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RUSSIA: Unregistered religious groups

By Geraldine Fagan, Forum 18

Russia's controversial 1997 Religion Law divides religious communities into two categories, restricting the rights of those with the unregistered status of "group", Forum 18 News Service notes in its submission to a 14 April hearing in Washington of the US Commission on Security and Cooperation in Europe <http://www.csce.gov/> on unregistered religious groups in Russia. By requiring independent religious or belief groups seeking registration to have existed for 15 years, the Law effectively forced new individual religious or belief communities to join older unions, often a burdensome and expensive formality and not an option for some communities. Registration can be denied on arbitrary grounds, as for example with 39 of Stavropol region's 47 mosques. Denied registration, Belgorod's Catholic parish cannot reclaim its historical church. Communities that choose not to register can function freely, but only if they remain inconspicuous, Forum 18 has found. Council of Churches Baptists – who reject registration on principle – are often denied the possibility to rent property for services and fined for holding evangelistic campaigns.

Despite its claim to uphold a constitutional guarantee of equality before the law for religious associations (obyedineniya), Russia's 1997 Religion Law divides them into organisations (organizatsii) and groups (gruppy).

A religious or belief group has significantly fewer legal rights than a religious organisation. Defined as operating without state registration, it has the right to worship at premises provided by its own members (that is, not held as the property of or rented by the group in an official capacity) and teach its existing followers. It does not enjoy the following rights:

- 1) to request deferment from military service for its clergy;
- 2) to create educational institutions or to give extra-curriculum religious instruction to children in state schools;
- 3) to invite foreign citizens for professional purposes or to have a representative body of a foreign religious organisation attached to it;
- 4) to conduct religious rites in hospitals, prisons, children's and old people's homes;
- and 5) to produce, acquire, export, import and distribute religious literature, printed, audio and video material and other articles of religious significance, or to create mass media organs.

While state registration is not compulsory, a religious or belief group wishing to register and so obtain the full legal personality status of a religious organisation must either prove 15 years' existence in its locality or affiliation to a central religious organisation of the same creed. (A central religious organisation is made up of at least three local religious organisations.)

Negative impact

This categorisation of religious associations has had a negative impact upon freedom of religion or belief, although far less than originally feared. Immediately after the law's adoption, hundreds of Protestant communities founded since the abolition of Soviet restrictions enrolled into centralised Protestant unions as the only protection against the reduction of legal rights under the 15-year "probationary period". Some have told Forum 18 that the unions concerned have allowed them to retain de facto independence. Others, however, resent having had to jettison theological opposition to hierarchical structures, as well as the sometimes considerable membership fees levied by such unions.

The main reason for the much-reduced impact of the 15-year rule is that successive constitutional court rulings in 1999, 2000 and 2002 determined that it did not have retroactive force. Consequently, its limitation of legal rights now applies to the far narrower category of religious communities who either:

- 1) were founded or sought initial registration after the adoption of the 1997 Law and are not in a position to join a centralised religious organisation;

or 2) reject state registration on principle.

In time, though, the impact of this 15-year rule can only increase as new groups are founded.

Impact on groups founded or who sought initial registration after 1997 Law

Forum 18 has encountered few instances of either category. However, in an example of the first, the True Orthodox parish of St Elijah in the republic of Chuvashiya was denied initial registration in late 2003. While a local court noted the group's claim that it "existed in private flats from 25 March 1988 because their confession was persecuted under the communist regime," it concluded that "confirmation by organs of local government of the existence of a religious group for no fewer than 15 years is possible only after 15 years has elapsed from the moment when they inform [the authorities] of the creation of the group."

The authorities thus deemed the 15-year period to have begun when the parish first formally contacted them in spring 2003. Due to the issue of disputed apostolic legitimacy, the community has no Orthodox central religious organisation which it could join as an alternative.

