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## **Religious discrimination with regard to military service**

### ***Press release of the Tolerance and Diversity Institute: "The government adopted discriminatory and unconstitutional defense legislation"***

[Tolerance and Diversity Institute](#) (23.09.2023) - On 21 September 2023, the Parliament of Georgia adopted the new Defense Code and related amendments to various laws in its third reading. The new legislation is unconstitutional, creates discrimination on the grounds of religion, and violates the constitutional principles of freedom of religion and belief, equality, the right to privacy and a fair trial.

1. The new Defense Code and the Law on Non-Military, Alternative Labor Service provide that all clerics between the ages of 18 and 27 will be allowed to perform alternative, non-military labor service as an alternative to mandatory military service. However, this obligation does not apply to the clergy of the Georgian Orthodox Church, who, based on the Constitutional Agreement, are exempt from all military obligations, including alternative service.

2. According to the changes, all men between 18 and 60 will be automatically enrolled in the army reserve of the defense forces. An exclusive exception will apply to the clergy of the Orthodox Church because, according to the Constitutional Agreement, they are exempt from all military obligations.

3. According to Article 97 of the new Defense Code, to record the Mobilization Reserve composition, information about a person's religious affiliation will be entered into the electronic data system of the mobilization reserve. This will necessitate the collection of personal data about the religious affiliation of all men aged between 18 and 60. This information is, however, a sensitive special category of personal data.

4. Therefore, the government made changes to the Georgian Law on Personal Data Protection (Article 6), which made the processing of special categories of personal data (including information about religious affiliation) permissible for the purposes of military or reserve services, as provided for by the new Defense Code.

5. Amendments are also [initiated](#) to the Administrative Procedure Code. According to the planned changes, in cases in which court appeals are made against the decisions on the recruitment of conscripts to both national military service and to non-military, alternative labor service, the conscription will be suspended only until the decision of the district (city) court, i.e., for about a month. If the court of first instance considers that a person should undergo military service, this decision is subject to immediate execution.

6. Along with these legislative changes, the authorities introduced new, rather alarming terminology, such as "dishonest" and "fictitious" religious organizations, which are used as the main argument to support these changes to the new defense code. It is true that this terminology is not written directly in the texts of the laws but is found in the Defense

Code definition card and in public statements by the government. Nevertheless, the fact of using this kind of terminology in the legal and legislative field is alarming. This line of argument indicates that the state is instrumental in deciding which religious organizations are “fictitious” and which are “real.”

Due to the government’s discriminatory policy, freedom of religion and belief in Georgia has been grossly violated for years, and the situation is growing gradually worse:

- The government interferes with the autonomy of religious communities and violates the constitutional principle of secularism;
- The government examines the sphere of religion through the prism of assumed “security” rather than in the light of human rights. This is confirmed by the activities of the State Agency for Religious Issues, created in 2014 under the auspices of the Prime Minister, and by tens of thousands of leaked [files of illegal monitoring-surveillance](#) carried out by the State Security Service;
- The Georgian Dream government has not taken any steps to eliminate from the legislation the existing discrimination based on religion;
- On the contrary, it has adopted a number of legislative changes that further deepen the inequality between the Georgian Orthodox Church and all other religious organizations;
- The authorities have done nothing for the restitution of historical property by the minority religious communities. On the contrary, the historical properties of these other religious denominations were transferred to the Georgian Orthodox Church;
- The government illegally prevents minority religious communities from building new religious buildings.

Meanwhile, although the government’s policy towards religious communities is already discriminatory and repressive, the unconstitutional changes introduced by the new Defense Code cause even greater alarm. In addition to creating new areas of discrimination based on religion, the government wishes to collect specific personal information such as a person’s beliefs and religion. **Similar methods are used by authoritarian regimes.**

Since the initiation of the Defense Code Bill, the Tolerance and Diversity Institute (TDI) has been actively urging Parliament not to pass the law in a way that would explicitly violate constitutional rights. For this purpose, the TDI repeatedly appealed to the authorities, participated in numerous meetings and consultations, and constantly called on opposition political parties and politicians to act against the alarming changes.

This issue was also protested against by the Council of Religions under the Public Defender, which [urged the Parliament](#) of Georgia not to adopt the bill as presented.

Unfortunately, the government still managed to pass the anti-constitutional Defense Code along with its accompanying legislative initiatives.

**TDI will continue to work actively to change the anti-constitutional legislation that violates freedom of religion and religious equality.**

*TDI’s statements and assessments on the amendments to the defense code and related laws:*

[Legislative amendments on the military service of clergy – assessment by TDI, February 2023](#)

[TDI’s statement on the adoption of the first reading of the Defense Code, April 2023 \(available in Georgian\)](#)

[The government continues to review discriminatory military legislation, July 2023](#)

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## **Annual Report of the Tolerance and Discrimination Institute on Freedom of Religion or Belief**

[TDI](https://tdi.ge/) (06.07.2023) – The *Tolerance and Discrimination Institute* (TDI) has recently published its annual report about Freedom of Religion or Belief in Georgia with the support from the USAID Rule of Law Program implemented by the East-West Management Institute (eWMI). See their website <https://tdi.ge/>.

