

## Freedom of Religion and Belief in International Documents and National Legislation

**Mariam Adamashvili**

Doctor of Social Sciences, Assistant Professor  
National University of Georgia SEU

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### Abstract

Human rights are protected by various international documents, reinforced by numerous legal acts and national legislation, underscoring their importance for individuals and, more broadly, for the development of each state. The extent to which human rights are effectively ensured, realized, and exercised within a state is directly linked to the degree of its democracy. Freedom of belief, religion, and conscience is among the most fundamental rights upon which the concept of a legal and democratic state is built. This right plays a crucial role in establishing religious and, more generally, democratic pluralism, which is essential for maintaining public peace and harmony. Therefore, this paper focuses on examining freedom of religion and belief as reflected in international documents and national legislation.

**Keywords:** Freedom of religion, Legislation, Media and religion

### Introduction

The significance of freedom of speech, journalistic ethics, and their relevance arises from multiple factors. First and foremost, leading democratic states in the West and international organizations assess a country's democratic development based on the quality of human rights and freedom of speech. This topic is frequently discussed at high-level meetings, international

conferences, and seminars. It remains particularly relevant in many regions, especially in post-Soviet countries, where freedom of the press and mass communication continues to be one of the most pressing issues.

Over the centuries, intolerance and ideological pressures on society have inflicted significant damage on many countries and have posed threats to their democratic development. As a result, the international community has devoted considerable attention to human rights protection and the promotion of tolerance, actively working to enhance intercultural dialogue. Today, the number of conflicts based on religious differences has increased significantly, making it a priority for every country to define the scope of freedom of religion and ensure its effective protection.

Throughout history, religion has played a crucial role in nation building. Given this, all countries are obligated to uphold internationally recognized standards for the protection of human rights and freedoms, as reinforced by numerous international legal instruments. Freedom of belief, religion, and conscience serves as a cornerstone of a democratic world and is a prerequisite for peace and justice in every society. To safeguard these rights, governments must take effective democratic measures, and individuals must respect and uphold the rights of others. In Georgia, several challenges persist regarding the right to religious freedom. In recent years, numerous studies and reports have been conducted to assess the implementation of this right, examining whether the standards established by domestic legislation align with international norms.

This research aims to explore the regulatory frameworks governing freedom of religion and belief as articulated in international legal instruments, and to critically assess their implementation within national legislation. Specifically, the study examines the Constitution of Georgia, the Universal Declaration of Human Rights, the Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief (1981), the International Covenant on Civil and Political Rights, and documents from international bodies such as the United Nations, the Council of Europe, the OSCE, the Venice Commission, and the Oslo Coalition on freedom of Religion or Belief. This article reviews both international and national legal documents related to religious freedom and provides recommendations aimed at strengthening human rights protections in this domain.

### **Freedom of Expression in Terms of Freedom of Belief and Religion**

Freedom of expression is one of the fundamental pillars of a democratic society, serving as a crucial prerequisite for the successful functioning of public democratic processes. On one hand, this freedom enables individuals to realize their self-expression; on the other, it facilitates the exchange of opinions on socially significant issues, fosters discussions and

debates, and ultimately contributes to societal development. Ensuring freedom of assembly is also essential for a democratic society, as it provides another avenue for expressing opinions. However, it is important to note that freedom of expression and assembly are not absolute rights and may be subject to limitations under specific circumstances. The Constitution of Georgia, the European Convention on Human Rights, and other international legal instruments comprehensively outline the conditions under which such restrictions may be imposed. These include preventing disorder and crime, protecting the dignity and rights of others, and safeguarding public health and morals. The balance between two important values - freedom of expression and religious rights – also falls within this legal framework.

Freedom of speech and expression is a fundamental universal value that underpins human rights and affirms individual dignity. This principle serves as the foundation for various rights that democratic states prioritize for protection. Freedom of expression holds a central position within the human rights system, as it enables individuals to exercise and enjoy other rights and freedoms.<sup>1</sup> Nearly all international legal documents emphasize the significance of this right, including 45 resolutions adopted by the United Nations in 1993. These documents highlight the necessity of strengthening and promoting the rights of individuals exercising freedom of expression as a fundamental measure to safeguard human dignity. They also underscore that freedom of opinion and expression is interconnected with and extends to all other human rights.<sup>2</sup>

Numerous United Nations documents recognize and uphold the right to freedom of expression. Of particular significance is the Universal Declaration of Human Rights, adopted on December 10, 1948,<sup>3</sup> which represents a landmark achievement of the international community. This declaration was the first to formally recognize freedom of expression. According to its provision,<sup>4</sup> "everyone has the right to freedom of opinion and the free expression thereof. This freedom includes the right of a person to have his own opinion and to seek, receive and impart information and ideas without hindrance through any means, regardless of frontiers." Freedom of expression is further enshrined in the European Convention on Human Rights and Fundamental Freedoms<sup>5</sup>, adopted by the Council of Europe on November 4,

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<sup>1</sup> Adeishvili, Z., PP.11

