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RUSSIA: Two prison terms, 25 initial fines in 37 cases for public religious events over 4 months

By Victoria Arnold, Forum 18

Over four months between May and August, 37 cases were brought to punish individuals and religious communities across Russia for exercising freedom of religion or belief in public spaces under Administrative Code Article 20.2, Forum 18 News Service has found. One community was fined after members offered religious literature near a bus stop. In Magadan, two Hare Krishna devotees were sentenced to six days' imprisonment each for performing religious chants and handing out literature in the street. "Six days of administrative arrest is a nasty thing, especially for a Hindu vegetarian," Hare Krishna lawyer Mikhail Frolov told Forum 18. "A vegetarian diet is generally not provided by law while serving administrative detention, so for the first three days, neither ate." While court decisions in such cases are inconsistent, fines handed down can present "serious financial difficulties" for pensioners and the poor, Jehovah's Witness spokesperson Ivan Belenko told Forum 18.

Two members of the Society for Krishna Consciousness were jailed in Magadan in the Russian Far East in August for organising a "public event" without notifying the local authorities, Forum 18 News Service has learned. The men (and three companions) had performed religious chants and handed out literature in the street. The two were sentenced to six days' imprisonment under Article 20.2 ("Violation of the established procedure for organising or conducting a gathering, meeting, demonstration, procession or picket") Part 2, of the Code of Administrative Offences, while their three companions were later fined as "participants".

The unusual use of custodial punishment was intended to keep the defendants off the streets while opposition politicians attempted to register for regional elections, Hare Krishna lawyer Mikhail Frolov told Forum 18 from Moscow on 27 October. This was despite the devotees' activity being unrelated to political affairs.

Exercising freedom of religion or belief in public spaces continues to attract hostile attention from law enforcement agencies, often leading to administrative prosecutions and five-figure fines under various parts of Administrative Code Article 20.2. Fines can be a heavy burden on pensioners and others with a low income.

Two prison terms, 25 initial fines in 37 cases over 4 months

A total of 34 individuals and three religious organisations are known to have been brought to court between the beginning of May and the end of August 2015. These cases resulted in the imposition of 25 fines (before appeals), as well as the detention of the two Krishna devotees in Magadan. Ten defendants were initially acquitted.

Twenty-five verdicts have been challenged in higher courts. These included five attempts by the prosecution to appeal against acquittals. Three fines and two acquittals have so far been overturned. Two cases remain unresolved as of 29 October, with re-trials still pending.

With their potential for large fines, the likelihood that police or prosecutors will challenge acquittals, and the possibility that appeals at the regional/republic level will result in re-trials, cases under Article 20.2 place a heavy burden on defendants in terms of time, energy, and money – even if they are ultimately exonerated.

Religious communities whose beliefs require them to share their beliefs in public, beyond the confines of a place of worship, are particularly vulnerable to prosecution under Administrative Code Article 20.2.

From May to August 2015, Forum 18 found 20 prosecutions of Jehovah's Witnesses, six of Hare Krishna devotees, four of Baptists, and two of followers of the Chinese spiritual movement Falun Gong. The leader of the local Society of Friends of Tibet in Elista (Republic of Kalmykia) was charged under Article 20.2, Part 1, for conducting an unapproved procession between the city's Buddha statue and a nearby temple after a Buddhist prayer meeting (but was acquitted). The religious affiliation of four individuals charged under Parts 2 and 5 remains unknown.

Three prosecutions were of religious organisations. The Administrative Centre of Jehovah's Witnesses was acquitted in Oryol of

holding an unapproved worship service at an entertainment centre. The Jehovah's Witness community of Abakan (Republic of Khakassiya) was fined 70,000 Roubles for distributing literature at a bus stop, "[creating] the danger of public disorder" and "damage to the moral and physical health of citizens". The prosecution of the Society for Krishna Consciousness of Izhevsk for holding an unapproved procession is ongoing – an initial fine of 70,000 Roubles, imposed on 5 August, was overturned on 7 October by the Republic of Udmurtiya Supreme Court because the Society had been tried in the wrong court. The case has been sent to Mozhga District Court for re-examination, but no hearing has yet been scheduled.

In addition to these 37 prosecutions for exercising freedom of religion or belief in public spaces in Russia between May and August, similar prosecutions have occurred in Russian-annexed Crimea. Eight Baptists were fined in central Crimea for an outdoor religious meeting on 10 May, while eight Jehovah's Witnesses faced cases for offering religious literature on the streets of Simferopol on 2 July, with two of them initially fined (see F18News 16 September 2015 http://www.forum18.org/archive.php?article_id=2100).

