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ARMENIA: A "serious setback to the development of a modern, progressive and liberal Armenia"

By Felix Corley, Forum 18 (<https://www.forum18.org>)

Armenian human rights defenders and religious communities remain deeply concerned by many parts of the draft Religion Law, Forum 18 News Service has found. Serious concern has also been expressed about the proposed new Article 162 in the Criminal Code, which would punish the sharing of beliefs. Both drafts were approved by Parliament in their first readings. A joint review of the new laws are expected to be conducted by the Council of Europe's Venice Commission and the OSCE. Armen Ashotyan, a parliamentary deputy of the Republican Party in the government coalition, who is leading the adoption of the laws, told Forum 18 that deputies will wait for the review before proceeding further. However, he declined to pledge that all the review's recommendations will be accepted. Alarm has been caused by, among other provisions, a high legal status threshold of 500 people, bans on sharing beliefs, and unclear wording of provisions allowing religious organisations to be banned. They have been condemned as a "serious setback to the development of a modern, progressive and liberal Armenia"

Armenia's controversial proposed new Religion Law and the proposed new Article 162 in the Criminal Code to punish the sharing of beliefs were approved by Parliament in their first readings on 19 March, the parliamentary website reported. A wide range of religious communities and human rights activists within Armenia have expressed deep concern to Forum 18 News Service about these proposed new laws. Armenia's Parliament requested a review of the draft laws from the Venice Commission of the Council of Europe. The review is expected to be conducted jointly with the Organisation for Security and Co-operation in Europe (OSCE) and to be presented in June, the Venice Commission told Forum 18 News Service from Strasbourg.

Armen Ashotyan, a parliamentary deputy of the Republican Party in the government coalition, who is leading the adoption of the laws, told Forum 18 from the capital Yerevan on 23 March that deputies will wait for the review before proceeding further. However, he declined to pledge that all the review's recommendations will be accepted.

The draft Religion Law and amendment to the Criminal Code began their passage through Parliament on 5 February, taking many religious communities by surprise. Protestants, Russian Orthodox and Jehovah's Witnesses are among those expressing concern about many provisions of these proposed laws (see F18News 9 February 2009 http://www.forum18.org/Archive.php?article_id=1251).

High legal status threshold

Concerns about the initial text of the laws particularly focused on the 1,000 adult citizen members required before a religious community would be able to apply for legal status. Deputy Ashotyan told Forum 18 that in late February, deputies preparing the Law reduced this to 500, adding that this was the version adopted on 19 March. He insisted this would satisfy concerns from religious minorities.

Ashotyan defended the requirement to have 500 adult citizens to register a religious community. "We compared approaches from European countries and took Austria as a model," he told Forum 18. Asked why Austria was chosen, he responded: "We looked for the most proper model for Armenia. Austria is a country with a similar model to Armenia."

Asked how that meets the OSCE / Venice Commission recommendations in section II.F.1 of their Guidelines for Review of Legislation Pertaining to Religion or Belief that: "High minimum membership requirements should not be allowed with respect to obtaining legal personality" (see <http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD%282004%29028-e>), Ashotyan responded: "500 is not a high number. It is a very small number." He insisted that religious communities without registration would still be able to function. He refused to explain how they could run bank accounts, own property, employ people or conduct other business that requires legal status.

The OSCE / Venice Commission Guidelines also place serious questions against many other aspects of the new laws.

As satisfied as Ashotyan with the version adopted in the first reading is Vardan Astsatryan, head of the government's Department on

National Minority and Religious Issues. "Armen Ashotyan met some religious organisations," he told Forum 18 from Yerevan on 23 March, "and as a result there was some softening." He welcomed the reduction from 1,000 to 500 adult members required for registration, and denied that even this number is too high.

However, Stepan Danielyan, Chair of the Collaboration for Democracy Centre, which has worked on religious tolerance in Armenia, is among human rights defenders who question why the number of adult members required to found a religious community in a revised Article 5 is raised from 200 in the current Religion Law (already a high number) to 500.

Bans on sharing beliefs

Religious communities were also highly concerned by the broad definition of "proselytism", which attracted heavy penalties in the initial version of the laws. Deputy Ashotyan claims that redrafting has specified that such "proselytism" would have to be "aggressive" and "repeated" before resulting in penalties. He likewise insisted this meets valid concerns.

