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Mariam Gvartadze

Eka Chitanava

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GEORGIA: STATE OBSTRUCTS BUILDING NEW NON-GEORGIAN ORTHODOX PLACES OF WORSHIP¹

By Mariam Gavtadze, and Eka Chitanava, Tolerance and Diversity Institute

Non-Georgian Orthodox Church religious communities repeatedly face obstruction from local municipal councils and the State Agency for Religious Issues to building new places of worship. Such problems affect communities such as Muslims, Jehovah's Witnesses, Catholics and Protestants. Non-Georgian Orthodox communities also face obstruction from national and local state authorities to the restitution of their property confiscated in the Soviet era, obtaining legal title to the land their places of worship are built on, and in meeting for worship in their places of worship.

Permits to build non-Georgian Orthodox places of worship are often either not issued or arbitrarily cancelled by local councils. Typically, local Georgian Orthodox clergy and congregation members oppose proposals to build non-Georgian Orthodox places of worship. Then the local council finds excuses to obey Georgian Orthodox demands, even if the demands go against a court decision, often using spurious reasons to deny the building permit application. State authorities also often tell non-Georgian Orthodox communities to stop trying to build a place of worship on their own land and find some other land to build on. If challenged about their actions, state bodies and the courts often deny that they are discriminating on grounds of religion or beliefs.

¹ Used with the general permission of Forum 18. See http://www.forum18.org/archive.php?article_id=2118. November 5, 2015. Editorial address: Forum 18, Postboks 6603, Rodeløkka, N-0502 Oslo, Norway. http://www.forum18.org/archive.php?article_id=2118 © Forum 18 News Service.

Hostility Leads to Violent Physical Attacks

Georgian Orthodox hostility has led to extreme physical violence against those they dislike. There were many such attacks on non-Georgian Orthodox people and communities 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.²

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.³ 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.

Non-legally Binding State Agency Opinions Halt Legal Processes

Local councils are legally entitled to issue building permits on their own authority. But after the establishment of the State Agency for Religious Issues in February 2014, it wrote to all Georgia's local municipality councils asking them to request the State Agency's opinion on building applications for places of worship. Recommendations from the State Agency are not legally-binding, and existing laws affecting building permit applications make no provision for

² See F18News 10 November 2006, <http://www.forum18.org/archive.php?article_id=867>.

³ See F18News 4 July 2013, <http://www.forum18.org/archive.php?article_id=1854>.

special procedures or regulations for new places of worship, Tamta Mikeladze, Civil and Political Rights Program Director of the Human Rights Education and Monitoring Centre (EMC) told Forum 18 on 15 October.

"Giving such a mandate to the State Agency risks politicising the granting of building permits to religious or belief communities," Mikeladze noted. "Experience has shown that the State Agency's non-legally binding involvement significantly increases the time it takes to process such building permit applications," she added.

No New Mosque for Batumi's Muslims

The port city of Batumi has only one mosque, which cannot accommodate the Muslims who meet for Friday prayers. "As many as 1,000 people have to pray outside the mosque during ordinary prayer days, with twice as many during Islamic festivals," Taniel Nakaidze, who lives in Batumi and is Chair of the Georgian Muslim Union (GMU), told Forum 18 on 21 September.

After the government changed in 2012, local Muslims received multiple promises from then-Prime Minister Bidzina Ivanishvili and other state officials that they would facilitate the building of a new mosque. He first promised this after meeting with Turkish then-Prime Minister Recep Tayyip Erdogan in February 2013 and repeated his promise to the Muslim community at a 5 October 2013 meeting in the nearby town of Ureki. These promises have not been fulfilled. Irakli Garibashvili, Prime Minister of Georgia since 20 November 2013, also met Batumi's Muslim community on 16 October 2014 when the new mosque issue was also discussed. He promised to study the issue and let them know what he thought. But Batumi's Muslims heard no more.

When asked why the government has not, as promised, facilitated the building of a new mosque, the Head of the Government's Press Service, Sofo Mosidze, insisted on 27 October 2015 that the State Agency should answer this. However, State Agency Head Zaza Vashakmadze told Forum 18 on 26 October that he will not answer the question.

However, it appears that soon after Prime Minister Garibashvili's visit, in October 2014, the Administration of Muslims of All Georgia (AMAG) wrote to the Prime Minister asking for the existing Mosque to be enlarged and restored, instead of building a new one. The document was signed by 23 persons. (The AMAG's leaders are thought within the Muslim community to be appointed by the state, but the AMAG denies this.)

In January 2015, the State Agency with the AMAG announced that the existing Batumi mosque would be enlarged to include a madrassah (Islamic religious school) and offices for a Mufti and his staff. On 5 October, AMAG and the state authorities officially opened the offices.