Article 20.2

Administrative Code Article 20.2 is linked to the 2004 Demonstrations Law and punishes the "violation of the established procedure for organising or conducting a gathering, meeting, demonstration, procession or picket". Its eight parts cover a variety of offences, but only Parts 1, 2, and 5 are known by Forum 18 to have been used against people who exercise freedom of religion or belief.

Hare Krishna lawyer Frolov described Article 20.2 to Forum 18 as "a means of government censorship of any public activity of citizens", by which, "if necessary, it is possible to punish any citizen who appears on the street".

Between the beginning of May and the end of August 2015, Forum 18 found 21 prosecutions brought to punish exercise of the right to freedom of religion or belief under Part 2, 15 under Part 5, and one under Part 1. These were derived from a total of 24 separate investigations (14 under Part 2, six under Part 5, one under Part 1, and three which resulted in charges under both Parts 2 and 5).

Article 20.2, Parts 1 and 5 cover general violations of the "established order" of public events and complement each other, the former focusing on organisers, the latter on other participants. Conviction under Parts 1 and 5 brings a fine of 10,000 to 20,000 Roubles or compulsory labour for up to forty hours. Officials of organisations may also receive a fine of 15,000 to 30,000 Roubles under Part 1, and organisations themselves may be fined 50,000 to 100,000 Roubles.

Part 2 specifically targets the organisation of events without formally notifying the authorities in advance. For individuals, this carries a fine of 20,000 to 30,000 Roubles, compulsory labour of up to forty hours, or detention for up to ten days. Officials may be fined 20,000 to 40,000 Roubles, and organisations 70,000 to 100,000 Roubles.

Each 10,000 Roubles is equivalent to 1,400 Norwegian Kroner, 145 Euros or 160 US Dollars.

These are substantial fines when compared with the current monthly average wage in Russia (32,176 Roubles per month in August 2015, according to the Federal State Statistics Service) and especially with the average monthly pension (12,400 Roubles per month in 2015). Those prosecuted under Article 20.2 are often elderly Jehovah's Witnesses. Judges sometimes acknowledge this by reducing fines for pensioners.

Penalties can present "serious financial difficulties"

Penalties incurred under Article 20.2 can present "serious financial difficulties" for pensioners and the poor, Jehovah's Witness spokesperson Ivan Belenko explained to Forum 18. He added that other Jehovah's Witnesses usually offer assistance.

The level of a fine is often calculated from a defendant's wages or pensions, but sometimes property is confiscated, Council of Churches Baptists explained to Forum 18 from Moscow on 24 October. Council of Churches Baptists have a policy of civil disobedience, refusing to pay fines imposed to punish them for exercising the right to freedom of religion or belief.

Inconsistent judgments

Judgments can also be inconsistent. Many of the 37 prosecutions found by Forum 18 were based on very similar incidents, which could result in a fine in one place and acquittal in another. Sometimes different defendants in the same case, charged with the same offence, and tried in the same court may receive different sentences if they come before different judges.

For example, two Jehovah's Witnesses, O. Fioktistova and K. Tutinova, were charged with organising "a public religious event" aimed at the "popularisation of [Jehovah's Witness beliefs] among residents" without notifying the authorities in the city of Elista in the Kalmyk Republic. The pair had been standing in a pedestrian zone with a selection of literature displayed on a wheeled stand. According to their arguments in court, they answered questions and gave out literature if requested. They and four passers-by who had approached them were then detained by the police. Both Fioktistova and Tutinova were tried under Article 20.2, Part 2, at Elista City Court on 1 July.

At Fioktistova's hearing, Judge Natalya Tsykalova concluded that "The mere fact that [she] was spreading her religious beliefs by offering free non-prohibited Bible literature from a metal luggage cart, by purpose, form and procedure does not correspond to the concept of a public event", and acquitted her in the absence of any offence.

Judge Ilya Furmanov, however, decided that Tutinova had "openly demonstrated [her] religious beliefs in a place in which, considering the mass presence of people, this created the danger of public disorder associated with the infliction of damage to the moral and physical health of citizens", and fined her 20,000 Roubles.

The local Justice Ministry department appealed unsuccessfully against Fioktistova's acquittal at Kalmykia's Supreme Court on 4 August. The same judge who refused this appeal, Lyubov Lidzheyeva, also overturned Tutinova's fine on the same day, ruling that as the "event" had presented no obstruction to traffic or threat to public order, it had required no health and safety measures and therefore no notification of the authorities.

