

AMNESTY INTERNATIONAL PUBLIC STATEMENT

Date: 3 February 2016
Index: EUR 56/3387/2016

Georgia: Draft legislation on “insulting religious feelings” will undermine freedom of expression

A draft law which, if passed, will effectively ban blasphemy and undermine freedom of expression in Georgia, is being considered by parliamentary committees. The proponents of the draft law have come up with this initiative with the expressly stated aim of protecting the Georgian Orthodox Church and its clergy from “insults” by which, in the examples the proponents cited, they meant public criticism of the Church. The proposed legislation would be incompatible with Georgia’s international obligations. It may effectively outlaw criticism of religious leaders and institutions, and suppress free speech on topical political and social issues, including the rights of women, of lesbian, gay, bisexual, transgender and intersex (LGBTI) people, and of religious minorities.

The draft law was submitted to the parliament for consideration in December 2015, and has been endorsed earlier this week by the parliamentary Human Rights and Civil Integration Committee. Insulting religious feelings will lead to a fine of GEL 300 (US\$ 120), and in case of the repeated offence - GEL 600.

A precursor to this legislative initiative was the call made by the Georgian Orthodox Church in January 2015 to the Georgian authorities to protect the Church and its followers against insults of their religious feelings.

The draft law offers no definition as to what constitutes “insulting religious feelings”. The explanatory memorandum accompanying the proposed legislation declares the purpose of the amendment as stopping the frequent recourse to the right to freedom of expression in order to “directly or indirectly” insult the Georgian Orthodox Church and other “traditional religions” in Georgia. The memorandum makes a specific reference to some Georgian social media pages that contain criticism of the Georgian Orthodox Church and its leadership.

Shielding the religious institutions from public criticism not only stifles freedom of expression, but in the context of Georgia may also reinforce discrimination and harassment of vulnerable communities, including condoning acts of violence perpetrated in the name of religion. Amnesty International has documented several such violent incidents, in which the perpetrators purported to be acting in the name of “protecting” or “shielding from insults” their faith, the Georgian Orthodox Christianity professed by a majority of Georgians. In particular, individuals belonging to the LGBTI community and women’s rights campaigners have been, on regular occasions, subjected to intimidation ranging from death threats to violent attacks by the followers of the Georgian Orthodox Church

after they made critical statements about the Church or its leadership. Members of religious minorities in a number of locations across Georgia have been threatened, intimidated and attacked by followers of the Georgian Orthodox Church. Peaceful assemblies of LGBTI activists in the capital Tbilisi have been thwarted with violence by protesters who were openly supported and encouraged by Georgian Orthodox clergy. The investigations into those cases have been slow and ineffective.

The Georgian parliament should reject the proposed legislation. The Georgian authorities should take effective steps to protect the right to freedom of expression and peaceful assembly for all, including individuals holding and expressing minority or dissenting views or beliefs, and end discrimination against persons belonging to the LGBTI community in particular. All instances of violence or threats made against members of such communities must be promptly, effectively and impartially investigated, and any persons found to be responsible for perpetrating violence brought to justice in fair trials.

International human rights standards

Article 19(1) of the International Covenant on Civil and Political Rights (ICCPR) states that everyone has the right to hold opinions without interference and Article 19(2) states that everyone has the right to freedom of expression, including to impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his or her choice. Under Article 19(3) of the ICCPR, certain restrictions on the exercise of the right to freedom of expression may be permissible, for the purpose of ensuring respect for the rights of others, or the protection of national security or of public order, or of public health or morals, but only where such restrictions are provided by a precisely formulated law which complies with human rights, are demonstrably necessary and proportionate to the stipulated purpose, and do not put in jeopardy the right itself. The ICCPR does not allow restrictions to be placed on the exercise of the right to freedom of expression for the purposes of ensuring respect for religions or protecting them from “defamation”.

