



Alternative Report

Prepared by Public Movement "Multinational Georgia"

**TO THE GEORGIAN STATE REPORT
PURSUANT TO ARTICLE 25 PARAGRAPH 1
OF THE FRAMEWORK CONVENTION FOR THE PROTECTION
OF NATIONAL MINORITIES**



Tbilisi-2008

Table of CONTENTS

Executive Summary
Acknowledgements
Introduction
<i>Report Coverage</i>
<i>Report Methodology</i>
Contributors to the report
Section I: General description of current situation of national minorities
<i>Data Relating to Ethnic Minorities of Georgia</i>
<i>General Conditions of Georgia's Ethnic Minorities</i>
<i>Georgian Language Proficiency</i>
<i>Language Training Infrastructure</i>
<i>Political Participation</i>
<i>Policy Orientation</i>
<i>Regions and their Minorities:</i>
Kvemo Kartli
Samstkhe-Javakheti
Shida Kartli
Kakheti
Adjara
Tbilisi
<i>Local Self Government</i>
<i>Lacking Legislative Frameworks</i>
<i>Fundamental Problems in Approach</i>
<i>External Commitments on Minorities</i>
<i>Developments after military conflict in August 2008</i>
Section II: Review of measures adopted to implement particular Articles of the FCNM, followed by specific recommendations relating to Articles
<i>Article 3</i>
<i>Article 4</i>
<i>Article 6</i>
<i>Article 7</i>
<i>Article 8</i>
<i>Article 9</i>
<i>Article 12</i>
<i>Article 14</i>
<i>Article 10</i>
<i>Article 15</i>
<i>Article 16</i>
<i>Article 17</i>
Section III: Policy Development and Positive Legal Frameworks

Executive Summary

The Alternative Report consists of two sections, the first of which outlines in a general analytical way the current situation of ethnic minorities in Georgia, identifying key problems they face and which require the greatest attention from the authorities. Much of this has been identified prior to the development of Georgia's strategy under the Framework Convention for the Protection of National Minorities (FCNM) which is the focal point of this report. However the provision and evaluation of background information is necessary to provide an up to date picture taken from the perspective of minority communities themselves as well as through the prism of national priorities, then and now.

The second section of the report aims to pull from the analysis of the situation at present specific areas of failing policy, where work is needed, and recommendations of how this could be achieved. The aim of the report is not to criticise positive progress made by the government of Georgia or the appreciation of that progress by the office of the special representative to the Council of Europe, but to strengthen resolve, highlight key action areas and support the successful implementation of reform measures. This is done via a participatory process of actors from minority communities, along with concurrent independent strategic analysis which recognises our own gaps in information and identifies successes as well as failures.

The current and historic analysis of progress on the FCNM points to the key target areas as still being those in which minorities in Georgia face the greatest problems, political participation and representation, language (which relates closely to the first), lack of basic freedoms including access to public information and religious tolerance, gaps in legislation to support minorities and perception problems arising from those factors already mentioned. The main thrust of the analysis points to the fact that policies to strengthen participation and language knowledge are underdeveloped, underfunded and have thus far been unsuccessful. Measures taken in policy making in regards to secondary problems are inadequate and in some cases irresponsible, as they will probably guarantee other problems in the long term, including contributing to perceptions and inter community conflict.

In terms of policymaking recommendations, the report points to key areas in which improvements can be made directly, as well as concerns for the future, by examining specific provisions of the FCNM. Recommendations concern the removal of contradictory legislation, adoption of clear institutional provisions, particularly in regard to judiciary safeguards. Although social isolation itself cannot be fundamentally changed language can be targeted through continuing education policies. However, in so far as education is unsuccessful in the short term we recommend adopting a series of positive discrimination measures. Finally, specific targeted investment and the overdue attention of the government to the most critical issues affecting minorities, as well as formulating a coherent long term strategy on diversity management (and a new positive language), are suggested against previously successful examples.

ACKNOWLEDGEMENTS

This report has been produced by a group of human rights protection non-governmental organisations and representatives from ethnic minority communities, residing in Georgia, under the guidance of the Public Movement "Multinational Georgia" (hereafter referred to as PMMG).

We want to express our gratitude for their contribution into the preparation of the report to the following persons, who acted as informants during the interviews taken from minority leaders, human rights protection activists and scholars:

Alexandra Kalatozishvili
Alla Bezhentseva
Bakhtiar Zeynalov
Elbrus Mamedov
Emil Adelkhanov
George Khutsishvili
Ilona Kochoy
Lali Chkhetia
Laura Kharitonishvili
Olena Pochkhua
Tengiz Gagloev
Ucha Nanuashvili

INTRODUCTION

This *Alternative Report* aims to provide information and comments in addition to the report of the government of Georgia, including a supplementary analysis and set of recommendations, pertaining to the implementation of the provisions of the Framework Convention for the Protection of National Minorities (FCNM). The alternative report was produced on the basis of expert opinions from representatives of minority communities and non-governmental organisations, lawyers, researchers and practitioners in the field of inter-ethnic relations and human rights.

Report coverage

The team which elaborated the Alternative Report did not aim to cover all articles of the FCNM.

In Part I, this Alternative Report provides additional information and comments regarding current state policy on the protection of national minorities and the status of international law in the domestic legal order (including the Constitution of Georgia), an overview of national legislation related to minorities, an overview of the demographic situation in the country, basic economic data and an overview of efforts made or proposed to promote awareness among the public and the state authorities about the FCNM.

In Part II, the report sets out additional information and comments on the implementation of FCNM provisions contained in various paragraphs under Articles 3 to 10, 12, 14 and 15. It provides detailed analysis of the overall situation related to the respective paragraphs and of the state infrastructure and legal framework underscoring their implementation. It also sets out evaluation points on measures taken by the state with regard to the implementation of the respective provisions.

Report Methodology

This report was produced using participatory methods. The PMMG team and their partners, including those based in the regions and representatives of minority communities, view the *Alternative Report* not only as a product, but also as a process of facilitating public debate about the core issues of the FCNM and of creating a ripe environment for its implementation.

A number of regional focus groups and workshops were held in ethnically mixed regions as well as one national workshop in the capital Tbilisi. Participants in these included representatives of minorities and minority institutions, non-governmental organisations and experts in the field of inter-ethnic relations. These forums provided an opportunity to prioritise the problems of various minority communities and to put forward cases of minority rights infringements in various areas of public life. Individual interviews were also held during the preparation of the report, and written presentations on particular provisions of the Framework Convention were collected. A broad database of research, reports and publications were used as resources in the workshops and in all other forms of consultation.

Due to recent events in Georgia this report has also been updated to include sections relevant to the post crisis situation in Georgia. This has been done with the aid of secondary sources and has not involved a repeated round of focus group sessions, but the review has produced the intention and deliberate recommendation that further primary data research input is needed in the following 12 months, in order to accurately reflect the changeable situation on the ground.

We hope that this report will be received as another source for understanding the conditions of ethnic minorities in Georgia from the viewpoint of an independent, non-profit organisation that has extensive experience in the field of human rights protection in general and minority rights protection in particular.