In an almost identical incident in Perm, T. Ganzha and O. Belokon displayed Jehovah's Witness literature on a wheeled stand outside a pedestrian underpass and were charged with holding an unlawful picket (see below). According to the written verdicts of 24 and 27 July, seen by Forum 18, Judge Aleksandr Basev of Industrial District Court also described the two women as having "openly demonstrated their religious beliefs in a place in which, considering the mass presence of people, this created the danger of public disorder associated with the infliction of damage to the moral and physical health of citizens".

Unlike in the Elista case, both Ganzha and Belokon were fined (20,000 and 10,000 Roubles respectively), and both were unsuccessful in their appeals to Perm Regional Court in September.

Jehovah's Witness lawyers stress that in such cases neither the law nor the circumstances differ, and Jehovah's Witness believers act "identically" in all regions. "The difference lies in the fact that some judges, acting without prejudice towards Jehovah's Witnesses and without blind solidarity with prosecutors, manage to understand both the essence of religious service and the Demonstrations Law", Jehovah's Witness spokesperson Belenko remarked to Forum 18 on 27 October.

"In many cases, it depends on the attitude of the judge," Council of Churches Baptists noted to Forum 18 from Moscow.

Lengthy, complicated, unpredictable proceedings

The prosecution of three Baptists in Rostov further illustrates the lengthy, complicated, and unpredictable proceedings some of those charged under Article 20.2 must undergo.

The three, who had been distributing literature in the street, were all charged with holding an unlawful picket but were acquitted at the city's Proletarian District Court on 8 and 9 June. The police challenged these rulings at Rostov Regional Court on the grounds that the district court had not taken into account the fact that the "picket" had been held near a school.

Here, the defendants, all of whom had been accused of exactly the same offence, faced differing outcomes. The prosecution's appeal against N. Kirillov's acquittal was refused. The cases against L. Leyn and E. Rogachyov (who faced a different appeal court judge) were sent back for re-examination. Upon re-trial on 7 August, both were found guilty. Leyn's subsequent appeal on 8 October was unsuccessful. Rogachyov's case was again returned to Proletarian District Court on 20 October because of a number of procedural violations – no date has yet been set for his second re-trial.

Forum 18 called Proletarian District Court on 29 October to ask why the distribution of literature could be considered a picket, but a spokeswoman refused to answer questions by telephone.

Recent legal changes – any effect?

While police persist in prosecuting religious believers, especially Jehovah's Witnesses, for holding "unapproved events" (to the extent of appealing against acquittals), judges do not always agree, often basing their decisions on the Constitutional Court ruling of December 2012 or the October 2014 amendments to the 1997 Religion Law.

The amendments were introduced in an attempt to clarify where religious ceremonies may be freely held and to specify that not all events require prior notification of the authorities (see F18News 2 March 2015 http://www.forum18.org/archive.php?article_id=2044). Some judges cite the amendments in their decisions, but their existence has not altogether stopped charges being brought in the first place.

Forum 18 found four prosecutions between May and August which should not have been initiated under the new amendments. All four involved Jehovah's Witnesses holding religious services in non-religious properties which had nonetheless been rented or otherwise provided to them for the purpose (a category added by the October 2014 amendments to the list of places where religious worship may be held without hindrance).

Three resulted in immediate acquittals, while the fourth brought a fine for the chair of the Birobidzhan Jehovah's Witness community. This was overturned on appeal at the Court of the Jewish Autonomous Region. The appeal judge, and the lower court judges in the other three cases, all cited the October 2014 amendments as grounds for dismissing the charges.

It has also been hoped in Russia that the legal requirements for public events under Article 20.2 would be leniently interpreted, after a December 2012 Constitutional Court ruling responding to two complaints from Jehovah's Witnesses (see F18News 15 August 2013 http://www.forum18.org/archive.php?article_id=1865).

The ruling stated that notification need only be submitted if an event requires the authorities to provide health and safety measures. Again, this is having some effect on judges' decisions (for example, the Elista Jehovah's Witness case above). However, police and prosecutors continue to bring charges, and the onus remains on religious believers and communities to establish whether safety measures are required.

"Surge" in prosecutions of Krishna adherents

"In the summer of 2015, we had a surge in charges under Article 20.2," Hare Krishna lawyer Frolov told Forum 18 on 23 October. "The government is very concerned that, inside the country, there should be no cases of public dissatisfaction with the foreign policy of the Russian Federation – therefore, with the help of Article 20.2, the state filters the public activity of citizens." He added, "We see no reason to think that the state is persecuting us for our religious beliefs – it is simply a tense situation in general".