Impact on groups who refuse on principle to seek registration

While other True Orthodox and some Old Believer groups are unregistered because they reject all contact with the state on theological grounds, they are able to function unimpeded because they are inconspicuous. Baptist communities belonging to the Council of Churches, however, who similarly refuse to register on principle, routinely report fines and property confiscation when they stage evangelisation campaigns, even though the 1997 Law does not state explicitly that a religious group may not preach in public. In early 2003 a large Moscow congregation belonging to the Council of Churches Baptists - who refuse on principle to register with the state authorities in CIS countries - had a long-running rental contract cancelled on the grounds that it did not hold state registration, even though the official commentary to the 1997 law specifies that an individual member may rent worship premises on behalf of a group.

Denied full rights

Sometimes religious or belief groups are denied the full rights of a legal personality despite being affiliated to central religious organisations. While affiliated to the Spiritual Directorate of Muslims of Karachai-Cherkessia and Stavropol Region, for example, 39 out of 47 Muslim communities in Stavropol region have not been granted state registration. One, a Pyatigorsk mosque visited by Forum 18, was five times asked for additional information in its registration application rather than issued an outright refusal against which it could mount a legal challenge. Founded in 2000 and affiliated to a federal Pentecostal union, Victory Chapel Church in Yuzhno-Sakhalinsk has been refused registration four times since 2001 and was obstructed from holding and advertising public evangelisation events in 2003 on the grounds that it was a religious group.

Absence of legal personality status has proved an impediment to claiming historical places of worship confiscated by the Soviet state. Denied registration – despite being part of the Catholic Church in Russia - the Catholic parish in Belgorod has been unable to claim a small former Catholic church in the city centre, which has meanwhile been transferred to the local Orthodox diocese. While often elderly Old Believer communities have found the 1997 Law's bureaucratic registration requirements an impediment, the Russian Orthodox Church (Moscow Patriarchate) has had no difficulty in registering its parishes and has successfully claimed some Old Believer historical church property as a result.

Avoiding potentially intrusive and bureaucratic contact with state

On the other hand, many religious or belief groups have chosen their unregistered status as it avoids potentially intrusive and bureaucratic contact with the state. As described above, a group's rights are not usually restricted – despite the letter of the Law – unless it is conspicuous. Access to prisons, for example, normally depends more upon personal relations with the institution's administration rather than whether a religious community is registered.

State registration is not in itself a guarantee of full rights in any case, as disfavoured religious organisations may be obstructed, for example, by being denied permission to acquire land or build. Another indication of a lack of systematic application of the 1997 Law is that, while the 2004 ban of the Moscow Jehovah's Witness community should mean a complete prohibition of its activity, it has by and large been allowed to function as a religious group.

15-year rule violates Constitution

The head of a government working group drafting proposed amendments to the 1997 Law, Andrei Sebentsov believes that the 15-year rule is a violation of the Russian constitution and should be removed. One of the law's major lobbyists, Metropolitan Kirill (Gundyayev) of the Russian Orthodox Church (Moscow Patriarchate) last year publicly rejected this call, insisting that society must be allowed 15 years to see whether or not a religious group was harmful: "This is not the time or the place to experiment upon our people." It remains unclear which argument will prevail.

In this context it should be noted that the 1997 Law still gives religious groups a key space to operate because it allows meetings for worship in private homes and does not make registration compulsory. This is unlike Belarus, where that state's current Religion Law was also successfully lobbied for by the Russian Orthodox Church (Moscow Patriarchate) (see the Forum 18's Belarus December 2004 religious freedom survey at http://www.forum18.org/Archive.php?article_id=478). (END)

For more background see Forum 18's February 2005 Russia religious freedom survey at http://www.forum18.org/Archive.php?article_id=509

For a personal commentary by an Old Believer about continuing denial of equality to Russia's religious minorities see F18News http://www.forum18.org/Archive.php?article_id=570

Full reports of the religious freedom situation in Russia can be found at <http://www.forum18.org/Archive.php?query=&religion=all&country=10>

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

If you need to contact F18News, please email us at:
[f18news @ editor.forum18.org](mailto:f18news@editor.forum18.org)

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY