

LEGAL AND SOCIAL STATUS OF THE GEORGIAN ORTHODOX CHURCH: CHALLENGES AND PERSPECTIVES

Prof. Dimitry Gegenava, Ph.D.

Sulkhan-Saba Orbeliani University

e-mail: d.gegenava@sabauni.edu.ge; <https://orcid.org/0000-0003-3269-3924>

Summary. This article aims to overview the Georgian Orthodox Church's role and status in modern Georgia. The Author in the paper aims to analyze basic problems and challenges, which Georgian society and state have regarding the Church and religious entities, also, to create some practical recommendations for better regulation of this issue in the future.

Key words: Georgian society, Church, State, post-Soviet period

INTRODUCTION

Christian Church often used to be in the epicenter of political battles or important transformational processes. When the Roman Church remained as the main political player in medieval or new ages, Orthodox Church tried to survive among different enemies. That was main reason why they became symbols of national identity and battle for freedom in East Europe. In 1900s many transformative processes took place in the post-communist countries, which radically changed the environment and political or religious climate in these states. The same processes took place in post totalitarian Georgia: national government dismissed strange and nonorganic holidays, and restored historic and religious ones [Khetsuriani 2013, 12]. Constitution of 1978, which was used in the first years of the independency, was liberalized and opened new opportunities for religious organizations [Gegenava, Kantaria, Tsanava, et al. 2015, 43]. New constitution of 1995 established religious freedom and modern principle of the separation of Church-state relations, which was then transformed into the cooperative secular model.

The rise of public religions in Eastern Europe in the last decades, was stipulated by the clash of the block of socialist countries [Mebagishvili, Gavashelishvili, Ladaria, et al. 2012, 4]. Georgian example is among them. As post-Soviet country it has very difficult system of Church-state relations, with religious freedom, dominant Georgian Orthodox Church,¹ keeping its huge power, religious minorities and politicians, trying to use the Church's authority for their goals – “there is no new thing under the sun” (Eccl. 1,9).

This paper aims to overview GOC's role and status in modern Georgia, to analyze basic problems and challenges, which Georgian society and state have regard-

¹ Henceforth cited as: GOC.

ding the Church and religious entities, also, to create some practical recommendations for better regulation in the future.

1. GEORGIAN ORTHODOX CHURCH IN POST-SOVIET PERIOD

Generally, Church-state relations in the countries of Eastern Europe, often are problematic [Morée 2005, 292]. This can be conditioned by many factors: Part of Orthodox Churches was linked to the idea of national identity and they transformed as irreplaceable element of national consciousness [Flood 2012, 573]. The same happened in Georgia, where GOC became basic social and national institution, creating national identity and framing the ideology of resistance in the world, surrounded by the Muslim conquerors [Saginashvili 1997, 70]. This was main reason why Orthodox Christianity didn't have any sub domination or sect in Georgia [Kurtanidze 2010, 80]. Often when elements of the Church and nationality are confused, it effects even on the mission of the Church.

Historically Georgian state was based on the theocracy [Andronikashvili and Maisuradze 2010, 106], kings were legitimated by the God and it didn't know any kind of secularism. First signs of secularism appear in the second half of 19th Century, when the leader of Georgian nationalist movement, Ilia Chavchavadze declared three basic ideas of nation: Homeland, Language and Faith, but he put "homeland" first of all, when the "faith" took only last place [ibid., 108]. Orthodox Church made ethnos and orthodox Christianity united [Pollis 1993, 348] and now it wouldn't be surprise that the Church is against of privatization of religion, moving religion from public to private sphere [Roudometof 2010, 31]. Ecumenical Patriarch Bartholomew admitted, that modern orthodoxy needs relations with modern philosophical thought, public dynamism, different forms of art and culture [Sharp 2012, 227].

