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GEORGIA

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STATUS OF RELIGIOUS FREEDOM IN GEORGIA

INTRODUCTION

Religious freedom in Georgia continues to improve largely due to the efforts of the government. While in 2002–03 there were more than 800 complaints of attacks on religious minorities, the attacks have not only decreased, but violence against religious minorities was almost non-existent in 2008–09.¹ Beginning with the January 31, 2005 sentencing of ex-Orthodox priest Basil Mkalavishvili to six years in prison, and also of his main associate, Petre Ivanidze, to four years in prison, for their attacks on religious minorities between 1999 and 2003, the situation has progressively improved.² Mkalavishvili was excommunicated by the Georgian Orthodox Church (GOC) for initiating attacks that included burning a Baptist church's Bibles and ransacking Jehovah Witnesses' property.³

The government of Mikhail Saakashvili has gone a long way towards stemming the tide of religious abuses in Georgia. The majority of Georgia's population continues to identify with the GOC ((83.9% Orthodox Christian, 9.9% Muslim, and 3.9% Armenian-Gregorian, 2.3% Other),⁴ but other groups, such as, Protestant Christians, Muslims, Jews, and Jehovah Witnesses report a much improved situation.⁵ While the settling of ecclesiastical property disputes remains at the forefront, there has been an increase in freedom in education as well as provision for the noncommercial registration of religious groups. This is due in large part to the active role of government offices such as the Human Rights Protection Unit.

SECTION 1: LEGAL FRAMEWORK

I. Georgian Constitutional Human Rights Protections

In recent years, constitutional protections have served to increase stability and religious freedom in Georgia. The Constitution of the Republic of Georgia provides robust human rights protections; it guarantees "[e]veryone the right to freedom of speech, thought, conscience,

¹ U.S. DEP'T OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS AND LABOR, *Int'l Religious Freedom Report 2009, Georgia* (Oct. 26, 2009) [hereinafter *2009 Religious Freedom Report*], available at <http://www.state.gov/g/drl/rls/irf/2009/127311.htm>.

² Felix Corley, *Two Leaders of Religious Violence Finally Sentenced – But What about the Others?* FORUM 18 NEWS SERVICE, Feb.1, 2005, http://www.forum18.org/Archive.php?article_id=503; Human Rights Watch, *Georgia: Ex-Priest Jailed for Attacks Against Religious Minorities* (Jan. 30, 2005), available at <http://www.hrw.org/en/news/2005/01/30/georgia-ex-priest-jailed-attacks-against-religious-minorities>.

³ *2009 Religious Freedom Report*, *supra* note 1; see also *Radical Georgian Ex-Priest Held*, BBC NEWS, March 12, 2004, <http://news.bbc.co.uk/2/hi/europe/3505600.stm>.

⁴ CIA.gov, *World Factbook- Georgia, Religions*, <https://www.cia.gov/library/publications/the-world-factbook/geos/gg.html> (last visited June 2, 2010).

⁵ *2009 Religious Freedom Report*, *supra* note 1.

religion and belief,” as well as protection from persecution, the right of assembly, and the inviolability of the person.⁶

These constitutional guarantees have enabled Georgians to seek redress from local abuses. One example took place in May 2005; the Constitutional Court ruled in favor of a Protestant pastor and his congregation who had been the victims of multiple instances of abuse.⁷ Unidentified groups, purportedly belonging to the Orthodox Church, had prevented the Protestant group from meeting and had assaulted some members of the congregation on the public metro.⁸ The local Ombudsman intervened and provided police protection for the Protestant group.⁹ The Pastor, Nikolai Kalutsky, brought the matter before the courts, and the Constitutional Court ruled that the actions of the abusive groups were in violation of Kalutsky’s constitutional rights to freely practice his religion.¹⁰ The ruling ensured that Kalutsky and his congregation would continue to receive police protection.¹¹ Kalutsky’s success is just an example of the continuing improvement of the religious freedom in Georgia.

Georgia is also a party to three major international human rights treaties. Agreement, with no declarations or reservations, was made through accession (which has the same legal effect as ratification¹²) to both the International Covenant on Civil and Political Rights¹³ and to the International Covenant on Economic, Social and Cultural Rights on May 3, 1994.¹⁴ Georgia also ratified the European Convention for the Protection of Human Rights and Fundamental Freedoms on May 20, 1999.¹⁵

II. Domestic Legislation

The constitutional and international treaty protections have been complemented by legislation to enforce those rights. This includes the creation of the Human Rights Protection Unit in the Prosecutor General’s Office (PGO); moreover, the Human Rights Ombudsman and the Ministry of Internal Affairs have both been active in ensuring religious freedom.¹⁶

The Criminal Code bolsters the constitutional protections by providing for fines or imprisonment against those who interfere with an individual’s or organization’s free religious practice.¹⁷ Beside the much publicized prosecution of Mkalavishvili, charges have been brought against both private citizens and public officials.¹⁸ These prosecutions are often made possible by the involvement of the local Human Rights Ombudsman.¹⁹

⁶ CONST. OF GEORGIA, arts. 9, 17, 19, 25.