Respectfully,

Arnold Stepanian,
Chairman of the Public Movement “Multinational Georgia”

Agit Mirzoev,
Executive Director of the Public Movement “Multinational Georgia”

CONTRIBUTORS

Alexandra Delemenchuk

PMMG policy advisor. Originally from Ukraine, she has been working for five years with different international and civil society organisations in the South Caucasus. Since 2005 this has included participating in projects and programs under the frameworks of the;

- OSCE Mission to Georgia,
- World Bank,
- Global Fund for Women
- European Commission Delegation to Georgia and Armenia,
- South Caucasus Institute for Regional Security/Black Sea Commission on Conflicts

Sian Elizabeth Davies, MA

Volunteers with the organisation under the EU program EVS (European Voluntary Services). British post graduate of international security studies with a professional background in the finance sector, Sian has been working with PMMG and its youth subsidiary throughout 2008, supporting election monitoring, leading youth work initiatives and most recently organising fundraising for emergency relief efforts. While in Georgia she has been able to conduct research in the regions compactly settled by ethnic minorities, specifically examining the issues that are important to minority communities, including Georgia's potential accession to NATO.

SECTION I

GENERAL DESCRIPTION OF CURRENT STATE OF NATIONAL MINORITIES

Section I aims to provide the reader with a general description of the situation in which Georgia's minorities exist, both social and in regards to official policy, highlighting those issues which we know from our direct experience to be of the most significance to minorities in Georgia. This section lays out the basis of current state policy on the protection of national minorities

Data relating to ethnic minorities in Georgia

Georgia is the most multi-ethnic country in the South Caucasus and as such has had to face a more complex situation with regards to ethnic minorities living within its territory. In Georgia, according to the 2002 census, minorities make up 16% (excluding data on Abkhazia and South Ossetia) of the population (as compared to one third in 1989). The main ethnic groups are: Azeris (284,000 today, compared with 308,000 in 1989); Armenians (249,000 today, compared with 437,000 in 1989); Russians (68,000, compared with 341,000 in 1989); Ukrainians (7,000, compared with 52,000 in 1989); Greeks (15,000, compared with 100,000 in 1989).

Unfortunately we do not have more updated statistics and therefore accurate census data on minority populations since August 2008, as the last national census was conducted in 2002. The next is scheduled for 2010. We can however surmise that although the overall minority population proportion has not materially altered from its estimated 16% level, the events which occurred in Georgia recently will have in some ways biased the demographic makeup of some regions, especially Kvemo Kartli. International aid organisations and monitors have recorded significant evidence of targeted attacks on ethnic minorities in the conflict zone, who were overwhelmingly the subject of forced displacement and property damage to prevent their return.

While the political battles over territorial borders continue we can assume that within the borders of Georgia absolute the emigration of ethnic Ossetians and Russians has been considerable while the parallel displacement of ethnic Georgians from the conflict regions into Georgia proper will also have had not insignificant impact. For more information you can refer to the UNHCR team stationed in Georgia, but Cases of ethnic intolerance arising directly from the crisis, as well as general job losses arising from economic slowdown are continuing to contribute to emigration and the minority groups in particular consider that their communities are suffering a higher proportion of job losses. This has been a frequent recent complaint of ethnic Armenians living in the Avlabari district of the capital.

General conditions of Georgia's minorities

Ethnic minorities in Georgia reside both in compact and disseminated communities. There are five regions where ethnic minorities are concentrated and in some regions minorities even compose the majority within the boundaries of certain districts and municipalities. These regions suffer from a shortage of appropriate teaching staff and the number of admissions in national schools has been declining consistently. The standards of teaching, particularly in key stage subjects like maths and science, are low, which has been actually compounded by an emphasis on language training over other subjects. Higher education and vocational training are simply not an option for most young people in the regions, both minority and ethnic Georgian.

Regions suffer from economic deprivation relative to the population centres in bigger cities of Georgia. Minority communities in the regions have fared worst since independence in terms of economic growth and opportunity, partly due to deliberate underinvestment in infrastructure in

these areas in the years immediately post independence. Unemployment, particularly amongst youth people, is disproportionately high in minority areas, compounding popular perceptions of their isolation from the centre. Improvements in infrastructure and communications under the current regime have made some progress towards undermining these perceptions, however direct foreign investment or economic projects supported by the cities, are yet to materialise. For minority regions the situation since Georgian independence in terms of economic prosperity is felt, in general, to have worsened, with the collapse of soviet system markets, compounded by the more recent closure of Russian military assets (affects particularly vulnerable areas of SJ and KK). Many communities are largely dependent on family members earnings sent from abroad (overseas remittances).

Georgian language proficiency

Language remains a critical problem for minorities in Georgia. A direct legacy of the Soviet Union, Russian language was prioritised over Georgian and the majority of minorities are more comfortable working in their ethnic language, such as Armenian, or Russian, as a primary and secondary language. Many ethnic minorities, especially in the regions where the isolation from Georgian language speakers is apparent, are not able to communicate in Georgian at all. Despite constitutional provisions, Georgian language dominates in many areas of society and therefore mastery of the official national language is often a pre-condition for political, economic and social integration. Specifically access to higher education or public office requires fluency in Georgian, tested by national standards exams, while even university diplomas must be submitted in the national language. Clearly this disadvantages those who do not have proficiency in Georgian.

A secondary problem of language is access to public information. Access to media and information in minority languages is often difficult firstly because the reception of most national media outlets do not reach those regions populated by minorities and secondly because provisions for national broadcasts in minority languages are currently insufficient. Specifically the National Broadcaster, the first port of public information, has daily programs in five minority languages including Azeri and Armenian but the broadcasting schedule is infrequent. As a direct result foreign channels (sometimes carrying negative information) and outlets from Russia or kin-states, have become the primary source of information.

The printed mass media is more widely spread in Russian language, though in no other, and foreign (kin-state) newspapers also are frequently brought into these areas. Minorities also find it difficult to access the Georgian state, as federal laws are published solely in Georgian. Complaints relating to the availability of electoral procedures publications and political party manifestos in other languages than Georgian were upheld and significant improvements in this area during elections have been adopted by the CEC (Central Election Commission) but this policy has not extended to general legislative information.

Language Training Infrastructure

In order to remedy the language disadvantage created by its recent past, Georgia has required an effective education infrastructure specifically designed to support wide scale Georgian language training for minorities in the regions. The introduction of such a program in Georgia has been faltering and even when political will has been declared, the funding has not been sufficient. In schools in Kvemo Kartli Georgian language training is earmarked in the curriculum for as little as two hours per week.

The younger generation of minorities tends to speak no other language than their mother tongue, adding to their social marginalisation and isolation from other parts of the population. Some

improvements in this sector have been supported by the authorities, including the distribution of Georgian language textbooks into minority schools, the training of teachers for Georgian language. Many of these efforts have been supported by elements of civil society. There are limited resources for school leavers to catch them up in Georgian language and a very small 2007 Ministry of Education training program for school graduates to prepare them for the University National Entrance Exams (introduced 2005), there is no current provision for adults.

Initiatives such as the limited program at the public administration school in Kutaisi for Georgian language teachers and civil servants demonstrate the key challenges as it is small in scope, understood to be temporary and in general underfunded. A lack of institutional stability in the Ministry of Education has affected the implementation of such Georgian language training policies. The recent change of minister has resulted in new proposed policies to support regional Georgian language training being discussed. Unfortunately these initiatives have generally been adopted on a temporary, trial basis, which have not so far yielded a significant impact.

Political Participation

Aside from the access problem already mentioned to legislative procedures, minorities are at the same time highly politicised and apathetic. They vote, regularly meeting or exceeding 100% turnout in some minority areas but their level of civil education is low and they have been more likely to be subjected to abuse of electoral processes than other demographic groups (evidenced from high numbers of complaints by domestic and international observer organisations in minority regions). Voting behaviour and minority representations in the political spectrum are revisited in section II.

