

## ETHNIC RELATIONS

**NATIONAL MINORITIES  
IN GEORGIA:  
PROBLEMS OF DEFINITION AND  
LEGAL STATUS**

Guram SVANIDZE

*Ph.D. (Philos.),  
coworker at the Committee of Civilian Integration,  
Parliament of Georgia  
(Tbilisi, Georgia)*

Georgia has long failed to give its due attention to the problem of national minorities. The academic and legislative aspects of the problem are underdeveloped because of the inadequate conceptual system and lack of definition of the term “national minority.” This topic has always been considered perilous in the political sense and is known to arouse unhealthy restlessness in society.

The official structures justified the delay in ratification of the Framework Convention on the Protection of National Minorities, among other things, by the lack of consensus on definition. The Georgian Parliament’s resolution on ratification of the above-mentioned Framework Convention (13 September, 2005, No.1938-II s) was the first attempt to introduce clarity into this issue at the official level. The document gives a definition of minority, but experts expressed their dissatisfaction with the formulation proposed. This criticism boiled down to the fact that the definition was much too narrow: it applied only to compactly residing minorities. The emphasis was essentially placed on Azeris and Armenians densely residing in Lower Kartli and Javakhetia. In addition to everything else, the resolution does not take into account the parameters of “compact residence.” So it was declared that the definition was preliminary and would undergo further polishing.

The delicacy of the topic can partially be explained by the fact that our society has long been in the grips of so-called ethnonational thinking. Today we are going to have to get rid of the understanding of the key term “national minority” “successfully” used by Soviet ideologists. In particular, this concept defined a minority as part of an ethnic nation which has its own statehood, or as an ethnic nation which

lives in a particular country, is a numerically small group, and does not have its own forms of statehood. Equating statehood with an ethnonational community led to the confusion in terminology.<sup>1</sup>

Our experience of talking to members of minority groups has shown that many of them are dissatisfied with the term “minority.” There are various reasons for this attitude. There is a viewpoint that says treatment of all the state’s citizens should be based on the principles of equality. According to this category of people, being defined as a minority insults their sense of civilian dignity. This kind of interpretation is the first sign of civilian patriotism, an approach in which even the theoretical presupposition that Abkhazians and Ossetians living within the autonomies are minorities is a vestige of ethnonational thinking and arouses their protest. For example, only those Ossetians who live beyond the boundaries of the autonomies belong to minorities. The Armenians living in Javakhetia, the Azeris from Lower Kartli, and so on, are not particularly enthusiastic about this term. Expressions such as the following, “There is the Azeri nation, and we are a part of it,” are more characteristic of cases when a more “sincere” form of manifesting the ethnonational mentality exists. Certain governing laws can be traced: the more compactly a minority resides, the closer its geographical ties with its historical homeland (Lower Kartli, Javakhetia), and the more political attributes there are in the self-government regions (Abkhazia and South Ossetia), the less desire the community members have to be considered a minority.

The difficulty of the problem of forming a definition of minority is also due to the multifaceted nature of the phenomenon itself. We can see an entire spectrum of attributes that characterizes the phenomenon of minority. The latter is distinguished by the size and type of settlement (compact or dispersed); and what is more, the history of their migration to Georgia, where there are ethnic political autonomies, differs. The fact that minorities confess different religions is also significant, as well as the extent to which they are internally homogeneous or heterogeneous. It is difficult to overestimate the influence of the historical homeland (or the absence of such), particularly if it is territorially adjacent to the areas of compact settlement of a particular minority. It is symptomatic that the members of the titular nation themselves ended up in certain regions as minorities and encounter problems characteristic of this category of people.

In Georgia, we essentially see three types of problems relating to minorities.

- *First* type—minorities living dispersedly.
- *Second* type—regional. In this case, the traditional problem of retaining and developing the minority’s uniqueness correlates to issues of administrative-territorial structure of the regions where minorities live compactly and represent the majority in that area.
- *Third* type—political; this is related to political autonomy.

Different strategies for protecting the rights and civil integration of minorities are applied to each of these types. For example, institutions of cultural autonomy are applied for regulating the first type of problem; federalization and issues relating to regional status are considered with respect to the second type; and optimization of political relations, as well as the distribution of rights between the center and the autonomies, applies to the third type.