State Agency Head Vashakmadze told Forum 18 on 9 October that the AMAG on behalf of the Muslim community decided to use state funds for a new madrassah and offices for a mufti, rather than build a new mosque.

Muslims in Batumi think that the AMAG ignored the needs of the community. Two Batumi Muslims, who preferred not to disclose their names, told Forum 18 separately on 28 October that local Muslims urgently need a new, additional mosque. "We are praying outside, sometimes in the rain and snow. The AMAG did not consider the needs of the Muslim community," one told Forum 18. Another Batumi Muslim confirmed this. "There is a big Muslim population. We need proper conditions to pray."

At least some who signed the AMAG's October 2014 letter also agree that a new Mosque should be built. "I still think that there is a huge need to have a new mosque in Batumi," Aslan

Abashidze, Mufti of the nearby town of Khulo, told Forum 18 on 21 September, "and I will stand together with my fellow Muslims on this matter."

Ilia Kakhadze, a Muslim from Batumi who heads the Fund for the Support of the Construction of Muslims' Houses of Worship, agrees that local Muslims want an additional mosque. He told Forum 18 on 28 October that his Fund has started collecting the finance for it. The only thing that the community needs from the state is permission to build a mosque and the land for this.

"Of course we want a mosque, but it takes time," AMAG Head Mufti Beglar Kamashidze told Forum 18 on 8 October. "We need to work with society to acclimatise them [to the idea of a new mosque] in order to avoid confrontations." But none of the Batumi Muslims Forum 18 spoke to on 28 October think the obstacles come from Orthodox people. "We do not face hindrances from the Orthodox people, the hindrance comes from the Mufti, appointed by the government," Kakhadze told Forum 18. Nakaidze of the GMU told Forum 18 on 26 October that Batumi's Muslims are starting to collect signatures on a petition asking for a new mosque.

No Building for Terjola's Jehovah's Witnesses

On 19 February 2014, Jehovah's Witnesses in the central town of Terjola gained a building permit from the local municipality council for a building. But this was followed by a public meeting of local Georgian Orthodox clergy and residents stating they would not allow Jehovah's Witnesses to continue construction. Then-Head (Gangebeli) of Terjola Municipality, Malkhaz Gurgenidze, told Maestro TV on 3 June 2014 that "the opinion of the majority, the Georgian Orthodox, will be taken into account". Former Gangebeli Gurgenidze later described this statement as "a mistake". "I don't know if I said that, I don't remember," he told Forum 18

on 26 October 2015. "If I did say it, it was a mistake. It does not matter who is a majority and who is a minority."

On 3 June 2014, Terjola Council suspended the building permit, citing as a reason that a neighbour had claimed that the Jehovah's Witness building work damaged his house. On 3 July 2014, Jehovah's Witnesses submitted a geological-engineering opinion, prepared at their own request, which refuted these claims. According to the document, seen by Forum 18, "the examined territory, where a one-floor building is planned, has satisfactory conditions and no negative physical or geological factors have been observed". The National Forensic Bureau, which is responsible for examining such claims, in its official written opinion of 30 September 2015 also refuted the neighbour's claim, affirming that the construction will not damage the neighbour's house. However, the Council ignored these expert assessments and still has not issued permission to continue building.

The Council also claimed that it could not issue a building permit as it had to wait for an opinion (which has no force under published law) from the State Agency. Court documentation seen by Forum 18 states: "Terjola Council states that it missed administrative deadlines and was not able to make a decision because the cases was sent to the State Agency for Religious Issues and their answer has not been received".

However, current Gamgebeli (Head of the Council) of Terjola, Teimuraz Japaridze, told Forum 18 on 26 October that the delay was caused not by the State Agency, but because of a meeting of Georgian Orthodox. According to Japaridze, they invited Jehovah's Witnesses to discuss the problem but they did not attend the meeting. "What kind of recommendation can the Agency give? It cannot go against the law," he asserted. "The issue had to be decided by negotiations. We offered the Jehovah's Witnesses better land but they still want to build here."

On 19 March 2015, Zestaponi City Court obliged Terjola Council to reissue the building permit. On 22 September, the Court of Appeals ordered the Council to pay the Jehovah's Witnesses material damages totalling 1,420 Lari (5,050 Norwegian Kroner, 540 Euros, or 590 US Dollars). Despite the March court decision, the building permit has not been reissued.

After the March court decision, State Agency officials, local Orthodox clergy and parishioners, and Council officials met in Terjola on 26 April. Jehovah's Witnesses were also invited to attend the meeting, but declined to participate in this kind of discussion. The State Agency verbally recommended to Terjola Council that they offer the Jehovah's Witnesses an alternative building plot "with a guarantee of peaceful coexistence with the Georgian Orthodox population", State Agency Head Vashakmadze told Forum 18 on 9 October.

