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GEORGIA: Proposed insulting religious feelings law withdrawn – for now

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A draft law in Georgia, that would have imposed fines for insulting religious feelings, has been withdrawn, Forum 18 News Service notes. Deputy Sergo Ratiani of the largest opposition party, the United National Movement, thought the Law might have been proposed as "politicians are using the subject in the pre-election period", he told Forum 18. "Withdrawal was the result of resistance from civil society", Giorgi Gotsiridze of the Georgian Young Lawyers' Association told Forum 18. Journalists and artists – including artist Lia Ukleba threatened with violence for her painting attacking doing violence in the name of religion - also warned of the dangers to their freedom if the Law were passed. Baptist Bishop Rusudan Gotsiridze told Forum 18 that "the Law, which contains the unclear category of 'feelings', would serve as a tool against opponents in the hands of any powerful institution". "If the government decides that politically it needs a similar proposed Law, it might initiate it again in the future", Gotsiridze of the Georgian Young Lawyers' Association noted. A similar law backed by the powerful Georgian Orthodox Church was proposed in 2013.

Georgian parliamentary deputy Ioseb Jachvliani from the ruling Georgian Dream coalition on 15 February withdrew a proposed Law he put forward that would have imposed fines for an unclearly defined offence of insulting religious feelings. Jachvliani claimed in a letter to Parliament withdrawing the Law that it "needs to be refined". He did not answer any of Forum 18 News Service's enquiries between 18 and 22 February about what way it needed to be "refined".

The proposed Law, put to Parliament on 2 December 2015, would have added a new Article 166-1 to the Code of Administrative Offences. The proposal reads:

"Public expression of hatred for holy places, religious organisations, clergy and believers and/or the use of material aiming to insult the feelings of religious believers – to incur a penalty of 300 Lari and 600 Lari if repeated. Desecration of religious facilities and other holy places, any damage to or graffiti on such places – to incur a penalty of 500 Lari and 1,000 Lari if repeated."

300 Lari is about 1,040 Norwegian Kroner, 110 Euros, or 120 US Dollars.

The Republican Party from the Georgian Dream ruling coalition and opposition parties did not support the proposed Law. Human rights defenders, including the NGO coalition "No To Phobia!" heavily criticised the proposed Law. They expressed particular alarm that the parliamentary Human Rights and Civil Integration Committee had backed the proposed Law (see below).

"Withdrawal was the result of resistance from civil society, as happened in 2013," Giorgi Gotsiridze of the Georgian Young Lawyers' Association told Forum 18 on 22 February. "If the government decides that politically it needs a similar proposed Law, it might initiate it again in the future" (see below).

"A danger to democratic development"

The office of the Public Defender (Ombudsperson) also called for the proposed Law to be rejected, as it contravened freedom of expression and the rule of law requirement that the legal consequences of actions should be predictable.

A 3 February statement said that the proposed Law "poses a danger to democratic development", its formulation of "to insult the feelings of religious believers" cannot be objectively evaluated, and it "fully subordinates one person's expression to another person's (believer) control". The Public Defender also pointed to the dangers of the proposed Law making available to state officials "wide opportunities for arbitrariness".

The Public Defender also pointed out that the Constitutional Court has stated that "disapproval of views, values and ideas cannot serve as grounds for restricting freedom of expression. The state is obliged to protect objectively identifiable interests, but not subjective feelings (Citizens of Georgia - Giorgi Kipiani and Avtandil Ungiadze v. the Parliament of Georgia, 1/3 / 421,422, 10

November, 2009, para. II.7)." The proposed Law, the Public Defender observed, "runs counter to the Constitution of Georgia, the European Convention on Human Rights and other international human rights acts".

Gotsiridze of the Georgian Young Lawyers' Association told Forum 18 on 10 February that the proposed Law would have had "a chilling effect - people will restrain themselves from expressing their opinion about religion or the Georgian Orthodox Church related issues". This, he noted, would have caused "considerable damage to the democratisation process in Georgia".

"A tool against opponents in the hands of any powerful institution"

Baptist Bishop Rusudan Gotsiridze noted that Georgian law already criminalises violence, damaging buildings, and obstructing meeting for worship. "If there is a will to resolve conflict or feuds with a religious motivation there is enough leverage for that in existing legislation," she insisted to Forum 18 on 10 February.