The UN Special Rapporteur on the promotion and protection of the right to freedom of expression and opinion has stated that limitations on the right to freedom of expression were “designed in order to protect individuals against direct violations of their rights” and “are not designed to protect belief systems from external or internal criticism.”¹ The UN Human Rights Committee’s General Comment No.34 on Article 19 of ICCPR clearly states that: “Prohibitions of displays of lack of respect for a religion or other belief system, including blasphemy laws, are incompatible with the Covenant, except in the specific circumstances envisaged in article 20, paragraph 2, of the Covenant”. Article 20(2) of the Covenant refers to the advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. Such prohibitions must also be very precisely formulated to cover only forms of expression which contain both the element of religious hatred and the element of incitement against the people concerned.

¹ Human Rights Council, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Ambeyi Ligabo, to the Human Rights Council, 28 February 2008 A/HRC/7/14 paragraph 85.

Georgia's blasphemy draft law fails to adhere to the international human rights standards on freedom of expression and its formulation of "insulting religious feelings" is vague and leaves room for its broad interpretation.

The European Court of Human Rights has stressed on numerous occasions that freedom of expression constitutes "one of the essential foundations of a democratic society", and that "it is applicable not only to 'information' or 'ideas' that are favorably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the State or any sector of the population".²

Background Information

Amnesty International has documented a growing number of incidents of violent religious intolerance in Georgia. The authorities have often failed to protect the rights of religious minorities, address recurring violence and effectively investigate attacks. In 2013 and 2014, Orthodox Christians in several towns across Georgia tried to prevent Jehovah's Witnesses and Muslims from worshiping in public. Religious minorities were threatened with physical violence, harassed and intimidated by local residents, including receiving death threats and having stones thrown at their houses. On 26 October 2013, the Muslim residents of the predominantly Christian village of Nigvziani, in the Lanchkhuti region, were threatened with expulsion and physical violence, and presented with demands that they stop religious gatherings and collective prayers.³

LGBTI people have faced discrimination and violence in Georgia, while the authorities have consistently failed to effectively investigate crimes motivated by homophobic and transphobic hatred. On 17 May 2012, a peaceful march in central Tbilisi marking the International Day against Homophobia and Transphobia (IDAHO) came under attack when a group of Orthodox Christians began insulting and threatening LGBTI activists. On 17 May 2013, the IDAHO public protest was thwarted by a violent attack by thousands of demonstrators while the police failed to ensure participants' safety. The attackers were accompanied by Georgian Orthodox clergy. According to reports, the Georgian Orthodox Church's highest authority, Patriarch Ilia II, had called on the authorities to ban the LGBTI rights event, saying it would be "an insult" to Georgian tradition. None of the attacks on the IDAHO assemblies have been investigated effectively.

On 23 October 2015, Tbilisi City Court acquitted four men charged with attacking the 2013 IDAHO rally in Tbilisi due to "insufficient evidence" despite the men reportedly being identifiable on video and photo footage of the event. A fifth man, also identifiable in the footage, had been acquitted earlier.

In January 2015, the director of a Georgian LGBTI organisation began receiving threats from various sources following comments he had made criticising a speech by the head of the Georgian Orthodox church. The same month, a well-known Georgian journalist who

² *Handyside v the United Kingdom*, No. 5493/72, 7 December 1976, para 49).

³ See more at Amnesty International's Annual Report, the State of the World's Human Rights, 2013 and 2014/15, Chapter on Georgia.

criticised “luxurious lifestyle” of the Georgian Orthodox clergy in her Facebook post also became a victim of death threats. Police has not effectively investigated their cases.

More recently, journalists from the opposition media channel Tabula were attacked at a restaurant in Tbilisi on 13 January 2016. The journalists suffered from minor injuries. The attackers were shouting that the journalists were enemies of “Orthodoxy” because of their critical reporting on the Georgian Orthodox Church. Several individuals have subsequently been put on trial in connection with this incident.

End