<sup>2</sup> Commission on Human Rights resolution 1993/45;  
<http://hrlibrary.umn.edu/commission/thematic52/39-freed.htm>

<sup>3</sup> Universal Declaration of Human Rights; <https://www.supremecourt.ge/files/upload-file/pdf/act3.pdf>

<sup>4</sup> Universal Declaration of Human Rights; <https://www.supremecourt.ge/files/upload-file/pdf/act3.pdf>

<sup>5</sup> European Convention on Human Rights; [https://www.echr.coe.int/documents/d/echr/convention\\_eng](https://www.echr.coe.int/documents/d/echr/convention_eng)

1950 in Rome. Initially, the enforcement of this Convention was entrusted to two bodies: the European Court of Human Rights and the European Commission of Human Rights, which were granted the unprecedented authority to adjudicate individual complaints. However, following the entry into force of Protocol No. 11 on November 1, 1998, both institutions were replaced by the Single European Court of Human Rights, which now operates on a permanent basis.

The International Covenant on Civil and Political Rights (ICCPR),<sup>6</sup> adopted by the United Nations General Assembly in 1966, also provides a detailed discussion of freedom of expression. To ensure the effective protection of the rights enshrined in this document, a supplementary protocol established the Human Rights Committee, tasked with monitoring compliance. Other international legal instruments similarly reaffirm the provisions set forth in these foundational texts, emphasizing the universal importance of freedom of expression. However, it is worth noting that international standards primarily outline general principles for regulation, leaving the practical implementation of these principles to individual states.

In addition to legally binding treaties, freedom of expression has been addressed in numerous declarations, resolutions, and recommendations adopted by the Committee of Ministers of the Council of Europe over the years. For example, the Declaration on Freedom of Expression and Information, adopted on April 29, 1982,<sup>7</sup> affirms that the principles of true democracy, the rule of law, and respect for human rights form the basis of cooperation among European states. It explicitly recognizes freedom of expression and information as fundamental elements of these principles.

This document also underscores the necessity of freedom of expression and information for the socio-economic and cultural-political development of individuals, viewing it as a crucial factor for harmonious progress of cultural or social groups, the international community, and nations at large. According to the declaration, states are obligated to protect freedom of expression and information, thereby ensuring pluralism in media and information sources and promoting diverse opinions and viewpoints in the public sphere.

### **The Universal Declaration of Human Rights (1948)<sup>8</sup>**

The legal recognition of freedom of religion and belief in its modern form began to take shape in the aftermath of World War II. This period marked

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<sup>6</sup> International Covenant on Civil and Political Rights, [https://treaties.un.org/doc/treaties/1976/03/19760323%2006-17%20am/ch\\_iv\\_04.pdf](https://treaties.un.org/doc/treaties/1976/03/19760323%2006-17%20am/ch_iv_04.pdf)

<sup>7</sup> Declaration on the Freedom of Expression and Information; <https://rm.coe.int/0900001680535fad>

<sup>8</sup> Universal Declaration of Human Rights; <https://www.supremecourt.ge/files/upload-file/pdf/act3.pdf>

a renewed commitment to human rights and fundamental freedoms, culminating in their formal codification within international legal frameworks. The first explicit mention of freedom of religion and belief in an international legal document appeared on December 10, 1948, in one of the most significant achievements of the civilized world - the Universal Declaration of Human Rights (UDHR).<sup>9</sup> Article 18 of the UDHR defines freedom of religion and belief as follows:<sup>10</sup> "Everyone has the right to freedom of thought, conscience, and religion." - This definition considers freedom of religion alongside freedom of thought and conscience within a broader context. This conceptualization has remained consistent in subsequent international legal instruments and has been incorporated into the national legislation of most countries, including Georgia. However, it is important to note that while the UDHR provides a general framework, its provisions primarily focus on freedom of religion and belief, whereas freedom of thought and conscience is subject to certain contextual limitations. In general, this trilogy of freedoms-thought, conscience, and religion-can be collectively referred to as religious freedom. This is because personal opinion (thought), personal moral stance (conscience), and religious or atheistic belief (religion) all fall under the category of deeply held inner convictions. The European Court of Human Rights (ECHR) has reinforced this perspective by not recognizing freedom of thought or conscience as entirely separate from freedom of belief within this category of rights. This underscores the profound connection between individual thought, personal conscience, and religious beliefs. Although the UDHR is universally significant, it remains a non-binding moral document rather than a legally enforceable instrument. The legal foundation for the international protection of human rights was formally established in 1966, when the United Nations adopted two legally binding covenants:

- The International Covenant on Civil and Political Rights (ICCPR)
- The International Covenant on Economic, Social, and Cultural Rights (ICESCR)

The ICCPR, in particular, extended the declaratory nature of freedom of religion and belief as outlined in Article 18, providing a more comprehensive legal framework. The UN Human Rights Committee later

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<sup>9</sup> Universal Declaration of Human Rights; <https://www.supremecourt.ge/files/upload-file/pdf/act3.pdf>

<sup>10</sup> Universal Declaration of Human Rights, Article 18, PP.4, <https://www.supremecourt.ge/files/upload-file/pdf/act3.pdf>

interpreted and elaborated on this right in General Comment No. 22 (1993),<sup>11</sup>  
<sup>12</sup> further refining its scope and application in international human rights law.