This contradiction can be partly explained by their actual isolation from the political process, not just on the basis of language. The constitution of Georgia forbids that a political party be organised around an ethnic basis. This means that the significant minorities of Georgia cannot exercise their homogenous ethnic grievances in a formal political forum. As a result, the avenues of political influence or dissent are perceived to be limited to external support and internal direct violence, including protests and riots directed at the agents of the state.

After the events of the August 2008 certain negative trend can be observed in secondary education. PMMG received information from the communities of the city of Tbilisi that in secondary schools has been started process of shifting of the school subjects with Russian language of instruction to the Georgian language of instruction. PMMG undertook small-scale research of the situation in the 12 Tbilisi secondary schools. In all 12 schools nevertheless they have accreditation from the Ministry of Science and Education as schools with Russian language of instruction, from 1 up to 3 subjects supposed to be taught in Russian are taught in Georgian, including Russian language and literature. Text books in Russian language are changed with Georgian ones in 7 schools without primarily consultations with parents and pupils.

Policy Orientation

One of the most serious challenges to multiethnic integration in Georgia is the divergence in policy and strategic perspectives of the minority communities and the majority or central political structure. This can be regarded as contributing to, and precipitated by the absence of effective political communication channels for minorities into governance and the absence of real political participation. This is especially relevant for policy directions which minorities may have just cause to feel are counter to their own interests. One illustrative topic is Georgian central policy towards NATO accession.

Research conducted by PMMG in minority regions revealed that minorities living in compactly settled communities perceive NATO enlargement as contrary to their interests as a national minority. They feel they have not been consulted, informed and that life under NATO will be worse for them in particular. This is despite apparently overwhelming public approval for the pro accession policy adopted by the Georgian government. This would not be such an important issue were minority communities not in a strategic and geographically critical position for the success of the NATO policy. This issue will be discussed in relation to FCNM Article 17. (Source YUPMMG NATO Initiative June to August 2008)

Regions and their minorities

Kvemo-Kartli (ethnic Azeri, ethnic Armenian and ethnic Greek minority population)

The Eastern region of Georgia - Kvemo Kartli skirting the Azeri border is home to Azeris, Armenians, Greeks and Georgians, in the most part. Additionally problematic is the increased settlement of ethnic Georgians here fairly recently (from Western part of Georgia - Adjara and Svaneti in particular). Ethnic Azeris make up approximately 46% of the population of Kvemo Kartli, including dominating significant population centres such as Marneuli (over 83% of the population), and Bolnisi district (66%).

Ethnic Azeris from this region have migrated in large numbers since 1989, especially to Azerbaijan, Turkey and Russia, generally for economic motives although leaders of these communities cite a feeling of being regarded as only temporary inhabitants as a source of social instability. Azeris remain the largest ethnic group in Georgia but in the administration of this region are highly underrepresented. They are seen as being the less vocal of the two main minorities although occasional violent protests are witnessed. In 2004 one resulted in the death of a woman in Kulari village.

Aside from language and political participation the biggest problems faced by Azeri minorities in Kvemo Kartli according to their own perceptions are those of land ownership (and by implication, employment) which they say is unfairly distributed and they are not in a position to influence and religious freedoms because they are not given permission to construct mosques. This particular issue promotes dislocation within communities between Muslims and non Muslims.

Demonstrative of the problems faced by citizens of Kvemo Kartli, and of the Azeri minority's isolation in particular is birth registration. Birth Registration was still abnormally low for this region in 2007, holding at 78%, compared to normal characteristics of a middle income country such as Georgia. UNICEF has been instrumental in championing through an aggressive government led program to tackle this issue and to aim for 100% of children in Kvemo Kartli to be registered at birth by 2009. This shows how positive, instrumental steps, can materially affect isolated reality of minorities living in Georgia.

The Azeri government, whilst retaining friendlier relations with Tbilisi than their Armenian counterparts, frequently calls on the Georgian government to prioritise these issues and Baku frequently provides direct investment to support local minority infrastructure including Georgian language training (300,000 Euros committed for language training by the Azeri government). Another grievance felt by the local population was the 2003-05 attention by Georgian border and customs officials to their cross border black market trades, which affected local livelihoods (impact not restricted to ethnic Azeris but all groups in this region), which in the absence of arable land ownership, forced many to leave.

Cultural, historical factors, gaps in minority representation and lack of Georgian language ability have led to ethnic groups in Kvemo Kartli feeling insulated from the rest of Georgia. Under the Saakashvili regime land redistribution and specific investment in communications infrastructure (roads, electricity), has improved this reality although in some groups the perception remains stronger than ever. Disagreement between ethnic groups, more so than in Samtskhe-Javakheti, particularly over recently prevalent issues such as religious buildings, have created deep divisions between communities.

Samtskhe-Javakheti (predom. ethnic Armenian minority population)

The Southern region of Georgia - Samtskhe-Javakheti is in parts remote and highly inaccessible. Bordering both Turkey and Armenia this has never been a region with an underlying sense of peace and stability, but specific problems of historical and cultural isolation have led to an outbreak of tensions between the population and local and central authorities during the year 2005, repeated also in this year, 2008.

Ethnic Armenians make up 55% of Samtskhe-Javakheti's populace, especially centred in Ninotsminda district (98%), Akhalkalaki (96%). This region has few other minorities, although there is an ethnic Greek presence in Akhalkalaki. The problem of language is felt particularly acutely, therefore, in this region, as the emphasis tends to be on speaking Armenian. Poor communications with the rest of the country and lack of attention of the local and central government, as well as major nation-wide political forces, to the specific problems and needs of the ethnic Armenians, has been a standard feature of Javakheti (the term used to refer to territory encompassing the 95%+ Armenian populated districts of Ninotsminda and Akhalkalaki) since independence.

Today, this region remains politically isolated from the capital, while the relationship with Russia is felt more strongly by the inhabitants than that with Tbilisi, especially because of remittances. Understanding the challenges of perception here are paramount to understanding the region. Firstly the population largely identifies themselves as 'Javakheti Armenians' which feeds into an Armenian nationalist ideal, 'greater Armenia'. Clearly this creates an immediate rift between Armenians and Georgians and features in aggressive propaganda and reactions on both sides. Our active partners in this region have often been accused of contributing to this instability and are applied with the ethno-nationalist label, even if acting as a non partisan election observer.

Secondly the population perceives as a threat that it will be 'georgian-ized', a term open to exploitation by politically ambitious groups¹. Part of this perceived georgianization is the attempt to teach Georgian language and the refusal to allow them to use Armenian language in civic life. Another side is their forced demographic integration through a perceived deliberate state policy of relocating ethnic Georgians into ethnic Armenian areas. This, in turn, feeds into calls for autonomy, which tends to lead to violent clashes with the authorities (2006, Akhalkalaki, flaring up again during August 2008, reported improvised explosions and attacks between ethnic Armenians and police). There are legitimate grievances on the part of Armenian minorities and the failure to respond to them, particularly in giving an opportunity for political inclusion, only fuels the negative perceptions, violent clashes and allows for the negative influence of external powers.

Shida-Kartli (ethnic Ossetian population)

¹ General term describing policy of assimilation rather than integration of the ethnic, religious and linguistic minorities.

