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RUSSIA: "Extremism" religious freedom survey, July 2012

By Geraldine Fagan, Forum 18

Use of Russia's Extremism Law against those with views the authorities dislike – especially Muslims who study the works of Said Nursi, and Jehovah's Witnesses - has mushroomed under both Presidents Vladimir Putin and Dmitri Medvedev. This is the most threatening recent development for freedom of religion or belief in the Russian Federation, Forum 18 News Service notes in its survey of "extremism"-related violations. Other religious freedom issues, such as treatment of state-favoured organisations within the four faiths of Orthodoxy, Islam, Judaism and Buddhism as the nation's privileged "traditional religions", are addressed in Forum 18's general religious freedom survey.

The development most threatening to freedom of religion or belief in the Russian Federation is misapplication of the federal 2002 Extremism Law against those the authorities dislike. Such violations have increased dramatically since 2007 under both Presidents Vladimir Putin and Dmitri Medvedev.

"Extremism"-related freedom of religion or belief violations are now so extensive that they are here examined separately from Forum 18's July 2012 general religious freedom survey of Russia (http://www.forum18.org/Archive.php?article_id=1722).

Legal background

Two provisions of Russia's federal Extremism Law of 2002 are typically used to criminalise the exercise of the internationally-recognised right to freedom of religion or belief. Prosecutors interpret one definition of "extremism" – "propaganda of the exclusivity, superiority or lack of equal worth of an individual on the basis of their .. religious .. adherence or attitude to religion" – as covering claims that a particular religion or belief is superior to others. However, the right to make such claims is a fundamental part of the internationally-recognised right to freedom of religion or belief.

Prosecutors may also insist that such claims fall foul of a second definition of "extremism" in the Law - "incitement .. of religious discord". The Russian word for discord [rozn] has a broad definition – it may mean simply division. Yet Russia's judiciary ignores the discrepancy between this term and the far stricter corresponding wording of the Criminal Code – "actions directed at the incitement of hatred [nenavist] or enmity [vrazhda], as well as the humiliation of an individual or group of persons on the basis of .. attitude to religion" (Article 282). The Code may consequently be used to prosecute simple disagreement. When committed by an ordinary member of the public, and even if unaccompanied by violence or the threat of violence, the maximum punishment under Article 282 is two years' imprisonment.

Initially, the 2002 Law stipulated that "incitement of religious discord" had to be committed in connection with violence or the threat of violence. Prosecution of activities that had no association with violence became easier, however, when this stipulation was removed in July 2007. The overall toughening of Russia's approach towards "extremism" largely shadows repressive measures in China and various Central Asian states after their June 2001 Shanghai Convention on Combating Terrorism, Separatism and Extremism (of which Russia is a co-signatory). Yet that treaty links "extremism" exclusively with violent acts or the planning of violent acts, as the Council of Europe's Commission for Democracy through Law (Venice Commission) pointed out in its June 2012 critique of the 2002 Extremism Law (Opinion No. 660/2011). The Shanghai Convention is the only international treaty to which the Russian Federation is a party to contain a definition of "extremism".

The 2002 Law's main mechanism for prosecuting the "offence" of criticising a religion or belief is the designation of literature containing such criticisms as "extremist". Even a very low-level court may issue such a ruling. If not successfully challenged, this results in automatic placement of the offending literature on the Federal List of Extremist Materials. Once on the List, distribution is banned throughout Russia. Religious organisations associated with particular titles may also be ruled "extremist". Their members are then liable to prosecution under two articles of the Criminal Code concerning "organisation of" or "participation in" "an extremist organisation").

These are Criminal Code Articles 282.1, or if an organisation has been banned by a court Article 282.2 Part 1 ("Organisation of the activity of a social or religious association or other organisation in relation to which a court has adopted a decision legally in force on liquidation or ban on the activity in connection with the carrying out of extremist activity") or Part 2 "participation in" such

an organisation. The harshest punishment these Articles currently allow is six years' imprisonment.

Aside from "extremism", the main feature of federal religious freedom policy has been the lack of such a policy. Particularly under former President Medvedev, however, officials have come to treat state-favoured organisations within the four faiths of Orthodoxy, Islam, Judaism and Buddhism as the nation's privileged "traditional religions" (see Forum 18's July 2012 general religious freedom survey of Russia http://www.forum18.org/Archive.php?article_id=1722).

Books banned

The Federal List of Extremist Materials was first published by Russia's Justice Ministry in July 2007. As of 20 July 2012, it contained 1,359 entries. These include books and other forms of printed matter, and electronic materials such as image files, videos and websites. This figure is not exhaustive, however. A few entries appear twice, some are blank where titles have been excluded, and others list multiple items.

