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RUSSIA: Pussy Riot, blasphemy, and freedom of religion or belief

By Geraldine Fagan, Forum 18 (<https://www.forum18.org>)

The way that Russia has handled the Pussy Riot case indicates that the authorities are using it to intensify restrictions on freedom of religion or belief, Forum 18 News Service has found. A shift from the Kremlin's initial response to the case suggests that a claimed moral outrage was not the motivation to prosecute, and that support for the Moscow Patriarchate is tactical. Since the Extremism Law was adopted in 2002, officials have used the same selective determination of what causes offence to persons of one worldview to restrict the freedom of religion or belief of people with a different worldview, as can be seen in prosecutions of Jehovah's Witnesses. This approach now also targets supporters of atheism. Arbitrary state prosecutions of some manifestations of religion or belief – such as by Jehovah's Witnesses and Muslim readers of Said Nursi's works – may soon be further strengthened by controversial proposed "blasphemy" amendments to the Criminal Code and Code of Administrative Offences. The legal chaos proposed by state representatives after the Pussy Riot trial thus continues a well-established trend.

Three young women from the Russian feminist art collective Pussy Riot were handed down two-year prison terms on 17 August for "hooliganism motivated by religious hatred" (Criminal Code, Article 213, Part 2). The three had performed a short "punk prayer" immediately in front of the iconostasis in Moscow's Cathedral of Christ the Saviour on 21 February. The sentence of one member was changed to suspended on appeal on 10 October.

These disproportionate punishments have given rise to widespread concern. But it should also be noted that disturbing people within a place of worship, in the way the group did, does violate the freedom of religion or belief of those within the Cathedral who were not part of the group. Yet there is an aspect of this case that poses a serious threat to everyone's freedom of religion or belief throughout Russia. For the way this trial has been handled indicates that the state authorities are using that case to advance their intensifying restrictions on freedom of religion and belief, Forum 18 News Service has found.

Given the Moscow Patriarchate's classification of the incident as "blasphemy" (koshchunstvo) on 3 April and President Vladimir Putin's reference to it as a "witches' sabbath" on 6 April, many observers have interpreted the trial as a sign of deepening relations between the Russian Orthodox Church and the Kremlin.

Yet a marked shift in the nature of the state's response to the Pussy Riot incident suggests that the Kremlin is acting not to defend Orthodox Christianity. Instead the state appears to be seeking justification for greater restrictions on the linked freedoms of religion and belief and of expression, Forum 18 notes.

Opposition to Orthodox Christianity is equated with criminal activity in the initial state prosecution documentation against Pussy Riot, seen by Forum 18. "Opposing the Orthodox world" and even "disparaging the spiritual foundations of the state" are cited in 28 May 2012 charges against one member drawn up by Moscow city police investigator Artem Ranchenkov. These are repeated in the July 2012 indictment against all three women by the public prosecutor of the city's Central Administrative District, Denis Popov, published by Novaya Gazeta newspaper on 19 July.

Under the 1993 Constitution, "The Russian Federation is a secular state. No religion may be established as a state or obligatory one." (Article 14.1).

However, such references are absent from the 17 August 2012 verdict by Judge Marina Syrova of Moscow's Khamovnichesky District Court, seen by Forum 18. Instead of "disparaging the spiritual foundations of the state", for example, the defendants are found to have "violated the constitutional foundations of the state" by inciting religious hatred. Ranchenkov, the police investigator responsible for the earlier charges, was transferred to another department as the Pussy Riot case reached its height in late June, reportedly in a "mere career manoeuvre", according to Interfax on 12 September.

A shift in the Kremlin's response to the Pussy Riot incident also suggests that the senior state authority was not motivated to prosecute by moral outrage. Initially, President Putin appeared unconcerned by the "punk prayer". Smiling and joking with female journalists on the eve of the 8 March International Women's Day public holiday, he remarked: "If they violated established church order, then I apologise to all believers and clergy on their behalf, if they could not do it themselves. I hope that it won't happen again."

Putin's remarks are clearly audible in a 7 March video of the event on Russia's official government website. Yet Interfax – in answer to whose question they were made – replaced "established church order" with "the law" in its same-day report, Forum 18 notes.