### **The Convention for the Protection of Human Rights and Fundamental Freedoms 1950<sup>13</sup>**

The right to express one's religion and beliefs is deeply rooted in the broader principle of freedom of expression. Accordingly, any limitations on the expression of religion and belief should be assessed within the combined framework of Article 9 (freedom of thought, conscience, and religion) and Article 10 (freedom of expression) of the European Convention on Human Rights (ECHR).<sup>14</sup> Article 10 of the Convention states: "Everyone has the right to freedom of expression, which includes freedom to hold opinions, receive/disseminate information and opinions without interference by public authorities and regardless of frontiers. This Article shall not prevent countries from requiring the licensing of radio broadcasting, television or cinematographic productions. The exercise of these freedoms, as it entails obligations and responsibilities, may be subject to formalities, conditions, restrictions, or sanctions prescribed by law and deemed necessary in a democratic society for the protection of national security, territorial integrity, or public safety, for the prevention of disorder or crime, for the protection of health or morals, to protect the reputation or rights of others, to prevent the disclosure of confidential information, or to preserve the authority and impartiality of the judiciary."

The individual and collective dimensions of freedom of religion and belief exist within a unified legal space and are interdependent. Article 9 of the Convention explicitly recognizes that the confession of religion and the expression of belief can occur both individually and collectively. The European Court of Human Rights (ECtHR) has reinforced this principle, affirming that freedom of religious expression also protects the rights of religious associations, making it a collective right. This means that freedom of religion and belief extends beyond individuals to religious communities, guaranteeing their autonomy, independence from state interference, and freedom of self-organization. The ECtHR has further emphasized that since religious communities traditionally exist in organized structures, Article 9 should be interpreted alongside Article 11, which protects freedom of

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<sup>11</sup> Freedom of Religion under Georgian and International Law; PP 35-38;

<sup>12</sup> CCPR General Comment No. 22: Article 18 (Freedom of Thought, Conscience, or Religion). <https://www.refworld.org/legal/general/hrc/1993/en/13375>

<sup>13</sup> European Convention on Human Rights;  
[https://www.echr.coe.int/documents/d/echr/conve%20ntion\\_eng](https://www.echr.coe.int/documents/d/echr/conve%20ntion_eng)

<sup>14</sup> European Convention on Human Rights;  
[https://www.echr.coe.int/documents/d/echr/conve%20ntion\\_eng](https://www.echr.coe.int/documents/d/echr/conve%20ntion_eng)

association. This interpretation ensures that believers have the right to freely associate and practice their religion collectively, without undue interference from the state. In essence, the autonomy of religious communities is a fundamental aspect of pluralism in a democratic society, making it directly protected under Article 9.

### **Freedom of Expression and Its Limitations**

In December 1976, the European Court of Human Rights reaffirmed the critical role of freedom of expression in a democratic society, stating: "freedom of expression is one of the essential foundations of a democratic society, one of the basic conditions for its progress and the development of each individual." Under Article 10(2), freedom of expression applies not only to widely accepted views but also to opinions that may be offensive, shocking, or disturbing to the state or certain segments of society. This protection reflects the requirements of pluralism and tolerance, which are essential for the existence and development of democracy.<sup>15</sup> Additionally, Article 10 applies equally to both individuals and legal entities.<sup>16</sup>

Article 10(1), second sentence, addresses the content of freedom of expression, encompassing both the right to express opinions and the right to receive and disseminate information. The European Court has held that: "freedom of information prohibits the government from restricting a person from receiving information that others want or may want to provide him. Article 10 states in such circumstances "...the state does not impose a positive obligation to disseminate information".<sup>17</sup>

### **Permissible Restrictions on Freedom of Expression**

While freedom of expression and information is fundamental, it is not absolute. Article 10(2) of the European Convention allows for restrictions, but only if they meet strict criteria. Restrictions must be:

- Precisely defined by law
- Necessary in a democratic society

Restrictions generally fall into three categories:

1. Protection of public interests, including:
  - National security
  - Territorial integrity

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<sup>15</sup> Handyside v. the United Kingdom, Application # 5493/72, Series A # 24.

[https://hudoc.echr.coe.int/eng#{%22item id%22:\[%22001-57499%22\]}](https://hudoc.echr.coe.int/eng#{%22item id%22:[%22001-57499%22]})

<sup>16</sup> Autronic AG v. Switzerland, Application # 12726/87, Series A # 178.

[https://hudoc.echr.coe.int/eng#{%22itemid %22:\[%22001-57630%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid %22:[%22001-57630%22]})

<sup>17</sup> Leander v. Sweden, Application # 9248/81, Series A # 116.

[https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-57519%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-57519%22]})



- Public safety
- Prevention of disorder or crime
- Protection of health or morals
- 2. Protection of individual rights, including:
  - Reputation and rights of others
  - Prevention of the disclosure of confidential information
- 3. Preserving the authority and impartiality of the judiciary

While these limitations may seem extensive, any restriction must be legally prescribed and essential in a democratic society.