Vashakmadze stated he would not answer the questions when asked by Forum 18:

- why the State Agency made this recommendation;
- why he thinks this would solve the problem;
- how lawful it is to make this offer, but not allow a legal building to be built on property the Jehovah's Witnesses own;
- and whether "peaceful coexistence" means that the state should not protect people exercising their human rights, including freedom of religion or belief.

"We do not have the right to forbid it", but..

In October 2015, Jehovah's Witnesses also brought a case to the Supreme Court, claiming discrimination on religious grounds and moral damages. Terjola Council is also appealing against the March Court of Appeal decision to the Supreme Court. "We will act according to its decision," the current Terjola Gamgebeli, Japaridze, claimed to Forum 18. "We appealed because the Court of Appeal held the Council responsible for material damages, for cement and something. The damage is not the fault of the Council."

Japaridze claimed that he could not say why the Council ignored the expert opinions, as they were issued before his appointment. (He became Gamgebeli on 4 August 2014, before the first but not before the second expert opinion was issued.) He also claimed that he cannot comment on the council's failure to implement the court's ruling to reissue the building permit. "Now the court is discussing this issue and we will act according to its decision," he repeated to Forum 18.

Japaridze also claimed that "the Orthodox are not against the building, they are against building on the place where Jehovah's Witnesses want to build. The Council is willing to give Jehovah's Witnesses new land". But he also stated that Jehovah's Witnesses can legally build the house on the current land and that "we do not have the right to forbid it". However, Japaridze continued, "we do not want to have tensions. The best solution would be to have dialogue".

"Confrontations" and "Dialogue"

Local Georgian Orthodox priest Fr Spiridon Tskipurishvili, who led the 2014 protest rallies against Jehovah's Witnesses, told Forum 18 on 26 October 2015 that they object not to the building but to its location. Local Orthodox people who Forum 18 spoke to in Fr Tskipurishvili's presence agreed with him.

Nineli Gvenetadze, a private school headteacher in Terjola, claimed that she personally has nothing against Jehovah's Witnesses. But she claimed she fears "confrontations" if the building is built. "When they started construction, 200 persons 'spontaneously' gathered there to protest. We are afraid that when the building is finished and starts functioning, the number of protesters will increase tenfold."

"You know this organisation's work [Jehovah's Witnesses], they actively propagate their religion," Zaur Oboladze, head of an 'initiative group' protesting against the Jehovah's Witness building, told Forum 18 on 26 October. "As school pupils walk down this street, parents say they don't want their children to get in touch with them. They want to bring up their children as Georgians as they were raised throughout the centuries." All three Georgian Orthodox insisted that Jehovah's Witnesses must build their building elsewhere. This is because the building is near a non-functioning theatre the council plans to renovate and the state school. Therefore, they claimed, young people are "permanently moving in the area and this may cause confrontations."

Asked what legal right they had to demand that the location of the building be moved, Fr Tskipurishvili claimed he wants peace, and that dialogue ending with the Jehovah's Witnesses building being somewhere else is the best solution. "The law does not forbid me from slaughtering a pig in my back yard. But if my neighbour is a Muslim or a Jew, and I slaughter a pig near their fence and not at the other side of my yard, they will be insulted." Fr Tskipurishvili commented on Jehovah's Witnesses' - but not his own - actions: "My action will be lawful. But when I have an alternative and do not take it, it will look like I am deliberately inciting confrontation."

Jehovah's Witnesses have faced similar problems elsewhere in Georgia, including currently in the central town of Khashuri and the nearby small town of Surami. The problems entail the same pattern of refusals to issue building permits, intimidation by Georgian Orthodox, and refusal by councils to abide by court decisions and the rule of law. "We think that the motive is religious," Jehovah's Witness lawyer Shalva Katsiashvili told Forum 18 on 8 October. For example, court documentation seen by Forum 18 states that Khashuri Council has cited as a reason for refusal a letter signed by 1,700 Georgian Orthodox calling for a building permit to be

refused, as a Kingdom Hall (Jehovah's Witness place of worship) "may cause confrontations among the population."

No Church for Rustavi's Catholics

Catholics in the city of Rustavi, south east of the capital Tbilisi, have been trying to get permission to build a church since 2013. On 21 May 2013, the city council approved the building conditions - the first phase defined by the legislation for issuing a building permit. But when they applied for the next phase--a building permit--on 26 July 2013, the city council did not respond to the application.