Putin's initial position was in sharp contrast to those then advancing the case against Pussy Riot. Mikhail Kuznetsov – one of the lawyers – and Igor Ponkin – one of the "experts" commissioned by Investigator Rachenkov to analyse the group's lyrics – are familiar figures in the sphere of Church-state relations. Often in collaboration, they have lobbied for aims shared by the Moscow Patriarchate for over 10 years; Kuznetsov holds a church award from Patriarch Aleksii II.

In February 2000, for example, Kuznetsov and Ponkin wrote a letter – seen by Forum 18 – to the State Committee for the Affairs of the North, warning that US, Canadian and South Korean missionaries are part of a US government plot to seize Russia's north-easternmost region of Chukotka, followed by the whole of the Russian Far East, including by hypnotising residents. More publicly, the pair have lobbied intensively for the introduction of Orthodox Culture into state schools. A 2005 co-authored publication on Ponkin's "State and Religion" website is "Dishonest Discussion of Religious Education in Secular Schools: Lies, Fraudulent Substitutions, Aggressive Xenophobia" (in this case, the alleged xenophobia is towards Russians).

Yet the Kremlin has previously ignored the pair's efforts. Introduced nationwide in September 2012, the school subject Fundamentals of Religious Cultures and Secular Ethics is broadly culturological and optional. It therefore differs substantially from the subject advocated by Kuznetsov and Ponkin, demonstratively blocked by Putin in 2007 (see F18News 24 September 2007: http://www.forum18.org/Archive.php?article_id=1021).

The inconsistency within the Kremlin's position and between it and the positions of those initially active in the Pussy Riot trial suggests that state support for the Moscow Patriarchate in the case is tactical rather than principled. This has significant implications for the religious freedom situation, Forum 18 notes. A genuinely pro-Orthodox position would support Moscow Patriarchate privilege consistently and in predictable spheres. A position determined by political circumstance may lead the Kremlin to constrict the Patriarchate – or even to profess support for its agenda that amounts to constriction as it undermines Church credibility with sections of the public.

Some prominent clergy have already complained of distortion of Church principle in court arguments. Objecting to a charge in the indictment against Pussy Riot members, Archdeacon Andrei Kurayev wondered in his 6 June blog entry whether the prosecution took Russian Orthodox to be "idiots, if they write that 'the eternal foundations and fundamental guide of the Church' are not the Gospels, but their invented ban on laity approaching the icons of the iconostasis on the solea!" (The solea is the raised platform - separated from the altar by the iconostasis – where Pussy Riot performed their "punk prayer").

"Extremism" policy continued

Unlike the earlier prosecution documentation, the court verdict against Pussy Riot does not claim their actions to be blasphemous in the eyes of the state. Instead, the question of whether a crime has been committed relies upon whether Orthodox believers found the group's actions offensive. It therefore retains charges such as "openly expressing disrespect to the Christian world and church canons" and "presented themselves in a light belittling the inner convictions of citizens spiritually linking themselves with God".

Judge Syrova stated in her verdict that: "Adherence to feminism in Russia is not a violation of the law or a crime. A range of religions such as Orthodoxy, Catholicism, and Islam have a religious-dogmatic basis incompatible with the ideas of feminism. And although feminism is not a religious doctrine, its representatives get involved in such spheres of social relations as morals, the norms of decency, relations in the family, sexual relations including non-traditional ones, which have historically been built on the basis of a religious world view." The Judge did not explain why she assumed that religious belief and feminism are incompatible, nor why she thought it was the role of a Judge to attempt to make theological judgments.

Continuing, Judge Syrova echoed the language of Criminal Code Article 282 Part 1 in claiming that: "The idea of the superiority of one and corresponding inferiority and unacceptability of another ideology, social group, or religion gives cause for mutual enmity [vrazhda] and hatred [nenavist] and for conflictual relations between individuals."

In monitoring the way the Extremism Law has been used since its 2002 adoption to restrict freedom of religion or belief, Forum 18 has found that the state uses the same selective determination of what causes offence to persons of one worldview in order to restrict the freedom of religion or belief of persons holding a different worldview. This is particularly the case since July 2007, when the law was amended to make "incitement .. of religious discord" a criminal offence even if unaccompanied by violence or threat of violence (see F18News 23 July 2012 http://www.forum18.org/Archive.php?article_id=1724).