### **Key Principles Established by the ECtHR**

In assessing the necessity of state intervention, the Strasbourg Court has developed several important principles. One such principle distinguishes between facts and evaluative judgments:

- Facts can be proven
- Evaluative judgments cannot be objectively proven

The Court has held that requiring proof for evaluative opinions violates the core essence of freedom of thought and opinion. It specifically stated: "It is unacceptable to deprive a journalist of the right to express critical evaluative judgments simply because they cannot be proven true." However, while press freedom is strongly protected, it is not absolute.<sup>18</sup>

### **International Covenant on Civil and Political Rights (1966)<sup>19</sup>**

The forum for ensuring important guarantees of freedom of expression is the United Nations. Freedom of opinion, expression, and information is protected by Article 19 of the International Covenant on Civil and Political Rights developed by the United Nations, according to which:<sup>20</sup>

1. Every person has the right to have opinions without interference from anyone.
2. Every person has the right to freedom of expression; this right includes freedom, regardless of restrictions, to seek, receive and impart information and ideas of all kinds, orally, in writing, or through the press, in the form of art, or in any other medium of one's choice.

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<sup>18</sup> Tammer v. Estonia, Application no. 41205/98.

[https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-59207%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-59207%22]})

<sup>19</sup> International Covenant on Civil and Political Rights,

[https://treaties.un.org/doc/treaties/1976/03/19760323%2006-17%20am/ch\\_iv\\_04.pdf](https://treaties.un.org/doc/treaties/1976/03/19760323%2006-17%20am/ch_iv_04.pdf)

<sup>20</sup> International Covenant on Civil and Political Rights, Article 19.

[https://treaties.un.org/doc/treaties/1976/03/19760323%2006-17%20am/ch\\_iv\\_04.pdf](https://treaties.un.org/doc/treaties/1976/03/19760323%2006-17%20am/ch_iv_04.pdf)



3. Exercising the rights provided for in paragraph 2 of this article implies special obligations and special responsibilities. Therefore, it may be subject to certain restrictions that are provided by law and are necessary:
  - a. To respect the rights and reputation of other persons;
  - b. To protect security of the country, public order, health, and well-being of the population.

This article symbolizes two important categories of the first generation of human rights - civil and political rights, which determined the name of the covenant. As a matter of course, it is not always easy to distinguish between impermissible interference with freedom of opinion and permissible daily influence on the formation of opinions through state propaganda, private advertising, private conversations, and other impressions. However, it should be noted that, in general, it is only possible to discuss the limitation of the right to freedom of opinion when the influence on a person takes place against his will or at least without his silent consent and when it is carried out by violence, threats, or other similar impermissible methods.

The International Covenant on Civil and Political Rights is a legal instrument for the protection of human rights and freedoms established by the United Nations Universal Declaration of Human Rights. Accordingly, this document reiterated, extended, and gave legal force to the rights and freedoms contained in the Declaration, including freedom of thought, conscience, and belief. According to Article 18<sup>21</sup> of the International Covenant on Civil and Political Rights, everyone has the right to freedom of thought, conscience, and religion, which includes the freedom to have or adopt a religion or belief of his own free choice and to profess his religion or belief, either alone or in association with others, to practice worship, and perform religious or ritual customs, both publicly and privately. However, no one should be subjected to being forced to impair his freedom to have or adopt a religion or belief of his own choice. Freedom of religion or belief may be subject to only those restrictions that are established by law and are necessary for the protection of public security, order, health, and morals, as well as the fundamental rights and freedoms of other persons.

In contrast to the Declaration, the corresponding norm of the Covenant provides issues such as: the prohibition of having or accepting religious beliefs, the rights of parents and legal guardians in the religious upbringing of children, and, most importantly, the goals of limiting the freedom of expression of religion and belief. Article 18 of the Covenant was elaborated in

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<sup>21</sup> International Covenant on Civil and Political Rights, Article 18.  
[https://treaties.un.org/doc/treaties/1976/03/19760323%2006-17%20am/ch\\_iv\\_04.pdf](https://treaties.un.org/doc/treaties/1976/03/19760323%2006-17%20am/ch_iv_04.pdf)

1993 by the UN Human Rights Committee in its 22nd Commentary.<sup>22</sup> First of all, the document explains that freedom of thought, conscience, and religion is a deep and comprehensive right; it includes freedom of opinion in all matters, personal belief, and adherence to religion or belief, whether expressed individually or in association with others. Also, it was noted that the freedom of religion should extend to the unified space of freedom of belief, which includes both theistic, non-theistic, and atheistic beliefs: "The terms faith and religion are used in a broad sense. Article 18 is not limited by its own statement to traditional religions or to religions and beliefs similar in institutional character or practice to traditional religions. Accordingly, the Committee views with concern any tendency to discriminate against any religion or belief on any grounds, including the fact that they are newly established or represent religious minorities, which may be the object of hostility from the dominant religious community."<sup>23</sup>

