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RUSSIA: Why is Falun Gong literature banned?

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

Russian Falun Gong practitioners have appealed to the European Court of Human Rights (ECtHR) in Strasbourg after their core spiritual text was ruled "extremist", Mikhail Sinitsyn, Falun Gong practitioner and lawyer, has told Forum 18 News Service. The appeal followed failure to overturn a December 2011 rejection of an earlier appeal by Krasnodar Regional Court. Extraordinarily, the Regional Court ruling directly contradicts its own earlier decision in Falun Gong's favour as "expert analyses" were "unfounded" and "one-sided". But in its December 2011 ruling, Krasnodar Regional Court ruled that Falun Gong texts are "extremist" on the basis that other "experts" in a report "confirm the conclusions" the same Court had earlier rejected. "We thought our case was so obvious that we could rely on our own courts, but it turned out not to be a legal issue but a political one", Sinitsyn commented to Forum 18. One of those involved, Sergei Shipshin, works for a state institution belonging to the Justice Ministry. However he insisted to Forum 18 that "we are independent experts".

Russian Falun Gong practitioners submitted a complaint to the European Court of Human Rights (ECtHR) in Strasbourg in May 2012 after their core spiritual text was ruled "extremist", Mikhail Sinitsyn, Falun Gong practitioner and lawyer, told Forum 18 News Service from the southern city of Krasnodar on 27 November. "We thought our case was so obvious that we could rely on our own courts, but it turned out not to be a legal issue but a political one."

Falun Gong is an Eastern spiritual practice popular in China since the early 1990s. The Chinese authorities at first regarded it positively, but the movement's growing influence led to a harsh Chinese state crackdown on practitioners from 1999 (see F18News 31 March 2004 http://www.forum18.org/Archive.php?article_id=292). Once material is on the Russian Federal List of Extremist Materials, which can happen after a single local lower court decision, it is banned throughout Russia and its possessors are liable to criminal prosecution (see Forum 18's Russia "Extremism" religious freedom survey http://www.forum18.org/Archive.php?article_id=1724).

As with repeated refusals to grant a visa to the Dalai Lama, Russia's restrictions on Falun Gong appear to be aimed at pleasing China (see F18News 10 December 2012 http://www.forum18.org/Archive.php?article_id=1779).

Falun Gong practitioners' attempts to prevent their material from being ruled "extremist" in Russia have much in common with those of Hare Krishna devotees, Jehovah's Witnesses, Muslims and even ardent secularists and the Pussy Riot group, Forum 18 notes (see F18News 15 October 2012 http://www.forum18.org/Archive.php?article_id=1754).

Supreme Court

On 4 July Russia's Supreme Court refused to consider at supervisory level a complaint over the ban on Falun Gong literature brought by practitioner Sergei Alekhin, the Court's website confirms. Consideration of a supporting complaint from Russia's Human Rights Ombudsperson Vladimir Lukin was likewise rejected on 5 July. The telephone of Mikhail Odintsov, the official in the Human Rights Ombudsperson's office dealing with freedom of conscience issues, went unanswered on 13 December.

One final legal remedy exists within Russia, a spokesperson at the Supreme Court told Forum 18 on 10 December. "They can of course complain to the Vice-chair of the Supreme Court, but they have missed the deadline and would have to get it restored." The spokesperson declined to discuss details of the case, adding that media enquiries for information about it should be submitted to the Court by the ordinary postal service only.

Sinitsyn, however, explained to Forum 18 that the Falun Gong practitioners earlier decided not to pursue their case further within Russia as legal grounds were already sufficient to turn to the European Court.

Four banned texts

The European Court complaint – yet to be allocated an application number – follows an almost four-year legal battle in Russia. Practitioners turned to the ECtHR once their April 2012 Russian cassation appeal failed to overturn a local ruling upholding the addition of four Falun Gong texts to the Federal List of Extremist Materials, Sinitsyn told Forum 18.

The four titles are on the Federal List at Nos. 296-299. All were ruled "extremist" by Krasnodar's Pervomaisky District Court on 27 October 2011 and confirmed as such by Krasnodar Regional Court on 22 December 2011. The four are Russian translations of "Zhuan Falun" (Turning the Law Wheel) by Falun Gong founder Li Hongzhi, "Report into Allegations of Organ Harvesting of Falun Gong Practitioners in China" by David Matas and David Kilgour, "Falun Dafa Around the World" and "Global Human Rights Torch Relay".

