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ARMENIA: Growing concern over proposed legislative changes on religion

By Felix Corley, Forum 18 (<https://www.forum18.org>)

Human rights defenders and religious communities have harshly criticised proposed amendments to several Laws imposing new restrictions on and punishments for religious activity. The state would conduct a "theological expert examination" before granting registration to religious communities, while those that fail to provide full information about all their activities could be liquidated. Sharing faith is a particular target, with penalties for violations of up to three months' imprisonment. "If adopted, they will create two kinds of citizens in Armenia – those of the Armenian Apostolic Church on one side, and then the rest," Pastor Ren  Leonian of the Evangelical Church told Forum 18 News Service. "It is difficult for us to accept in an independent and democratic state that there can be two classes of citizen." The amendments, prepared by the Justice Ministry, only became known when placed on the Council of Europe's Venice Commission website on 30 November. "Such secrecy and silence is unacceptable," Larisa Minasyan of Armenia's Open Society Foundation told Forum 18.

Concern is mounting among human rights defenders and many of Armenia's religious minority communities about proposed Amendments to the Religion Law, the Criminal Code, the Code of Administrative Offences and the Charity Law, Forum 18 News Service has learnt. "All these laws so closely regulating religious activity represent an intrusion on the part of the government," one religious leader, who asked not to be identified, told Forum 18 from the Armenian capital Yerevan on 6 December. "We are very worried, as several points are a very real threat to religious freedom," Armen Lusyan of Yerevan's Word of Life Protestant Church told Forum 18 on 8 December.

To the distress of many religious communities and human rights activists, the proposed Amendments only became known when they appeared in English on the website of the Venice Commission of the Council of Europe on 30 November. The draft Amendments to the Religion Law are available at <http://www.venice.coe.int/webforms/documents/?pdf=CDL%282010%29130-e> and those to the Criminal Code, the Code of Administrative Offences and the Charity Law are at <http://www.venice.coe.int/webforms/documents/?pdf=CDL%282010%29133-e>. They have yet to reach Armenia's parliament, the National Assembly.

Armenia's Justice Minister Gevorg Danielyan presented the texts in English to the Venice Commission on 26 October, asking them to prepare a legal review, Tatiana Mychelova of the Venice Commission told Forum 18 from Strasbourg on 3 December. She said the Commission is preparing the review jointly with the Office for Democratic Institutions and Human Rights (ODIHR) of the Organisation for Security and Co-operation in Europe (OSCE). She added that the review is expected to be formally adopted at the Venice Commission plenary meeting on 17 and 18 December in Venice.

Pastor Ren  Leonian, head of the Evangelical Church, which has 45 congregations across Armenia, told Forum 18 on 7 December they are "very surprised" that the Armenian Government sent the proposed Amendments to the Venice Commission without first informing and consulting local religious communities and civil society. "We were not happy to learn about this only from the Venice Commission website."

Echoing this concern is Larisa Minasyan, head of Armenia's Open Society Foundations. "Such secrecy and silence is unacceptable," she told Forum 18 from Yerevan on 6 December. "This has been done in a completely closed and unaccountable way." She calls for open, public discussion of the proposed Amendments before they reach the National Assembly.

The proposed Amendments to various laws on religion come at the same time as Armenia's Defence Ministry has prepared proposed Amendments to the Alternative Service Law, which in its current version fails to establish a genuinely civilian alternative to military service. Armenia has been repeatedly criticised by the Council of Europe for failing to meet its obligation to introduce a genuinely civilian alternative service and for continuing to imprison conscientious objectors – of whom 73 were serving prison sentences as of 1 December (see F18News 7 December 2010 http://www.forum18.org/Archive.php?article_id=1518).

Armenian original texts not made public

Karen Hakopyan, Head of the Department of Normative Acts at the Justice Ministry, said that Minister Danielyan and his advisors had prepared the texts. "It's not certain they will be adopted by the Government and by the National Assembly," he told Forum 18 from Yerevan on 6 December. "We are waiting for the Venice Commission review, and if that is negative we'll look at the texts again."

Hakopyan said he was unable to make available to Forum 18 the Armenian-language originals of the proposed Amendments, insisting that they will only be published when the "final text" is approved by the government and sent to the National Assembly. Asked why the proposed Amendments have not been discussed with civil society and religious communities, he said it was better done as a "single package" once the government has approved the final text.

Continuation of previous attempts for new legal restrictions?

Many commentators have told Forum 18 that these fresh proposed Amendments are a continuation of the failed 2009 attempt to introduce new legal restrictions on religious activity. The proposed Amendments to the Religion Law and to the Criminal Code began their passage through the National Assembly in February 2009 and were approved in their first reading the following month.

