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Who needs a Religion Law?

Many religious communities and human rights defenders strongly oppose Georgian government plans for a restrictive Religion Law. Instead, they call for resolving freedom of religion and belief problems by implementing recommendations made by the Council of Religions under the Public Defender.

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Forum 18 (15.08.2019) - <https://bit.ly/2KYGbYO> - Georgia's ruling Georgian Dream Party appears to be trying to introduce a restrictive Religion Law limiting the numbers of religious communities with legal status.

Despite the opposition to a Religion Law of many religious communities, ruling party Deputy Sophio Kiladze stated in a press release that she told a Working Group meeting that "the ultimate goal of the Working Group meetings is to develop a law to ensure freedom of confession and to protect the public interest". Yet contradicting this statement, Kiladze told Forum 18 that "the main goal of the meetings is not the adoption of the law. The most important thing is how we consider solutions to existing problems" (see below).

The State Agency for Religious Issues (SARI) has long wanted a Religion Law. Its Chair Zaza Vashakmadze told Forum 18 that before the Working Group was created he had met religious communities. He claimed that the Religion Law idea was their initiative. Yet from 2015 the SARI has been advocating for a Religion Law (see below).

The leaders of three state-funded religious communities announced that they wanted a Religion Law: the Armenian Apostolic Church Diocese, the Jewish Union of Georgia, and the Administration of Muslims of All Georgia (AMAG). However, these leaders do not speak for everyone in their communities.

Giorgi Tumasyan of the Ardzagank Armenian Community Platform told Forum 18 that the Armenian community was not consulted about the decision. "Different community members opposed the idea of a Religion Law, and Bishop [Vazgen] Mirzakhanyan had to admit that there were mixed positions about the idea for a law. I think this initiative aims at increasing the existing state controls over religious minorities by using Soviet tactics" (see below).

The Georgian Orthodox Church - also state-funded - told Forum 18 it "would welcome the adoption of a Religion Law if it regulates the registration of religious communities and granting them legal status". However, not all Georgian Orthodox agree with this view.

A Georgian Orthodox priest who wished to remain anonymous told Forum 18 that "I do not see any need for the Georgian Orthodox Church to have a Religion Law, and I haven't heard other Georgian Orthodox wanting a law. Catholics and others such as Muslims have problems building places of worship, and these problems were created by many people, not by the absence of a Religion Law. Many people may not speak about these problems publicly, but it's true. So if a Religion Law creates additional barriers what's the point of introducing it?"

Bishop Rusudan Gotsiridze of the Evangelical-Baptist Church said that it has always been clear that the main goal of SARI Chair Vashakmadze was the adoption of a Religion Law. "When we were invited to Parliament, my doubts about the meeting were strong," Bishop Gotsiridze told Forum 18. "It was claimed that the goal was to discuss problems, but leaders of religious organisations who have strong ties with the SARI started claiming that they wanted a Religion Law. The Working Group seems to be a way of disguising where the demands for a Religion Law come from" (see below).

Many religious communities and human rights defenders state that neither new regulations nor a Religion Law are necessary. They think the problems religious communities face can and should be resolved without a Religion Law. In May 2017 the Council of Religions under the Public Defender (Ombudsperson) made recommendations drafted by religious communities and human rights defenders on how the government, state institutions including Parliament and the SARI, and the media can solve challenges to freedom of religion and belief.

The challenges the recommendations address include but are not limited to: effectively investigating crimes committed on religious grounds; unequal and discriminatory treatment of different religious communities in taxation and other matters; obstacles to the construction of non-Georgian Orthodox places of worship; returning buildings confiscated in Soviet times to their rightful owners; and the promotion of an environment that facilitates freedom of religion and belief in public schools.

The Tolerance Centre under the auspices of the Public Defender, which coordinates the work of the Council of Religions, also strongly opposes a Religion Law. The Council of Religions has convened eight meetings to discuss the threat of such a Law, bringing together most of the Council's 32 religious communities and organisations with lawyers and human rights defenders (see below).