Non-Georgian Orthodox people and communities suffered many attacks between 1996 and 2003. Mobs severely attacked and injured people, destroyed places of worship, and took and burned religious literature. Most of the victims were Jehovah's Witnesses, but Baptists, Catholics, Pentecostals and True Orthodox Christians were also attacked. Few of the perpetrators were ever brought to justice (see F18News 10 November 2006 http://www.forum18.org/archive.php?article_id=867).

Incidents continue on a lower level, with the most recent large upsurge of violence with state complicity targeting Muslims in 2013 leading to Muslim prayers being halted in villages. The state did nothing to halt the mobs (see F18News 4 July 2013 http://www.forum18.org/archive.php?article_id=1854). In May 2013, Georgian Orthodox clergy and laypeople violently attacked an LGBTI rights demonstration in the capital Tbilisi. The state did nothing effective. In December, about 20 Georgian Orthodox attempted to stop a public celebration of the Jewish festival of Hanukkah in Tbilisi. Unlike the authorities' passivity in the face of other attacks, in the Hanukkah case two men were swiftly arrested and fined.

Since 2013 Jehovah's Witnesses have noted an increase in violent attacks, as have other people and communities. Also, non-Georgian Orthodox Church religious communities repeatedly face obstruction from municipal councils and national state bodies such as the State Agency for Religious Issues to building new places of worship (see F18News 5 November 2015 http://www.forum18.org/archive.php?article_id=2118).

Bishop Gotsiridze warned that the proposed Law could be used against those some Georgian Orthodox people dislike. "the Law, which contains the unclear category of 'feelings', would serve as a tool against opponents in the hands of any powerful institution," she told Forum 18.

Deputy Sergo Ratiani of the largest opposition party, the United National Movement, thought that the Law might have been proposed because "politicians are using the subject in the pre-election period", he told Forum 18 on 10 February. (Parliamentary elections will be held in October 2016.) He also commented that "there is a lack of understanding how the modern state functions."

Deputy Ratiani added: "Human feelings, including religious feelings, cannot be objective criteria. Feeling is subjective and the state must not protect subjective feelings. [...] It is important to take into consideration who is defining what an insult to religious feelings is. In our case, this will be the majority as well as the state. This means that persecution of diverse opinions, including political opinions, will become possible."

After withdrawal of the proposed Law, Bishop Gotsiridze noted that "impunity for hate crimes definitely does not contribute to creating a tolerant environment. Imposing new laws is not a good solution", she told Forum 18 on 21 February. As well as ending impunity for hate crimes, she also suggested "a long-term educational strategy by the state".

Will a similar law be reintroduced?

Deputy Chair of parliament's Human Rights and Civil Integration Committee Gedevan Popkhadze, who backed the proposed Law, told Forum 18 on 18 February: "it is a natural process that the proposed Law is discussed and then not approved." Asked whether the proposed Law would be reintroduced in some form, Deputy Popkhadze would not answer.

On 12 February Popkhadze had told Forum 18 that he backed the proposed Law as "an important virtue, religious creed, should be protected".

Beliefs and ideas are not protected by the right to freedom of religion or belief, whereas people sharing and taking actions based on their beliefs and ideas – including atheism and agnosticism – are protected by freedom of religion or belief. The proposed Law would have seriously and in international human rights law illegitimately restricted freedom of religion or belief.

Popkhadze was unable to define what to "insult the feelings of religious believers" in the proposed Law he backed meant. "It would be good to prevent the actions of people who want to incite religious extremism," he commented. Though he did not define "religious extremism", he gave as an example of radicalism the nailing of pig's head in September 2014 to the doors of a Muslim

school.

(In 2013 mobs obstructed Muslims in the eastern Georgian village of Samtatskaro from praying freely, threatening to burn down the imam's home and drive him from the village. The state did nothing effective to stop the mobs or to prosecute anyone for this or two similar mob attacks on Muslims in late 2012 – see F18News 4 July 2013 http://www.forum18.org/archive.php?article_id=1854.)

Zviad Tomaradze of Demographic Society XXI, who told Forum 18 on 19 February that he wrote the proposed Law, stated: "In the media and in social networks there were a lot of things which were insulting for the Georgian Orthodox Church and for all religions, but particularly for the Georgian Orthodox Church. I had consultations with a lot of people before drafting the proposed Law." He stated that he was not going to work on the proposed Law any more, as "better formulations should have been developed".

The Secretary of Georgian Orthodox Church Patriarch Ilia II, Father Michael Botkoveli, refused to comment on the proposed Law to Forum 18 on 10 February. He pointed to a Patriarchate statement of 4 February, which claimed that "despite the fact that defamatory and hate speech statements against the Church and its leader is very frequent in the country, adoption of such law is not and has not been previously our initiative".

"A bitter joke we need to carefully understand"

In October 2015, a painting entitled *The Virgin with a Toy Pistol* by artist Lia Ukleba was exhibited at Ilia State University in Tbilisi. The artist has in various statements repeatedly commented that it was inspired by the hypocrisy of people who do violence in the name of religion. Ukleba states that the implication of an attempted suicide by Mary with a toy pistol aims to say that Mary has decided that humanity deserves to be left without God. "This is a bitter joke we need to carefully understand," Ukleba told the Women's Fund in Georgia on 12 December 2015.

"Is it allowed to offend religious feelings and Christians and should all these people be tolerated? We do not interfere with political processes .. if the people who plot this, carry on like this I have enough power to ensure that they will be uprooted from Georgia," Georgian Orthodox Archbishop Jakob (Iakobashvili) of Bodbe Diocese stated on 4 November. Patriarch Ilia II publicly stated on 1 November that "this is an insult to our religion and Georgia. I am astonished that the rector and professors [of Ilia State University] allowed such blasphemy. There has never been such an insult in Georgia."

Tomaradze of Demographic Society XXI told Forum 18 that the painting was one of the factors behind the proposed Law. "I think that was definitely an insult to religious feelings," he told Forum 18. Asked whether Ukleba would have been fined under the proposed Law, Tomaradze replied that that would be decided by a judge.

Ukleba herself told Forum 18 on 18 February 2016 that were a similar law passed in the future it would limit artistic expression. She noted that she has after the exhibition received threats on Facebook, including threats to torture her.

"To prevent these kinds of threats, I do not now participate in public discussions or TV programmes," Ukleba told Forum 18. "In this way I try to protect my family."

Not the first such proposed Law

In 2013 the Georgian Orthodox Church backed a similar proposed Law, produced by the government in October that year. The Patriarchate asked religious communities to a 7 November meeting about the proposed Law at the Patriarchate with then-Deputy Interior Minister Levan Izoria. Most members of the Public Defender's Council of Religions did not go to the meeting and the same day issued a statement against the proposed Law signed by 20 religious communities.

On 12 November the Patriarchate blamed the Public Defender's Tolerance Centre and its head Beka Mindiashvili for obstructing the Patriarchate meeting. Following the Public Defender's Council of Religions' statement and protests by other parts of civil society, that proposed Law was dropped.

Parliamentary cut and paste report

Parliament's Human Rights and Civil Integration Committee discussed and supported the latest such proposed Law on 2 February 2016, despite concluding that the proposed Law "could be used to justify restricting freedom of expression". However, the Committee's official conclusion - published on Parliament's website - is mainly a direct copy of an article published in 2010 by Justice Minister Thea Tsulukiani in 2010 in "Solidaroba" magazine number 4 (37).

Asked by Forum 18 on 20 February to explain what to "insult the feelings of religious believers" in the proposed Law she backed meant, Committee Chairperson Eka Beselia did not do so. Pressed on this and other questions, she sent Forum 18 a copy of part of the Committee's conclusions without answering the questions.

Threats to media

On 12 January three young men attacked Levan Sutidze, who presents a Tabula TV programme called Talks on Religion, along with three colleagues at a Tbilisi restaurant. Tables were destroyed and the journalists received minor injuries. The main motive the perpetrators gave in verbal attacks was, according to the casualties and witnesses, that the journalists are "insulting the Georgian Orthodox Church" and influencing public opinion.

On 3 February 2016 the three accused were granted bail and are due to be tried on 10 March under Criminal Code Article 156 ("Persecution for speech, opinion, conscience, religious denomination, faith or creed, or political, public, professional, religious or scientific pursuits"). If found guilty they could be either fined or jailed for up to three years.

Sutidze of Tabula TV said the proposed Law would have "considerably limited our journalistic work". He also observed to Forum 18 on 10 February that "going on past experience, there is no hope that a judge will resist the influence of the Georgian Orthodox Church and protect freedom of expression". (END)

Previous reports on freedom of thought, conscience and belief in Georgia can be found at <http://www.forum18.org/Archive.php?query=&religion=all&country=24>.

A compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments can be found at http://www.forum18.org/Archive.php?article_id=1351.

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