At one time, the complexity of the phenomenon of minorities in Georgia was one of the arguments against adopting a law on minorities, which was one of our country’s obligations when it joined the Council of Europe. In exchange, it was suggested that a set of normative legal acts be drawn up in order to encompass the entire diversity of the problem. It goes without saying that the complexity of the phenomenon requires a special policy regarding minorities, which should be based on a system of laws. Consequently, a definition is needed that would be so universal it could become a starting point for drawing up the mentioned set of normative legal acts.

<sup>1</sup> See: A. Eide, *Peaceful and Constructive Resolution of Situations Involving Minorities*, UN University, Tokyo, 1995.

It should be noted that there are not many states where a definition of the aforementioned phenomenon has been tried out in practice. Even in international documents, it is impossible to find a definition that satisfies everyone.

Since there is no common opinion in international practice on what a minority is, it is understood that local specifics, which differ from country to country, cannot be taken as a point of reference. However, intensive work is going on in this area to find common ground.

When developing our definition, we proceeded from general methodological approaches, from such objective and subjective characteristics as:

- (a) the relative size of the minority group;
- (b) the striving expressed by the group members to preserve and develop their existence and uniqueness.<sup>2</sup>

It stands to reason that the size of a minority group is the most important aspect, since at the domestic level it presupposes the need for the country to adopt measures to protect the minorities living on its territory, due to the weakness of their position. This is even true for more developed democracies.

We also emphasized the individual's free choice to identify himself with a national minority group, and the fact that this choice should not entail any undesirable consequences for the individual (Art 3 of the Framework Convention on the Protection of National Minorities, etc.). Individual choice is supplemented with the person's choice "together with other people" (that is, collectively) "to preserve and develop his identity...", which also follows from the provisions of the same article of the Framework Convention.

There are alternative definitions and recommendations of U.N. experts regarding which groups should or should not be included in the definition "minority."<sup>3</sup>

When developing our definition, we relied on these recommendations. In particular, the question of whether to *include* or *not include* those minorities in the concept "minority" that have become a nation and are on the way to self-determination was especially interesting.

As follows from the recommendations, recognition of self-definition itself is a topic of "universal consensus" in each specific case. If we turn to Georgian reality, it can be concluded that due to the lack of "universal consensus," with respect to the separatist claims of the Abkhazians and Ossetians, this recommendation is unacceptable here.

According to the recommendations, it is *not advisable* to include the "indigenous population" in the definition, since special protection is stipulated for them in international law (this implies those groups of the population who lead a traditional way of life, are backward in their development, do not blend into the context of contemporary state institutions, and so on). This situation should not be confused with the autochthony of a particular group of the population. For example, the Abkhazians are viewed as the autochthonous population, and not as indigenous; consequently, they can quite easily be included in the definition.

Another recommendation says that if a particular group dominates in society (even if it is small in size), it does not need minority protection, so it does not apply to it. Admittedly, as a rule, it is not indicated whether or not this applies to the group's status in society as a whole, or in a particular region, or which forms of "domination" are meant—demographic, political, economic, or cultural. For example, Abkhazians, who are in the minority even in the autonomy, occupy a dominating position and, consequently, cannot be classified as a minority within its boundaries. All the same, they are a minority on a national scale.

<sup>2</sup> See: F. Capotorti, *Study on the Rights of Persons belonging to Ethnic, Religious and Linguistic Minorities*. U.N., New York, 1991.

<sup>3</sup> *Ibidem*; E/CN.4/Sub.2/AC.5/1996/WP.1/14.02.1996 (J. Deschenes, F. Capotorti, A. Eide); E/CN.4/Sub.2/AC.5/1997/WP.1 (S. Chernichenko). Hereinafter in the text, reference will be given to the document presented by S. Chernichenko.