An important clarification was made on the division of freedom of religion and belief into absolute and limited parts. Freedom of belief was recognized as internal, while freedom of religion and belief expression was classified as external obligatory category. It was pointed out that while the freedom of religion, which includes the inner belief of a person and is expressed in having, accepting, or changing a specific religious, non-religious, or atheistic belief, is an absolute right and cannot be subject to any kind of restrictions, freedom of expression of religion, as an external manifestation of one's beliefs, which comes into contact with other rights and freedoms, may be limited in some cases. Public security, order, health, and morals, as well as the protection of the fundamental rights and freedoms of others, have been defined as the purposes of such restriction. The internal freedom of religion and belief, as an absolute (unlimited) legal category, allows the freedom to have a specific religious, non-religious, or atheistic belief, as well as the freedom to have non-religious views regarding religious, non-religious, or atheistic beliefs. This freedom is derived from the freedom to choose one's belief unhindered, which can be expressed by accepting it, protesting it, or changing it to another belief. Within this context, it is important to emphasize that these rights and freedoms cannot be limited in any way. Any individual or state policy or practice, including moral or official influence or physical or psychological coercion, threats, intimidation, etc., which deprives a person of such freedom or puts him in a different position based on it, extends to him a different treatment, must be clearly assessed as discrimination based on religion or belief. Accordingly, in such cases, the legal mechanisms of anti-discrimination protection will apply to the person.

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<sup>22</sup> CCPR General Comment No. 22: Article 18 (Freedom of Thought, Conscience or Religion). <https://www.refworld.org/legal/general/hrc/1993/en/13375>

<sup>23</sup> Freedom of Religion under Georgian and International Law; PP 35-38;

External freedom of religion or belief, as a restrictive category, is a special area of regulation because the restriction of legal categories of rights, which is reasonable and even partly necessary, requires strict regulation. Such restrictions are generally based on specific principles and objectives. Establishing by law, as a principle of limitation of freedom, is based on the understanding that rights and freedoms should not be limited except for those cases that are expressly provided by law, and at the same time, these established limitations should not be subject to excessive interpretation and impermissible expansion. On the other hand, the limitations of rights and freedoms must be clearly foreseeable, so that each person fully knows in advance what limitations apply to his freedom and takes them into account when realizing the latter. Restrictions must be imposed and enforced in such a way that they do not endanger or substantially distort the enjoyment of the rights and freedoms established by the article as a whole. It is important to emphasize that the determination by law does not directly imply that the established restriction is fair. This means that, for the legitimacy of any restriction, it is not enough to determine it by law, but based on the essence of the restriction. Accordingly, it is not allowed to impose restrictions of a discriminatory nature. Thus, establishing by law as a principle mainly carries a procedural load and serves the purposes of regularity and predictability, while the essence of restrictions is derived from the common understanding of freedom of religion and belief and is related to specific goals.<sup>24</sup> Within the framework of the same article of the Covenant, freedom of expression of religion or belief may be subject to certain restrictions for the following purposes: public security, public order, health, morals, and the protection of the fundamental rights and freedoms of others. It is important to briefly review each of them.

Restrictions on the freedom of expression of religion or belief for the purpose of ensuring public security, order, and health must be interpreted in such a way that it does not extend to any public necessity. In this regard, the Human Rights Committee points out that the freedom of religion and belief has a fundamental character and its limitation in the general sense and purposes of public necessity is not allowed, including in the state of emergency. As an argument for this, the Committee refers to Article 4 of the same Pact:<sup>25</sup>

1. During the introduction of emergency rules in the counties, when the life of the nation is in danger and this has been officially declared, the States Parties to this Covenant may deviate from their obligations under the Covenant to the extent that the severity of the situation

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<sup>24</sup> Freedom of Religion (2004). pp. 152-177

<sup>25</sup> International Covenant on Civil and Political Rights, Article 4.

[https://treaties.un.org/doc/treaties/1976/03/19760323%2006-17%20am/ch\\_iv\\_04.pdf](https://treaties.un.org/doc/treaties/1976/03/19760323%2006-17%20am/ch_iv_04.pdf)

requires, and take measures, provided that these measures are not incompatible with other obligations imposed by international law, and they shall not be discriminated against solely on the basis of race, colour, sex, language, religion, or social origin.

2. This provision cannot be the basis for any deviations from Articles 6, 7, 8(paragraphs 1, 2), 11, 15, 16, and 18." Accordingly, for the purpose mentioned, the understanding of the limitation of the rights and freedoms guaranteed by Article 18 of the Covenant is narrowed to the actual threat or provocation of a specific crime. In some cases, public understanding may be narrowed for these purposes, such as public order and security in prisons and jails. In this context, it is important that the accused and convicted persons express their freedom of religion and belief with general limitations (within the scope of environmental possibilities), and special regulations are established to ensure public safety and order in such institutions.