Orthodox Christianity can be successful in the systems of full or partial democracy, moreover it can be initiator and the leader of democratization [Prodromu 2008, 74]. GOC is not an exclusion, it has chance to play huge role in societal development, much more than any other state or social institution. Georgian Orthodox Church became the largest and most influential social actor in the beginning of the 1990s and tried to ensure its place and role till nowadays [Piralishvili 2008, 34]. Nationalist movements and President Gamsakhurdia tried to use religion as part of anti-Soviet ideology and consolidate people around this idea, but GOC "stood away from this process" [Mebagishvili, Gavashelishvili, Ladaria, et al. 2012, 17]. For the end of 1990s the GOC remained winner in the battle of state and Church for domination: GOC and state had to cooperate and establish the system, useful for both of them [ibid.].

2. GEORGIAN ORTHODOX CHURCH AND GEORGIAN MODEL OF CHURCH–STATE RELATIONS

2.1. Georgian Model of Church-State Relations

There are many models of Church-state relations in the member states of European Council [Doe 2013, 357]. They differ from each other and this is in full compliance with the European Convention of Human Rights.² State neutrality in the questions of religion doesn't mean an isolation of religion and state [Ledewitz 2011, 247] especially in the sphere of values [Bielefeldt 2007, 35]. In the cooperative secularism there is no state or official religion, freedom of religion is guaranteed, Church and state have many fields to cooperate and act together [Kheturiani 2013, 43].

Cooperative secularism was established in Georgia: historical and cultural role of the GOC was underlined in the Constitution of 1995 and then Constitutional Agreement was signed and adopted in 2002. Only a few legislative acts regulate issues about the GOC. Georgian state funds five religious entities and pays compensation them for the soviet past [Gegenava 2019, 121]. GOC is excluded from most taxes, constitutional court of Georgia excluded from some of those taxes other religious organizations also, basing on the principle of equality and non-discrimination.³

Georgian model of Church-state relations has many problems, and most of them are not just ongoing, but systemic. Georgia still doesn't have any special legislative act, which could regulate questions about religious organizations, implementation of collective freedom of religion. In the system where the state and religious organization cooperate, there is need to have special law on religion. Several drafts of the law existed, but none of them passed [Abashidze 2007, 14]. This kind of regulation is very important in Georgian case, because Georgian model of Church-state relations is cooperative, but in fact there is only one real cooperation – between the state and GOC. It is necessary to develop exact ways and mechanisms of cooperation with other religious organizations too.

In spite of guaranteeing religious freedom and neutrality, GOC is real dominant religious entity in Georgia and any other religious organizations' power is too weak not only in social matters, but also it reflects the same in the legal questions [Gegenava 2018, 103]. The state must create and develop environment, where every man and religious group will have opportunity to realize and implement their religious rights, without any interference. It is necessary to adopt the special legislation on religion or religious organizations, which regulate all the problematic issues regarding these very sensitive questions. Georgian State must take responsibility to make exclusions for one privileged religious entity reach-

² State, Religion, Secularity and Human Rights, Recommendation 1804 (2007), Parliamentary Assembly of Council of Europe, para. 6.

³ Decision of the Constitutional Court of Georgia of 3 July 2018, No. 1/2/671.

able for every other one. This will guarantee not only pluralistic environment, but also non-discriminatory legal regime, where every religious actor can develop their selves.

2.2. Legal Status of the Georgian Orthodox Church

Constitution of Georgia declares freedom of belief and conscience but also gives “special” status to the GOC. With Italy and Peru, Georgia is among the countries which recognize separation of Church and state, but the same time empowers one concrete religious entity with extraordinary and privileged status [Ibán 2013, 52–53]. Georgian Orthodox Church has status of legal entity of public law and this was given to him by the constitutional agreement of 2002.⁴ Constitutional agreement is a special legal instrument that can be used by the state only for regulation the relations with GOC.⁵ This agreement has special status and is the second highest legal act in the hierarchy of normative acts – only constitution and constitutional law is upper of it. This underlines its importance and also real reason, why it was established in this form: If the state decides to make other constitutional agreements or concordat with the Holy See, that automatically will be international act and override internal legislation. So, this kind of regulation prevents any other concordat or agreement with other religious groups to prevail the agreement with GOC.

