

The background is a vibrant red color. It is overlaid with a complex network of black lines and shapes. These include thin, swirling lines that resemble orbits or paths. Scattered throughout are various sizes of solid black circles and some hollow black circles with a red center. The overall effect is a dynamic, interconnected pattern.

HATE SPEECH

BY PUBLIC AUTHORITIES/STATE OFFICIALS
& THE ISSUES OF DISCIPLINARY PUNISHMENT

2014-2016

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GEORGIAN
DEMOCRACY
INITIATIVE

APRIL, 2016
TBILISI, GEORGIA

კვლევა განხორციელდა

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The present research paper is a review of the hate speech usage practice in Georgian politics between the years 2014–2016. It consists of the analysis of domestic legal acts, limiting the use of hate speech, and also, to eradicate hate speech among Georgian political actors, it proposes – based on the review of actual legal acts and/or established practices of other countries – self-regulation mechanisms for them.

Public servants, and in particular, individuals occupying powerful political positions have a duty to support the process of establishing a pluralistic environment in their respective states. It is their constitutional duty, on the one hand, to protect individuals from discrimination and ensure equal environment for every citizen in the public domain, and on the other hand, not to become themselves the supporters or facilitators of discrimination. It is exactly in this context, that unlike the other members of a society, the margins of freedom of expression for public servants, politicians, or individuals with powerful political positions are much narrower.

Given a high level of public interest towards opinions expressed by public authorities, each case must be denounced, if the opinions expressed by these individuals promote discriminatory social tendencies, or furthermore, support the acts of violence. These individuals must serve to the founding values of a democratic state: respect for dissenting opinion, full enjoyment of the right of freedom of expression, and impermissibility of hate speech.



The above mentioned principle is affirmed by the Committee of Ministers 1997 Recommendation¹, which emphasizes special duties of the governments and institutions, as well as, public officials, to refrain from statements, especially in the public domain, which may be perceived as hate speech. The same principles are declared by the Council of Europe Parliamentary Assembly, which stresses, that “it is the paramount duty of all public authorities not only to protect the rights enshrined in human rights instruments in a practical and effective manner, but also to refrain from speech likely to legitimise and fuel discrimination or hatred based on intolerance.”²

Nevertheless, it must be noted that, while it’s true that an universal definition of hate speech does not exist, according to the same Committee of Ministers 1997 Recommendation “the term “hate speech” shall be understood as covering all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance, including: intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility against minorities, migrants and people of immigrant origin.”³

The present research paper is concerned with studying anti-discrimination self-regulation mechanisms put in place within public bodies and political parties throughout numerous countries, Georgia included. Its goal is to establish, whether there exist, among Georgian public bodies, documents

¹ CoE Committee of Ministers Recommendation of 27.10.1997 Rec(97)20 “On Hate Speech“ [http://www.coe.int/t/dghl/standardsetting/hrpolicy/other_committees/dh-lgbt_docs/CM_Rec\(97\)20_en.pdf](http://www.coe.int/t/dghl/standardsetting/hrpolicy/other_committees/dh-lgbt_docs/CM_Rec(97)20_en.pdf)

² CoE Parliamentary Assembly 29.04.2010 Resolution 1728(2010) on “Sexual Orientation and Gender Identity Based Discrimination“, par. 7. <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN.asp?fileid=17853&lang=en>

³ CoE Committee of Ministers Recommendation Rec (97)20 “On Hate Speech“

for internal consumption, that regulate what happens when employees resort to hate speech, xenophobia and discriminatory rhetoric based on miscellaneous signs; also, it researches whether any kind of disciplinary measures have been applied on occasions where employees have been expressing themselves in a discriminatory manner.

Within the present paper, the following research items have been analyzed:

- Legal documents that define disciplinary punishment for the employees of Georgian public bodies;
- Statutes of parliamentary factions/subjects;
- Parliamentary reports of Public Defender of Georgia;
- Various monitoring reports of NGOs on the use of Xenophobia, and acts of discrimination and reactions to them in Georgian politics and media.
- Hate speech related self-regulations, and other types of norms, enshrined in the laws of various democratic countries.

The final goal of the research is prevent, and eradicate hate speech by proposing self-regulatory mechanism, on the one hand, to Georgian political actors, and on the other hand, to the Parliamentary factions.





INCIDENTS OF HATE SPEECH IN GEORGIAN POLITICS/PUBLIC SPACES BETWEEN 2014–2016

The years 2014–2016 were frequently marked with hate speech used by high ranking politicians. Most of them were of homophobic nature, incited hatred, and insulted specific social groups. Various intermediary research^{4,5} conducted during this period by NGOs and media organizations showed that – the representatives of political parties, public organizations affiliated with them, acting and former political position holders, also, individuals released from prisons under the status of political prisoners, those that are politically active – all resorted to discriminatory expressions on more than 100 occasions.