Therefore, it is necessary to take into account the general approach of the European Court of Human Rights regarding the use of public morals to limit freedoms. It is important that in this context, the court gives freedom to the national authorities, because public morality is an integral part of the national independent culture, which cannot be unified. Nevertheless, excessive definition and extension of public morality is not allowed, because individual morality (even of a collective nature, for example, the morality of the majority) will become a general criterion and thus oppose the traditional moral norms of the same category of individual groups. Thus, public morality will ultimately be reduced to a value that forms the pillars of peaceful coexistence in society, including diverse societies, and is a deterrent to crime. It would be incorrect to discuss morality only through the criminal view, as the neglect of public morality may not lead to an immediate violation of the protected goods but may represent a real threat that would create an environment where the public protection of these goods will be drastically reduced or completely eliminated.<sup>26</sup>

Like other international documents, on the basis of the International Covenant on Civil and Political Rights, freedom of expression and information can be restricted only under certain conditions. The intervention<sup>27</sup> must be provided by law and serve the purposes listed below, in order to achieve the

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<sup>26</sup> Wolfe, C. (2000). <https://doi.org/10.1093/ajj/45.1.65>

<sup>27</sup> While Article 10(2) of the European Convention refers to "formalities, conditions, restrictions or sanctions", Article 19(3) of the International Covenant refers only to "restrictions", although they may also include formalities (e.g., a stamp duty on printed matter), conditions (e.g., licensing of a broadcasting company) or sanctions (e.g., criminal proceedings for the protection of the personality rights of others).

set goal.<sup>28</sup> The term "provided by law" means that the restrictions imposed on freedom of expression and information must be given in the act adopted by the Parliament in a formal way or in the relevant unwritten norms of customary law and adequately indicate the admissibility of the given intervention by the law enforcement officers.<sup>29</sup> Interference based solely on administrative statutes or vague statutory theses constitutes a violation of Article 19. The requirement of necessity implies that the restriction must be proportionate to the objective pursued, taking into account severity and intensity, and must not constitute a rule.<sup>30</sup>

Regarding the objectives of the intervention, Article 19, paragraph 3 of the International Covenant on Civil and Political Rights provides fewer restrictions than Article 10, paragraph 2 of the European Convention. In addition to the fact that the European Convention on Human Rights provides for the licensing of radio broadcasting, television, or cinematographic productions, paragraph 2 of Article 10 of the Convention indicates such purposes as: interests of territorial integrity or public security, prevention of disorder or crime, prevention of disclosure of secret information or maintaining the authority and impartiality of the judiciary. All these grounds for limitation were proposed during the drafting of Article 19 of the International Covenant but were rejected because they were considered too specific. Permissible purposes of intervention include the following:

- 1. Respect for the Rights and Reputation of Others** - Article 19, paragraph 3 of the International Covenant provides for the restriction of expression and freedom to protect the rights of others. At the same time, like the European Convention, it refers to "the reputation of others," which is clearly protected by the first paragraph of Article 17 of the Covenant. Hence, the classic conflict between human rights/freedom of expression and protection of the individual will arise.<sup>31</sup>

Other rights whose protection may justify restrictions on freedom of expression include, for example, freedom of religion, the prohibition of discrimination, including the incitement of racial strife, and possibly the protection of minorities.<sup>32</sup> Protection of the rights and reputation of others may be enforced by criminal, civil, and/or administrative remedies. However, great importance is attached to the special measures provided by legislation on the media, such as the right to respond in case of incorrect reporting, the right of

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<sup>28</sup> Nowak, M. CCPR Commentary, Engel 1993., p. 350

<sup>29</sup> Nowak, M. CCPR Commentary, Engel 1993., p. 351

<sup>30</sup> Nowak, M. CCPR Commentary, Engel 1993., p. 351

<sup>31</sup> Frowein, Jochen A.; Peukert, W., (2023), PP. 234, PP.238

<sup>32</sup> Nowak, M. CCPR Commentary, Engel 1993., Item 34

the media to cover the facts of the acquittal of persons accused of crimes by the court, etc.

2. **State Security** - Restriction of freedom of expression and information for the purpose of protecting national security is permissible only in important cases, when political or military danger threatens the entire nation. For example, the acquisition and/or dissemination of military secrets may be prohibited on this basis. A publication that directly calls for the violent overthrow of the government in times of political unrest or propaganda for war, as outlined in Article 20, paragraph 1 of the International Covenant, may also be restricted on this basis.
3. **Public Order** - Public order is considered a "civil law concept with an increased risk."<sup>33</sup> This term refers to the "avoidance of disorder and crime". It may also mean "universally recognized fundamental principles, which correspond to the respect of human rights, on which a democratic society is founded."<sup>34</sup> The term also includes the grounds for restrictions provided for in Article 10, Paragraph 2 of the European Convention, namely, obtaining and disseminating secret information and creating a threat to the impartiality of the judiciary. In addition, the concept of public order includes the prevention of disorder and crime, as well as the prohibition of inciting racial hatred, as provided for in the second paragraph of Article 20. Several forms of interference with freedom of expression and information are considered permissible. Finally, certain restrictions on freedom of expression by members or officials of the security forces, as well as restriction on the freedom of information of prisoners, may be justified on grounds of public order.
4. **Health and Morals of the Population** - States can prohibit misleading publications about substances (narcotics, drugs, poisons, etc.) or practices that are dangerous to health in order to protect the health of the population. Additionally, restrictions on tobacco, alcohol, drug, or narcotic advertising may be justified under this objective.

