the implementation of the law. Further institutional and legal reforms are needed to protect freedom of religion for all and to prevent any tendency of marginalisation of minority populations. Dealing with them mainly through the security prism must be avoided. There is the urgent need to take determined action against islamophobic and homophobic tendencies.” He writes: “The Public Defender and civil society organizations have repeatedly expressed their concern at acts of intolerance and violence directed against Muslims at the hand of non-Muslim fellow villagers.”⁸ EU Special adviser also emphasizes that the level of Islamophobia has significantly raised in the country and despite the expressed concerns by Public defender the conflicts on religious grounds have happened again.

The Society should remember that the Constitution declares complete freedom of belief and religion on the principle of citizen equality. Freedom of religion is considered as one of the highest democratic values, which the country has recognized after the gaining the independence. The Georgian government, in consideration of fundamental religious rights, made significant changes to the Civil Code in July 2011, which allows various religious administration to register as legal entities. The process was taking place along with the protest of Georgian population. Nevertheless, one of the main principles - the independence of the State and the Church due to constitutional agreement by those two remains controversial. Some of the events in 2012-2013 years made it clear that the government often is involved in decision making where it is the field of church expertise and vice versa. In this whole process cohabitation of religious minorities has earned the least attention and interest. In the opinion of one part of society, it is important to provide financial support to religious minorities, because they are facing many problems exactly due to the lack of finances. In many cases, the Muslim communities get donations from outside of Georgia in order to fulfill their needs. The society is not aware whether financial support is directed to strengthen Muslim parish, raise awareness on the issues of tolerance, take care of mosques or the finances are spent to weaken the dominance of Orthodox Christians in the country and/or to emphasize the violence of religious minority rights. Although religious entities gained autonomy, their financial autonomy is required to be public to find out the objective reasons of above-discussed conflict cases.

All the issues on religious grounds that have emerged in different parts of Georgia are caused by the lack of attention from the Georgian government, as well as lack of finances in order to fulfill the needs of Muslim minorities. It is already a well-known fact that when Muslim citizens of Georgia go abroad for education in various Islamic countries they also have an opportunity to be employed and to satisfy their social and economic needs, while in Georgia the private donations, if one considers that illegal money, create a materialistic interest and increase threat for new problems which make the country's democratic values and civil society to be seen as marginalized groups.

The organization believes that the rights of Muslim community were violated in Chela and earlier in Nigvziani, Tsintskaro and Samtatskaro. Physical abuse also took place but as a result with a help of government the conflict did not turn into a religious confrontation. It should be noted that in various cases the threats against the Muslim citizens and interfering religious rituals were not followed by the proper legal response, which increases the possibility to encourage people with antagonistic attitude to cause violence in case of a repetition of the incident.

⁸ Thomas Hammarberg, report: “Georgia in transition”, 2013

In addition, it is possible, that a "syndrome of impunity" might contribute to regular oppression of Muslim citizens. The organization believes that from the violation of religious freedom cases the Chela event was the main one. During this process, it is important to pay attention to the decisions and evaluations by and public servants whose speeches further aggravated the situation. The organization expresses the point of view that Georgian state should have more communication with Muslim worshipers while legally dismantling minaret, considering the sensitivity of the issue and the possible reaction from the religious minority.

The state is obliged to respond to some certain facts. The state has a positive obligation to ensure the effective use of freedom of religion. This obligation is especially important for those individuals who are religious minorities. The positive obligation requires the state to take all necessary measures in order to avoid violation of rights or danger of it, and to react adequately in order not to promote intolerance and violence.

The actions carried out in Samtatskaro towards the Muslim citizens of Georgia are a criminal offense under the Georgian Criminal Code. According to Georgian Criminal Code it is prohibited to violate the human equality (142 - Article), which was clearly violated in all four cases. A big number of the population did not allow a small group of believers to carry out a prayer, which was a violation of their equality and illegal hindering of religious ritual (Article 155). The threatening actions and persecution also took place, prohibited by the Code of Georgia, respectively (Article 151) and (Article 156). We believe that these facts should be promptly investigated and the state think about preventions that will build trust among the citizens of Georgia to enhance religious tolerance in order to protect the constitutional guarantees of freedom of religion.