The Federal List is now so lengthy that thorough examination of each entry is impossible. The efficacy of banning texts is questionable (particularly in an internet age), as is whether a text can be definitively proven to have caused acts of hatred or enmity. For many items there is a defensible justification for their inclusion on the List, as their titles suggest white supremacist and/or ultranationalist content. Some of the Islamic authors listed, such as Sayyid Qutb and Abu Ala Maududi, have promoted violence. But the justification for the inclusion of other items is doubtful. For example, two texts on the list argue for peace and respect for human rights: Muslim theologian Muhammad ali Al-Hashimi's "The Personality of a Muslim"; and the Chinese spiritual movement Falun Gong's leaflet "Global Human Rights Torch Relay".

The 2002 Extremism Law was initially implemented against groups that might arguably be prosecuted for "extremism". One was the Islamist political movement Hizb ut-Tahrir, some of whose literature called for antisemitic violence, which led to prosecutions in Denmark and Germany. The methodology of Russian prosecutors in such cases was highly doubtful, however. In some trials – such as in the Siberian city of Tobolsk in 2005 - courts were not presented with proof of membership or possession of the movement's literature by those convicted, or proof of calls to violence in the literature concerned.

(Hizb ut-Tahrir is an international political movement vowing to re-establish a single Islamic state, or caliphate, and claiming to be entirely peaceful. However, Forum 18 notes Hizb-ut-Tahrir's denial of key human rights, including freedom of religion and belief, and that Hizb ut-Tahrir has called for Jews to be murdered. Hizb ut-Tahrir's Draft Constitution prescribes execution for Muslims who change their faith, along with serious restrictions on other human rights (see F18News 29 October 2003 http://www.forum18.org/Archive.php?article_id=170).

Since the mid-2000s, Russian prosecutors have steadily widened their net to encompass religious groups whose beliefs do not encourage violence. Their efforts are now directed against two: readers of the works of Turkish Islamic theologian Said Nursi (who died in 1960), and Jehovah's Witnesses. As of early July 2012, 22 Russian translations of works by Nursi and 68 Jehovah's Witness titles were on the Federal List of Extremist Materials. (Banned by different courts, a few of these titles appear on the List twice.)

Nursi readers

The precise motivation for the campaign against Nursi readers is unclear, as is who is responsible for it at federal level. Broadly moderate in character, Nursi's works appeal to Muslims wishing to reconcile Islamic teaching and modernity; followers meet to discuss his works in private homes over cups of tea. Official statements – including by then FSB security service head Nikolai Patrushev in 2008 – point to government paranoia that Nursi readers form a pan-Turkic "fifth column" seeking to realign towards Turkey Muslims from among Russia's Turkic-speaking minorities, such as Tatars, Bashkirs and Kumyks. Yet some state officials also insist paradoxically - and wrongly - that Nursi's works are banned in Turkey.

The first significant ruling against Nursi readers came in May 2007, when a Moscow court declared "extremist" Russian translations of 14 parts of Nursi's Koranic commentary, "Risale-i Nur" [Messages of Light]. This decision relied solely upon linguistic textual analysis. It ignored powerful criticism from Russia's Ombudsperson for Human Rights, Vladimir Lukin, and even Russia's most pro-Kremlin Muslim leader, Talgat Tadzhuiddin. In 2001 Tadzhuiddin pronounced "Risale-i Nur" to be "far from religious extremism and fanaticism".

In April 2008 Russia's Supreme Court went on to ban Nurdzhular – a russification of the Turkish for "Nursi followers" - as an "extremist" organisation, although Russian Nursi readers have repeatedly insisted that no such distinct organisation exists. Raids by the FSB security service and riot police on Nursi readers' homes in disparate parts of Russia began in early 2009. To date, five Nursi readers have received prison terms of up to 18 months as alleged members of Nurdzhular; five others have received suspended prison sentences.

Readers of Nursi's works are not the only formal or informal Islamic grouping to have been banned by the Supreme Court. In May 2009 it banned the Tabligh Jamaat Muslim missionary movement as "extremist". Tabligh Jamaat was founded in British India in 1927 to encourage greater piety among Muslims. Its associates, as it has no formal membership, conduct house to house

encouragement of Muslims to attend mosques and religious talks. The movement also sends members on short-term missions to other towns and villages. Unlike the similar ban on the alleged "Nurdzhular" organisation, the Tabligh Jamaat ban is justified with claims that its associates in Russia "have called [in sermons] for the violent seizure of power and [made] statements aimed at inciting national, racial, and religious hatred".