To protect public morals, the committee emphasized that "the morals of the population differ significantly. There is no universally applicable standard. Therefore, from this point of view, the national government is given a certain margin of evaluation."<sup>35</sup>

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<sup>33</sup> M. A. v. Italy, Communication No. 117/1981, 10 April 1984. # 117/1981, paragraph 13.3

<sup>34</sup> Nowak, M. CCPR Commentary, Engel 1993., p. 356

<sup>35</sup> Handyside v. the United Kingdom, Series A 3 24, paragraph 24.

[http://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-57499%22\]}](http://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-57499%22]})



## **General Constitutional Framework of Freedom of Religion and Belief Based on the Example of Georgian Legislation**

In Georgia, freedom of religion and belief is guaranteed and protected by the current constitution.<sup>36</sup> Article 19 of the Constitution clearly represents the supreme legal guarantee of freedom of speech, opinion, conscience, religion, and belief. In the general constitutional framework of freedom of religion and belief, the set of all the basic constitutional norms directly or indirectly related to the broad area of freedom of religion forms the highest legal guarantees of rights, freedoms, and relationships related to it. However, the general constitutional framework, through indirect norms, creates a contextual understanding of freedom of religion and belief in the unified field of human rights.

Together with Article 19<sup>37</sup> of the Constitution of Georgia, the following articles (current version, 2015) form the general constitutional framework of the right to religion and belief: Article 9 recognizes full freedom of belief and religion and defines the relationship of the Apostolic Autocephalous Orthodox Church of Georgia with the state; Article 14<sup>38</sup> prohibits discrimination against people on various protected grounds, including religious affiliation; Articles 24 and 25<sup>39</sup> create general constitutional guarantees of freedom of expression, which include the freedom of religious expression; Article 26, on one hand, protects the freedom of association, including the freedom of association on religious grounds, and, on the other hand, declares the creation of such a public or political association or participation in it as inadmissible if its purpose is to incite religious strife; Article 38<sup>40</sup> defines the equality of Georgian citizens in social, economic, cultural, and political life, regardless of religious affiliation.

At the center of the general constitutional framework of freedom of religion and belief is Article 19<sup>41</sup> of the Constitution of Georgia - freedom of speech, opinion, conscience, confession, and belief: "1. Every person has freedom of speech, opinion, conscience, confession, and belief. 2. It is not allowed to persecute a person because of his speech, opinion, confession, or belief, nor to force him to express his opinion about them. It is not allowed to

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<sup>36</sup> Constitution of Georgia, <https://matsne.gov.ge/ka/document/view/30346?publication=36>

<sup>37</sup> Constitution of Georgia, Article 19,  
<https://matsne.gov.ge/ka/document/view/30346?publication=36>

<sup>38</sup> Constitution of Georgia, Article 14,  
<https://matsne.gov.ge/ka/document/view/30346?publication=36>

<sup>39</sup> Constitution of Georgia, Articles 24 and 25,  
<https://matsne.gov.ge/ka/document/view/30346?publication=36>

<sup>40</sup> Constitution of Georgia, Article 38,  
<https://matsne.gov.ge/ka/document/view/30346?publication=36>

<sup>41</sup> Constitution of Georgia, Article 19,  
<https://matsne.gov.ge/ka/document/view/30346?publication=36>



limit the freedoms listed in this article, if their manifestation does not violate the rights of others."

Similar to the European Convention on Human Rights and Fundamental Freedoms and other international legal acts, the Constitution of Georgia considers the freedom of religion and belief in a single context with other categories of internal human freedom – thought and conscience, which emphasizes the recognition and protection of the conscientious and faith-based components of the human internal dimension. The present norm of the Constitution of Georgia is the national reflection of this international legal framework.

However, it is important to briefly touch on freedom of speech in this context, as its inclusion in this unity of rights represents a certain exception and creates a different formulation from international acts. Although Article 19 of the Constitution of Georgia offers freedom of religion and belief, unlike international acts, in a short formulation, it should not be perceived in a narrow sense, but should be expanded in the entire legal and communication space of the international legal framework. The constitutional wording - every person has freedom of religion and belief - includes both internal and external aspects of freedom and the full range of rights to express religion. This is a direct proof of paragraph 3 of the same article, which prohibits restrictions on the expression of religion and belief, except when their expression violates the rights of others.