The amended Religion Law would have banned the sharing of faith, required 500 adult citizen members before a religious community could gain legal status, banned non-Trinitarian Christian communities from gaining legal status, given broad reasons for banning religious communities, and recognised the "exclusive mission" of the Armenian Apostolic Church. The new Criminal Code Article 162 would have punished the sharing of beliefs.

However, in a review made public in June 2009, the Council of Europe and OSCE strongly criticised the proposed Amendments. Work on them then appeared to have halted, although officials insisted that the Amendments had not been abandoned (see F18News 2 July 2009 http://www.forum18.org/Archive.php?article_id=1321).

The latest Justice Ministry texts differ from the 2009 proposed Amendments, even though many of the issues they deal with are identical.

New restrictions and punishments in proposed Amendments

- Legal status only after "theological expert examination"

In the current proposed Amendments, a revised Article 5 of the Religion Law specifies that registration of a religious organisation "would be on the basis of an expert opinion of its religiousness", which would include a review "of the doctrine of their faith provided by an organisation".

Attached to the registration application would have to be "information on the basics of the doctrine and the practice based thereon, including the characteristics of the given belief and history of origin of the given organisation, characteristics of the forms and methods of its activities, characteristics of attitude towards family, marriage and education, characteristics of the attitude towards the health of the followers of the given religion, on limitations of civil rights and obligations envisaged for the members and servants of the organisation".

A far more detailed Article 14 specifies that the state body which conducts the "theological expert examination" of all applications has the right to seek further information from the applicant if it needs it. A "negative expert opinion" by this body would prevent an organisation from gaining legal status.

The revised Article 5 would however remove a provision of the current Law that religious communities must be based on "historically canonised Holy Scriptures".

- High minimum number of members required

The Amendments would leave unchanged the requirement (introduced in 1997) to have 200 adults to found a religious organisation.

- Wide-ranging unclear limitations on activities

A new Article 7.1 would oblige a religious organisation "not to engage in activities conflicting with the objectives envisaged by its statute or prohibited by law, not to damage the uninhibited mental and physical development of an individual, including of children and teenagers, the property of a person, not to intervene in family affairs arbitrarily". It would also oblige it "not to damage property of the state, legal persons and citizens when implementing its statutory objectives".

- Detailed wide-ranging annual reports required

The Article would also oblige each religious organisation to submit detailed annual reports on its activity, including "on cooperation

with other religious organisations" and on "implemented projects (charity, construction, medical, educational) and events (celebrations, pilgrimage, concerts, camping)".

- Wide-ranging unclear scope to ban religious communities

A new Article 24 would introduce wide-ranging possibilities to "terminate" the activities of a religious organisation and strip it of legal status: "Breach of public security and public order; Damaging human health and morality; Encroachment of human rights and freedoms; Arbitrary intervening in family affairs; Abetting persons 'being in a state dangerous for life and health' to refuse medical aid based on religious motives; Instigate persons to refuse performing civil obligations prescribed by law and to commit other illegal actions."

- Wide-ranging unclear limitations on freedom of expression

Article 8, which already bans sharing of faith (proselytism or "soul-hunting"), would have a further clause added: "Any direct or indirect attempt of persuasion aimed at distortion of religious convictions (views) of persons through a reward or promise thereof or moral assistance or material aid or deceit, as well as through exploitation of their lack of experience, trust, need, low mental abilities, shall be deemed proselytism."

The new Article 24 would specify: "Religious advocacy (preaching) in kindergartens, schools and other educational, learning, social institutions shall be prohibited. Proselytism and performance of functions of religious organisations in violation of the requirements of the legislation of the Republic of Armenia shall be prohibited."

An Amendment to the Charity Law would add a ban on charity "for the purposes of religious advocacy". This is defined as "the dissemination (irrespective of the form – a book, brochure, electronic carrier, etc.) of certain religious ideas and knowledge (doctrines) by a follower believing in them".

A new Article 162.1 would be added to the Criminal Code: "Distortion of religious convictions of persons in any direct or indirect form of persuasion through a reward or a promise thereof or moral assistance or material aid or deceit, as well as through exploitation of their lack of experience, trust, need, low mental abilities shall be punishable by a fine in the amount of 500-fold to 1000-fold of the minimum salary or by detention for a maximum term of three months or by deprivation of the right to hold certain positions or carry out certain activities for a maximum term of three years."