"Zhuan Falun" is a core text for Falun Gong practitioners. Dated January 2006, it consists of nine lectures in which Li Hongzhi emphasises that Truth, Compassion and Endurance are essential qualities for spiritual progress: "We can only advise people (..) to value virtues, do good deeds, and be kind. One should conduct oneself this way in everything and under all circumstances."

The text states that successful practice may generate paranormal abilities such as clairvoyance and levitation, but Li adds that these abilities must not be used negatively: "Nobody is allowed to casually undermine the state of our ordinary human society." Violence and even animosity are rejected: "People compete with, deceive, and harm each other for a little personal gain. All of these mentalities must be given up."

The authors of "Report into Allegations of Organ Harvesting of Falun Gong Practitioners in China", David Matas and David Kilgour, are respectively a Canadian human rights lawyer and a former member of Canada's parliament. Their July 2006 report investigates whether Chinese state representatives have harvested organs for transplant operations from live Falun Gong practitioners, "killing the practitioners in the process".

Noting that China rejects this allegation, Matas and Kilgour conclude that credible circumstantial - if not direct - evidence exists to support it. This includes a large and unexplained increase in organ transplants in China in the 2000-05 period since mass detentions of Falun Gong practitioners began; confirmation of the practice by personnel at 13 hospitals and detention centres across China when telephoned during 2006 by callers posing as interested in acquiring organs; and waiting times for organs in 2006 being a few weeks in China rather than several years in Canada, "suggesting a large bank of 'living' donors".

"Falun Dafa Around the World" is a newspaper still produced by Falun Gong in Ukraine. As the Federal List of Extremist Materials does not specify an edition or article, Forum 18 is unable to identify the particular text ruled extremist.

The web version of "Global Human Rights Torch Relay" is a short text announcing an international torch relay in the run-up to the 2008 Beijing Olympics to highlight human rights abuses in China.

First trial

The Russian Supreme Court's July 2012 refusals to consider complaints about the addition of the four Falun Gong texts to the Federal List of Extremist Materials relate to Pervomaisky District Court's October 2011 ruling.

However, the titles were first ruled "extremist" by Pervomaisky District Court on 26 August 2008. The case was brought by Krasnodar Regional Public Prosecutor's Office due to their distribution "by unidentified persons" in a Krasnodar public park, according to the verdict seen by Forum 18. The extremism ruling relies upon two "expert analyses" commissioned by the Court, which have been seen by Forum 18.

British baroness extremist?

According to the 20 June 2008 "analysis" by philologist Alla Bogomaz, the texts contain statements "arousing enmity and dislike" towards non-adherents of Falun Gong and "proclaiming superiority and exclusivity" of Falun Gong members over them. Bogomaz primarily sees this in Li's description of non-Falun Gong practitioners as "ordinary" people, as in: "Because of contamination from the powerful current or big dye vat of ordinary human society, the things that people consider correct are, actually, often wrong."

The context of such statements is omitted, however; in this case, clarification of what most "ordinary" people consider correct: "Doesn't everyone want to live a good life? Desiring a good life may (..) lead to bullying and harming others."

Bogomaz also concludes that "Global Human Rights Torch Relay" contains "incitement of hostile acts against the Chinese authorities". This, she identifies, is a statement by Baroness Caroline Cox, a member of the British House of Lords: "Through calling for a boycott of the Beijing Olympics, we can put an end to the persecution soon, and safeguard the Olympic spirit and human dignity."

Buddhist symbol = Nazi symbol?

Bogomaz acknowledges Li Hongzhi's explanation in "Zhuan Falun" that the swastika is a traditional Buddhist symbol, and that Falun Gong's use of it has nothing to do with Nazi symbolism. (Forum 18 further notes that Falun Gong's symbol points in the opposite direction to the Nazi symbol). The issue is examined because propaganda or public display of Nazi symbolism, including

symbols sufficiently similar to be so identified, is one of the 2002 Extremism Law's definitions of extremism (Article 1).