Neither Deputy Kiladze nor SARI Chair Vashakmadze have proposed implementing the Council of Religions' recommendations as – in Kiladze's words - "solutions to the existing problems" (see below).

A vehicle to introduce a restrictive Religion Law?

On 26 December 2018, the office of the Chair of Parliament's Human Rights and Civil Integration Committee, ruling party Georgian Dream Deputy Sophio Kiladze, invited a large number of religious leaders, NGOs and international organisations to a newly-created Working Group on freedom of religion, to be held in the Parliament in Tbilisi on 21 January 2019.

Deputies from the European Georgia and the Alliance of Patriots of Georgia parties, as well as the State Agency for Religious Issues (SARI) and representatives of the Public Defender's Office also attended the meeting, which Deputy Kiladze chaired.

Kiladze announced the formation of the Working Group, supposedly to hear from religious leaders what problems religious organisations face and propose solutions. Some NGOs and religious organisations suspected that this would be a vehicle to introduce a restrictive Religion Law. Their suspicions were fuelled by the Georgian Dream Party's unsuccessful 2017 attempt to introduce constitutional restrictions on freedom of religion and belief. Deputy Kiladze told Forum 18 at the time that she was responsible for the restrictions.

During the five Working Group meetings, Deputy Kiladze repeatedly spoke of an alleged need for unspecified 'regulations', to be brought in via either changes to existing laws or a new law.

Who really wants a Religion Law?

SARI Chair Zaza Vashakmadze told Forum 18 on 23 July that before the Working Group was created he had met religious communities. He claimed that the Religion Law idea was their initiative.

However, the SARI's 2014 report and the State Strategy for the Development of Religious Policy, published by the SARI in February 2015, claims that "there is no special law on religion .. the whole spectrum of rights and relations are scattered in a non-systemic way in different laws .. laws assert 'the registration of religious organisations', but do not define 'a religious organisation' as such, or they are defined for particular narrow purposes".

The SARI proposed by means of a Religion Law to introduce regulations regarding "the registration of religious groups, legal status, their rights and obligations, activities of religious organisations, financial and property matters, religious education and other issues".

At the first Working Group meeting, the leaders of three state-funded religious communities announced that they wanted a Religion Law: the Armenian Apostolic Church Diocese, the Jewish Union of Georgia, and the Administration of Muslims of All Georgia (AMAG). (Many in the Muslim community think the state appointed the AMAG's leaders, but the AMAG denies this.) Georgia, unlike most former Soviet states, does not currently have a Religion Law.

"If a Religion Law creates additional barriers what's the point of introducing it?"

However, the leaders of state-funded communities do not speak for everyone in their communities. Giorgi Tumasyan of the Ardzagank Armenian Community Platform told Forum 18 on 12 August that the Armenian community was not consulted about the decision of the then-Bishop of the Armenian Apostolic Church Vazgen Mirzakhanyan to support a Religion Law. (In June 2019 Bishop Mirzakhanyan resigned and a Vicar, Fr Kirakos Davtyan, was appointed in July.)

"When we learnt about it, different community members opposed the idea of a Religion Law, and Bishop Mirzakhanyan had to admit that there were mixed positions about the idea for a law", Tumasyan of Ardzaganak told Forum 18. "I think this initiative aims at increasing the existing state controls over religious minorities by using Soviet tactics." The Vicar Fr Davtyan has expressed no public views on the question.

Similarly, Muslims have told Forum 18 that there appears to have been no discussion among those Muslims associated with AMAG about a Religion Law. Muslims outside AMAG oppose the idea. Zaza Mikeladze told Forum 18 on 12 August that he "does not think that the state should define which is a legitimate Muslim community or group. The state can use a Religion Law as a tool to control religious groups. The problems of the Muslim community, such as our inability to build a new mosque in Batumi, are related to discriminatory attitudes not the lack of regulations."

The Georgian Orthodox Church - also state-funded - expressed no opinion about a Religion Law at Working Group sessions. But later it supported the idea. "We would welcome the adoption of a Religion Law if it regulates the registration of religious communities and granting them legal status," Archpriest Andria Jaghmaidze told Forum

18 on 29 July. "Today it's very easy in Georgia to be a religious community. We have no other problems or demands."

However, not all Georgian Orthodox agree with this view. "I do not see any need for the Georgian Orthodox Church to have a Religion Law, and I haven't heard other Georgian Orthodox wanting a law," a Georgian Orthodox priest who wished to remain anonymous told Forum 18 on 12 August. "Catholics and others such as Muslims have problems building places of worship, and these problems were created by many people, not by the absence of a Religion Law. Many people may not speak about these problems publicly, but it's true. So if a Religion Law creates additional barriers what's the point of introducing it?"

Bishop Rusudan Gotsiridze of the Evangelical-Baptist Church said that it has always been clear that the main goal of SARI Chair Vashakmadze was the adoption of a Religion Law. "When we were invited to Parliament, my doubts about the meeting were strong," she told Forum 18 on 30 July. "It was claimed that the goal was to discuss problems, but leaders of religious organisations who have strong ties with the SARI started claiming that they wanted a Religion Law. The Working Group seems to be a way of disguising where the demands for a Religion Law come from."

What do SARI and some others want from a Religion Law?

The SARI, like the Georgia Orthodox Church leadership, has not outlined exactly what definition of a religious community, exact conditions for registration, and other regulations they want in a Religion Law.

Georgian Orthodox Church spokesperson Archpriest Jaghmaidze told Forum 18 that among the specific criteria for granting legal status to a religious community could be "some kind of cultural and historical heritage". (Among the existing grounds for gaining legal status are if a religious community has close historical ties to Georgia or is defined as a religion by laws in Council of Europe member states.) But, Jaghmaidze said without clarifying exactly what he meant, "some religious communities might have anti-state activities or positions".

Some ideas for restrictions would potentially violate Georgia's binding international human rights law obligations, as outlined in the Organisation for Security and Cooperation in Europe (OSCE) / Council of Europe Venice Commission Guidelines on the Legal Personality of Religious or Belief Communities.

Among two of the three smaller state-funded religious communities which have backed the idea of a Religion Law, imposing restrictive conditions on who can be registered as a religious community is seen as a reason to back it.

The Administration of All Muslims of Georgia (AMAG) has been unclear about what exactly it wants, but AMAG Head Sheikh Ramin Igidov issued a statement at the 1 February Working Group meeting claiming that there were six reasons to want a Religion Law: to legally define relations between the state and religions; to define the rights and obligations of religious communities; to strengthen tolerance between religious communities; to eradicate unspecified insults against clergy, religious people, and religious symbols; to prevent extremism and radicalism in the name of religion; and to oppose unnamed people who allegedly wish to enforce an unspecified 'dirty politics'.

Sheikh Igidov told Forum 18 on 29 July that he thinks a Religion Law will solve the problems religious communities face. He insisted that AMAG is the legitimate representative of all Muslims. "One of our problems is that two or three people establish a religious community and think about themselves as if they are confession. Nobody

considers what percentage of the Muslim community they represent." He did not reply to Forum 18's questions about whether other Muslim religious communities should be blocked from registering.

Muslims in Batumi have pointed out to Forum 18 that in their attempts to build a second mosque AMAG has backed the state in its refusal of permission, but that the non-state funded Georgian Muslim Union supports Muslims who wish to build a second mosque.

AMAG has also not replied to Forum 18's 30 July questions about why it thinks a Religion Law would stop extra-legal discrimination against non-Georgian Orthodox religious communities, and whether such a law should allow Batumi's Muslims outside AMAG to build a second mosque.