Paragraph 2 of this article is important because it prohibits the persecution of a person because of his confession or belief, as well as forcing him to express his opinion about them. This norm, on one hand, prohibits the persecution of a person because of religion or belief, and on the other hand, protects the freedom of a person not to express his views on religion or belief. The prohibition of persecution of a person because of religion or belief creates a clear negative obligation for the state, which is expressed in the obligation to create appropriate legal mechanisms to protect a person from such treatment. In this direction, it is important to clarify what constitutes persecution of a person because of religion or belief. First of all, this refers to the persecution of a person because of his religious affiliation or belief and includes any form of violation of his freedom, whether physical or psychological violence, harassment, restriction of rights, or complete disregard for rights, professional or moral influence, threats, intimidation, blackmail, or discriminatory treatment, etc. It is also significant that the persecution of religion or belief may manifest itself in such actions towards a person that prevent him from freely expressing his religion or forcefully changing his specific religious beliefs or views, etc. It should be emphasized that freedom of religion and belief, as an internal right, belongs to the category of absolute rights, and therefore, the given constitutional prohibition is also

absolute: "The above prohibition is absolute and corresponds to the absolute right of a person not to be persecuted for his views, beliefs, or religious affiliation. The absoluteness of this right implies that the state has, at the same time, a strong positive obligation to protect the individual and groups of individuals against the illegal actions of private individuals, including members of other religious groups or the majority religion."

Coercion of a person to express views on religion or belief includes both coercion to disclose one's own personal religious belief or belief, as well as coercion to express one's views on religion or belief in general. In this formulation, the freedom of a person to reveal or not to reveal his religious beliefs or views is a negative regulation of freedom - not to be forced to act without his own free choice. In addition, like the prohibition of persecution of a person on the basis of religion or belief, the said prohibition is also absolute in nature, and it is not allowed to violate it.

Article 19 of the Constitution of Georgia allows the restriction of the freedom of expression of religion and belief for one purpose only - that is, to protect the rights of others: "It is not allowed to limit the freedoms listed in this article if their manifestation does not harm the rights of others." It considers the principles of limitation, as well as international acts. In particular, the principles recognized as the basis of such limitation by the international legal framework-consideration by law, necessity in a democratic society, and proportionality with a legitimate goal-are directly derived from Articles 7 and 39 of the Constitution of Georgia, according to which human rights and guarantees of protection are included in the generally recognized understanding of the Constitution. The international democratic legal framework implies that "The state recognizes and protects universally recognized human rights and freedoms as inalienable and supreme human values. When exercising power, the people and the state are limited by these rights and freedoms, as directly applicable law."<sup>42</sup>

The Constitution of Georgia does not deny other universally recognized rights, freedoms, and guarantees of a person and a citizen that are not mentioned here, but are derived from the principles of the Constitution. The constitutional framework of freedom of religion and belief established by the Constitution of Georgia essentially corresponds to the international legal framework of human rights and freedoms in general, as well as, specifically, freedom of religion and belief.<sup>43</sup>

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<sup>42</sup> Constitution of Georgia, Article 7,  
<https://matsne.gov.ge/ka/document/view/30346?publication=36>

<sup>43</sup> Constitution of Georgia, Article 39,  
<https://matsne.gov.ge/ka/document/view/30346?publication=36>

## Conclusion

The achievement of international harmony depends on the recognition and respect of the multicultural character of the human family by individuals, communities, and nations. Without tolerance, peace is impossible, and without peace, the development and strengthening of democracy cannot be realized. Intolerance manifests in the marginalization of vulnerable groups, exclusion from social and political life, and acts of violence and discrimination. In today's world, tolerance is more critical than ever. This era of economic globalization, increasing mobility, rapid communication, integration, and interdependence is marked by large-scale migration, urbanization, and evolving societal structures. As diversity defines all regions of the world, the escalation of intolerance poses a global threat, not confined to any single country. Tolerance is essential in interpersonal relationships, within families and communities, and across educational institutions. Whether through formal or non-formal education, at home or in the workplace, a culture of openness, listening, and solidarity must be nurtured. The mass media hold the potential to foster free and open dialogue, promote the values of tolerance, and raise awareness about the dangers posed by influential groups and ideologies that advocate intolerance.

Education remains the most effective means of preventing intolerance. Teaching tolerance involves educating individuals about their common rights and freedoms to ensure their realization while also fostering a commitment to protecting the rights and freedoms of others. Establishing tolerance requires education to be prioritized as an urgent necessity. Systematic and rational methods of instruction should address the cultural, social, economic, political, and religious sources of intolerance, which often lead to violence and exclusion. Educational policies and programs must encourage mutual understanding, solidarity, and respect among individuals and diverse ethnic, social, cultural, religious, and linguistic groups. Education for tolerance should counter fear and exclusion while fostering independent, critical, and ethical thinking in young people.

At the state level, promoting a tolerant society requires fair and impartial legislation, effective law enforcement, and judicial and administrative procedures. Equal economic and social opportunities must be accessible to all individuals, without discrimination. Exclusion and marginalization can breed hostility, prejudice, and division. To cultivate a more tolerant society, states should ratify international human rights conventions and implement legal frameworks that ensure equal treatment and opportunities for members of society. Demonstrating tolerance, which is grounded in respect for human rights, does not equate to condoning social injustice or abandoning personal convictions. Instead, it acknowledges that individuals are free to hold their own beliefs while also recognizing the right

of others to do the same. Tolerance respects human diversity in appearance, language, behavior, and values, affirming the right of all individuals to live in peace and express their identities without coercion.

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