A prerequisite for forming the definition of national minority is to adopt the following thesis: the language, culture, and historical experience of the titular ethnos, which is the majority group, play the integrating role. All together, this provides the content of the concepts “dominant group” and “non-dominant group.” In this respect, comparing the position of minorities (for example, Abkhazians and Ossetians) with the position of the Francophones in Belgium, as some foreign experts are wont to do, is unacceptable. It is known that despite their relatively small numbers, they are not considered minorities. It is not entirely practical to appeal to this extremely unique experience and, as history shows, it is fraught with grave conflicts.

There is more definiteness (in the sense of inclusion in the definition) regarding the Azeris and Armenians residing compactly in regions of Kvemo Kartli and Javakhetia, respectively. And they can be classified as so-called “regional minorities” (by analogy with “regional languages”). The hypothetical status of a federation constituent or the fact of numerical domination in the region are not arguments for not classifying members of these communities as minorities.

In order to formulate a definition, other special local features had to be kept in mind as well. For example, one of the most important criteria of the status of a minority is its citizenship. Recently, this factor became less pertinent for Georgia, since thousands of people changed their citizenship (mainly Russians), although they are still living in the country. Incidentally, there is no citizenship qualification in the definition given by the group of U.N. experts. The fact is taken into account that minorities *in principle* consist of people living permanently in the territory.

In the legislation of several countries, a temporal qualification is used in the definition of minorities (in Hungary, this is 100 years); how effective it can be is shown by the experience of the Baltic countries, where only those groups were classified as minorities that lived in these countries before the 1940 occupation. Those who arrived after this period were deprived of their citizenship. In Georgia, where there is a different interpretation of history and no critical dates of reference (we cannot take 1801, when Georgia was incorporated into Russia, as a point of reference), it is more expedient to use the concept of “*traditional* residence” in the definition. It takes into account the particular participation of the ethnic group in the country’s life, length of time it has lived on its territory, and so on.

It is worth noting the viewpoint that says the “purest” types of national minorities are the Assyrians and Kurd-Yezidis, who do not have their own state formations in their historical land. But this opinion does not consider the fact of national state formations (particularly those contiguous to Georgian territory) as an argument against including certain minority groups in the definition.

It is interesting to determine what the terms “national minorities” and “ethnic minorities” have in common and what distinguishes them. The fact that these concepts have something in common downplays the importance of differentiating them. For this reason, they are either both used in the same context, or only one of them is used. On the other hand, it can be presumed that there are also differences between them.

International law has no guidelines for the use of these terms. Both concepts feature in the title of the U.N. Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. Inclusion of the term “national minority” was explained by the need to register the group “nationals,” that is, state citizens to whom the rights declared in the Declaration apply. As we know, the rights and obligations of stateless persons and foreigners (for example, working migrants) are regulated by special legislation, but it does not define the difference between the concept “ethnic minority” and “national minority.”

Only national minorities feature in the name of the Framework Convention.

In the Act on the Protection of Minorities advanced by the Central European Initiatives (18 November, 1994), as well as in the Convention on Ensuring the Rights of Persons Belonging to CIS Minorities (21 October, 1994), Art 1 of these documents interprets “national minority” broadly and encompasses ethnic, linguistic, and religious minorities. The concepts “ethnic” and “national” minor-

ities are differentiated here, whereby the first is an attribute in relation to the second, just like linguistic as well as religious features.

An “easy” attitude to these terms is characteristic of countries with developed citizenship institutions, where the interrelation between the categories “citizen affiliation” and “ethnic affiliation” has long been defined, and everyone agrees to the priority of the first. Citizens with a particular ethnic origin, being in the minority, can easily be called both national and ethnic minorities. There are cases when the definition “linguistic minority” is used instead of these two concepts, and the entire problem boils down to regulating the interrelations among linguistic groups. This approach is wider, since a linguistic group can include the members of different ethnic groups.

In those places where vestiges of ethnonational consciousness have to be dealt with, the situation is more complicated, which is expressed in “collisions” between these terms. Ethnicization of political institutions or the tendency toward ethnocratization and politicization of ethnic aspects are alternative dialectic transformations and reciprocal transfer of concepts. Hypertrophied ethnic self-consciousness is opposed to civilian self-consciousness. At the point where these terms “collide,” painfully familiar phenomena emerge, such as separatism, irredentism, isolationism, and so on.