Representatives of political party “Popular Gathering”, Elizbar Javelidze

- Towards those persons, whom he believes, carry opposing views towards the Georgian Church and the so called “Georgian mentality”: “They all must be denuded and horsewhipped until they have come to proper senses and think straight again”. *“Asaval-Dasavali” Newspaper, February 17–23, 2014.*
- Towards United National Movement and its individual representatives: “These criminals {Saakashvili and the members of UNM} should rot in the prisons”. *“Asaval-Dasavali” Newspaper, February 24 – March 2, 2014.*

⁴ The results of the media monitoring of Media Development Foundation (MDF) on “hate speech and expression of discrimination in the political discourse”.

http://eurocommunicator.ge/mdf/uploads//Hate_speech_in_political_discourse.pdf

⁵ <http://gdi.ge/uploads/other/0/314.pdf>

- **Towards an author (and a diplomat), because of the content of his novel:** “This brainsick person, Qarumidze ... I do not believe that Irakli Garibashvili – this great Georgian guy – would ever agree to appoint this nonsense of a man to the position of Georgia’s ambassador abroad”. *“Asaval-Dasavali” Newspaper, March 31 – April 6, 2, 2014.*

MPs of the governing political group, “Georgian Dream”:

- **Davit Lortkipanidze towards his political opponents:** “Sadly, you are not allowed to sew on the mouths of the UNM members... the justice must be restored to the point that the vocal cords of UNM members are shut down. I want to address to these walking corpses ...”, *Newspaper “Asaval-Dasavali”, February 17-23, 2014.*
- **Soso Jachviani towards Georgian authors:** “This {Lasha Bugadze} nothingness that degenerated the saints... these scums of society are especially targeting Georgian sanctities, spirituality, Orthodoxy, they get paid to base mother-church! These are the ideological bastards of Allen Dulles, and the executors of his dirtiest doctrine!”, *“Asaval-Dasavali” Newspaper, March 31-April 6, 2014.*

Public Authorities/Officials:

- **The Minister of Education and Culture of Abkhaz Government in Exile, Dima Jaiani towards LGBT individuals:** “Scoundrels! Stop driving Georgian people mad, or last year’s May 17th events will seem like a fairy tale to you! The Government must do everything to avoid defiling Rustaveli Cinema with the apology of Pederasty!”, *“Asaval-Dasavali” Newspaper, April 21-27, 2014.*
- **The 2015 report of the Head of the “Georgian Dream-Democratic Georgia” faction of Khulo Municipality** includes hate speech and expressions of Armenophobic nature. Namely, in relation to Michael Saakashvili, belonging to ethnic Armenian group was mentioned in negative



context, later followed by harsh criticism of the said politician. Hence, the document presented belonging to a certain ethnic group as something to be ashamed of. This was criticized by the members of the “No To Phobia!” civil platform. Currently, the document is still accessible on the internet⁶, however, the text has been edited: “Armenian Saakian” has not been replaced with the words “former President of Georgia”.

- **Former Deputy Minister for Diaspora Issues, Sandro Bregadze** was particularly active in resorting to hate speech rhetoric. NGOs have repeatedly demanded his removal from the political position, due to his multiple use of speech filled with hatred. Among these incidents, one can recall his interview with the “Kviris Palitra” Newspaper on October 25, 2014, and the interviews with the “Asaval-Dasavali” Newspaper on January 11, 2016 and on February 4, 2016. These interviews included homophobic, hate-inciting and insulting expressions. It must be noted that Georgian NGOs addressed the Prime Minister of Georgia twice, with the request to reconsider the expediency of keeping him on the position. Sandro Bregadze resigned on February 19, 2016 from the position of Deputy Minister.
- **The Chair of the Parliamentary Committee on Finances and Budgeting, Tamaz Mechiauri** is exceptionally keen on using hate speech, particularly, homophobic hate speech⁷. Furthermore, he has been quoted with Armenophobic rhetoric as well. Namely, on January 21, 2016 he physically attacked one of the participants of the protest action that took place in front of the Former Parliament Building. After the incident, he added – “Had I known this Mr. was named Arthur [typical Armenian name]. Had I known it...I would have gone even harder on him...”. His hate is frequently directed at NGOs, as well. Frequently, he refers to

⁶ <http://gdi.ge/ge/news/samoqalaqo-platformashi-ara-fobias-shemavali-organizaciebis-gancxadeba1.page>

⁷ <http://www.notophobia.ge/geo/media/>

NGO representatives as “Non Profit Sorosites” [alleging that they follow philanthropist George Soros’s agenda blindly]⁸.