As of end June 2012, six more alleged "Nurdzhular" members are known to be under criminal investigation. In one case in Russia's Baltic exclave of Kaliningrad, the FSB security service is seeking to secure a conviction using enforced psychiatric examination, a practice reminiscent of the Soviet era. Since early 2011, websites featuring Nursi writings have been blocked in Krasnoyarsk and Lipetsk regions.

In a disturbing decision that could widen potential targets for arrest, 68 Muslim texts were ruled "extremist" by a court in the southern Urals region of Orenburg in March 2012, and added to the Federal List in July. They include three further Nursi titles, three editions of Said Wahf Al-Qahtani's "Fortress of the Muslim" (which does not call for the violation of any human rights), assorted Sufi writings, and collections of hadiths [sayings of the Prophet Mohammed]. The court ruling – which took the judge just 20 minutes to reach and came to light only in June – was issued partly on the basis of analysis by an Orthodox Christian, now a priest, whose website on Islam was itself investigated for "extremism" in 2008. The Council of Muftis – a major Russian Muslim organisation chaired by Mufti Ravil Gainutdin, who is publicly loyal to the Kremlin - has called the Orenburg ruling an "attempt to revive total ideological control" in Russia.

Jehovah's Witnesses

Hostility towards Jehovah's Witnesses, the second religious group most commonly targeted in Russia's "counter-extremism" drive, has more identifiable roots. The Russian Orthodox Church (Moscow Patriarchate) is very hostile towards them. There is no evidence of a direct link, but the first phase of the state's sweeping campaign against Jehovah's Witnesses – 500 raids on their communities across the country – began just days after current Orthodox Patriarch Kirill was enthroned in February 2009. In Kemerovo and Sverdlovsk regions, state officials have requested analyses of Jehovah's Witness beliefs from local Patriarchate dioceses, and public prosecutors commonly enlist Patriarchate clergy as prosecution witnesses in related "extremism" trials.

In September 2009 a "counter-extremism" case launched on the back of one of the 500 February raids resulted in a court in the Black Sea region of Rostov ruling 34 Jehovah's Witness books and tracts "extremist", as well as a ban on the local Jehovah's Witness organisation in the town of Taganrog. The court relied upon doubtful expert analysis that considered "extremist" references to traditional Christianity as a "false religion" and citation of Leo Tolstoy's criticism of Orthodoxy. Russia's Supreme Court upheld the ruling in December 2009, however, and courts in Altai republic, Kemerovo and Krasnodar regions have since designated a further 34 Jehovah's Witness titles "extremist".

By early 2010, Russian Jehovah's Witnesses were reporting hundreds of detentions of their members while out preaching. They were typically held for several hours, searched for literature, fingerprinted and photographed, but not charged. Then, in July 2010, pensioner Aleksei Fedorin of Rostov region became the first Jehovah's Witness in post-Soviet Russia to be convicted for distributing their religious literature – a standard occurrence in the latter Soviet period. As this was a lesser, administrative prosecution, Fedorin was punished with a small fine: it was left to prosecutors to decide whether to pursue "production or distribution of extremist materials" under the Code of Administrative Offences (Article 20.29) or to prosecute under the Criminal Code (see above). (The lower court decision that 10 Jehovah's Witness publications seized from Fedorin be destroyed was overturned on appeal, though the fine was not.)

Seizures of religious literature from both Muslims and Jehovah's Witnesses, mostly during raids or detentions, frequently result in prosecutions under Article 20.29 of the Administrative Code. This punishes "Production or distribution of extremist materials" recorded on the Federal List of Extremist Materials with a fine or imprisonment of up to 15 days and confiscation of the banned literature. Under this Article, the "mass distribution" of items on the Federal List, as well as their "production or possession for the purposes of mass distribution" is banned. Despite the term "mass distribution", prosecutors have often brought charges even if only one copy of a text is discovered. Court decisions usually order "extremist" materials to be confiscated and often destroyed.

The first post-Soviet criminal trial of a Jehovah's Witness for allegedly distributing "extremist" literature began in October 2010 against a congregation leader, Aleksandr Kalistratov, in southern Siberia's Altai republic. While convicted in November 2011, Kalistratov successfully appealed and was acquitted in December 2011, two years after the case against him was launched. Even without a final conviction, the long-running nature of "extremism"-related cases such as Kalistratov's can itself prove a form of punishment.