The Chair of the Jewish Union Merab Chanchalashvili stated that a Religion Law should define what is religion and a religious community. "There should be some differentiation," he told Forum 18 on 5 August. "Communities established by five or 10 people should not have the same status and rights as others." However, Chanchalashvili also said that the problems of the Jewish community can be solved without a Religion Law. But he thinks a Religion Law could help in addressing issues such as granting state accreditation to religious schools in synagogues, and the exemption of students on Shabbat from national exams.

The Chair of the Information Department of the Armenian Church Diocese, Susanna Khachatryan, told a meeting of the Council of Religions under the auspices of the Public Defender in May that it is important to resolve the problems the Church faces legally, whether or not this is done with a Religion Law or changes to existing laws. She listed the problems as: restitution of churches and granting legal status to this property; restitution of ruined and untended historical buildings; building permission for the reconstruction or building of new places of worship; and tax exemptions.

"If the state wants to solve these problems it has to look at our recommendations"

Many religious communities and human rights defenders state that neither new regulations nor a Religion Law are necessary. They think the problems religious communities face can and should be resolved without a Religion Law.

Baptist Bishop Gotsiridze thinks that the major threat in a Religion Law would be a definition of what constitutes a religion. "Attempts have been numerous to convince religious communities that the definition will protect the reputation and honour of religious communities .. Of course, the state wants to stop some religious communities from being registered, especially those which are not under the control of the state or are critical of it."

Bishop Markus Schoch of the Evangelical-Lutheran Church also saw threats in the Religion Law proposal. "It might be risky if the state defines what is a religion and what is not," he told Forum 18 on 30 July. "This way it can interfere with freedom of religion and belief, and have a political influence on religious communities."

Bishop Schoch said the problems religious communities face include the restitution of property confiscated in Soviet times, unequal taxation of the Georgian Orthodox Church as against other religious communities, and the right to ownership of property. "If the state wants to solve these problems it has to look at our recommendations," he insisted to Forum 18. "They are quite clear and on the table."

The bishop was referring to May 2017 Council of Religions under the Public Defender recommendations on how the government, state institutions including Parliament and the SARI, and the media can solve challenges to freedom of religion and belief.

The challenges the recommendations address include but are not limited to: effectively investigating crimes committed on religious grounds; unequal and discriminatory treatment of different religious communities in taxation and other matters; obstacles to the construction of non-Georgian Orthodox places of worship; returning buildings confiscated in Soviet times to their rightful owners; and the promotion of an environment that facilitates freedom of religion and belief in public schools.

"As a result of this idea for a law there is a threat"

The Tolerance Centre under the Auspices of the Public Defender, which coordinates the work of the Council of Religions, also strongly opposes a Religion Law. The Council of Religions has convened eight meetings to discuss the threat of such a Law, bringing together an average of 20 to 25 of the Council's religious communities and organisations with lawyers and human rights defenders.

Tolerance Centre Head Beka Mindiashvili told Forum 18 on 11 August that "we have seen the government's intention to define religious communities, by means of the law to establish a hierarchy among them. We already have enough legislative provisions, so what kind of new regulations do we really need? In fact, as a result of this idea for a law there is a threat that some religious communities might not be able to register at all, build a place of worship, and legally carry out other normal activities."

Many religious communities have told Forum 18 that current legislation facilitates discrimination, granting some rights to the Georgian Orthodox Church only, while the state undertakes discriminatory actions against non-Georgian Orthodox religious communities. A Religion Law will not solve these problems, they note, but implementing the Council of Religions' recommendations in line with Georgia's legally-binding international human rights obligations would.

Pastor Guram Imerlishvili of the Pentecostal Church told Forum 18 on 25 July that instead of introducing a Religion Law, "the state should punish and prevent hate crimes, properly enforce the existing legislation, and not create categories of traditional and non-traditional religions. There is no need for a Religion Law or for additional regulations."

Giorgi Gotsiridze of the Young Lawyers Association also told Forum 18 on 5 July that the major problems religious communities face stem from the discriminatory practices of state officials, and not from a lack of regulations. He noted that these artificial barriers for non-Georgian Orthodox religious communities are illustrated by the obstruction they face trying to build new places of worship. He pointed out that these problems affect communities including Muslims, Jehovah's Witnesses, Catholics and Protestants.