- **The member of the Parliamentary Majority, Gogi Topadze** used Down Syndrome as a swear-word, when he declared that the President of Georgia compared Georgian people with the “Downs”. Despite ensuing criticism, Topadze not only repeated his insult, but also added the following: “Whether I say Down or Imbecile, there is not much the difference, really”⁹ Topadze has been quoted with Xenophobic speech in 2014, when he referred to the Chair of Georgia’s International Trade Chamber, Fadi Asli [who is ethnic Arab], as “someone dragged down to Georgia, who turned us into a Banana Republic..., You [talks to Mr. Asli] were not raped with bottles, even though you deserved it...had they done this to you, you would not be chattering unceasingly... Man, back then, this defector of faith wasn’t vocal at all”¹⁰, “Kavkasia TV”, “Spektri” Show, March 27, 2014.
- **The Georgian Minister of Science and Education, Tamar Sanikidze** used discriminatory term [“mamatmavlebi”, which, in English, would equal to “faggots”] towards LGBT community on TV show 20/30¹¹. Even though she later explained that she only used the term that was used in the text of the petition she was asked to comment on, in this moment of clarification she actually used the word mamatmavlebi [faggots] again, and this time, without any clarification or distancing herself from it.
- **The Georgian Minister of Justice, Thea Tsulukiani**, expressed herself in a xenophobic and discriminatory manner towards the citizens of

⁸ <http://www.interpressnews.ge/ge/politika/343885-thamaz-metciauri-ivanishvils-vadanashauleb-imashi-rom-erthqenjeoel-soroselsq-saqsovi-chkhirebi-gaagdebina-da-vetothi-aghtcurva.html?ar=A>

⁹ <http://liberali.ge/news/view/20616/video-gogi-tofadze-prezidents-qartveli-khalkhi-tqven-dauneps-sheadaret>

¹⁰ http://www.myvideo.ge/?video_id=2294841

¹¹ https://www.youtube.com/watch?feature=player_embedded&v=AL8-3kxtcrE

certain countries in her February 18, 2015 interview with the TV Imedi “Qronika” news evening edition¹². “No To Phobia!” responded to this, noting that is importance politicians that hold powerful positions realize the impact of their declarations on public opinion and do not incite intolerant attitudes”¹³.

It is clear that, against the background of recently propagated intolerant attitudes, when they are expressed by state officials, these viewpoints are particularly alarming and threatens to further empower the culture of intolerance in the society, which in its turn, disrupts and undermines the principles of democracy, that actually burdens public authorities with higher-than-average responsibility, and a duty to apply self-restraint to their public communication.

Also, individuals that occupy high ranking positions need to understand their task clearly – they must be exemplary in combatting intolerance; however, should the freedom of expression be of higher values, they must leave these posts and in the capacity of ordinary civilians, they can fully enjoy their right to freedom of thought and expression. This right is protected with extremely high legal standard in Georgia and this too includes freedom to use hate speech.

¹² <http://news.ge/ge/news/story/126445-tsulukiani-chineli-erayeli-iraneli-egvipteli-turistebis-raodenoba-shevavitsrovet-shemovushvat-is-vints-chveni-qveynis-ketilmosurnea>

¹³ <http://www.tabula.ge/ge/story/93439-10-arasamtavrobo-tsulukianis-gancxadeba-qsenofobiuri-da-rasistulia>



HATE SPEECH BY PUBLIC OFFICIALS: HOW IT IS REGULATED IN GEORGIA

In order to establish what legal acts regulate hate speech expressed by Georgian public officials and whether there have been disciplinary measures taken based on these acts, we studied Georgian laws, researched internally adopted documents of various central and local public bodies, and requested information about disciplinary measures applied to the incidents of hate speech that took place within these institutions.

3.1 Prohibitions of Discrimination According to Internal Regulations of Public Bodies

According to the internal documents retrieved, it turns out that to limit hate speech, some public bodies use ethics charter, or employee manuals. In few cases, the charter of the body itself, or general routine includes prohibition of hate speech.

- According to the Georgian Prosecutor's Office Ethics Code adopted in 2006¹⁴, which regulates employee relations with the public, an employee must show respect towards interlocutors, apply tact when expressing one's opinion and arguing one's position. Article 6 also prohibits "expressing opinions, that aim to restraint individuals or insult them based on race, skin color, language, sex, religion, political or other convictions, nationality, ethnic or social attribution, wealth or rank."