Pervomaisky District Court was partially persuaded to determine the texts "extremist" by the conclusion of psychologist Albina Rogoza's 30 June 2008 "expert analysis". This claimed that citizens could confuse Falun Gong's symbol with the Nazi swastika if they do not have "special knowledge in the spheres of religion, history, culture and art", and are not familiarised beforehand with the accompanying Falun Gong texts.

Expert source tried to ban Harry Potter as "extremist"

On commissioning their analyses, Krasnodar Public Prosecutor's Office supplied both Bogomaz and Rogoza with Tamara Kvitkovskaya's 2008 brochure "Falun Gong - Cult of Hatred". Kvitkovskaya is an Orthodox activist who has repeatedly appealed to prosecutors to ban material as "extremist". This includes such material as JK Rowling's "Harry Potter and the Chamber of Secrets" (unsuccessfully) and Aleksandr Savko's graphic artwork depicting Mickey Mouse in the role of Jesus in the New Testament scene of the Sermon on the Mount (successfully), Nezavisimaya Gazeta newspaper reported in July 2012. Savko's Mickey Mouse work is No. 1271 on the Federal List of Extremist Materials.

The web version of "Falun Gong - Cult of Hatred" identifies Kvitkovskaya as editor. Its authors are Mikhail Kuznetsov and Igor Ponkin, long-time lobbyists for aims shared by the Russian Orthodox Church, particularly restrictions on "sects". The pair were recently prominent on the side of the prosecution in the trial of three members of feminist art collective Pussy Riot see F18News 15 October 2012 http://www.forum18.org/Archive.php?article_id=1754). In "Falun Gong – Cult of Hatred" Kuznetsov and Ponkin argue that Falun Gong is an "extremist sect" that should be banned.

Elements of their criticism are echoed in Bogomaz's "expert analysis" – including the conclusion and out-of-context supporting quotation cited above, claiming that Falun Gong members view themselves as superior to non-members.

First appeal

No Falun Gong representatives were invited to the 2008 trial where Bogomaz and Rogoza's analyses secured a ban. "It turned out that the literature was the accused, and the literature can't defend itself," Moscow-based Falun Gong practitioner Juliana Kim remarked to Forum 18 on 15 November.

Noticing in January 2009 that the four texts had been added to the Federal List of Extremist Materials in December 2008, Falun Gong practitioners asked Pervomaisky District Court to restore the possibility of appeal against its August 2008 extremism ruling. They succeeded in securing the right of appeal on 4 March 2009, and won a rare victory against an extremism ruling on 28 April 2009, when their appeal was granted by Krasnodar Regional Court. Seen by Forum 18, the Regional Court's verdict struck down that of Pervomaisky District Court as "premature and unfounded" for relying upon "one-sided expert conclusions". The verdict also ordered a retrial.

State pressure for a ban continued, however. Even after the Regional Court ruling and despite repeated requests from Falun Gong representatives, the four texts were never removed from the Federal List of Extremist Materials, Sinitsyn told Forum 18. In a 9 June 2009 response seen by Forum 18, the Justice Ministry maintained it could not remove the titles from the List until it had received "a final court decision that has entered legal force" - even though the 28 April 2009 Regional Court decision entered legal force on the same day it was issued.

Second trial

Despite the Regional Court's rejection of Bogomaz and Rogoza's analyses as "unfounded" and "one-sided", Pervomaisky District Court once again ruled the four Falun Gong texts "extremist" on 27 October 2011 because they "complemented rather than contradicted" its newly commissioned analysis. Krasnodar Regional Public Prosecutor's Office was again permitted to select "experts" for the analysis despite objections from Sinitsyn, whose suggestions of alternative names were rejected as biased.

The "experts" this time were philosopher Sergei Astapov and psychologist Sergei Shipshin, who produced the "analysis" that resulted in 34 Jehovah's Witness publications being ruled "extremist" by Rostov-on-Don Regional Court on 11 September 2009. That analysis considered "extremist" statements such as "True Christians do not venerate icons, crosses or statues" and "Many common festivals are linked to false religion. One of them is Christmas", as well as a quotation from Leo Tolstoy (see F18News 23 October 2009 http://www.forum18.org/Archive.php?article_id=1366).