3. GEORGIAN ORTHODOX CHURCH AS SOCIAL ACTOR AND CURRENT CHALLENGES OF MODERN GEORGIAN SOCIETY

Religion and religious organizations play significant role in the civil societies as determinatives of ethical and moral issues.⁶ Orthodox Church takes part in many social relations, it tries to underline social priorities in foreign and domestic policy, national identity, demographic problems and etc. [Fokas 2010, 189]. Participation in public process doesn't empower the Church automatically, real power to take part in decision making process is quite different. Unfortunately, marginal and fundamentalist groups of the Orthodox Church and their activity destroys the Church's authority and face in society, also polarizes public opinion and stimulates conflicts between social groups. Church's activity is not a problem at all, they have right to take part in public life. It becomes problematic when the people get their opinion as mandatory to follow [Zucca 2012, 151].

Georgian Orthodox Church became the only functional and active social institution in the beginning of 1990s, there was no state or public institutions, so the Church took their responsibility to deal with even everyday problems. This

⁴ Constitutional Agreement between Georgian State and Georgian Autocephalous Apostolic Orthodox Church of 14 October 2002, Art. 1, sect. 3.

⁵ Constitution of Georgia of 24 August 1995, Art. 8.

⁶ Recommendation 1804 (2007), para. 2.

made it the most powerful actor in the end of 20th century. After the Rose Revolution new government needed Church's support, especially with Adjara, where the last "Feudal" Abashidze had the power, so national government used GOC to make peace in the region and the Church itself used this fact to strength its social power [Ivanov 2011, 6]. Civil protests in 2007, made Saakashvili's government to be closer with the Church, he needed GOC's support to stay in power – so 2008–2009 years became very important in the Church-state relations (for example, in this period official state budgetary contribution to the GOC arose to 25 million GEL) [Margvelashvili 2018, 3]. "From a secondary institution, the Georgian Orthodox Church soon turned into a spiritual and cultural leader of the nation, and without damaging Universalist nature of religion, continues to have a strong, but nonproportional, relationship with ethnicity" [Ladaria 2012, 108].

The Church will always try to keep its traditional role and dominance on the society [Piralishvili 2008, 34], because these are the real sources of its importance. GOC remains institution with political power also, and its radical supporters and hierarchs have influence on the political processes in the country [Funke 2014]. The Church has power to effect the people's electoral choices [Margvelashvili 2018, 4]. Knowing this fact, Georgian Politicians use "religion as a tool for voter mobilization" [Kakachia 2014, 2].

Russian orthodox ideologists made representatives of GOC to believe that globalization and "westernization," liberalism were against true orthodox faith and Georgian values [Piralishvili 2008, 36]. GOC recognizes Christianity as European and realizes it, but also is worried about the loss of identity and Georgian values, if the European understanding of the faith falls [Margvelashvili 2018, 12]. GOC looks at globalization and modernity as western products, and therefore as potential harmful objects for the Church, as a guardian of national identity [Mebagishvili, Gavashelishvili, Ladaria, et al. 2012, 11].

GOC's social power is still based on the loyalty of the people [Ladaria 2012, 113], especially Georgians, for whom the Church remains as the symbol of true faith, past glory. Patriarchate still doesn't recognize secularism as the principle and interferes in civil affairs to underline its status and role [Kakachia 2014, 1]. In the 21st century GOC transformed from the ethnographic and cultural curiosity to a very strong social factor and phenomena, that "effect the country's movement toward the global context" [Piralishvili 2008, 37].