¹⁴ http://pog.gov.ge/res/docs/public_information/legal_acts/normative_acts/brzaneba_saqartvelos_prokuraturis_mushakta_itikis_kodeqsis_damtkicebis_shexaxeb.pdf

- General Auditor of the State Audit Service 2013 order adopts the body's Ethics Charter¹⁵. Article 11 of the Charter stipulates that the Auditor must be courteous towards colleagues and others. The employee must refrain oneself from any form of discrimination, and must respect human rights, freedoms, and integrity of others.
- Personal Data Inspector's Order of February 25, 2015 adopts the Inspector's Employees Ethics Charter¹⁶. According to the Article 5.5 of the Order, which regulates relations with the third parties, it is prohibited to express opinions or act in ways, that intends to limit the rights of individuals or insult them, based on race, skin color, language, sex, religion, sexual orientation, political and other convictions, nationality, ethnicity or social belonging, education, origin, wealth, rank or other status.
- Article 6, of the the Georgian Ministry of Finance 2014 Ethics Charter for Central Apparatus, stipulates that an employee must respect and protect internationally recognized human rights and freedoms, everyone's equality before the law, regardless of race, skin color, language, sex, religion, national, ethnic or social belonging, place of living, age, disability, belonging to public unions, including trade unions, family status, political or other convictions. The employees must serve the Georgian state and its citizens in an impartial manner.
- The Minister of Education and Science of Georgia signed an order in 2010 that adopts 2 ethics charters: the Ethics Charter for Teachers¹⁷, and the Ethics Charter for School Directors¹⁸. According to them, the directors and the teachers must pay equal attention to pupils, their parents and to other persons employed by the schools, regardless of sex, race, religion, nationality, ethnicity or social belonging, wealth, special educational needs, disability or other signs.

¹⁵ <http://sao.ge/legislation/code-of-ethics-of-the-auditors>

¹⁶ <http://manage.personaldata.ge/res/docs/Brzanebulebebi/Etikis%20Kodeksi.pdf>

¹⁷ http://schooleruditi.ge/index.php?option=com_content&view=article&id=61&Itemid=72

¹⁸ http://tpdc.gov.ge/uploads/pdf_documents/direqtori.pdf

Some institutions prohibit discrimination indirectly only, and only extremely broad interpretation would allow these documents to be used to regulate hate speech expressions:

- 2013 Ethics Charter of the Ministry of Internal Affairs¹⁹ Article 3 mandates police to communicate with the public in tactful, courteous and friendly manner. The same article stipulates that a police representative is to be polite and not exhibit rudeness, violence, restrain self from abusive behavior, and even if provoked, maintain impartiality.
- 2013 Special State Protection Service of Georgia Employee Ethics Charter, Article 3²⁰ Stipulates that “an employee, when communicating with the public and to other employees, must maintain tactful, courteous attitudes, and express one’s opinion, demands, remarks and propositions in a polite and respectful manner”.
- According to the Article 5²¹ of the internal Manual of the National Bureau of Enforcement, the employees must follow ethnic norms and high standards of service when interacting with other employees and citizens.
- The Ethics Code²² of the Resource Officers of Educational Institutions mentions that an Officer is prohibited from expressing oneself in a cynical manner, with jargons, and is not allowed to attack the dignity and integrity of others. Despite the location of the incident, if the Resource Officer discredits an educational institution, the Office of the Resource Officers, pupils and parents, teachers and lecturers or other Resource Officers, it will count as a disciplinary misconduct.
- As for the Parliament of Georgia, it did adopt its Ethics Code in 2004, which defined actions inadvisable for MPs, but this document is not used anymore and is not even accessible online. At this stage, Georgian Parliament is working on a new version and we were only able to learn about its general structure. The Manager of Parliamentary Programme,

¹⁹ <http://police.ge/files/pdf/policiis%20kodeqsi/Georgian%20Police%20Code%20of%20Ethics%20Georgian%20final.pdf>

²⁰ <https://matsne.gov.ge/ka/document/view/1880953>

²¹ http://nbe.gov.ge/files/documents/sajaro%20informacia/NBE_-_shinaganatsesi_2014.pdf