Three new Articles are proposed for the Code of Administrative Offences. Article 178.1 would punish preaching in educational establishments, with fines of 500 times the minimum monthly wage, doubled for repeat "offences". Article 178.2 would punish "Performance of functions of religious organisations and registration in violation of the requirements of the legislation of the Republic of Armenia, failure to submit information, falsification or concealment thereof" with similar fines.

- High fines for information thought to be "incomplete or false"

Article 178.3 would punish "Failure to provide information or provision of incomplete or false information on charity works carried out by religious organisations" with a fine of 100 times the minimum monthly wage (150 times for repeat "offences").

Strong criticism

Many of these proposed Amendments have provoked strong criticism from human rights defenders and religious communities. "As in 2009 proposed Amendments, we fear the limitations on freedom of conscience, freedom of expression of our faith and limitation on human rights generally," Pastor Leonian told Forum 18.

Several human rights defenders and religious leaders complained to Forum 18 of what they regard as the vague formulations which they fear could lead to wide interpretation on the part of officials and courts. "Civil society is at a loss as to how to interpret some of these provisions," Minasyan of the Open Society Foundations told Forum 18. "Moreover, many provisions put the burden of proof on religious organisations that they are not violating the law, which is the wrong way round."

Pastor Leonian warned that the Amendments could create intolerance and hatred in society and conflict between different religious communities. "If adopted, they will create two kinds of citizens in Armenia – those of the Armenian Apostolic Church on one side, and then the rest," he said. "It is difficult for us to accept in an independent and democratic state that there can be two classes of citizen. I don't want to see this kind of Armenia."

Lusyan of Word of Life Church warns that the restrictions on and penalties for sharing one's faith would have a chilling effect. "Normal religious activity could be regarded as proselytism, while all churches which preach – using books or websites, which is all of them – could be banned," he told Forum 18. "It will criminalise such activity. How can churches then spread their faith and preach?"

He especially fears the new Criminal Code punishments for "proselytism".

ECtHR precedent challenges Amendments

Jehovah's Witnesses too are concerned. They pointed out to Forum 18 on 8 December that many of the proposed provisions have already been deemed unlawful in decisions of the European Court of Human Rights (ECtHR) in Strasbourg. In its June 2010 judgment on the Moscow Jehovah's Witness community being denied registration (Application no. 302/02), the ECtHR ruled that "the State's duty of neutrality and impartiality prohibits it from assessing the legitimacy of religious beliefs or the ways in which those beliefs are expressed or manifested" (see <http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=869647&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>). The Russian government has challenged this judgment,

The Jehovah's Witnesses also pointed out that the June 2010 judgment reiterated earlier ECtHR decisions upholding the right to preach one's faith, which "has to be distinguished from improper proselytism that takes the form of offering material or social advantages with a view to gaining new members for a church, exerting improper pressure on people in distress or in need or even using violence or brainwashing".

Justice Ministry defends Amendments

Asked why Armenia's 1991 Religion Law (as amended in 1997 and 2001) and the other laws need to be amended further, Hakopyan of the Justice Ministry insisted to Forum 18 that "it is not correctly written" and the current legal regulation of religion "carries a risk of corruption".

Asked to explain, he said during the election money was paid to political parties, while money was also spent on charity. "We want this to be under the law." Asked to explain clearly who had done something that required these Laws to be tightened, Hakopyan admitted that "no incidents were officially recorded", but repeated his insistence that these Laws need to be tightened.

Hakopyan also insisted that it is wrong that the current Law does not ban people from paying others to change their faith. "We're opening up this possibility." Asked whether such cases have occurred in Armenia and how often, say, in the past year, he responded: "I've seen myself in a children's home in 2009 when people from a religious community came in with presents and prayed." Despite Forum 18's repeated questions he would not explain which religious community had brought the presents and prayed, and how this had violated the rights of the children.

Hakopyan complained that some religious communities "take a family under their care" if they join them, arguing that such "proselytism" is bad. However, he was unable to say how widespread this is, despite citing as evidence of such "proselytism" that "many religious sects" are operating in Armenia.

The office of Vardan Astsatryan, head of the government's Department on National Minority and Religious Issues, declined to put Forum 18 through to him on 6 December, saying he could not speak on the proposed Amendments. (END)

More coverage of freedom of thought, conscience and belief in Armenia and the unrecognised entity of Nagorno-Karabakh is at <http://www.forum18.org/Archive.php?query=&religion=all&country=21>

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 Armenia is available at <http://www.nationalgeographic.com/xpeditions/atlas/index.html?Parent=asia&Rootmap=armeni>.

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