The organization draws attention to the fact, that during the Chela incident the local assembly's argument was that there was no permit for the construction of a minaret. Why did the Muslim population not have a permit for the construction of a minaret? In this section significant gaps are demonstrated in the existing legislation, since in our jurisdictions, there are no rules to regulate the building of religious and cultural constructions. Due to the absence of such regulations, building permit was not filed in the administration of Adigeni municipality. As for the actions of Revenue Service, they were authorized to check the goods and take a sample but obviously, such actions are not meant to dismantle it .

4. Recommendations

To the Patriarchate of Georgia, Georgia's executive, legislative and judicial authorities, the editors of mass-media

To the Patriarchate of Georgia

Recommendation #1 - It is important that Patriarchate of Georgia focuses on and strengthens the interreligious group, which will enhance the relations between the representatives of different religions, which will contribute to the efficient resolution of problems, and raise awareness about the important issues related to religion.

The Interreligious group should not allow the existence of any kind of conflict on religious grounds in Georgia. It should respond adequately to the external forces who might try to escalate confrontations between the believers of different religious groups.

Recommendation #2 – The Patriarchate should conduct an institutional dialogue with different religious groups and should establish an educational program, which could contribute to tolerance and freedom of religion. In addition, It is possible to create a communiqué by the guidance of the Patriarchate which can become the first document able to prevent any conflicts on religious grounds in the future.

Recommendation #3 – The Georgian Church should continue to strengthen and raise civic education. At the same time, it should not be involved in the decision-making process, which is under the competence of the state and is not regulated by the church established rules.

To the government of Georgia

Recommendation #4 - The Government should ensure that proportionate, fair and legal decision-making, which does not violate citizens' religious feelings and fully protects the constitutionally guaranteed right of freedom of belief and religion. It is the obligation of the Georgian government to ensure the effective investigation and to act under the current laws when it comes to the people found guilty in the incidents which happened in October, November 2012 and August 2013. The selective approach is unacceptable which cannot ensure restoration of justice. In addition, the government should take effective steps to prevent the violation of the rights of religious minorities, in order not to have such criminal acts as we have already seen in previous five cases.

The Ministry of Regional Development and Infrastructure of Georgia should encourage local authorities to pay more attention to issues occurred in their regions and not to allow the existence of any kind of conflict on religious grounds.

The government should fulfill its positive obligation and instantly intervene in every situation in order to ensure the effective use of freedom of religion.

Recommendation #5 - The government should examine and determine the qualification of its employees. It is unacceptable for a public servant or a public authority to be an unqualified person who is not guiding by the applicable laws when making decision but instead and makes priorities in favor of traditional approaches.

To the parliament of Georgia

Recommendation #6 - The Parliament should improve the legislation protecting the freedom of belief and religion and it should create/import the international standards/practices, which on one hand will protect the rights of religious minorities, and on the other hand, which will make stricter sanctions against unlawful actions. In addition, it is important that a legislative body prepares a legislative proposal, which determines, verifies and makes it clear how to regulated the building of religious and cult buildings.

To the courts of Georgia

Recommendation #7 - The court authorities should exclude a selective attitude concerning the rights of religious minorities and they should establish decisions on the evidence and factual circumstances. It is unacceptable to have the loyal approach, which is based on opinions of public and not on the laws.

To the editors of mass-media

Recommendation #8 – The heads of mass media should provide balanced and accurate information when the report is about the rights of religious minorities.

The media should not promote spreading of the "hate speech" towards religious activities and worshipers. Media should exercise special attitude to represent ethnic and religious diversity. Media should instantly correct the mistakes made intentionally or unintentionally.