Seen by Forum 18, Pervomaisky District Court's October 2011 ruling cites the key findings in Astapov and Shipshin's 30 September 2011 "analysis" of the Falun Gong texts. According to Astapov, "Zhuan Falun" contains "statements expressing a negative evaluation, hostile attitude towards concrete religious groups and religious-philosophical trends". No examples are given, however.

According to Shipshin, "Zhuan Falun" makes possible "a restructuring of the reader's picture of the world", "lowers the criticality of perception of the information received by using a large amount of incomprehensible and ambiguous non-traditional concepts" and

"makes various schools of qigong ("tsigun" in Russian), Buddhism and other Eastern religions the object of criticism and stigmatisation (labelling)." No examples are given.

Astapov and Shipshin both maintain that the swastika symbol in "Zhuan Falun" is sufficiently similar to Nazi symbolism to be identified with it.

Forum 18 notes that "Zhuan Falun" frequently criticises some practitioners of qi gong and Daoism for using spiritual powers for material gain. The work claims Falun Gong to be a more advanced method of self-improvement than Buddhism, but does not call for any form of harm to people who do not practise Falun Gong. The strictly voluntary nature of Falun Gong practice is also emphasised: "Here, we teach everyone to follow the righteous way (..) to let you become enlightened on your own. (..) Nobody will force you or make you practice."

An expert's view

Declining to discuss the specific Falun Gong case with Forum 18 on 13 December, Sergei Shipshin said he was unfamiliar with the final court decision. "I do not follow whether or why they add texts to the List [of Extremist Materials]."

According to its website, the Southern Regional Centre for Court Expert Analysis where he works is a state institution belonging to the Justice Ministry. However, "we are independent experts", Shipshin insisted to Forum 18. "We bear no relation to the court, the investigators or the Public Prosecutor's Office". He also maintained that there was no particular reason why he was chosen to conduct analysis: "There are very many such experts – a different government expert or a non-government expert could have done it."

During the criminal trial of Jehovah's Witness Aleksandr Kalistratov on "extremism" charges, a contract for a "judicial expert analysis" revealed that it had been prepared by the Prosecutor's Office without informing the court. The contract also made it clear that if the conclusions of "expert analysis" are "undesirable for the Prosecutor's Office", it will retain the right to seek a further analysis or choose new "experts" (see F18News 10 October 2011 http://www.forum18.org/Archive.php?article_id=1623).

Shipshin also stressed that experts do not determine whether or not a text is "extremist". "The court decides that, we fulfil quite different tasks, for example, whether these texts can form negative attitudes towards certain groups of people on the basis of their religion, race, nationality or social group." Asked whether it was possible to determine whether a text could influence a person's psyche in this way, he maintained it was possible "in certain cases".

Shipshin then pointed out that an expert's conclusion is "just one of many pieces of evidence in a case, not every conclusion lies at the foundation of a court's decision". When Forum 18 pointed out that in this - and many other - "extremism" cases court decisions do rely solely upon expert analyses, Shipshin again responded that he was unfamiliar with the particular court decision.

Another "expert", Aleksey Gorbatov, similarly told Forum 18 that he "can't be an expert on every single faith" when asked about his role in providing an "expert analysis" during an attempt to ban the most important text for Hare Krishna devotees, the Bhagavad-Gita As it Is (see F18News 10 October v2011 http://www.forum18.org/Archive.php?article_id=1623).

Second appeal

While noting Falun Gong practitioners' objections that Astapov and Shipshin's conclusions regarding the swastika were provisional, Krasnodar Regional Court rejected their appeal on 22 December 2011. Failure to overturn this decision in early 2012 led to the appeal to the European Court.

Extraordinarily, the Regional Court ruling directly contradicts its own, 28 April 2009 decision in Falun Gong's favour, Forum 18 notes. Whereas the first decision rejected Bogomaz and Rogoza's analyses as "unfounded" and "one-sided", the second ruling supports Astapov and Shipshin's conclusions precisely because they "confirm the conclusions" offered by Bogomaz and Rogoza. (END)

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.

An analysis of the way that the Russian authorities have used the Pussy Riot case to intensify restrictions on freedom of religion or belief is at F18News 15 October 2012 http://www.forum18.org/Archive.php?article_id=1754.

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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