²² http://moecs.ge/contentimage/kanonebi/skolis_mandaturis_etikis_kodeqsi.pdf

Tamar Sartania informed us about this. According to her, the new Code will include norms, which cover prohibition of discrimination and restraining of MPs from expressing themselves in an insulting manner. According to the group that works on the draft of the Code, they plan to further expand and specify these principle in their future work. However, given the fact that, at this point the Georgian Parliament does not have any internal document, which would govern how MPs can behave in public, we have consulted individual statutes of parliamentary factions²³, to learn whether there are internal control mechanisms on the cases of hate speech usage. Turns out, 10 factions have adopted these types of documents, but none contain elements that govern homophobic and discriminatory speech. Besides, it must be noted that, some factions, such as, members of Parliamentary Majority – “Non-Party, Independent Majoritarians”²⁴ and “Independent Majoritarians – For Powerful Regions”²⁵ do not even have statutes at all (or,

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- ²³ <http://www.parliament.ge/ge/saparlamento-saqmianoba/fraqciebi-6/saparlamento-umravlesobashi-shemavali-fraqciebi/qartuli-ocneba/wesdeba>
<http://www.parliament.ge/ge/saparlamento-saqmianoba/fraqciebi-6/saparlamento-umravlesobashi-shemavali-fraqciebi/qartuli-ocneba-konservatorebi/fraqciis-wesdeba-1928>
<http://www.parliament.ge/ge/saparlamento-saqmianoba/fraqciebi-6/saparlamento-umravlesobashi-shemavali-fraqciebi/qartuli-ocneba-mrewvelebi/wesdeba>
<http://www.parliament.ge/ge/saparlamento-saqmianoba/fraqciebi-6/saparlamento-umravlesobashi-shemavali-fraqciebi/qartuli-ocneba-respublikelebi/fraqciis-wesdeba-1919>
<http://www.parliament.ge/ge/saparlamento-saqmianoba/fraqciebi-6/saparlamento-umciresobashi-shemavali-fraqciebi/ertiani-nacionaluri-modzraoba/wesdeba-1949>
<http://www.parliament.ge/ge/saparlamento-saqmianoba/fraqciebi-6/saparlamento-umciresobashi-shemavali-fraqciebi/nacionaluri-modzraoba-majoritarebi/wesdeba-1953>
<http://www.parliament.ge/ge/saparlamento-saqmianoba/fraqciebi-6/saparlamento-umciresobashi-shemavali-fraqciebi/nacionaluri-modzraoba-regionebi/wesdeba-1957>
<http://www.parliament.ge/ge/saparlamento-saqmianoba/fraqciebi-6/saparlamento-umciresobashi-shemavali-fraqciebi/nacionaluri-modzraoba-saqartvelostvis/fraqciis-wesdeba>
<http://www.parliament.ge/ge/saparlamento-saqmianoba/fraqciebi-6/qartuli-ocneba-erovnuli-forumi/fraqciis-wesdeba-1935>
<http://www.parliament.ge/ge/saparlamento-saqmianoba/fraqciebi-6/qartuli-ocneba-tavisufali-demokratebi/wesdeba-1926>
- ²⁴ <http://www.parliament.ge/ge/saparlamento-saqmianoba/fraqciebi-6/saparlamento-umravlesobashi-shemavali-fraqciebi/damoukidebeli-majoritarebi-dzlieri-regionebisatvis>
- ²⁵ <http://www.parliament.ge/ge/saparlamento-saqmianoba/fraqciebi-6/saparlamento-umravlesobashi-shemavali-fraqciebi/upartio-damoukidebeli-majoritarebi>

in any case, unlike other factions, they have not posted them on the official website of the Parliament).

We must note here that, since 2014, the Civil Service Bureau has been working on ethics manual, which will combine acts defining the duties of state officials and their responsibilities at every rank. We have contacted the Chief Specialist at Department of General Practice and Institutional Arrangement of the Bureau to learn how mature the document currently is, and if it included regulatory norms on hate speech of administrative officials. According to the said resource, the Bureau is actively involved in this process and the first draft of the document has already been completed, which will be made publicly accessible after a round of public discussions have been concluded. However, the schedule of such discussions remains to be announced. As for questions on hate speech regulatory norms, we got the following answer: “the working version of the document includes the standard of freedom of expression and those regulations, that limit officials within this context. However, this is still a working version, as we told you, and it may further be clarified and revised during discussions”.

3.2 Liability of Public Authorities Due to the Hate Speech Usage

As we see it, the use of hate speech by public authorities is not a rarity. Given high public interest into the matter, it is important to evaluate the State response to such cases, or even if it reacts adequately at all. Also of interest is to see if there is established any type of practice, which would be applicable by the State onto the occasions, when the usage of hate speech has been reported.

To establish this, we first wrote to the Office of Public Defender of Georgia, and asked them to provide information about the Office’s reaction to

the 2015 September Khulo case, in which, an official report contained an Armenophobic hate speech, and published on the official web-site of that Municipality. This example is particularly telling, because when the NGOs distributed a public statement on to the incident, they also asked the PDOs office to comment on it and act within their mandate²⁶.