Danielyan of the Collaboration for Democracy Centre, and many religious minorities, remain worried by the definition of "proselytism" and the punishments imposed for it in the revised Criminal Code Article 162. This states:

"Forming associations encroaching the rights of the persons or against a person, leading or supporting them, proselytizing

1. Establishment, management of such religious or non-governmental association, or supporting them, whose activities inflict damage to the health of individuals or with encroachments on other rights of individuals, as well as inciting the individuals to refuse their civil duties:

is punished with detention maximum for the term of two years.

2. Proselytism is punished with a fine in the amount of five hundredfold of the minimum salary or detention maximum for the term of one year."

The revised Article 8 of the Religion Law also bans "proselytism", defining it as sharing faith using material incentives, using "physical or psychological pressure", spreading hatred or mistrust of other faiths, using "offensive expressions" about other individuals or faiths or addressing a person without their prior consent at least twice in their home, place of work or place of rest, either in person or by telephone.

Those found leading organisations whose activities "are accompanied with inflicting harm upon persons' health or encroachments upon other rights of persons, or inciting persons to refuse to perform their civic duties" would face up to two years' imprisonment. Those who conduct such "proselytism" would face up to one year's imprisonment or a fine of 500 times the minimum monthly wage.

"Such extensive descriptions are unacceptable, especially as they apply to a delicate issue such as religion," Danielyan of the Collaboration for Democracy Centre told Forum 18 from Yerevan on 24 March. He complains that the proposal to amend the Criminal Code is "highly repressive" which, if adopted, "could effectively apply to any religious activity".

However, parliamentary deputy Ashotyan defended the controversial provision. He insisted that the definition of "proselytism" is in line with a European Court of Human Rights (ECtHR) case from 1993 that upheld the rights of a Jehovah's Witness, Minos Kokkinakis, who had been punished for spreading his faith in his native Greece (see MS Word text of the judgement, Kokkinakis v. Greece, 25 May 1993, Application No. 14307/88, at <http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=695704&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>).

"This judgement distinguished between 'proper' and 'improper' proselytism and what we have produced is in line with international standards," Ashotyan claimed. However, he declined to say in exactly what way international human rights standards were upheld by the draft laws, or precisely how they are compatible with the ECtHR's Kokkinakis judgement.

Ashotyan brushed aside concerns that punishment could be imposed merely for spreading one's faith from door to door. "Look, people will only be punished if they do this to a person more than once." He refused to explain how someone who knocks on a door to promote a religious view is different from someone who knocks on a door to promote a political, or any other view.

Removal of explicit commitment to international human rights law

The new Religion Law removes the current Religion Law's explicit reference to international human rights standards, including religious freedom commitments in Article 18 of the International Covenant on Civil and Political Rights. However, the draft Law claims that all people enjoy religious freedom. The same article of the draft Law would recognise "the exclusive mission of the Armenian Apostolic Holy Church as the National Church in the spiritual life of the Armenian people, the development of its national culture, and the preservation of the national identity", a commitment that human rights defenders and religious minorities point out is

in contradiction with the equality of all faiths and a secular state.

Article 2 pledging that all citizens are equal before the law regardless of their faith would be revised to remove a commitment that they are equal "in all spheres of civil, political, public, economic, and cultural life".

Theological test for legal status

Danielyan of the Collaboration for Democracy Centre also questions why Christian communities can only apply for legal status if they believe in "Jesus Christ as God and Saviour and accept the Holy Trinity". Non-Christian communities do not face such limitations. "The State has no right to interfere with arguments over faith or, what is more, to introduce limitations by law," he told Forum 18. "Such a practice exists only in religious states, and would contradict the secular nature of the State, as safeguarded by the Constitution. Stipulating faith definitions by law would mean that the State is acting as an official party in the arguments between churches."

Unclear wording of provisions banning organisations

A revised Article 19 would ban "religious organisations that, during their activities, exercise or try to exercise control over members' personal life, awareness, health, and ownership." Danielyan of the Collaboration for Democracy Centre complains that this is too broadly framed and could include any religious community. "The proposal is unacceptable and contradicts international standards".

Article 18 of the amendments specify that the activity of religious communities that fail to gain re-registration "shall terminate". Danielyan points out that international standards do not allow religious organisations to be banned, as long as they do not violate the rights of their members or other people under very narrow criteria.

A "transition from a secular to a religious state"?

Danielyan is among those expressing concern that these proposed legal changes, coming on top of a greater role for the Apostolic Church enshrined in amendments to the Constitution in 2005, amount to "a transition from a secular to a religious state". He believes these amendments are the result of lobbying from the Apostolic Church.