Eka Papuashvili, Head of the Architecture Service of Rustavi Council, told Forum 18 on 29 October 2015 that the Council did not issue a building permit because, under municipal regulations, it needs to be discussed and approved by the Council. Forum 18 noted that under the regulations the first phase approval must also be discussed, and the Council had to inform the Catholic Church about its decision. Not responding is not an option under the regulations.

On 27 May 2014, the Catholic Church brought a case to Rustavi City Court requesting that Rustavi City Council issue a construction permit certificate. This is the final document (after a building permit has been issued) needed for official permission to build. The Court decided on 7 July that, as the Council did not either issue a building permit or respond to the application within the one month legally allowed, the permit must be considered as having been granted. However, the Court did not order a construction permit certificate to be issued, as the Catholics had not applied for this from the Council as no building permit had been issued.

The State Agency, at the request of the Catholic Church, became involved and recommended in writing on both 31 October and 1 December 2014 that the Catholics should be

given a construction permit. The State Agency did not, however, base its recommendations on published law, the court decision, or on the Catholics' legal application. Instead, the State Agency relied on a non-binding non-legal opinion of its own Commission Studying Property and Financial Issues of Religious Organisations that Catholics "need" a Church in Rustavi.

Instead of issuing the building permit after the court decision, in December 2014, the Architecture Service organised a meeting at Rustavi City Hall to discuss the complaints of local Georgian Orthodox. Catholics were asked to attend the meeting. "When we arrived, we found about 10 Georgian Orthodox clergy and parishioners, and city councillors," Giorgi Tskhomelidze, the Apostolic Administrator's Secretary, told Forum 18 on 8 October 2015. "Their attitude towards us was aggressive, saying that our goal is to bribe local Orthodox people. They asked our lawyer how could she--as she is Georgian Orthodox--defend us. We then left the meeting, as there was no intention to have a discussion and because of their hostile attitude."

One Rustavi Catholic told Forum 18 on 29 October that the Catholic congregation meets for worship in a parishioner's home. "Catholics face obstacles because of the perception that Georgians should be Orthodox," the Catholic added. In May, the Catholics were invited to a meeting with Kvemo Kartli Governor Paata Khizanashvili, Tskhomelidze told Forum 18. Governor Khizanashvili offered them an alternative plot of land. "Initially we were interested, but then we realised that it was in a remote and deserted area," Tskhomelidze noted. "So we did not consider this any more." Papuashvili of Rustavi Architecture Service confirmed to Forum 18 that there was a verbal discussion about the alternative plot, but claimed she did not know the details.

On 24 September, Catholics asked Rustavi City Council to issue a building certificate. Once again the Council has not replied within the one month legal timescale. "It is a bit

complicated and I think it needs in-depth consideration," Papuashvili claimed to Forum 18 on 29 October. She also claimed that "we will try to inform you in a short time" but made no commitment to inform the Catholics. As the Catholic Church has not received a reply from the Council to their latest application within the legal timescale, Tskhomelidze said they are planning to apply to a court for a building certificate to be issued.

Church but No Access to It for Gardabani Protestants

The Protestant Church of Christ in Gardabani, just south of Rustavi, has in 2015 encountered obstruction from the local council and Georgian Orthodox to building a church. The Church applied to Gardabani Council for a building permit for a church, on property they own, on 11 May. The Council claimed that the documentation was incomplete, so the Church provided additional documents in June. But the permit was not issued or the application responded to within the legal timescale.

On 5 July, Georgian Orthodox people held a meeting to protest against a church being built. Twenty one people signed a letter to the Council, seen by Forum 18, stating that many Georgians live in the area and already have Georgian Orthodox beliefs, religion and a church. Building a non-Georgian Orthodox church, they claim, would have a negative impact on adults and would cause "further confrontations". On 7 July, Jemsi Khardziani of Gardabani Council wrote to the Church of Christ, in a letter seen by Forum 18, stating: "I take into account the opinion of the majority of Gardabani's population, and to avoid a threat to peaceful coexistence, we do not find it appropriate to establish other types of religious buildings near the [Georgian Orthodox] church."

The Council then told the Church of Christ to negotiate with the State Agency, but the Church decided to ignore this and continue to follow legal procedures. The Council then granted

a building permit on 24 August. However, the authorities found another way of obstructing the building. On 8 September, the Economy and Sustainable Development Ministry sold the land over which access to the Church from the road runs. This deprived the Church of access to its own property. The Church told Forum 18 on 28 October that it has not yet decided what to do about the situation.

The access land was, according to Dato Janashia of the Municipal Property Division of Gardabani Council, owned by the Economy and Sustainable Development Ministry. He told Forum 18 on 30 October that only it could answer questions on the land. However, the Ministry redirected Forum 18 to the National Agency of State Property. On 4 November, the Agency's public relations department said it would only reply to questions in writing.