The peak of these phenomena were the ethnocratic regimes in Abkhazia and South Ossetia, where “the etatization” of the ethnic groups took place, which subsequently promoted the appearance of apartheid regimes on these territories as the only possible chance of preserving the dominant position of these numerically small ethnic groups.

Such aberrations arise because there is no deep-rooted tradition of statehood. Members of both the titular and non-titular ethnoses should understand that civilian interests, the interests of a civil society, are universal, while the interests of affiliation to an ethnic group are particular.

A stereotype testifies to the pertinence of the ethnic factor in Georgia, in correspondence with which the lingual and the linguistic origin are the same thing. Recently, this trend intensified due to the increase in ethnic self-identification of the population. For example, according to a general population census, 98% of the Georgian respondents pointed out that their native language is Georgian. In the minority group, this index is a little lower, 89.5%. A low variability of these indices was recorded in the regions.

Essentially, a distinction is not made between “native” and “non-native” tongues, but between so-called “first” and “second” languages. Unfortunately, this phenomenon has been little studied, which makes it impossible to calculate the error factor with any degree of statistical probability. For it is certainly doubtful that the stratum of Russian speakers could be leveled out to such a degree in such a short time. It includes not only ethnic Russians, but also the members of other groups, particularly since the census data show that members of ethnic minorities are more inclined to consider their native language Russian than Georgian (this was observed among the Tbilisi Armenians—6.8% stated that Russian is their native language, while 3.8% said it was Georgian). The only exception are the Ossetians living in Tbilisi, 12% of whom said their native language was Georgian.

It can hypothetically be presumed that a similar situation developed in relations between ethnic and religious affiliations. The number of Georgians and members of other ethnic groups (Russians) traditionally confessing Russian Orthodoxy almost coincides with their percentage in the general composition of the population (36,611 Georgians and Russians among a total of 3,666,233 people). It is characteristic that in a society that only recently was considered totally atheist, only 28,000 people said that they were non-believers during the last census. There were absolutely no agnostics among the population.

The slogans calling to fight for purity of faith, which can easily be transformed into chauvinist rhetoric, show a certain interrelation between ethnic and religious affiliations.

Of course, we cannot view ethnicity as something negative, particularly since protection of the rights of national minorities presumes their development and preservation. As already noted, in the

Framework Convention, the accent is placed on free self-determination of the individual, as well as on his choice to have or not to have an ethnic identity. He executes his right collectively (in a group of people), freely, and without pressure from groups whose ethnic identification has already been determined. But this is not where the chain of transfers ends. Further we see an already independent entity—a group (or group of people representing it).<sup>4</sup> The juxtaposition of the rights of the individual against the rights of the group (collective rights) is unacceptable in principle. Individual rights relate to the independence of a particular person. Nevertheless, no one has deprived the group of the right to determine its type of membership. Ethnic minorities or ethnic groups can also claim protection of their rights. The nature of the reciprocal transfer of concepts—antagonistic or non-antagonistic—is another matter.

It is antagonistic when loyalty to an ethnic group (community) goes without saying, and non-antagonistic when collective relations in the community do not hinder the freedom of the individual to choose other social relations. The totalitarianism of an ethnic group is defined by its strict role prescriptions and the status related to it. In this case, we are dealing not with the individual personally, but with the “typical” Armenian, Georgian, Russian, and so on. Participation in these groups is seen as a value in itself, and its value is not subject to analysis (“ethnic boasting” is a manifestation of this precept), and so on.

So, we have two types of entities. Provisionally, these are the individual, who freely makes a choice to participate in the group of his ethnic origin, and the group and its representatives, who also prefer the value of group solidarity to other values. If we are talking about minorities, in the first case, we are dealing with *national*, and in the second, with *ethnic*.

This differentiation is entirely conditional, but we should realize that from it proceeds the understanding that the protection of their rights and integration strategies are different.

The fact that ethnonationalism is still far from extinct in Georgia, and its apotheosis was the rule of Gamsakhurdia, speaks in favor of the existence of the term “ethnic minority.” However, non-dominant ethnic groups suspect the state of serving the interests of the dominant group and not all of the country’s citizens. On the other hand, members of the dominant ethnic group suspect the members of minorities of ethnic egoism, and so on.