Kalistratov's final acquittal was not the end of the campaign, however. The 2002 Law's empowering of low-level courts allows multiple prosecutions until a criminal conviction is reached. Begun after Kalistratov's case, two criminal "extremism" trials against three Jehovah's Witnesses continue in the disparate regions of Transbaikal and Astrakhan. In Astrakhan region, large portions of a key analysis in the continuing trial against Yelena Grigoryeva were found to have been copied from anti-"sect" websites, yet the judge has refused to reject this analysis as inadmissible evidence. In a third, seven-month trial in the republic of Mari El, Jehovah's Witness Maksim Kalinin was acquitted on 20 July 2012.

While some local administrations are more active than others, state-sponsored moves against Jehovah's Witnesses have now taken place in 80 per cent of Russia's 83 regions. In 2011 alone, the Jehovah's Witnesses reported 266 detentions, police raids and new administrative cases. Since late 2011, access to Jehovah's Witness websites has been blocked by courts in Buryatia, Chuvashia and Mari El republics, Altai and Transbaikal kraises, Belgorod, Ivanovo, Kemerovo, Krasnodar and Lipetsk regions.

"Counter-extremism" drive unchecked

The state campaign against Jehovah's Witnesses shows no sign of abating: in May 2012 raids took place on at least 16 of their homes and places of worship in Orenburg region. Numerous further criminal investigations against individual Jehovah's Witnesses have yet to reach court. May 2012 charges against 17 named members of the outlawed Taganrog community are particularly significant, as participation in a banned "extremist" organisation is easier to prosecute than distribution of "extremist" literature.

In June 2011 Russia's Supreme Court issued an instruction seeking to soften implementation of the 2002 Extremism Law. Positively, it recommended that criticism of religious associations, convictions and customs "in and of itself should not be considered as action directed at inciting hatred or enmity". In its June 2012 critique of the 2002 Law, the Venice Commission further pointed out that, since the European Court of Human Rights protects "the freedom of the members of any religious community or church to 'try to convince' other people through 'teachings' (...) only manifestations of this freedom can be limited, but not the teachings themselves."

Such warnings are having next to no impact, however. Russia's leaders are well aware of the troubling trend in "counter-extremism" strategy. As recently as April 2012, then-President Dmitri Medvedev was briefed by human rights defender Georgi Dzhibladze specifically on the Jehovah's Witnesses' and Nursi readers' problems at a meeting of the Russian President's Council for the Development of Civil Society and Human Rights. Yet the Kremlin has failed to act.

There is no reason to suppose that pursuit of "extremism" will stop with Muslim readers of Nursi's works and the Jehovah's Witnesses. Other groups now widely regarded in Russia as "non-traditional" or "sects" have already been targeted occasionally, if so far not convicted. From June 2008 onwards law enforcement agents detained, investigated or warned Baptists, Hare Krishna devotees, Lutherans and Pentecostals in connection with "extremism".

In 2011 prosecutors in the Siberian city of Tomsk unsuccessfully tried to have the Russian translation of the "Bhagavad-Gita As it Is" – a key text for Hare Krishna devotees – ruled "extremist". The case was dismissed in March 2012 following fierce criticism in India. This highlighted the Russian government's incoherent approach to "counter-extremism", as to religious affairs more broadly (see Forum 18's July 2012 general religious freedom survey of Russia http://www.forum18.org/Archive.php?article_id=1722). Russia's ambassador to India even dismissed his fellow state officials in Tomsk who had initiated the case as "madmen".

Securitisation of religion

At the forefront of "counter-extremism" moves against religious believers is the FSB security service. Its officers are actively involved in most prosecutions, even purchasing a copy of the "Bhagavad-Gita As it Is" at a local Indian shop in the Tomsk case. Often, the approach of law enforcement agents is heavy-handed, with rough treatment by riot police. Some of the May 2012 raids on Jehovah's Witnesses in Orenburg region involved masked spetsnaz officers (normally tasked with roles such as counter-terrorism), including 12 who conducted a 15-hour raid on an elderly couple in very poor health.

Following raids on Jehovah's Witnesses in Taganrog, a local FSB officer told Forum 18 in March 2012 that the FSB counters "terrorism and extremism". (He refused to say which category he thought Jehovah's Witnesses fell into; Russia's 2006 Terrorism Law in any case equates terrorism with "extremism".) The 2002 Law's definition of "extremism" is so broad that it thus allows the exercise of the internationally-recognised right to freedom of religion or belief to enter the brief of the security agencies. What lies behind this is an attitude common within the state, Orthodox Church and society that views even non-violent manifestations of "non-traditional" religious belief as a threat to the Russian nation, and therefore national security. It is increasingly reminiscent of the criminalisation of exercising the internationally-recognised right to freedom of religion or belief without state permission in the late Soviet period, and has negative implications for the state's treatment of other activities officials dislike, such as political opposition.