The phenomenon is most clearly seen in cases outlawing Jehovah's Witness literature. The first such ruling – made by Rostov Regional Court on 11 September 2009 and upheld by the Supreme Court on 8 December 2009 – determined 34 Jehovah's Witness tracts and books extremist following complaints by Orthodox villagers. Handed literature by local Jehovah's Witnesses, they found in it "statements offending their faith, placing in doubt symbols of Christianity, which for them is unacceptable" according to the verdict, seen by Forum 18.

The courts agreed that such statements were "extremist" since they "undermined respect" for established Christianity. They included, "True Christians do not venerate icons, crosses or statues" and "Many common festivals are linked to false religion. One of them is Christmas." The courts also found extremist a statement by renowned Russian author Leo Tolstoy quoted by the Jehovah's Witnesses: "I've come to the conclusion that the teaching of the church is a perfidious and harmful lie, in practice a collection of the crudest superstitions and sorcery, hiding completely the entire meaning of Christian teaching."

Jehovah's Witness literature has similarly been ruled extremist by Gorno-Altai City Court (1 October 2009), Kemerovo's Factory District Court (28 October 2010), Krasnodar's First of May District Court (22 April 2011) and Salsk City Court (27 June 2011, upheld by Rostov Regional Court 13 October 2011). Rulings by these courts have resulted in 68 Jehovah's Witness titles being added to the Federal List of Extremist Materials, compiled by the Justice Ministry. Once on the List, distribution is banned throughout Russia and punishable.

Jehovah's Witness statements expressing criticism of other beliefs - such as "the Russian Orthodox Church, like the Roman Catholic, kept the people in ignorance about the Bible" - were also among Gorno-Altai City Court's grounds for banning the community's literature, cited in 11 August 2010 charges against congregation leader Aleksandr Kalistratov. References to violence committed by people with other beliefs were also declared extremist, such as "(..) an example is the brutal inquisition. Many innocent people suffered torture and even lost their lives only because they did not agree with the teachings and actions of the church."

The sentiment of other statements resulting in the Gorno-Altai Jehovah's Witness literature ban is close to that of some atheist argument. Such statements in various publications included the caption "Religion is a supermarket" next to an illustration of religious symbols in a supermarket basket, and the claim: "Since many religions owe their appearance not to the desire to serve God, but hunger for political power, popularity and recognition, it isn't surprising that religion is mixed up in such terrible acts as child abuse, fraud, war and terrorism."

The right to change and renounce beliefs - including the right to strongly criticise any and all beliefs - is an essential part of freedom of religion or belief, Forum 18 notes. Russia's crackdown on "extremism" now also encompasses even non-violent expressions of support for atheism: an exhibit from graphic artist Aleksandr Savko's series "Mickey Mouse's Journeys through Art History" depicting Mickey Mouse in the role of Jesus in the New Testament scene of the Sermon on the Mount was ruled extremist by Kaluga Region's Zhukov District Court on 20 December 2011. It is now No. 1271 on the Federal List of Extremist Materials.

Here again, there is no fixed principle for which worldviews are considered criminal. Anti-atheist sentiment was among material in an Islamic work by Turkish theologian Said Nursi, which presented Islam as "the true faith", and was outlawed by Krasnoyarsk's Railway District Court on 21 September 2010. (see F18News 29 October 2010 http://www.forum18.org/Archive.php?article_id=1504). Underlying this verdict, a December 2008 textual analysis by experts from Krasnoyarsk State Pedagogical University - seen by Forum 18 - found extremist Nursi's references to non-believers in Islam as "directionless, philosophers, empty talkers", as well as his comment that "the worst error of the unbelieving people, students of philosophy and their passion-filled egos, is non-recognition of the Almighty." The work - "Tenth Word on the Resurrection of the Dead" - is now No. 856 on the Federal List of Extremist Materials.

Neither is pro-Orthodox sentiment exempt. An appeal to remove the slogan "Orthodoxy or death!" from No. 865 on the Federal List was rejected by Leningrad (St Petersburg) Regional Court on 10 May 2012.

Offended = an offence?