This region of Georgia is adjoining the zone of the Tskhinvali (temporarily administrative-territorial unit currently occupied by Russian military forces and recognized as independent by Russia, Nicaragua and HAMAS) conflict therefore it has suffered the greatest amount of disturbance and population movement in the recent crisis. Traditionally in this region many ethnic Ossetians have been residing but since August the demographic makeup has inevitably changed. Minority communities here experience the same problems mentioned above and in the meantime are struggling under constant political pressure related to the existence of the unresolved conflicts. Even though geographically this region is closer to the capital, communities face a variety of social, economic and political problems, balancing on the edge of isolation. Inter ethnic group tensions, plus the new challenges of a significant internally displaced population residing in this region, remain to be seen. This is now home to international aid organisations and military monitors, as well as new constructed IDP settlements.

The adjacent security area, closest to the conflict zone, which holds 50 or so villages, has now been largely emptied of ethnic Ossetians and the original population of villages is yet to return in some places. According to the Initial Rapid Assessments coordinated by the UN, completed in villages close to the zone of fighting, at least 6 villages out of those successfully surveyed were known to have been emptied of ethnic minority inhabitants- many villages were entirely emptied in the fighting, however the ethnic minorities were less likely to later return (IRA raw data spreadsheet, UNHCR) As Shida Kartli is now home to new IDP settlements, almost entirely resided in by ethnic Georgians who were displaced from the south Ossetian region, the demographic of the region has been altered. The eventual number of IDP residents to be relocated there is unclear; however it is far from a temporary solution and will put intense pressure on local resources, including employment, farming, and transport and sanitation infrastructure.

Kakheti (multiple minority communities, including Ossetians, Kists, Armenians, Azeris, Kurd-Yezids and Avars)

A wide variety of ethnic minorities reside in the Kakheti region in compact settlements and experience the common problems minority communities face in the other regions of Georgia, relating to isolation, low level of civic participation, social and economic deprivation. The local population has also experienced ecological problems including challenges relating to water supply, with wine growing and farming being the key economic sectors.

Adjara (Minorities include Muslims, Turks and other)

The autonomous region of Georgia, characterized by the traditional “political remoteness” from the capital and hosting a concentration of different ethnic minority groups, as well as a region where one of the religious minorities of Georgia (Muslims) is prevailing. Regional minority communities experience the same problems as in the rest of the project regions. But at the same time here we have observed lower levels of self-organisation of the population and a disparaging lack of interest of the major national NGOs and international organisations to the region. Self autonomy, agricultural organisation and religious freedom remain major concerns to this region’s minorities.

Tbilisi (multiple minority communities, mainly Armenians, Azeri, Kurd-Yezids, Russians, Ukrainians, Ossetians etcetera)

The capital of Georgia represents the whole spectrum of the ethnic minorities residing in Georgia as well as a condensed medium of all the problems and gaps existing in the treatment of minorities. Minority communities in Tbilisi are better organized and well informed regarding

their political and civic rights, but still face the same economic and social problems, as well as under representation at the municipality level.

Specific issues require mention. The first is the approval of religious buildings for minority communities. This continues to create problems amongst minority groups and recently the Armenian community has restarted an advocacy campaign for the return of some of its churches, while the Yezid Kurdish minority, for example, by not being given permission to build their church, are effectively not given permission to practise their religion in Georgia. This adds to a sense of isolation and anger directed at the authorities. Second, the appropriation of businesses and property under legislation regarding permits etc, often is seen as targeting minority groups specifically, as they are more likely to rely on non formal economies or black market trading for their livelihoods.

Local self government

The Georgian system of local-self government does not correspond with the model approved in existing European democracies. This is demonstrated by the incompatibilities of the system of the local-self government established by the Georgian organic law “On Local Self - government”² and the European Charter of Local Self-government and other regulations. Specific discrepancies to be found are in regard to decentralization, budgeting, independence, consultations with self-government, ensuring citizen’s participation and successful trans-border cooperation. An immature level of development in local (district and regional) self-government remains one of the major obstacles for the integration of Georgia to the European and Euro-Atlantic structures.

In relation to the descriptions of minority communities outlined above, it is clear that this underdevelopment has had a particular significance to minority citizens. Without effective local self government it is not possible for minority groups to take decisions impacting the issues most important to them. The secondary problem of low political participation arises from the psychological consequence, as minority groups, in knowing the limits of the self governance regime, do not trust that their involvement could make a positive impact and therefore refrain from direct (non violent) participation in decision making.

The clear and increasing focus of the government on prioritising state unity over practical limited regional autonomy is a clear, negative, signal to minorities. The Council of Europe, OSCE and NATO have stated this and related issues to be within their focal concerns and promote this as a necessary area for the special attention of the Georgian government, in order to increase the adherence of national political practices to the standards and requirements of the aforementioned organisations.

In relation to self governance, the lack of government –led clear and practical principles for regional and district self governance is a key failing in supporting widely accepted democratic forms of institutionalised dialogue between citizens and decision-makers. This would contribute to the development of democratic and crucially ethnically representative local self-government.

Lacking legislative frameworks

Major gaps identified in the legislation now passed relating to the treatment of minorities are:

² Organic law – according to the Georgian legal system is a law widening and explaining provisions of the Constitution and describing detailed enforcement of it.

- Absence of adequate legal frameworks and comprehensive policy approaches to minority issues:
 - Council of Europe Framework Convention on Protection of Rights of Ethnic Minorities was ratified but only with a reservation on certain articles.
 - A Law “On the Protection of Rights of Persons Belonging to National Minorities” has been elaborated on specifically by a group of experts taken from civil society activists, facilitated by the organisation PMMG. This draft law is now under consideration of the MPs.
 - The UN Committee on the Elimination of Racial Discrimination recommends that the governing party provide detailed information on the implementation and results of the “plan of action to strengthen protection of the rights and freedoms of various population groups of Georgia for the period 2003-2005” and encouraged the governing party to adopt “specific legislation to protect minorities”. During 2007-08 Public Movement “Multinational Georgia” together with other minority NGOs conducted consultations with the Parliamentary Committee on human rights and civil integration. As a result the Parliamentary Committee proposed a concept “On the Policy Regarding the Protection and Integration of National Minorities”. This concept is not yet adopted and has not even considered by Parliament.
- No legislation to directly affect the extreme lack of political representation of minorities on national level, or local levels. There are nine minority representatives in 225-member strong Parliament, which does not compare favourably to proportional population data mentioned at the opening of this report. There is solid lack of representation of the ethnic minorities in the law enforcement bodies, court system and within the executive branch of power.
- Laws which prohibit the forming of associations along ethnic lines, effectively rule out strong political representation by minority, regional groups.
- The Office of the Ombudsman, which should have the capacity to protect and promote the rights of marginalised groups, including minority communities, suffers from a lack of political support and more recently deliberate obstruction by the Executive and Legislature. The laws in place guaranteeing the Office’s independence are not strong enough as they should be to allow for reform championed through the office. In particular there is no legislation to guarantee independence by separating its budget from Parliament.
- Historic adoption of one-sided language policy legislation, which have contributed to the lack of knowledge of state language by ethnic minorities and therefore to their political and social isolation
- Continuing influence of state language policies in particular sectors, affecting the recruitment of minorities into local government, judicial administration and higher education system. This negatively affects the civic involvement and career progression of minority groups.