In addition to the above-mentioned, we also requested PDO office the information about the measures it takes when individuals, who hold public position or status resort to hate and xenophobic speech; We asked the PDO if they reacted to hate speech in the period between January 1, 2014–March 20, 2016, and what the results of the PDO action were.

According to the letter sent from the office of the Correspondence and Human Resources of the PDO, dated April 12, 2016, they were unable to find any document related to the Khulo incident in their database and hence, they were unable to update us on the PDO proceedings on the case. As for our second request, the PDO office told us to look for answers in the Public Defender 2014–2015 Parliamentary Reports.

We have consulted these reports and found that in the 2014 report,²⁷ only one incident of hate speech used by a public official was mentioned. It is about NGO Identoba, in which case, according to the claimant, the Deputy Minister for Diaspora Issues, Alexander Bregadze, in his October 25, 2014 interview with the “Kviris Palitra” Newspaper, was insulting the dignity and integrity of Identoba’s Director, was threatening him with physical violence, and was targeting the NGO with pressure. Unfortunately, the

²⁶ <http://gdi.ge/ge/news/samoqalaqo-platfarmashi-ara-fobias-shemavali-organizaciebis-gancxadeba1.page>

²⁷ 2014 Public Defender of Georgia Report on the State of Protection of Human Rights and Freedoms in Georgia. pp.363–364 <http://www.ombudsman.ge/uploads/other/3/3509.pdf>;

report does not show the position of the PDO himself. He refers to the Article 13 of the Law on Public Service, which outlines basic principles of the public services, including, among others, those that define human and citizen rights, freedoms and respect for dignity.

2015 Parliamentary Report of the PDO is also limited to only 1 case. This time around, it was not about public official, but about the member of a political council of the political party “Georgia’s Patriot Alliance”, Vazha Otarashvili, who directed his hate towards Georgia’s ethnic Azerbaijani community. Namely, when he was participated, via phone interview, in one of the shows on TV “Obieqtivi”, he used insulting expressions towards the citizens of Georgia who are of ethnic Azerbaijani origin. The politician emphasized, that the election results of the village Iormuganlo [predominantly inhabited by ethnic Azeris] differed from other Georgian villages, and offered an explanation, as if this was due to the fact that ethnic Azeris are incapable of having independent opinion, and they are told what to do by those in power. PDO, commenting on the case in his Report, notes: “The opinions that Vazha Otarashvili holds are not merely critical ideas, but this is expression of demeaning views about the Azerbaijani community, which could even be perceived as inciting ethnic intolerance. Politicians, who publicly use hate speech, negatively impact Georgia’s democratic development. It is necessary that public personae realize their responsibilities, and media react adequately to incidents that involve hate speech”²⁸ None of the annual reports reviewed contain recommendations on how to avoid such cases, or what should the reactions on these incidents be.

²⁷ 2014 Public Defender of Georgia Report on the State of Protection of Human Rights and Freedoms in Georgia. pp.363-364 <http://www.ombudsman.ge/uploads/other/3/3509.pdf>;

²⁸ 2015 Public Defender of Georgia Report on the State of Protection of Human Rights and Freedoms in Georgia. pp. 693,737 <http://www.ombudsman.ge/uploads/other/3/3512.pdf>



EXPERIENCE AND PRACTICE OF OTHER COUNTRIES

4.1 Legal Acts Aimed at State Officials

Freedom of expression is protected in numerous international acts, however it is not absolute anywhere. Countries differ by what grounds do they limit freedom of expression. Varied practice exists regarding hate speech regulation as well, where state official usage of hate speech is concerned. Additionally, the fact that an unified definition of hate speech does not exist complicates matters further. Some states criminalize hate speech. According to the Fundamental Rights Agency (FRA) 2010 data²⁹, the list of countries that do so grows year-to-year.

In some countries, documents intended for internal use provide prohibition of hate speech and establish disciplinary punishment for such acts. This is done so in UK, Canada, France, Belgium, Norway, Malta, Ireland, USA, Australia, etc.



In the UK, per se, hate speech is not criminalized, but the norms that prohibit hate speech are part of Ethical Standards for Providers of Public Services³⁰. The Document lists the principles, which are to be upheld by the public servant in their communication with the public. Among these principles is the prohibition

²⁹ http://fra.europa.eu/sites/default/files/fra_uploads/1759-FRA-2011-Homophobia-Update-Report_EN.pdf

³⁰ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/336942/CSPL_EthicalStandards_web.pdf

of discrimination. Namely, public service providers, when interacting with the public, should carry out their duties in an impartial and fair manner, use best evidence for decision-making, and avoid discrimination and preferential treatment.