Georgian state needs to implement constitutional principle of cooperative secularism in practice. It doesn't mean fighting against GOC or any other religious organizations, but just draw lines between national, state and religious issues, which must be separated. Underlining the "special role" of the GOC to give discriminatory privileges to it. There are many civilized ways to establish real non-discriminatory regime for every religion and it is very realistic, but first of all the government has to separate political and electoral processes from the Church. Any other decision doesn't make sense, because both – Church must be excluded from the active political process and the state must not use any potential support

from it in political sphere. The Georgian Church can potentially play an important role in fostering tolerant and non-violent efforts to unite different parts of Georgian society. Together, these two Georgian institutions could yet be a powerful force for progress” [Kakachia 2014, 6]. For this at least these two powerful institutions should declare regime of noninterference and follow well experienced European way of cooperative secularism – honoring each other, supporting national interests and cooperate for the welfare of society in their own ways – spiritual and secular.

CONCLUSION

Every nation and state follow their priorities, ideas and principles, especially when it is about religion and Church-state relations. Christian Church that played substantive role in the past of the country and became a quasi-state organization in the beginning of the nation’s new life, after getting independence and acted as the only functional social institution, of course, never let the state to remove it from public life. This is not mandatory, moreover removing GOC from publicity or making it to act by the dictate of state is the lose battle. Church and the state must separate their duties and obligations as spiritual and secular institutions. Principle of cooperative secularism should be implemented fully. For these purposes there are some recommendations, which will help this process:

- 1) Georgian government should create and pass the special law on “Religion and Religious Organizations,” which will regulate issues concerning religion and religious activity, will establish principle of equality and non-discriminatory social-political environment;
- 2) GOC should limit its activity and must be focused more spiritual questions, helping people and return to the real mission of the Christian Church;
- 3) Government and the state must not use any support from the GOC in the electoral process, also it should revise state funding policy and change principle of funding religious organizations.
- 4) Georgian state and Orthodox Church should cooperate, not isolate from each other, also understand their roles, that they are not rivals or opponents and both of them with many other social institutions can communicate and act in harmony for the glory of nation.

REFERENCES

- Abashidze, Levan. 2007. “Perspectives of Religious Legislation in Georgia.” *Solidaroba* 9 (18):12–18.
- Andronikashvili, Zaza, and Giorgi Maisuradze. 2010. “Secularization and the Fate of Secularization in Georgia.” *Solidaroba* 5 (38):104–13.
- Bielefeldt, Heiner. 2007. “Religious Freedom – Final Criteria?” [Translated by B. Kobakhidze]. *Solidaroba* 10 (19):30–36.