The hooliganism charges against punk group Pussy Riot for an impromptu February 2012 performance inside Moscow's Christ the Saviour Cathedral are not a specifically religious freedom issue. But the state labelled the performance as motivated by "religious hatred and enmity" in a May 2012 police indictment against a Pussy Riot member. The indictment is notable for its equation of opposition to Orthodox Christianity with criminal activity. It accuses the group of "opposing the Orthodox world", "attempting to devalue church (...) dogma treasured and revered for centuries" and even "disparaging the spiritual foundations of the state".

European Court of Human Rights

While very slow, one possibility for redress against misapplication of the 2002 Extremism Law is the European Court of Human Rights in Strasbourg. In June 2010 Jehovah's Witnesses lodged a complaint with the European Court over Russia's upholding of the

Rostov regional ban on 34 Jehovah's Witness titles and their Taganrog community (Application No. 32401/10). By March 2012, Jehovah's Witnesses had submitted a further 13 applications to the European Court centring on numerous "counter-extremism" actions by the Russian state, including raids, prosecutions and bans on literature. The Court has yet to declare these cases admissible, and if it does it will be some years before they are heard.

In spring 2011 the European Court began to consider the admissibility of a joint complaint lodged in December 2007 against the banning of various Islamic works (Application No. 1413/08). It centres on the 2004 Moscow court ruling outlawing 14 parts of Nursi's "Risale-i Nur" and a similar August 2007 ruling by Buguruslan City Court (Orenburg region) against 17 Islamic texts, including Al-Hashimi's "The Personality of a Muslim". The Court has yet to reach a decision.

North Caucasus

As with the wider religious freedom situation (see previous survey), implementation of the 2002 Extremism Law differs markedly in the North Caucasus. Numerous courts there have added materials to the Federal List of Extremist Materials, particularly Islamist insurgent websites. Yet other than Nursi readers in Dagestan, practically no "extremism"-related prosecutions of individuals have occurred.

In the North Caucasus the state's "counter-extremism" strategy is far cruder. In the republics of Chechnya and Dagestan in particular, those dubbed "Wahhabis" [Muslims adhering to a purist form of Islam critical of Sufism] - and sometimes men merely with a devout Muslim appearance - may be detained as "extremists" by the law enforcement agencies. Local residents report that they are frequently tortured, and in some cases disappear, allegations very occasionally confirmed by state officials.

The state's crude response to violent Islamist attacks serves only to fuel local support for the Islamists, resulting in a climate of fear in which religious freedom is severely limited.

Conclusion

So far, only a small proportion of investigations into alleged religious "extremism" have resulted in harsh criminal prosecutions. This suggests that on some level law enforcement agents are aware their targets in fact pose little danger to state security. Yet the proliferation of such cases - particularly since 2007 - points to the growth in Russia of the idea that criticism of one religion by adherents of another is a punishable offence. This idea is not challenged by state officials, who are usually anxious to contain opposition of all kinds in order to secure their own positions. In particular, it is unlikely to be countered by ex-FSB security service chief Putin. It thus represents a serious threat to prospects for freedom of religion or belief in Russia. (END)

For more background, see Forum 18's July 2012 survey of the general state of religious freedom in Russia at http://www.forum18.org/Archive.php?article_id=1722.

- Geraldine Fagan is Forum 18's Russia and Belarus Correspondent, and author of 'Believing in Russia - Religious Policy after Communism' <http://www.routledge.com/books/details/9780415490023/> (Routledge, 2013). This comprehensive overview of Russian religious policy argues that continuing failure to resolve the question of whether Russia is to be an Orthodox country with religious minorities or a multi-confessional state is destabilising the nation.

The Economist's review of the book is available here

<http://www.economist.com/news/books-and-arts/21571111-new-look-religion-post-1991-russia-question-faith>.

Analysis of the background to Russian policy on "religious extremism" is available in two articles: - 'How the battle with "religious extremism" began' (F18News 27 April 2009 http://www.forum18.org/Archive.php?article_id=1287 - and - 'The battle with "religious extremism" - a return to past methods?' (F18News 28 April 2009 http://www.forum18.org/Archive.php?article_id=1288).

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.

Previous Forum 18 Russia religious freedom surveys can be found at <http://www.forum18.org/Analyses.php?region=10>.

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/education/mapping/outline-map/?map=Russia>.

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