This state practice of prosecuting some but not all manifestations of religion or belief may soon be further strengthened in law. On 25 September, just four days after approval by the parliamentary Religion Committee, the State Duma voted in favour of a three-page statement calling for legal penalties to be toughened in cases of "offending religious feelings of citizens". Alongside unambiguously criminal actions such as the summer 2012 murders of Mufti Valiulla Yakupov in Tatarstan and Sufi sheikh Said-afandi of Chirkei in Dagestan, this also referred to unspecified "blasphemous hooligan acts" aimed at "discrediting traditional values".

Corresponding proposed amendments to the Criminal Code and Code of Administrative Offences were sent to the Duma's Committee on Civil, Criminal, Arbitration and Processional Law on 28 September. Like the 25 September statement, these have cross-party backing, including from pro-Kremlin United Russia parliamentarians.

A proposed new Criminal Code article (243.1) would punish "public offence to or belittlement of worship services or other religious rites and ceremonies by religious associations professing religions constituting an integral part of the historical heritage of Russia's peoples", as well as "public offence to the religious convictions and feelings of citizens". Punishment would vary between a fine of up to 300,000 roubles [almost five and a half years' minimum wage], compulsory work for up to 200 hours, to up to three years' imprisonment.

Damage, destruction or desecration of "objects and items of religious veneration (pilgrimage), places designated for the holding of

worship services, other religious rites and ceremonies of religious associations professing religions constituting an integral part of the historical heritage of Russia's peoples" are also listed. Punishment would vary from a fine of between 100,000 and 500,000 roubles, compulsory work for up to 400 hours to up to five years' imprisonment.

"Offence to the religious feelings of citizens" already features in the Code of Administrative Offences (Article 5.26). The proposals would raise maximum punishment for this violation 500-fold, to 500,000 roubles.

The proposed amendments have not been rejected – two United Russia deputies added their names as sponsors on 2 and 10 October – but its progress through the Duma is not proving as rapid as for the accompanying 25 September statement. Unlike that document, it is attracting strong criticism.

Almost all the approximately 20 participants in a 4 October roundtable hosted by the Public Chamber, a government advisory body, attacked the draft. The event was broadcast via the Public Chamber's website.

Prominent lawyer Genri Reznik dismissed the text as "a disgrace" whose authors were suffering from "legal insanity". Television presenter Nikolai Svanidze declared anti-constitutional its preference for religions "constituting an integral part of the historical heritage of Russia's peoples" – a phrase from the 1997 Religion Law's preamble. This preamble formally has no legal force but is widely interpreted informally as referring to state-favoured organisations within the four faiths of Orthodoxy, Islam, Judaism and Buddhism (see Forum 18's Russia religious freedom survey http://www.forum18.org/Archive.php?article_id=1722).

Pentecostal representative Konstantin Bendas feared that this would be understood to mean that attacks on religions not usually seen as constituting an integral part of the historical heritage of Russia's peoples – such as Protestantism – should not be punished.

While nicknamed a proposed "blasphemy law", the draft does not in fact contain the Russian term "blasphemy" (koshchunstvo/bogokhulstvo). For as in the Pussy Riot trial documentation, whether an offence has been committed is determined not by the state, but by "citizens" who consider themselves offended. This would generate arbitrary cases, warned Svanidze: "Some people don't like cows being eaten, some people find offensive the presence of pork on the meat counter, or a person sitting next to them chewing meat during Great Lent .. For some people the statement 'There is no God' is offensive, or if someone says that Jesus Christ isn't God or the Son of God."

Yet even if the proposed amendments fail, the Extremism Law's "incitement .. of religious discord" is already being interpreted in this arbitrary way. No charge of extremism – or "hooliganism motivated by religious hatred", as against Pussy Riot – was brought against Leonid Frolov, head of administration in Cheremushki village (Irkutsk Region), for breaking up a Jehovah's Witness worship service on 17 April 2011 by waving a pistol and threatening to murder those present.

In Altai republic, Jehovah's Witness congregation leader Aleksandr Kalistratov was acquitted of extremism in December 2011, but in Transbaikal region his fellow Jehovah's Witnesses Andrei and Lyutsia Raitin were sentenced to 200 hours' community service in July 2012 for the same offence (see F18News 31 July 2012 http://www.forum18.org/Archive.php?article_id=1727).

The legal chaos proposed by state representatives after the Pussy Riot trial would thus continue an already well-established trend. (END)

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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>.

For more background, see Forum 18's surveys of the general state of religious freedom 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/education/mapping/outline-map/?map=Russia>.

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