Forum 18 found no prosecutions of Krishna devotees under Article 20.2 in the first four months of 2015. Between May and August, however, prosecutions under Part 2 were found in Rostov-on-Don, in Izhevsk and Mozhga in the Republic of Udmurtiya, and in Magadan (two). Another believer was prosecuted under Part 5 in Ussuriysk in Primorye.

In Magadan, two Krishna devotees were detained for six days each for performing religious chants, playing Indian instruments, and handing out literature in the street. Nikolai Kryukov and Dmitry Moskvichyov were found guilty at Magadan City Court on 3 August of having organised a "picket" outside a shop on the central Karl Marx Avenue without notifying the authorities (Article 20.2, Part 2). Their three companions (Yevgeny Fedoreyev, Oleg Kim, and Vladimir Gerasimenko) were later charged under Article 20.2, Part 5, in their home regions and fined.

Police first detained all five men on 26 July and took written statements before releasing them. They were detained again and charged on 1 August. The police kept Kryukov and Moskvichyov in custody until their hearings, as a "security measure", according to lawyer Frolov. The six-day sentence was backdated to the moment of their detention.

"Six days of administrative arrest is a nasty thing, especially for a Hindu vegetarian," Frolov remarked to Forum 18. "A vegetarian diet is generally not provided by law while serving administrative detention, so for the first three days, neither ate. They did not eat meat, but were not allowed to bring in food." Moskvichyov complained in writing to the court that the lack of rest and food had left him feeling unwell, but the court ruled that no violations had been committed.

Kryukov and Moskvichyov attended their hearings with no legal representation, as they had been given only 15 minutes to arrange this, Frolov noted.

According to Frolov, the men's jailing "was related to the attempt of the opposition to take part in elections to the regional legislative body, and believers were just removed from the street under any pretext. They just happened to be in the wrong place at the wrong time". Yevgeny Fedoreyev, tried under Part 5 at October District Court in Amur Region on 12 October, presented this argument at his hearing, but the judge did not address it.

Asked on 28 October why Kryukov and Moskvichyov had been jailed and not fined, an official of Magadan City Court would not comment on the specifics of the case. She told Forum 18 only that the judge would have "looked at the evidence, then taken the decision".

The five Krishna devotees are now continuing their activities in other regions, where they have encountered no further problems, Frolov told Forum 18 on 3 November.

Pickets

As seen from the court verdicts from May-August 2015, police and prosecutors consistently interpret Jehovah's Witness literature stands as pickets. This misnomer is also applied to the distribution of Biblical materials in public spaces by Baptists. Other faith groups, too, may fall victim to such an interpretation of their activities.

The Demonstrations Law defines pickets as "public expression of opinion by .. one or more people, using posters, banners and other means of visual agitation". Under the Law, group pickets require prior notification of the authorities while individual pickets do not. Individual pickets may not be nearer to each other than 50 metres (55 yards). All organisers of pickets must carry distinguishing

signs declaring themselves as the organisers.

Both Baptists and Jehovah's Witnesses tend to engage in street proselytising in twos or threes. This often results in their being accused of conducting group pickets without notifying the authorities.

Out of the 37 total prosecutions found by Forum 18 between May and August, 27 were based on allegations of unlawful picketing, only two of which (of Falun Gong activists protesting against the treatment of fellow adherents in China) actually fall under the legal definition of this activity. Fourteen of these prosecutions were of Jehovah's Witnesses, four of Baptists, and three of Hare Krishna devotees. The affiliation of a further four is unknown.

As is evident from their arguments in court, religious believers themselves do not see their activities as picketing and it therefore does not occur to them to notify authorities, ensure 50 metres' distance between participants, or identify themselves as organisers. (END)

For more background, see Forum 18's surveys of the general state of freedom of religion or belief in Russia at http://www.forum18.org/Archive.php?article_id=1722, and of the dramatic decline in religious freedom related to Russia's Extremism Law at http://www.forum18.org/Archive.php?article_id=1724.

A personal commentary by Alexander Verkhovsky, Director of the SOVA Center for Information and Analysis <http://www.sova-center.ru>, about the systemic problems of Russian anti-extremism legislation, is at F18News 19 July 2010 http://www.forum18.org/Archive.php?article_id=1468.

A personal commentary by Irina Budkina, Editor of the <http://www.samstar.ucoz.ru> Old Believer website, about continuing denial of equality to Russia's religious minorities, is at F18News 26 May 2005 http://www.forum18.org/Archive.php?article_id=570.

More reports on freedom of thought, conscience and belief in Russia can be found at <http://www.forum18.org/Archive.php?query=&religion=all&country=10>.

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 Russia is available at <http://education.nationalgeographic.com/mapping/outline-map/?map=Russia>.

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