Fundamental Problems in Approach

Aside from the absence of legislative frameworks, the most significant gap that this organisation identifies in Georgian national policy is that there is no long term comprehensive strategy for addressing the non integration of Georgia’s ethnic groups. In particular, we feel that any policy approach suggested from the capital should be subject to a review mechanism that reflects the needs of diversity management at the local level. Ideally the office of the ministry of civic integration should fulfil this task but in practise this influence is lacking. The adoption of a long term, coherent strategy for diversity management at the local and national level is absent from the priorities of the current administration. This should feed into strategies of local community development in order to address some key, unchanging problems;

- The limits effectively placed on the recruitment of minorities into state structures assure the absence of appropriate skills for the state to approach minority issues;
- The few representatives of ethnic minority groups who have been elected to the local self-government bodies do not have the capacity for the adequate fulfilment of their powers and representation of ethnic minority needs and interests within local self-government authorities;
- The continuing informational vacuum in the areas of compact settlement of minorities as mentioned in relation to media, public policy and language, reveals as well as contributes to the lack of attention to the problems of minorities by the State. This fuels negative perceptions of minorities that they are isolated from the rest of the nation, leading to social dislocation and community fragmentation;
- Severe lack of a culture of political participation among representatives of minority groups, partly (but not wholly) due to the factors already mentioned.

Georgia's political culture and attitude towards its minorities is largely characterized by a relatively high and lingering level of ethnic nationalism. The unresolved conflicts in south Ossetia and Abkhazia, recently reigniting into open conflict, have helped reinforce Georgian perceptions that minorities represent a potential threat. However it is impossible to deny the multiethnic character of the Georgian nation, and any policy strategy which strengthens the national identity at the expense of diversity presents in itself a threat to territorial integrity.

On the minority side, the perception of isolation, of disinterest by the state, and unfair treatment according to ethnic status, popular among regional minorities and to a lesser extent in the capital, breeds ethnic nationalism. The absence of frameworks which allow for minority participation in the legitimate political process to air their concerns and interests effectively pushes minorities into a corner, from which the only option appears to be dissent. This either strengthens their isolation or leads to more dangerous challenges, including violent protests. The precedent has already been set in minority communities, especially in places like Akhalkalaki, which strengthens the influence of external pressures with an interest in regional instability. In such a situation violent conflict between ethnic minorities and Georgians is more likely.

The government is aware of the risks and consequences outlined by this report but we feel that their approach thus has been destabilising rather than positive. In inter ethnic relations in Georgia, priority has consistently been given to the assertion (and strengthening) of the state's unity over the protection of minorities. Feelings of, or actual, social isolation demonstrates that the government's integration strategy has not worked and specific sectors have been inadequately targeted. The infrastructural investment in minority communities, which partly aimed to undermine support for dissent, has not been backed up by necessary political guarantees and legislative frameworks, or local economic recovery. Wary of encouraging other potential separatist movements, the government's policy towards minorities has often been hesitant and half-hearted. In the absence of a coherent and long term strategy, minority isolation, the potential for extremism and external manipulation, have in fact increased.

External Commitments regarding minorities

Further to developing their own domestic policies towards minorities, Georgia has signed the Council of Europe Framework Convention on the Protection of Rights of National Minorities and the European Charter of Local Self-Government. However the provisions of these acts have not been fully incorporated into the national legislation. There are no legal domestic tools for their appropriate enforcement, and many national legal acts are not harmonized with the abovementioned international documents. Nevertheless, there are number of legal acts addressing the issues of protection of rights of different ethnic groups residing in Georgia

(articles 38, 39 and 85 of the Constitution of Georgia, Law “On Citizenship”, Law on “Public Associations of Citizens”, articles 72 and 75 of the Criminal Code of Georgia, articles 3, 6, 9 19, and 33 of the Law “On Culture”). Due to their incompleteness, inconsistency with the international standards and lack of enforcement mechanisms along with absence of public legal awareness, the provisions are not effective in securing the rights of national minorities and correspondingly cannot serve as a basis for equalizing of social practices and opportunities among minorities and majority.

The lack of efficient efforts in this field represents one of the major obstacles for the integration of Georgia into the European and Euro-Atlantic structures, as well as for the success of the democratic transition in general. Presently the Georgian government is trying to respond to the pressures of civil society, international and interstate organisations in their approach to the creation of a diversity management strategy. The government tries to address the divergent priorities of the Council of Europe, OSCE and NATO stated in policy documents and regulations related to their assessment of the situation in Georgia This, added to their intended conformity with recommendations of the US State Department’s annual Human Rights Practices Reports, adds to the delays in drafting a comprehensive strategy.

European and Euro-Atlantic institutions have an important role in helping Georgia formulate diversity policies consistent with international standards however. With regard to the Intensified Dialogue launched between NATO and Georgia, the emphasis is on progress in achieving domestic reforms, among which as a priority the protection and integration of all groups of the population and a steady framework for their equal participation in national affairs, both through direct and indirect mechanisms. Civil society organisations and minority communities can provide government with the informational and analytical support for decision-making in the field but they are rarely consulted. For this reason we and our partners would welcome the timely introduction of a public policy and citizens’ feedback mechanism into local governance.

Developments after military conflict in August 2008

a. Proliferation of the hate speech and actions

Conflict situation gave birth to the wide proliferation of the hate speech, war propaganda and unbalanced coverage of the situation by both sides. Coverage was all the time accompanied by the underlining of the ethnicity, e.g. “Georgian fascists”, “Russian aggressors”, “Ossetian marauders”. According to the monitoring of the Public Movement “Multinational Georgia” the most unbalanced information has been produced by the following mass-media entities:

Internet mass-media

- www.lenta.ru (RF)
- www.nr2.ru (RF)
- www.regnum.ru (RF)
- www.interfax.ru (RF)
- www.apsny.ge (Georgia)
- www.newsgeorgia.ru (Georgia)
- www.osinform.ru (South Ossetia)
- www.rosbalt.ru (RF)

Other print and electronic mass-media

- ORT-TV Broadcaster (RF)
- TV Broadcaster “Vesti”(RF)
- Newspaper “Izvestia” (RF)

- Newspaper “Komsomolskaya Pravda” (RF)
- Newspaper “Asaval-dasavali” (Georgia)

Certain mass-media entities from time to time apply to the hate speech formulations, among which TV Channels “Rustavi-2” and Public Broadcaster of Georgia (Georgia), newspaper “Kommersant” (RF), newspaper “Podrobnosti” (RF), newspaper “24 hours” (Georgia) and “Alia” (Georgia), news agencies “RIA Novosti” (RF) and “Interpressnews” (Georgia).

In accordance with monitoring many politics and public figures were using hate speech and war propaganda in their speeches, including rude and offensive formulations. One of such cases is the statement of Irina Gagloeva, Ossetian Administration spokesperson, who accused Georgians in “ritual killings of Ossetians”. Both sides were inclined to such kind of statements.

In Georgia public campaign “Stop Russia” based on the intolerant phraseology and images has been launched and carried out, allegedly supported by the government. Please see campaign materials in the Annexes to this report.

One of the cases of concern is also demonstration of the offensive video clip “Russia-2008” at the Georgian TV Channel “Rustavi-2”. Given video was aimed at the criticism of the current Russian political regime, however contained formulation which might be perceived as offensive for all Russian people and caused immediate reaction of the Public Defender of Georgia and Public Movement “Multinational Georgia”, who called upon immediate stop of the video demonstration on TV.

Mutual accusation in the ethnic cleansings also contributed to the hate speech and actions proliferation

b. Potential aggression towards certain ethnic groups

After the conflict certain trends appear, showing that in the country there is a certain amount of the aggression and confrontation potential between different ethnic groups.