The 2005 Constitutional amendments recognised "the exclusive historical mission of the Armenian Apostolic Holy Church as a national church, in the spiritual life, development of the national culture and preservation of the national identity of the people of Armenia".

Forum 18 put written questions on 24 March to Bishop Arshak Khachatryan, the Chancellor of the Catholicosate of the Armenian Apostolic Church, asking the Church's view of the proposed new laws and whether it had made its views known to the drafters of the laws or the government. No response had been received by the end of the day on 24 March.

State claims no complaints and no contradictions with international law

Bishop Khachatryan had attended a roundtable to discuss the new laws at the Yerevan Office of the OSCE on 18 March, other participants told Forum 18. Deputy Ashotyan, the main initiator of the laws was also present, as was Vardan Astsatryan, head of the state's Department on National Minority and Religious Issues, and representatives of religious communities. "Unfortunately Ashotyan, Astsatryan and the bishop left very quickly, even though many of us had many questions for them," a religious minority participant told Forum 18. "All of us were against these laws except for them."

Astsatryan of the Department on National Minority and Religious Issues claimed to Forum 18 that there are now "no contradictions" between the laws and Armenia's international human rights commitments. He also claimed that no religious communities have complained to him about the new laws. "The government is now broadly in favour of the laws."

Petros Demirchyan, the government's deputy spokesperson, concurred. "The government said it was ready to cooperate with the authors to improve the text," he told Forum 18. "We worked with them ahead of the first reading and the government is now satisfied."

The impact on freedom of religion or belief

Danielyan of the Collaboration for Democracy Centre thinks the proposed laws will result in new moves against religious communities. "We already see moves against religious minorities, including on the ground and in the press," he told Forum 18. "If these laws go through, these will turn into serious attacks and all religious minorities will suffer."

Danielyan says he believes Armenia's Catholic minority, mainly in the north west, and Yezidis, followers of an ancient faith held by the country's remaining Kurdish minority, are less likely to suffer than communities like Protestants, Jehovah's Witnesses and the small Baha'i community. "The main aim of these laws is the Jehovah's Witnesses, but all these do things the Armenian Apostolic

Church doesn't like." He believes the resident population of Iranian citizens, mostly Muslims, will also not be affected. "They are targeting ethnic Armenians who are members of others faiths."

Richard Giragosian, a diaspora Armenian who heads the Yerevan-based Armenian Centre for National and International Studies (ACNIS), a think tank affiliated with former foreign minister and opposition parliamentary deputy Raffi Hovanissian, fears the new laws will mark a "serious setback to the development of a modern, progressive and liberal Armenia". "With an overly homogenous population, Armenia needs to move toward greater openness, moderation and tolerance, none of which would be helped by such legislation," he told Forum 18 from Yerevan on 24 March.

Asked by Forum 18 to explain why Armenia needs to revise its Religion Law and introduce a new "crime" into the Criminal Code, parliamentary deputy Ashotyan responded: "I don't think members of parliament have to explain why they need to propose new laws." He then claimed that the Religion Law needs to be updated to take account of the 2005 changes to the Constitution.

National security?

Asked why the justification for the new laws presented to parliament in February spoke of "national security" as a reason for the amendments, Ashotyan refused to explain. "Just read Armenia's National Security Strategy."

Apart from a commitment to "support the spiritual, moral, social and cultural activities of the Armenian Apostolic Church" and to "protect the historic, spiritual, cultural heritage and the ethnic identity of the national minorities living in Armenia", Forum 18 can find nothing relating to religious life in the 2007 National Security Strategy.

Paragraph 8 of the former UN Human Rights Committee's General Comment 22, on the International Covenant on Civil and Political Rights, specifically states that "national security" is not a permissible reason to limit freedom of religion or belief (see <http://www.unhchr.ch/tbs/doc.nsf/0/9a30112c27d1167cc12563ed004d8f15>).

Armenia continues to hold 80 Jehovah's Witness prisoners of conscience, jailed for conscientious objection to military service. The country promised the Council of Europe that it would introduce a genuinely civilian alternative to military service by January 2004 (see F18News 11 December 2008 http://www.forum18.org/Archive.php?article_id=1228). (END)

More coverage of freedom of thought, conscience and belief in Armenia and the unrecognised entity of Nagorno-Karabakh is at <http://www.forum18.org/Archive.php?query=&religion=all&country=21>

A compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments can be found at http://www.forum18.org/Archive.php?article_id=1351.

A printer-friendly map of Armenia is available at <http://www.nationalgeographic.com/xpeditions/atlas/index.html?Parent=asia&Rootmap=armeni>.

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