⁷ Felix Corley, *Georgian Orthodox Priests Incite Mobs Against Religious Minorities*, FORUM 18 NEWS SERVICE, May 25, 2005, http://www.forum18.org/Archive.php?article_id=569.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² See United Nations, Treaty Collection Glossary, http://treaties.un.org/Pages/Overview.aspx?path=overview/glossary/page1_en.xml#accession.

¹³ United Nations, International Covenant on Civil and Political Rights, Mar. 23, 1976, 999 U.N.T.S. 171. Georgia is also a party to the first and second optional protocols.

¹⁴ United Nations, International Covenant on Economic, Social and Cultural Rights, Dec. 16, 1966, 993 U.N.T.S. 3.

¹⁵ Convention for the Protection of Human Rights and Fundamental Freedoms, Nov. 4, 1950, 213 U.N.T.S. 221.

Georgia has also ratified Protocols 1–12.

¹⁶ 2009 *Religious Freedom Report*, *supra* note 1.

¹⁷ *Id.*

¹⁸ See, e.g., Corley, *Georgian Orthodox Priests*, *supra* note 7 (charges brought against local police chief); Felix Corley, *Little Justice Yet for Persecution’s Victims*, FORUM 18 NEWS SERVICE, Nov. 10, 2006,

Georgia has also enacted legislation to further religious freedom in public schools. Some unrest had been felt regarding the GOC's role in education following the 2002 Concordat. But in 2005, the GOC's role was significantly reduced.²⁰ All Orthodox teaching was made elective, must take place after school hours, and must be lead by laypersons (not clergy).²¹ While the GOC still serves a consulting role, the Church holds no decision-making power—that power rests solely with the Ministry of Education.²²

The registration of religious groups continues to cause problems. Some portions of the Armenian Apostolic Church (AAC) and Roman Catholic Church (RCC) continue to claim that they receive unequal legal treatment.²³ However, many religious communities have registered and are receiving the full benefit of the 2006 law which granted noncommercial legal status to religious groups.²⁴ The registration law is religion-neutral and provides a right to appeal any refusal to the administrative court.²⁵ Along with tax benefits, the law provides funding for constructing and renovating religious sites.²⁶ Many of the complaints are related to the distribution of such funds. The AAC, for example, was unable to obtain funds for its church in Tbilisi.²⁷ However, the AAC has refused to register under the 2006 law which makes such funding possible.²⁸ In contrast, several other groups have registered and received funds for the construction of synagogues, mosques, and churches.²⁹

One of the most contentious issues in recent years has been the return of church properties to their respective religious groups. During the Soviet occupation all church properties were seized by the government and, consequently, became the ward of the Georgian government at the end of the Soviet era. Most of these lands remain the legal property of the Georgian government, while the possession of several religious sites has been returned to its respective religion. Perhaps the greatest dispute, between the GOC and the AAC, revolves around the Norashean Church which dates to the 15th century.³⁰ The Church remains unoccupied and in heavy disrepair. The Ministry of Justice has sought to implement a means of dispute resolution, but has so far been unable to bring the plans to fruition.³¹

III. Judicial System

Georgia's judicial system includes the Supreme Court, local courts (including regional and district courts), and a separate Constitutional Court which hears, among other issues, disputes related to the human rights and religious freedom as protected by Chapter Two of the

http://www.forum18.org/Archive.php?article_id=867 (charges against ringleader of group abusing Jehovah's Witnesses).

¹⁹ Corley, *Georgian Orthodox Priests*, *supra* note 7.

²⁰ 2009 *Religious Freedom Report*, *supra* note 1.

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*; Asbarez.com, *Defending the Armenian Church in Georgia*, Nov. 28, 2009, <http://asbarez.com/73895/defending-the-armenian-church-in-georgia/>.

³¹ U.S. Dep't of State, *2009 Country Reports on Human Rights Practices – Georgia* (Mar. 11, 2010) [hereinafter *Human Rights Practices Report 2009*], available at <http://www.unhcr.org/refworld/docid/4b9e52f4c.html>.

Constitution.³² The Georgian judiciary has contributed greatly to the increase in religious freedom over the recent years. Beginning with the successful prosecution of Mkalavishvili in 2005, the courts have been sympathetic to the plight of religious minorities in Georgia and have used the constitutional and criminal provisions to remedy religious abuses.³³

SECTION 2: *Incidents of Religious Persecution and Discrimination*

REPORTS OF RECENT INSTANCES OF RELIGIOUS ABUSE OR DISCRIMINATION

The following examples briefly describe recent incidents of religious abuse or discrimination in Georgia.