While they have rights, ethnic minorities also have obligations, such as preventing phenomena like isolationism, separatism, and irredentism. But neither can the individual be eternally “sovereign.” Apart from rights, he also has obligations. Society cannot accept the individual who breaks social ties and becomes marginalized.

In reality, it is impossible to find an individual who represents only one facet. More often than not he internally feels the intercepting pressure of two origins—civilian and ethnic. The more tolerant these origins are in their precepts, the weaker this intercepting pressure. Raising the limit of tension leads to a break, and the individual must make a choice between his two facets—either join the ethnic group or identify with his civilian affiliation, which should not be confused with assimilation into the dominant ethnic group. This is not excluded in the event of a rise in tension in intercepting pressure, and so on.

Whatever the case, when formulating a definition, we proceed from the priority of human rights and freedoms. The individual freely identifies himself with his civilian affiliation and the rights and obligations related to it; he is endowed with the right to freely develop his particular identities—ethnic, linguistic, religious (1).

What is more,

—keeping in mind the *objective* characteristics of the minority group:

<sup>4</sup> Individual personally ↔ individual personally together with other individuals personally ↔ group (individuals as members of the group).

- qualitative aspect (2),
  - time and nature of the entity's residence (3),
  - distinctive ethnic (4),
  - linguistic (5),
  - and religious characteristics (6),
  - non-dominant position (7);
- without losing sight of the following factors:
- status of the territory of residence (autonomy) (8),
  - type of settlement (dispersed or compact) (9),
  - existence of traditional ties with the country of residence (10),
  - presence or absence of a state formation in the historical homeland (11);
- keeping in mind *subjective* factors:
- the individual's striving (12)
  - to preserve traits characteristic of the group in community with other people (13),
- the following definition of national minority is proposed:

*National minorities are persons permanently residing on a state's territory, moved by an individual desire or in community with other people to develop and maintain their identity, which is determined by their affiliation with a group that is numerically small compared to the rest of the country's population (regardless of the type of residence and status of the territory where the group lives and the presence or absence of historical homeland), that has distinctive ethnic, linguistic, and religious characteristics, that is not dominant on the territory of the entire country, and that has formed deep-rooted traditional ties with the state of residence.*

The main goal of the formulation of the definition "national minority" is not to define the formal status of a group, but guarantees the equality of the numerically small groups of the population.

When drawing up our definition of national minority, we proceeded from two possibilities, either to make it more general, or, on the contrary, more specific, "targeted," that is, inclusive or exclusive. If necessary, we can limit ourselves to compiling an official list of minorities or, on the contrary, not stipulate the limitations that practical expediency would give rise to.

The experts' recommendations suggest that very small groups not be viewed as minorities. This is done for practical expediency. But in a country where a general population census recorded members of approximately 90 ethnic groups, the inclusive alternative is probably more acceptable. Any list will be discriminative in nature with respect to those minorities that are not included on this list. As practice shows, the small size of a group often presumes its great desire to preserve its identity. In Georgia, there are groups with no more than 100-150 members (Latvians, Lithuanians, and Czechs), but which are expressing a strong need to preserve their identity and, what is more, are actively participating in public life.

We accept the suggestion not to regard communities of people as minorities which do not express a desire to preserve their uniqueness. But even in this case, it should be presumed that they are striving to preserve it.<sup>5</sup>

On the other hand, is this inclusiveness of the definition of national minority discriminating in relation to those ethnic national communities that are against being considered minorities? As men-

<sup>5</sup> E/CN.4/Sub.2/AC.5/1997/WP.1/ Article 7.

tioned above, following the logic of the recommendations and proceeding from reality, they are indeed minorities.

The absence of restricting provisions, expediency, and reasonable limits is the subject of a specific policy and a specific law.

As for “separating” the concepts of “national” and “ethnic” minority, their coexistence is mandatory for fuller self-determination of the individual, which includes interaction of the institutions of citizenship and ethnic origin (interaction of the general and the particular) and their mutual enrichment. Nevertheless, there is the danger of disrupting this balance, and then we will have either separatism of the group or assimilation of its members.

---