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## **About the new Defence Code and religion**

By Luka Kiliptari (\*)



[Civil.ge](#) (28.02.2023) - In December 2022, the Government of Georgia announced the new defense code, pledging it would improve the social welfare of military personnel. The government says it will also change the existing conscription system, eliminating the legal loophole that the Biblical Freedom church has used for years to help conscripts evade compulsory military service.

## Background

Conscription has been criticized in Georgia for years. Many, including former Defense Minister Tinatin Khidasheli, argued that the government used conscripts as cheap labor in various state institutions and did not provide real military training. One of the biggest opponents of the existing system, the libertarian political party Girchi, founded the church Biblical Freedom in 2017 to take advantage of the norm in the Georgian legislation that exempts priests from conscription. Biblical Freedom – a movement created by Girchi specifically for this purpose – ordained thousands of young men allowing them to avoid compulsory military service.

The Georgian Government and the Georgian Orthodox Church have condemned *Biblical Freedom* for years. In February 2021, the Holy Synod of the Georgian Orthodox Church even decided to deny communions and other sacraments, such as baptism and marriage, to the people who used priesthood certificates from Biblical Freedom. To discourage people from registering as Biblical Freedom priests, the Holy Synod also declared that the Georgian Orthodox Church would refuse funeral rites to them. Moreover, speaking about the Holy Synod's decision, the then speaker of the parliament, Archil Talakvadze, [accused](#) Girchi of undermining national security for political gain and announced the defense reform in this context.

Discussions about military reform were resumed on December 16, 2022, at the government meeting, where Prime Minister Garibashvili promised that the new defense code would end the activities of the "despicable" and "blasphemous" religious organization founded by Girchi. The Prime Minister stressed that the government had consulted the Georgian Patriarchate about the planned changes.

## What changes does the new code envisage?

[The proposed defense policy](#) is based on a total defense approach and aims to increase the country's ability to use all its national resources to defend the entire territory. Most of the changes will take effect starting January 1, 2025. The reform of compulsory military service, which will be renamed to National Military Service of Conscripts, is one of the key parts of the proposed defense code. Reversing the current policy of conscripts serving as, for example, prison guards in the ministries of interior and justice, after the passing of the new law, all conscripts will be subordinated to the Ministry of Defense. The duration of compulsory military service will be reduced. Instead of serving for 12 months, the recruits will serve in one of these three shorter-term programs:

1. 6 months of service in a combat unit;
2. 8 months of service in the security subdivision;
3. 11 months of service in junior command positions and predetermined specialties.

In addition, the conscription process will no longer be delegated to municipalities. From January 1, 2024, the Ministry of Defense will organize conscription. The government will use an electronic random conscription system.

Students at higher education institutions who are now exempt will also become subject to conscription. But to facilitate their education, in addition to the 6, 8, and 11 months of services offered to everyone, they will also be able to opt for a special program, allowing them to serve one month in summer, spread over 4 years if they are 23 or younger. The law does not specify how many of the draftees will be students. However, the Prime Minister [announced](#) in December that students would constitute half of the 10,000 new conscripts drafted annually.

The fee for deferring the conscription will increase from 2,000 GEL to 10,000 GEL. Only one such one-year deferral will be possible. Previously, individuals were allowed to defer their service twice, for 18 months.

The new legislation also aims to improve the social welfare of the servicemen. According to the proposed Defense Code, from 2024, the Ministry of Defense will be obliged to build co-financed housing for military personnel once every three years. Until now, co-financed housing has only been offered on a goodwill basis.

Compensation for military personnel injured or killed in the line of duty will also increase. If soldiers are wounded or mutilated, they will receive 20 000 GEL instead of 7 000, while if they die, their families will receive 30 000 GEL, instead of 15 000. In case of death during war or participation in military operations, the financial aid will remain at 100 000 Lari.

### **How does the reform address the legal loophole used by draft dodgers?**

The norm in the Law of Georgia on Military Duty and Military Service, which lists being a priest as one of the grounds for deferral of military service, will be removed. The clergy will be required to perform non-military alternative labor service immediately after the law is adopted, not from 2025. The term for alternative service will be longer than the term for military service – 18 months before January 1, 2025, and 12 months after that date.

### **Is a new law problematic?**

The new conscription system will put the priests belonging to the Georgian Orthodox Church in a privileged position by omission. Even though the law would no longer contain

the provision to exempt the priests, the 2002 Constitutional Agreement between the Georgian state and the Orthodox Church is the legislative act of higher order. Article 4 of that law exempts the Orthodox priests from military service, including alternative service.

The Council of Religions – a body functioning at the Public Defender’s Office – said while the clergy from other religious congregations is not against alternative service, they decry the discriminatory exemption applied to the Georgian Orthodox clergy.

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### **Further reading**

[Georgia’s new Defence Code is going to discriminate against minority religions](#)

*Photo: civil.ge*

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