"The question is whether these laws work in reality"

Catholic Bishop Giuseppe Pasotto told Forum 18 on 29 July that he had told two Working Group meetings "that there has never been the need for a Religion Law. There is a need for the existing laws to be enforced in practice. When I need them all the relevant laws are available, but the question is whether these laws work in reality."

Along with other religious communities, the Catholic Church has encountered many problems trying to build places of worship, with obstacles created by the state and the Georgian Orthodox Church.

Catholics in Rustavi, south east of the capital Tbilisi, tried since 2013 to get permission to build a church on a central plot of land they owned. But although the Catholic Church won all the legal cases it brought against the obstructions, they still were not granted permission. Instead, the state offered an exchange between the land the Catholics owned and a plot of land in a more rural location. Eventually the Catholic Church agreed to the exchange and a church was built and opened in 2018.

Similarly, Tariel Nakaidze of the Georgian Muslims Union told Forum 18 on 29 July that existing legislation does not prevent Muslims from building a mosque. Yet in Batumi, where he lives, officials have blocked repeated efforts since before 2012 to build a second mosque. "They cannot build it because of a discriminatory policy."

Deputy Kiladze would not say when asked how a Religion Law would solve problems such as the difficulty or impossibility of building non-Georgian Orthodox places of worship. "I have my position but I cannot tell you it," she told Forum 18 on 26 July. "I was only a moderator at the parliamentary sessions. What I can say is that there are many issues and they require regulations and the agreement of all parties."

After the Working Group meetings began, 20 religious communities in the Council of Religions under the Public Defender produced a common position opposing a Religion Law. At the 1 February meeting they read out a statement that "the issue of drafting a special Religion Law should not be on the agenda. .. A Religion Law may pose a high risk of creating in law an unequal hierarchy of religious communities, imposing certain restrictions on their activities, and creating barriers to registering religious communities."

Deputy Kiladze and SARI Chair Vashakmadze did not like the statement. "Although the statement is signed by 20 religious communities," Vashakmadze claimed, "if we count their followers as a percentage of Georgia's population those supporting the adoption of a Religion Law represent the majority of the population." He did not explain how he knew the opinion of the population when there has been no open public consultation about a possible law.

Deputy Kiladze became especially irritated when a Council of Religions member read the joint statement by 20 of the Council's organisations, participants told Forum 18. Contradicting her claimed wish to hear the problems religious organisations face and find solutions, Kiladze said that a statement of one group cannot become a guideline and priority for her and her Committee. She also asked signatories "not to cause inconvenience" by making such statements. "I understand that you are convinced in your truth," she claimed, "but others also have their truth."

Link between proposed Religion Law bid and Constitutional Court decision?

On 31 July 2018 the Constitutional Court decided that it was unconstitutional that: the Tax Code exempted the building, restoration and decoration of Georgian Orthodox Church buildings from Value Added Tax (VAT); and the Law on State Property allowed only the Georgian Orthodox Church to receive state property free of charge. These discriminatory provisions gave the Georgian Orthodox Church considerable financial support.

But as Transparency International Georgia has documented, the Church receives considerable other direct and indirect financial support from the national government, and local municipalities, while Church-owned business and other organisations also receive state funding.

The Constitutional Court ruled that Parliament had two options. These were to change the Tax Code and the Law on State Property either to give equal treatment to all religious

communities, or to remove the Georgian Orthodox Church's privileges. If Parliament – as happened – took neither option by 31 December 2018, the relevant parts of both laws would be annulled.

Georgian Orthodox Church spokesperson Archpriest Andria Jaghmaidze told Forum 18 on 29 July: "The Patriarchate does not object to abolishing these privileges for all religious organisations, and we also do not demand that all religious organisations should have them." Asked what the Church would think were all religious communities given these privileges, he said that the Church agrees with the current situation that no religious community should enjoy these privileges.