A. Societal Abuses: Individuals or Groups Acting Independently

1. Dec. 2008—Chela—The police and the Muslim Council interceded to end a demonstration when an unidentified group of 100 people climbed to the roof of a mosque and shouted, “You are not Georgian, this is no place for you”; the group’s motivation is unknown.³⁴
2. Oct. 2008—Vani—Criminal prosecutions were initiated by the Ombudsman’s office against a local police chief after a series of acts damaging an Evangelical-Pentecostal prayer house went uninvestigated and the local pastor was told by the police chief that his congregation was not welcome in the community.³⁵
3. April 2008—Batumi—Jewish gravestones were desecrated with Nazi symbols and inscriptions. The Public Defender condemned the act and an investigation was initiated, as yet the perpetrators have not been identified.³⁶
4. 2007—Adigeni Region—After complaints, local members of an Orthodox congregation ceased the dismantling of an inactive mosque for church building materials.³⁷
5. Sep. 2006—Tbilisi—An unidentified group of 60 people, purportedly instigated by one fanatic, damaged the construction of a religious and cultural center of the Assyrian Catholic community. The local Ombudsman was attempting to resolve the situation.³⁸ The status is unknown.

³² U.S. Dept. of State, *Country Background Notes - Georgia* (Feb. 28, 2009), <http://www.state.gov/r/pa/ei/bgn/5253.htm>; CONST. OF GEORGIA, art. 89.

³³ See, e.g., Corley, *Georgian Orthodox Priests*, *supra* note 7; Corley, *Little Justice*, *supra* note 18.

³⁴ Fati Mamiashvili, *Georgia: Minority Faiths Face Bureaucratic Hurdles*, INSTITUTE FOR WAR AND PEACE REPORTING, Feb. 20, 2009, <http://www.iwpr.net/print/report-news/georgia-minority-faiths-face-bureaucratic-hurdles>.

³⁵ *2009 Religious Freedom Report*, *supra* note 1.

³⁶ Human Rights Center, *Hate Crimes in Georgia* (2009), available at http://www.hridc.org/admin/editor/uploads/files/pdf/HC%20Report%202009_HRIDC.pdf; Immigration and Refugee Board of Canada, *Georgia: Situation and treatment of Jews; state protection and support services* (Feb. 9, 2010), available at <http://www.unhcr.org/refworld/docid/4b8631db1c.html>.

³⁷ *2009 Religious Freedom Report*, *supra* note 1.

³⁸ Felix Corley, *Will Mob Halt Assyrian Catholic Centre?*, FORUM 18 NEWS SERVICE, Oct. 19, 2006, http://www.forum18.org/Archive.php?article_id=857.

6. Nov. 2005–Rustavi–Charges were brought against the ringleader of three people who threatened and verbally abused Jehovah Witnesses during one of their meetings. The individual fled the arrest warrant. The status is unknown.³⁹
7. Oct. 2004–Bolnisi–Threatening posters were found placed on the door of a Lutheran church and the doors of the church were smashed.⁴⁰

B. Societal Abuse: Incidents Involving a Representative of the GOC or Government

1. April 2005–Vachnadziani–Visiting Baptists, invited by a woman to show the Jesus film in her courtyard to church members, were prevented from returning to their homes by a mob. Later, villagers who attended the Jesus film were allegedly visited by persons loyal to the local Orthodox priest who threatened them to not associate with the Baptists.⁴¹
2. April and May 2005–Tbilisi–The Constitutional Court ruled that mob attacks against a local Protestant pastor and his congregation violated his constitutional rights. The Ombudsman speculated that a local Orthodox priest was behind the attacks but was unable to obtain proof.⁴²
3. 2005–Zestafoni–The foundation of a Baptist church under construction was purportedly broken down by an Orthodox priest and group; as of October 2006, work had not resumed.⁴³
4. 2004–Velistsikhe–The construction on a Baptist deacon’s home was halted after being attacked by unidentified mobs. Local authorities told the church they would not offer defense if the building resumed.⁴⁴

³⁹ Corley, *Little Justice*, *supra* note 18.

⁴⁰ Felix Corley, *Violence Against Religious Minorities Continues*, FORUM 18 NEWS SERVICE, Nov. 5, 2004, http://www.forum18.org/Archive.php?article_id=446.

⁴¹ Corley, *Georgian Orthodox Priests*, *supra* note 7.

⁴² *Id.*

⁴³ Felix Corley, “*Orchestrated Reaction*” *against religious minorities’ buildings*, FORUM 18 NEWS SERVICE, Oct. 25, 2006, http://www.forum18.org/Archive.php?article_id=861.

⁴⁴ *Id.*