E.g. according to the data confirmed by the Ministry of Interior (**Ekaterina Zgudadze and Natia Gazava**) and according to the monitoring conducted by the Public Movement “Multinational Georgia” there are three cases of the violence on the basis of the interethnic hatred since 15th of August observed in Tbilisi, including one attack on the property, one beating and one word offence, all these actions allegedly have been accompanied by the mentioning of the “Russian ethnic origin” of the victim in offensive way. However these facts are now being checked by the MIA and NGOs.

According to **Naira Bepieva**, representative of the Ossetian Community of Georgia and journalist, there are also some cases of the threats and aggression towards Ossetians residing in Kakheti region are reported. According to **Eka Skhiladze**, resident of the city of Borjomi and grass-root public activist, there are also permanent rumors in her view disseminated on purpose, according to which local Ossetians during the military confrontation helped to set on fire Borjomi National Park.

However these trends are not major yet and there is time for effective prevention and combating of the unfair propaganda describing that Russians and Ossetians, as well as other ethnic minorities are endangered in Georgia.

However this propaganda in line with the cases of the aggression towards persons of Georgian ethnic origin in Russia (case of the Movement Against Illegal Migration calling upon deportation and physical violence against Georgians; cases of violence towards Georgians in Moscow, Nizhniy Novgorod and St-Petersburg) might further promote interethnic confrontation.

c. Regions with the compact settlement of the ethnic minorities

In Georgia there are regions with the compact settlements of the ethnic minorities, e.g. Samtskhe-Javakheti region with the compact settlement of the ethnic Armenians.

In relation to this region certain mass-media, such as Regnum and Georgia On-line on 19th of August 2008 published materials describing alleged separatist attempts conducted by the radical groups in the region. Only timely reaction of the civil society and community of the region helped to prevent informational provocation and possible outburst of the interethnic confrontation, which is easily promoted by the manipulations with information and public consciousness.

SECTION II

REVIEW OF MEASURES TO IMPLEMENT PARTICULAR ARTICLES OF THE FCNM

In this section, specific articles of the FCNM are addressed against their actual progress of implementation in Georgia. By assessing in this manner the details of the FCNM, against the wider conditions addressed in Section I, this report shows how the general analysis feeds into specific policy recommendations, made by our organisation. Rather than being a critique on the government therefore, we are reinforcing our intention to advise and promote the successful implementation of policy and strategy which conform to the international commitments of the government of Georgia.

ARTICLE 3

- 1. Every person belonging to a national minority shall have the right freely to choose to be treated or not to be treated as such and no disadvantage shall result from this choice or from the exercise of the rights which are connected to that choice.*
- 2. Persons belonging to national minorities may exercise the rights and enjoy the freedoms flowing from the principles enshrined in the present Framework Convention individually, as well as in community with others.*

The Resolution (13 Oct 2005) adopted by the Georgian Parliament together with the Ratification of the Convention defines certain terms mentioned in the Convention and provides remarks on the 8 different articles of the Convention. This document has not been submitted to the Secretary General of the CoE together with credentials relevant to its ratification. Definition provided by the Resolution is modified in that it allows for Georgia to base the interpretation of the term “national minorities” on the following criteria and considers that the status of “national minority” can only be conferred to a group of individuals in the case that 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.³

Essentially perverting the course of FCNM implementation this Resolution sets a precedent in which the treatment and definition of national minorities is based on the evaluative categories mentioned herein, thus limiting the range of persons who fall under any legislation relating to the FCNM.

Citizenship as a precondition for definition as a minority affects those who have not successfully obtained Georgian citizenship, including recent migrants, or those that have nominal external citizenship but reside in Georgia. An issue related to this is that Georgia’s national minorities have historically suffered from a low level of birth registration, particularly in Kvemo Kartli,

³ Unofficial translation by the European Centre for Minority Issues, Regional Office, Georgia
Resolution of the Parliament of Georgia On the ratification of the Framework Convention for the Protection of National Minorities

which is one of the conditions for citizenship. Fortunately this is now being tackled under the advice of UNICEF.

The definition essentially excludes any self defining minorities, who may have minority identity which is not always restricted to obvious differences in ethnicity, religion and language. In referring to being a member of a national minority only if residing in the compact settlements moreover, the resolution does not allow for a unified policy approach to be adopted both for minorities living in the capital and in the regions, directly disadvantaging minorities in Tbilisi and other mixed population centres. Most minorities do not in fact live in what would be defined as ‘compact settlements’; ethnic Azeris live in compact settlements in Kvemo Kartli but the region is also home a smaller number of Greeks, Armenians, Russians. Those minorities which are more sparsely settled are thus excluded from definition under this resolution.

In this definition there are also ambiguous terms which could be open to negative abuse of interpretation. It is expected, and highly dangerous, that should a case ever be brought against a policy or authority decision this document could be used essentially as a waiver to escape responsibility on the technicality of such ambiguous terminology, as “dominant part” and “long time”. This does not conform to either internationally accepted conditions or European legislation and the commitments of the government to pre accession criteria. This resolution was also not explained or publicised among civil society and the wider public. To date the legal status of this document is not certain.

Recommendation:

i) The Resolution adopted by parliament defining who and what minorities are according to clearly conflicts with the key principles of the FCNM, especially Article 3 which prioritises freedom of self definition and the national application of principles to all minority individuals and groups. Therefore it is the recommendation of this report that the Resolution be recognised as fundamentally in contradiction of the FCNM and be discarded or removed from any legislative ambiguity. The government of Georgia cannot be said to be implementing the FCNM unless this Resolution is abandoned.

ARTICLE 4

- 1. The parties undertake to guarantee to persons belonging to national minorities the right to equality before the law and of equal protection of the law. In this respect, any discrimination based on belonging to a national minority shall be prohibited.***
- 2. The Parties undertake to adopt, where necessary, adequate measures in order to promote, in all areas of economic, social, political and cultural life, full and effective equality between persons belonging to a national minority and those belonging to the majority. In this respect, they shall take due account of the specific conditions of the persons belonging to national minorities***
- 3. The measures adopted in accordance with paragraph 2 shall not be considered to be an act of discrimination.***

ARTICLE 6

- 1. The Parties shall encourage a spirit of tolerance and intercultural dialogue and take effective measures to promote mutual respect and understanding and co-operation among all persons living on their territory, irrespective of those persons' ethnic, cultural, linguistic or religious identity, in particular in the fields of education, culture and the media.***

2. The Parties undertake to take appropriate measures to protect persons who may be subject to threats or acts of discrimination, hostility or violence as a result of their ethnic, cultural, linguistic or religious identity.

Unfortunately in Georgian society stereotyping and prejudice on the basis of ethnic identity are fairly common. The majority population is not sufficiently sensitive to the problem and to a large extent is unaware of the actual culture or situation of ethnic minorities. In the absence of statistics or detailed studies of the matter, it is difficult to state categorically whether this prejudice translates directly into discrimination in the fields of employment and housing. However, the many studies relating to ethnic minorities note that members of these communities complain of being, and feel that they are discriminated against. In some cases the situation in which the ethnic minorities find themselves may not be different from that affecting the majority, especially the majority rural residents, but a pronounced lack of trust in communication channels, in particular with the authorities, can fuel such sentiments.

The feeling of sometimes being abandoned by the state results in particular from ethnic minorities' under-involvement in public and political life. It is generally admitted, even in the absence of reliable figures, that the ethnic minorities are under-represented in administration, political institutions such as parliament and the government, and also local institutions, even in those regions where they are the majority community. The situation is of course closely linked to the language issue, but that is not the sole factor: members of ethnic minorities have stated that, quite apart from the question of command of the state language, it can be very difficult for a member of an ethnic minority to gain promotion in an administrative service.