Tolerance and Diversity Institute lawyer Shota Tutberidze, who represented the religious communities who brought the complaint, attended a 3 December 2018 meeting organised by Parliament's Legal Issues Committee. At that meeting there was some discussion of an alleged need to introduce legal differences between religious communities before the Constitutional Court decision came into force. "I opposed such an initiative," he told Forum 18 on 5 August 2019.

Forum 18 asked Deputy Kiladze on 26 July whether all religious communities should be entitled to the same rights, or whether none of them should receive privileges. "Parliament should enforce the decision of the Constitutional Court," she replied. "The law should not discriminate against religious communities." Kiladze added that the Legal Issues Committee could not make the necessary changes by the end of 2018, but that "when my Committee started the Working Group we said that we would not solve the issue until we have an agreement".

Deputy Kiladze has not answered Forum 18's questions about how the idea of a Religion Law and new regulations opposed by many religious communities could be an agreement.

Despite the opposition to a Religion Law of many religious communities, Deputy Kiladze stated in a press release that she told a Working Group meeting on 19 March that "the ultimate goal of the Working Group meetings is to develop a law to ensure freedom of confession and to protect the public interest". Yet contradicting this statement, on 26 July Kiladze told Forum 18 that "the main goal of the meetings is not the adoption of the law. The most important thing is how we consider solutions to existing problems."

Conscientious objection to military service

Military service is compulsory for almost all young men between the ages of 18 and 27, one of the main exemptions being for clergy of any faith. Clergy of the Georgian Orthodox Church are also exempted under the terms of the 2002 Constitutional Agreement between the state and the Church.

The Girchi political party, which has no parliamentary deputies, opposes compulsory military service and in 2017 founded and registered with the Justice Ministry the Christian Evangelical Protestant Biblical Freedom Church of Georgia. This registration as a religious community allows it to issue a certificate that any young man is clergy and so can postpone doing military service. When men reach the age of 27 they are no liable for conscription. As many young men do not want to do military service, many have taken advantage of the possibility Girchi offers.

On 12 March 2019 ruling Georgian Dream party deputy Irakli Sesiashvili, Chair of Parliament's Defence and Security Committee, initiated a draft amendment to the Law on Military Duty and Military Service to remove the exemption of clergy from military service. Georgian Orthodox Church clergy would have remained exempt under the

Constitutional Agreement. Human rights organisations and others strongly criticised Deputy Sesiashvili's proposal, and on 5 April he asked Parliament to postpone hearing the bill "as the issue is very complex and needs further study".

Deputy Sesiashvili has not replied to Forum 18's calls and messages asking to discuss the proposal.

Some lawyers have suggested to Forum 18 that the Girchi example is being used to gain support for a Religion Law among some non-Georgian Orthodox Church religious communities. "It became an excuse to revive the idea of the Religion Law," Gotsiridze of the Young Lawyers Association told Forum 18 on 5 August.

What next?

The last Working Group meeting was held on 16 May, when Deputy Kiladze announced that they have heard all the views of and problems faced by religious communities. Her Committee will analyse the information and think about further steps, she said. She told Forum 18 on 26 July that "there are many problems and different opinions". She did not specify what steps Parliament might take, or when. "We do not know yet."

In June, large street protests began against the ruling Georgian Dream government, and the political situation remains tense and uncertain.

Tamta Mikeladze, the Director of the Equality Policy Programme for the Human Rights Education and Monitoring Center NGO, told Forum 18 on 2 August that "the government has never shown a readiness to protect freedom of religion and belief to a high standard, it has never been on its agenda. As the government has a problem of legitimacy today, speculating about religious issues might be electorally positive for it. Of course, there is no expectation that the adoption of a Religion Law will positively affect freedom of religion and belief."

Parliament is expected to resume after its summer break on 3 September. Amid continuing political turbulence, it is unclear whether officials are pursuing plans to adopt a Religion Law or if they now have other priorities.