UK also has Code of Conduct for Members of Parliament³¹, which stipulates that the Members have a duty to uphold the general law against discrimination.



Canada regulates hate speech via Criminal Code³² and Human Rights Act³³. Additionally, Values and Ethics Code for the Public Sector³⁴, offers detailed description for public servants from what kind of behavior should they refrain themselves. Namely, public officials must respect human dignity and values and for this, they are “valuing diversity and the benefit of combining the unique qualities and strengths inherent in a diverse workforce,” while also “Helping to create and maintain safe and healthy workplaces that are free from harassment and discrimination.”



France has General Public Service Statute³⁵, which consists of four laws. One of them, the Law N°83-634 adopted on July 13, 1983, establishes general public service principles. According to the Article 25 of the Law,

“The official performs his duties with dignity, impartiality, integrity and probity.

In exercising its functions, it is bound by the obligation of neutrality.

³¹ <http://www.publications.parliament.uk/pa/cm/cm201516/cmcode/1076/107602.htm>

³² <http://laws-lois.justice.gc.ca/eng/acts/C-46/>

³³ <http://laws-lois.justice.gc.ca/eng/acts/h-6/page-1.html>

³⁴ <http://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=25049#ftn1>

³⁵ <http://www.fonction-publique.gouv.fr/statut-general-des-fonctionnaires>

The official performs his duties in accordance with the principle of secularism. As such, he abstains particularly manifesting his religious views in the performance of his duties.

The official treats all people equally and respects their freedom of conscience and dignity.

It is duty of every chief of public service to ensure compliance with these principles in the services under his authority. Every head of service may specify, after consultation with staff representatives, the ethical principles applicable to officials under his authority, adapting them to the missions of service.



Northern Ireland has Code of Conduct for Local Government Employees³⁶. According to the Article 8 of the Code, All members of the local community, customers and employees have a right to be treated with fairness and equity. In this regard employees must respect the principles of the antidiscrimination laws (listed in the 1st Appendix to the Code) and not take discriminatory action or decisions or encourage or put pressure on fellow employees to take discriminatory action or decisions.



As for the **United States of America**, attitudes towards hate speech vary there. 1st Amendment of the Constitution protects freedom of expression³⁷, however, ethical standards of various professional unions are rather strict in this regard. Up to 350 US colleges and universities have charters on ethics, which regulate expressions of hate speech, but applying these in the courts of law are quite contested, due to the 1st Amendment to the Constitution. Court orders, that limit certain types of expression and

³⁶ http://www.colerainebc.gov.uk/docs/code_of_conduct.pdf

³⁷ <http://constitution.findlaw.com/amendment1/annotation06.html#1>

punish their authors are quite rare, and as a general rule, are only ordered when it meets “Clear and Present Danger” test, adopted by the American Case Law system³⁸.

4.2 Self Regulatory Mechanisms of Parliamentary Political Parties

In addition to public bodies, prohibition of discrimination is listed in the statutes of political parties.



United State of America. Here, both major political party platforms include the principle of prohibition of discrimination.



US Republican Party Platform reads:³⁹ “In the spirit of the Constitution, we consider discrimination based on sex, race, age, religion, creed, disability, or national origin unacceptable and immoral. We shall strongly enforce anti-discrimination statutes and ask all to join us in rejecting the forces of hatred and bigotry and in denouncing all who practice or promote racism, anti-Semitism, ethnic prejudice, or religious intolerance.”



Democratic Party Platform⁴⁰ is also widely accepting of civil liberties: “We believe in an America where everybody gets a fair shot and everybody plays by the same set of rules. At the core of the Democratic Party is the principle that no one should face discrimination on the basis of race, ethnicity, national origin, language, religion, gender, sexual orientation, gender identity, or disability status. Democrats support our civil rights statutes and we have stepped up enforcement of laws that prohibit discrimination in the workplace and other settings. We are committed to protecting all communities from violence. We are committed to ending ra-

³⁸ E.g. US Supreme Court Decision on Brandenburg v. Ohio 395 U.S. 444 (1969);

³⁹ <https://prod-static-ngop-pbl.s3.amazonaws.com/docs/2012GOPPlatform.pdf>

⁴⁰ <http://www.democrats.org/party-platform>

cial, ethnic, and religious profiling and requiring federal, state, and local enforcement agencies to take steps to eliminate the practice... We are committed to equal opportunity for all Americans and to making sure that every American is treated equally under the law.” In addition to this, the document contains more specific declarations regarding discrimination on specific grounds – women, LGBT couples, persons with disabilities, etc.