- Doe, Norman. 2013. *Christian Law. Contemporary Principles*. New York: Cambridge University Press.
- Flood, Gavin. 2012. "Orthodox Christianity and World Religions." In *The Orthodox Christian World*, ed. Augustine Casiday, 573. London: Routledge.
- Fokas, Effie. 2010. "Religion and Welfare in Greece: A New, or Renewed, Role for the Church?" In *Orthodox Christianity in 21st Century Greece. The Role of Religion in Culture, Ethnicity and Politics*, ed. Victor Roudometof, and Vasilios N. Makrides, 175–92. England: Ashgate.
- Gegenava, Dimitry. 2018. *Legal Models of Church-State Relations and Georgian Constitutional Agreement*. Tbilisi: Prince David Institute for Law Publishing.
- Gegenava, Dimitry. 2019. "State Funding of Religious Organizations in Georgia." *Studia z Prawa Wyznaniowego* 22:119–34.
- Gegenava, Dimitry, Beka Kantaria, Lana Tsanava, et al. 2015. *Georgian Constitutional Law*. Ed. 3. Tbilisi: Prince David Institute for Law Publishing.
- Ibán, Iván C. 2013. "God in Constitutions and Godless Constitutions." In *Law, Religion, Constitution (Freedom of Religion, Equal Treatment, and the Law)*, ed. W. Cole Durham, Silvio Ferrari, Cristiana Cianitto, et al., 37–55. London: Routledge.
- Ivanov, Vladimir. 2011. "Religious Dimension of Turkey's Policy in Ajaria and The Georgian Orthodox Church" *Central Asia and The Caucasus* 12, no. 3:79–90.
- Kakachia, Korneli. 2014. "Is Georgia's Orthodox Church an Obstacle to European Values?" *PONARS Eurasia Policy Memo* 322:1–6.
- Khetsuriani, Joni. 2013. *Church and State. Legal Aspects of Relations*. Tbilisi.
- Kurtanidze, Kakhaber. 2010. "Eschatological Politology. Is there Ideology of Church?" *Solidaroba* 2 (35):71–83.
- Ladaria, Konstantine. 2012. "Georgian Orthodox Church and Political Project of Modernization." *Identity Studies* 3:107–17.
- Ledewitz, Bruce. 2011. *Church, State, and the Crisis in American Secularism*. Bloomington: Indiana University Press.
- Margvelashvili, Kristine. 2018. "Role of the Orthodox Church in Georgia's European Integration Process." *Caucasus Social Science Review* 4: 1–17.
- Mebagishvili, Tatia, Elene Gavashelishvili, Konstantine Ladaria, et al. 2012. *The Orthodox Church and the Reframing of Georgian National Identity: a New Hegemony?* Paper for the ECPR General Conference, 24–27 August 2012. Reykjavik.
- Morée, Peter. 2005. "Identity, Religion and Human Rights in the Balkans, The Macedonian Case of Archbishop Jovan in Its Broader Context." *Helsinki Monitor* 16:287–96.
- Piralishvili, Zaza. 2008. "Globalization and the Georgian Orthodox Church." *The Caucasus & Globalization* 2, no. 3:33–40.
- Pollis, Adamantia. 1993. "Eastern Orthodoxy and Human Rights." *Human Rights Quarterly* 15:339–56.
- Prodromu, Elizabeth. 2008. "Ambivalent Orthodoxy." *Solidaroba* 1 (22):70–82.
- Roudometof, Victor. 2010. "The Evolution of Greek Orthodoxy in the Context of World Historical Globalization." In *Orthodox Christianity in 21st Century Greece. The Role of Religion in Culture, Ethnicity and Politics*, ed. Victor Roudometof, and Vasilios N. Makrides, 21–39. England: Ashgate.
- Saginashvili, Ketevan. 1997. "Religious Directions in Georgia and the Necessity of the Creating Legislative Basis for their Regulations." *Samartali* 11–12:70–72.
- Sharp, Andrew. 2012. *Orthodox Christians and Islam in the Postmodern Age*. Leiden–Boston: Koninklijke Publishing.
- Zucca, Lorenzo. 2012. "Law v. Religion." In *Law, State and Religion in the New Europe*, ed. Lorenzo Zucca, and Camil Ungureanu, 137–59. Cambridge: Cambridge University Press.

**STATUS PRAWNY I SPOŁECZNY GRUZIŃSKIEGO KOŚCIOŁA PRAWOSŁAWNego:
WYZWANIA I PERSPEKTYWY**

Streszczenie. Celem artykułu jest przedstawienie znaczenia i statusu Gruzińskiego Kościoła Prawosławnego we współczesnej Gruzji. Autor ma na celu przeanalizowanie podstawowych problemów i wyzwań społeczeństwa gruzińskiego i państwa względem Kościoła i podmiotów religijnych, a także sformułowanie kilku praktycznych wskazówek celem lepszych regulacji dotyczących tej kwestii w przyszłości.

Słowa kluczowe: społeczeństwo gruzińskie, Kościół, państwo, okres postkomunistyczny

Informacje o Autorze: Prof. dr Dimitry Gegenava – Uniwersytet Sulkhan-Saba Orbeliani; e-mail: d.gegenava@sabauni.edu.ge; <https://orcid.org/0000-0003-3269-3924>