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TDI on further violation of Muslims' rights in Mokhe village

Tolerance and Diversity Institute (17.10.2016) - <http://bit.ly/2fmMfKN> - On 14 October, 2016 representatives of the Ministry of Internal Affairs locked the entrance of former mosque in the village Mokhe, Adigeni municipality. The construction still remains "disputable property" between the State, Georgian Orthodox Church (GOC) and the Muslim community.

The government restricted local Muslims from conducting religious rituals on the mentioned territory after they started peaceful prayer there few days ago. Muslims' prayer was followed by the protest of the Orthodox clergy. On 14 October, GOC Metropolitan Theodore of Akhaltsikhe and Adigeni, held a press-conference on the issue and requested protection of the Orthodox's rights. Simultaneously, at the time of the press conference, the police blocked the entrance of the so-called disputed building.

The mosque that today is preserved as remnants, was constructed by Meskhetian Muslims in the 1920s. Until Meskhetians' mass exile by the the Soviet government, it had been functioning as a mosque. Since then, the function of the building changed several times during the Soviet period and was used as a storehouse, library and the village club. Since 2007 the building is property of the local municipality. For many years, Muslims of village Mokhe had been requesting from the government to return the building to the community. They have addressed local and central government several times, however without any tangible results.

It has to be mentioned, that in 2014, when the government and local Orthodox parish and clergy confronted the Muslim community, GOC also started claiming ownership over the disputed building. According to them, in the 16th century there was a Christian temple on this territory. However, contrary to the Orthodox community, Muslims refer to the architectural elements and historical sources to justify their position.

In 2014, local government made a decision to demolish the building, despite many years of requests from local muslims. The decision caused protests by muslim community. Local muslims who gathered near the building, were dispersed and physically abused by the police and local government. 14 Muslims were arrested.

In December 2014, the State Agency for Religious Issues established "the commission for determining the origins of the "village club building" located in municipality of Adigeni, village Mokhe" (hereafter, the Commission). The commission is composed of representatives of local government, Muslim and Christian communities. Zaza Vashakmadze, the head of the State Agency for Religious Issues is a chairman of the commission. Despite the requests of muslim population, entrusted members of muslim community, representatives of NGOs and even Public Defender were rejected to be members of the commission. The Agency denied the request of public defender to participate as an observer in the Commission.

The Commission is totally ineffective body. From the day of its establishment, it has not reached any of the intended goals. It also has not taken any essential step for determining the origins of the building and solving the problem. Except from that, work of the Commission is nontransparent and the State Agency does not provide information about its activities to the public.

According to the Agency's annual report 2015, the Commission members gathered three times during the reporting year. The Commission states, that the 'deescalation of the process' in the local community demonstrates its main achievement.

Since the day of establishing the commission, it became clear that by shifting the issue into political dimension, the state intended to procrastinate and veil the problem, in order on the one hand, to avoid the responsibility on existing problems and on the other hand, to prove its loyalty to the GOC.

It should be noted, that since 2012 discrimination and persecution of Muslims by the government has become the systematic problem. On the one hand, the State does not react to the violations of Muslims' rights, does not act according to the law and does not carry out an effective investigation. This means, the State avoids fulfilling its positive obligations, demonstrates discriminatory treatment towards the Muslim community and thus, fosters further violence and intolerance. On the other hand, in multiple cases (Chela, Mokhe, Adigeni) the State itself was involved in the persecution of Muslims. Moreover, high-ranking officials of the government often express islamophobic attitudes and favor the dominant religious group.

Apart from this, the government promoted those persons who participated in the persecution of Muslims. For instance, Gela Kokhodze, the law-enforcement officer who had expressed conspicuously aggressive attitudes towards Muslims during the occurrences in the villages of Chela and Mokhe, was promoted to Chief of the Mokhe Police Department in 2015. Also, the ruling party "Georgian Dream" introduced Giorgi Kopadze as a majoritarian candidate in Akhaltsikhe and Adigeni municipalities for 2016 parliamentary elections. In 2013 Giorgi Kopadze was leading the demonstration organized against Muslims in Adigeni and was protesting the return of the minaret that had been dismantled by the state.

Few days after the October 8 Parliamentary elections and receiving the majority of votes, the government demonstrated its power against Muslims once more and pursued its discriminatory policy.

Based on the above-mentioned, TDI addresses

The Government of Georgia:

- Adequately and fairly evaluate the cases of persecution of Muslims and observe religious neutrality;
- Timely, effectively and fairly ensure the return of the property confiscated during the Soviet period to religious organizations

The Ministry of Internal Affairs of Georgia:

- To Act within the limits of the law, without a discriminatory approach. Also, the ministry should take effective measures to prevent further violations and protect the principles of religious freedom and equality, as guaranteed by the Constitution of Georgia.

The Prosecutor's Office of Georgia:

- Timely and effectively investigate alleged instances of physical violence committed by the representatives of the Ministry of Internal Affairs against the Muslims in Samtatskaro, Chela and Mokhe villages.

Local Government of Adigeni Municipality

- To stand by the principle of religious neutrality and ensure exercise of religious freedom for all citizens.

Proposed insulting religious feelings law withdrawn

Forum 18 (23.02.2016) - <http://bit.ly/1UJ4glx> - 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.

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. 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.

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.)

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".

Georgia proposes 'blasphemy bill' to outlaw religious insults

Critics fear law will limit freedom of speech in one of the world's most devout Christian countries, Eurasianet.org reports

The Guardian (08.02.2016) - <http://bit.ly/1SaKUeX> - Georgia is planning a "blasphemy bill" that will make religious irreverence punishable by law, prompting concerns about freedom of expression in the devoutly Orthodox Christian society.

Critics say the bill, which has been approved at committee stage and is headed for the parliamentary floor, could be used against any organisations not following the official church line.

Georgia ranks among the world's most religious nations, with residents extremely sensitive to any criticism of the church which is seen as the historical defender of the country's national identity. In 2013, Patriarch Ilia II ranked as the country's most trusted public figure.

The proposed bill would impose a 100 lari fine (\$120) for "insults to religious feelings", which would double for a repeat offence. Desecrating a religious symbol could cost up to 1,000 lari. With the average monthly salary no more than about 818 laris, the amounts are not insignificant.

Supporters argue that the bill is intended to protect all religious persuasions, although minority groups say they don't expect to benefit. "This law is not going to protect anyone; at least not the minorities, and will be a powerful tool against freedom of speech," said Rusudan Gotsiridze, an Evangelical Baptist bishop, to Liberali.ge.

In the west of the country, Georgian Orthodox congregations have opposed the opening of mosques and madrasas. In a sign of inter-faith tensions, a pig's head was nailed to the door of a planned Muslim school.

The Georgian ombudsman's office has expressed doubts about the law. "The current wording proposes the 'insult of religious feelings' as the sole criterion for limiting freedom of expression, which ... subjects one individual to another's will and places the believers in a privileged position," said ombudsman Ucha Nanuashvili.

The Georgian Orthodox church is already in a privileged position because of its constitutional pact with the state, an ever-growing network of basilicas and a tendency to weigh in on secular matters. Although it has called for a mechanism to protect religious beliefs, authorities insist that the church is not behind the proposed bill.

The draft is likely to be passed, particularly in a parliamentary election year. The ruling Georgian Dream Coalition endorsed the document on 2 February at a human rights committee hearing that was snubbed by minority MPs. The bill is sponsored by conservative actor-turned-MP Soso Jachvliani.

But the bill has caused divisions both within and outside the ruling coalition. Tamar Kordzaia, an MP from the moderate Republican Party, a member of the Georgian Dream coalition, has spoken against it.

Its catch-all restriction on remarks about the church would upset the existing balance of civil liberties and comes short of international human rights standards, she said.

"In many cases, there can be a clash between freedom of expression and freedom of religion, but it is a matter of priorities among the liberties," Kordzaia told Netgazeti.ge. "A perceived insult to religious feelings should be disputed by an individual. The state can never know if some particular action is offensive to a particular individual."