In general there is an urgent need to strengthen levels of trust between ethnic minorities on the one hand and the state structures and majority population on the other. An approach which aims to reach out to minority communities by involving them in dialogue concerning legislation and policy making, would be preferable to the current situation. Specifically it is possible to pinpoint areas in which inaction of the state contributes to mistrust in their ability to counter discrimination.

The first is the lack of action on the part of bodies created to protect ethnic minorities. The State Minister on Civil Integration, Office of the Public Defender, Parliamentary Committee on Human Rights and Civil Integration, Council on Ethnic Minority Issues attached to the President of Georgia, Advisors of President of Georgia on Interethnic Relations are all intended to protect minorities, however the absence of coordination between these bodies, as well as between them and civil society undermines their activities.

Secondly, despite the formation of these bodies there is no actual institutional machinery for combating ethnic discrimination and intolerance. Necessity of its creation has been underlined by ECRI in its Second Periodic Report on Georgia, General Policy Recommendation #7 on the issue of national legislations in the field of combating of racism and intolerance, General Policy recommendation #2 on the issue of special bodies on combating racism, xenophobia, anti-Semitism and intolerance at the national level. International practice prescribes the establishment of such institutions within a functioning institutional system or in the capacity of an independent authorized body. This absence of appropriate legal provisions preventing discrimination and related conducts, such as hate speech and hate crime⁴ makes the FCNM ratified by the Georgian parliament in 2005 the only mechanism in this regard.

⁴ Art 142 of the Criminal Code of Georgia establishes criminal responsibility for acts of racism but does not go far enough to protect minorities from discrimination and statements of prejudice which reflect hate.

Thirdly, aside from the negative face of legislation that punishes discrimination, there remains a gap in building a legal framework guaranteeing the protection of languages and culture of the national minorities, as well as their social and civil integration. There is a perceptible amount of scepticism within the Georgian government about adoption of the special law focused on minority rights protection. This is despite the necessity of its adoption having been underlined by the Final Report of the OSCE/ODIHR on Parliamentary Elections in Georgia (2008)⁵.

In order to demonstrate how the absence of a legislative framework allows discrimination to arise, the report will examine two cases Multinational Georgia has been directly involved with.

Public figures including politicians, in the absence of a framework to prevent discrimination, have been able to make defamatory statements without fear of recrimination. One of the members of Georgian Parliament, Mr. Beso Jugeli, who is a member of the ruling political party “United National Movement”, participated in public discussions concerning a new tax scheme for the owners of real estate in the historical parts of Tbilisi. Critics feared that this plan would force many residents of Tbilisi’s old town to sell their properties. In relation to the topic Mr. Jugeli stated: “There is no need for Mikirtich (*Armenian name and colloquially scornful nickname used for Armenians*) to live in Sololaki (*prestigious old district of central Tbilisi*) forever” (“Live Show”, TV channel “Imedi”); “Given law is not directed against Georgians [ethnic Georgians], because in these historical districts mainly live Armenians, Azeri, Kurds and other ethnicities” (“Dialogues”, Radio “Utsnobi”).

A public information campaign aimed at preventing further discriminatory statements and seeking an apology from the MP in question was conducted by a partnership of major human rights protection organisations and lasted for two months. The result was only vague excuses given by the MP during a press-conference, rather than a legal case being brought⁶.

Please also refer to the section “Developments after Military Conflict in August 2008”

The problem of ethnic discrimination is witnessed not just in statements by public figures but also in the conduct of representatives of the state structures, including law enforcement authorities (LEA). Problem of discrimination of citizens on ethnical background by the LEA is consistently underlined by reports of international human rights protection institutions⁷.

A case in point is the continued detention of Tengiz Usubian and Jamal Shamoian. On 23 of April 2007 an employee of the State Security Service Kanin Kandelaki was shot near his house. During the investigation of the murder two young residents of the neighbourhood, both citizens of Georgia but of Kurdish origin Tengiz Usubian and Jamal Shamoian were detained by the LEA. The reason for the detention was the testimony of the Zaur Khatoev, who claimed that he saw Usubian and Shamoian running away from the place of the crime. However he was later to claim in a press conference that his testimony was coerced under the psychological and moral pressure by the LEA representative, who had provided him with photographs of Kurdish men (who were from Khatoev’s friends) from which he was instructed to identify suspects. Khatoev went to the investigative authorities to legally deny his testimony before disappearing. There is no other specific evidence against the defendants and the unsubstantiated focus of the investigators exclusively on representatives of the Kurdish community persuaded representatives of Georgian Young Lawyers Association and Public Movement “Multinational Georgia” to

⁵ http://www.osce.org/documents/odihr/2008/09/32898_en.pdf. Final report of OSCE/ODIHR on monitoring of May 21 2008 Parliamentary elections.

⁶ Paper describing proceedings and outcomes of the informational campaign “Hidden Syndrome” is attached to the given document for more information.

⁷ US Department of State Human Rights Practice Reports: Georgia 2005, 2006

claim institutional discrimination against Yezidi Kurds in this case. Defendants are still in custody.

Recommendation:

- i) In the first instance the government should make significant effort to involve ethnic minority communities in the decision making process over policies to counter discrimination, which would build on the trust that they can communicate with the state and that Georgia is serious about countering discrimination on the basis of ethnicity. This would involve, as a first step, regular and structured contact with leaders representing minorities and NGOs working with minorities. Currently this contact is only made through the Ombudsman's office, which is ineffective in influencing policy. Quarterly roundtables between government representatives and minority representatives would be a good step forward in this direction
- ii) Further to communication building measures, or as a separate process, the state should adopt appropriate legislation to counter discrimination as the next step. Using the elements of the model upheld in countries successful in fight with racism and intolerance at the legislative and institutional level, such as Western Europe and USA, the Georgian government should demonstrate its serious attitude to prejudice by creating and ratifying laws against hate crime, racist attacks and hate speech, of any kind, and apply it across both majority and minority populations evenly.
- iii) Cooperation between existing bodies created to prevent discrimination should be actively strengthened by state led reforms. Assessments of what these bodies actually do, public availability of this information and their financials would contribute to public trust in the institutions, and encourage greater effectiveness. Should one of the mentioned bodies be found to be largely impotent, it should be dispensed with in favour of a more effective arrangement.
- iv) An independent complaints body tasked to investigate and punish cases of discrimination alleged by state employees, including the police, should be created along the model of other European states. This could be nominally attached to the Ombudsman's office but would require separate guarantees of funding.
- v) The Judicial process with regard to minorities should be supported by the policy-supported possibility of conducting cases in minority languages, or state funded employment of translators. Until the Rose Revolution cases were often conducted in Russian but now state language laws are more strictly enforced in this area it risks marginalising and creating more opportunity for the unfair treatment of minorities.
- vi) By supporting minorities in representing themselves more positively, the government can effectively bridge the knowledge divide between the majority and minorities. Concretely they could establish a body which provides funding for minority cultural festivals for example, in regions of mixed ethnicity, as well as Georgian festivals. This would have the added bonus of encouraging tourism and generating local income.

ARTICLE 7

The Parties shall ensure respect for the right of every person belonging to a national minority to freedom of peaceful assembly, freedom of association, freedom of expression, and freedom of thought, conscience and religion.

ARTICLE 8

The Parties undertake to recognise that every person belonging to a national minority has the right to manifest his or her religion or belief and to establish religious institutions, organisations and associations.