Great Britain’s Code of Conduct for Members of Parliament,⁴¹ Article III defines general responsibilities of the Member of Parliament; among those are that the Members have a duty to uphold the general law against discrimination.



Republic of France National Assembly parliamentary group (faction) declarations speak about fundamental human rights and respect for equality⁴²:

The largest parliamentary group, **“The Socialists, Republicans and the Citizens”**, comprised of 279 members, declares: “We reaffirm our commitment to the fundamental principles of secularism and equality between men and women, the fight against all forms of discrimination, the fight against racism and antisemitism. We want to improve the integration of immigrants by denying sectarianism and promoting the adherence of all to secularism and the values of the Republic.”

The “Greens” group aims at “building a society, where freedoms are effectively protected (...) and in which the fight against of all forms of discrimination is fierce”.

The group “Radicals, Republicans, Democrats and Progressives (RRDP)” appeals to the Constitutional principle of equality,

⁴¹ <http://www.publications.parliament.uk/pa/cm201516/cmcode/1076/107602.htm>

⁴² <http://www.assemblee-nationale.fr/14/qui/declarations-groupes.asp#656002>

which provides equal rights for the citizens of various religious and ethnic origins. For them, “it is important to fight against all forms of marginalization and discrimination and respect for all humans.” They also speak about the Constitutional principle of secularism, according to which, “our country guarantees freedom of religion, but does not recognize any.”



Kingdom of Belgium Code of Ethics for members of the House of Representatives Article 7 stipulates “Members of the House are serve all citizens without any discrimination, e.g. based on sex, social status, birth, language, national or ethnic origin, philosophical or political beliefs, and trade union memberships (...)”⁴³



Kingdom of Norway political parties, whose representatives make up the majority of the Government, issued a political platform⁴⁴, which stipulates, that: “The government bases its work on the idea that all people are born free, unique and with certain inviolable rights. We want our policy to help promote freedom for the individual. Strong fellowship is the best foundation on which individuals can develop their own individual lives. The government wants to oppose all forms of discrimination, oppression, intolerance and racism. We will conduct a policy that promotes equal status between women and men. Personal freedom is best based on respect for others, on tolerance and diversity, on openness and generosity. No one shall be discriminated against on the basis of gender, social background, religion, ethnic affiliation, skin colour, functional level or sexual orientation. Everyone shall have an equal opportunity to develop themselves and utilise their abilities, including those who need extra help from the society at large in order to have the same opportunities as others.”

⁴³ http://www.lachambre.be/kvvcr/pdf_sections/publications/reglement/D%C3%A9ontologie%20-%20x%20code%20des%20membres%20NTC.pdf

⁴⁴ <http://www.senterpartiet.no/sp-in-english/political-platform-for-a-majority-government-issued-by-the-labour-party-the-socialist-left-party-and-the-centre-party-article53480-11868.html>



CONCLUSION AND RECOMENDATIONS

All of the above described shows that, the usage of hate speech by public authorities has become a trend in Georgia, and most of the times, the reactions to them is mostly inadequate. Additionally, despite the fact that some state bodies have adopted ethics charters and manuals, at large, the problem remains the same, which in at least in some circles of Georgian society, promotes a lack of trust towards public officials. This, in turn, clearly undermines the functioning of democracy. Both, freedom of speech and expression, and equality and respect for individual integrity are fundamental democratic values. It is the state, that is responsible to maintain a balance between the two.

Criminalizing hate speech, or introducing other types of penalties would significantly limit the current standard of freedom of expression in Georgia. This would be a step backward in terms of democratic development, but it does not mean, by any means, that airing hate speech freely and by those, who have grave impact on the society, should not be seen as a problem for the country. The same can be said about public authorities, who are tasked to treating every citizen in an equal manner, and servicing them impartially.

Given all of the above-mentioned, we prefer to limit public expression of hate speech and discrimination with the following measures:

- Ethics Charter of the Civil Service Bureau must include prohibition of hate speech and hence, the use of hate speech by public authorities should become a ground for disciplinary responsibility punishable by the “Law of Georgia on Civil Service”.
- Ethics Charter of the Parliament of Georgia must include a clause about the prohibition of hate speech.
- Parliamentary faction statutes must be amended, and should include the following statement: “Hate speech and discriminatory rhetoric in the public domain must shall not be used”.
- Political parties must introduce internal measures for their representatives who resort to hate speech in public.
- Political parties shall sign memorandum, and take on the responsibility that in public, they will not use hate speech.