The right to freedom of thought, conscience and religion of the minorities is violated by the absence of a Law on Religious Organisations. Religious minorities are subjected to direct and indirect discrimination due to this legislative gap; in particular their religious organisations are not entities of public law and can be registered only as associations and funds (i.e. NGOs), which does not allow for appropriate self-identification and gaining of their due status by other religious groups. It also causes practical difficulties in relation to worshipping, due to their not being defined as public law entities; religious organisations (e.g. Armenian Apostolic Church) cannot conduct certain transactions, namely importing devotional articles.

Currently there is an urgent issue of the occupation of building and territory of the Armenian Holy Mother Church “Norashen” (city of Tbilisi) by the representatives of the Georgian Orthodox Church. During the soviet period given church and other churches of the Armenian Apostolic Church have been confiscated by government and used for non-religious purposes. After collapse of the USSR, when church property has been returned to the Georgian Orthodox Church the same measures have not been taken in relation to Armenian Apostolic Church. “Norashen” as historic monument has been left under authority of Minister of Culture. In the meantime as it was mentioned above representatives of the Orthodox clergy took actions aimed at occupation of the church. In the meantime church is left in drastic conditions and some unique elements of décor are ruining. Armenian community of Tbilisi requests from the authorities to return church to the community. No actions have been taken at the moment.

This is a reflection of the Georgian state policy that specifically prevents the recognition of religious and ethno-confessional groups, including according them legal status. This places such groups in an unfair position relative to the Georgian Orthodox Church, which on the basis of the Constitutional Agreement⁸ enjoys allowances and privileges arising from its own legal status as a religious community.

The law on the association of citizens, article 6, prevents the creation of parties on regional or territorial basis. However this, added to the 7% current threshold for representation in the national legislature, effectively precludes ethnic minorities from freedom of association and effective participation on behalf of an association which falls around ethnic and religious lines.

Recommendation:

- i) That the government of Georgia introduce a Law on Religious Organisations which recognises the legal status of other religious and ethno-confessional groups and accord them the same or similar privileges, in relation to permits for religious buildings, importing devotional articles, registration for financial purposes, degrees of legal protection- as the Georgian Orthodox Church. It is possible to do this while still recognising that said Church is still the official religious entity of Georgia, under the Constitution.**
- ii) The government of Georgia should launch a study into the potential advantages and disadvantages of repealing the law which prevents the creation of political parties around the basis of ethnicity. (Article 6 on Law of Association of Citizens).**

ARTICLE 9

⁸ Concordat (agreement) between the Georgian Orthodox Church and Parliament of Georgia, which provides privileges to the Orthodox Church in the different spheres and by its own existence provides for the direct support of the state to this as the only religious organisation.

- 1. The Parties undertake to recognise that the right to freedom of expression of every person belonging to a national minority includes freedom to hold opinions and to receive and impart information and ideas in the minority language, without interference by public authorities and regardless of frontiers. The Parties shall ensure, within the framework of their legal systems, that persons belonging to a national minority are not discriminated against in their access to the media.**
- 2. Paragraph 1 shall not prevent Parties from requiring the licensing, without discrimination and based on objective criteria, of sound radio and television broadcasting, or cinema enterprises.**
- 3. The Parties shall not hinder the creation and the use of printed media by persons belonging to national minorities. In the legal framework of sound radio and television broadcasting, they shall ensure, as far as possible, and taking into account the provisions of paragraph 1, that persons belonging to national minorities are granted the possibility of creating and using their own media.**
- 4. In the framework of their legal systems, the Parties shall adopt adequate measures in order to facilitate access to the media for persons belonging to national minorities and in order to promote tolerance and permit cultural pluralism.**

Minorities face significant problems in access to the media, both in respect to receiving information and their involvement in the creation and management of the media. This problem is largely linked, as discussed in section I, with the linguistic isolation of minorities, being an indicator of low Georgian language literacy and a contributor to it. The public broadcaster scheme to transmit news in minority languages currently only airs them one time a week (it requires greater funding) while many media outlets do not transmit to minority areas. The failure of the Georgian government to ensure the regular delivery of public information, including civic education, political developments and other matters as necessary to minorities as other citizens, through the public broadcasts in languages accessible to minorities only forces them to consume other sources of information, mostly from kin states or Russian media channels.

There is a problem also in the level of professionalism and awareness on minority issues among journalists. This results in the inadequate coverage of minority related problems and news, contributing to the creation and promotion of stereotypes about ethnic minorities. During the May 2008 Parliamentary elections Public Movement Multinational Georgia attempted to unilaterally limit this by setting up regional media centres and information points, with limited success. Journalist training schemes led by NGOs has made some progress on this issue, and is particularly visible in relation to print media, which has now become much more diverse and accessible by minorities⁹.

Although there are general negative characteristics to be found in the Georgian broadcast media spectrum, including a lack of political independence, investigative journalism and a dominating schedule of soaps and films rather than documentaries, there is a visible lack of programming dedicated to minority issues. This has not helped the perception of minority groups that they are isolated from society. When such programs have been launched they have been unsuccessful or externally financed short-term initiatives. Recent examples include:

⁹ Report on May 21 2008 Parliament election monitoring by PMMG 2008

- “Italian Yard” in the Public TV – a series of television discussions on the problems faced by minorities. Formal consultations with stakeholders have been carried out by this and other organisations but recommendations emerging from this have not been followed.
- A series of TV-shows dedicated to the problems of minorities on “Imedi” channel organised by the “Horizont Foundation” using financial support of the European Commission Delegation to Georgia and Armenia. This program was prepared well, but lasted only a short time and did not allow for the appropriate discussion of the stated problems.

Thus minorities do not receive information necessary to be involved in the whole national political, social and cultural processes and are effectively isolated from involvement in media construction, contrary to Article 9 of FCNM. The progress in radio broadcasting demonstrates what can be achieved with developed strategic initiatives and external help, as currently there is a significant infrastructure of radio programming in minority regions, supported by civil society actors, the BBC and OSCE/ HCNM. This needs to be applied to TV media which is more popular than other forms.

Recommendation:

- i) That the government of Georgia invest actively in ensuring the regular transmission of the Public Broadcast service (more than its current arrangement of once a week in minority languages), such as implementing a daily news broadcast in minority languages as standard.**
- ii) Obviously implementing changes in non-state controlled media is more complicated but we recommend that at the least the government show its intent by setting up a specific annual budget pool for financing, on application for grants from media groups, journalists and NGOs, programs and broadcasts dedicated to minority issues, for existing media channels to finance the infrastructure of their transmissions in minority regions or for regular programs to be translated into and aired in minority languages. This pool can be organised through the office of the Ombudsman, to whom minority groups generally apply, and would prevent the need for international organisations to finance such projects.**
- iii) In the absence of such a scheme we recommend the government set out and publicise clear guidelines, amongst existing media outlets, which promote the accessibility of media to minorities in line with Article 9.**
- iv) That media organisations themselves take responsibility for the successful and regular transmission of information which includes minority groups and actively recruit minority representatives.**

ARTICLE 12

- 1. The Parties shall, where appropriate, take measures in the fields of education and research to foster knowledge of the culture, history, language and religion of their national minorities and of the majority.***
- 2. In this context the Parties shall inter alia provide adequate opportunities for teacher training and access to textbooks, and facilitate contacts among students and teachers of different communities.***
- 3. The Parties undertake to promote equal opportunities for access to education at all levels for persons belonging to national minorities.***

