

14 July 2011

ARMENIA: "A kind of theatrical farce - I see no progress"

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

Human rights defenders and some religious communities have expressed concern over provisions of a proposed new Religion Law and amendments to the Law on the State and the Armenian Church, and to the Criminal and Administrative Codes. They told Forum 18 News Service of their concerns over: the ban on "soul-hunting", defined as "improper proselytism", which could be punished by up to two months' imprisonment (up to two years' if done by more than one person); compulsory religious registration for communities of more than 25 adults; and vague formulations which some religious communities fear could be used against them. The Justice Ministry published the drafts on 12 July. "These proposed amendments are repressive and a lot worse than the previous version," Stepan Danielyan of the Collaboration for Democracy Centre told Forum 18. But Russian Orthodox priest Fr Arseni Grigoryants welcomed the drafts' "harsh attitude to incidents of proselytism" and "attempts to provide [juridical] mechanisms" to punish them.

Human rights defenders and members of some religious minorities have reacted critically to drafts of a proposed new Religion Law, as well as changes to the Law on Relations between the Republic of Armenia and the Armenian Apostolic Church, and to the Criminal and Administrative Codes. The draft laws were made public on 12 July. "These proposed amendments are repressive and a lot worse than the previous version," Stepan Danielyan of the Collaboration for Democracy Centre told Forum 18 News Service from the Armenian capital Yerevan on 13 July. "In practice they would be used to repress religious organisations." Evangelical Pastor René Leonian is equally critical of the drafts and the government's approach. "This is a kind of theatrical farce," he told Forum 18 from Yerevan the same day. "I see no progress."

The major proposals Armenian religious communities and human rights defenders have so far expressed concern about include: proposed punishments for sharing one's faith; compulsory registration for any religious community with more than 25 members, with punishments for those who do not register; as well as the vague formulation of many provisions. All of these are thought likely to leave followers of religious organisations the government – or the powerful Armenian Apostolic Church - dislikes vulnerable to arbitrary and tight restrictions on their freedom of religion or belief.

Why is Justice Ministry hostile to public discussion?

The Justice Ministry prepared the draft Amendments, and intended to send them to the Council of Europe's Venice Commission without public discussion – even though Justice Minister Hrair Tovmasyan had publicly promised that they would be publicly discussed before being sent to the Venice Commission (see F18News 24 February 2011 http://www.forum18.org/Archive.php?article_id=1546).

Karen Hakopyan, Head of the Department of Normative Acts at the Justice Ministry, told Forum 18 on 6 July categorically that the draft texts would not be made public and would be sent to the Council of Europe's Venice Commission without any public discussion. Similarly, Nora Sargsyan, legal adviser to Minister Tovmasyan, insisted to Forum 18 from Yerevan on 9 July (before the drafts were published) that the texts were not being made public and were being translated into English to be sent only to the Venice Commission.

This is the same highly controversial procedure that was followed for the previous proposed amendments, which only became known in Armenia when they were placed – in English only - on the Venice Commission website (see F18News 8 December 2010 http://www.forum18.org/Archive.php?article_id=1519).

Hakopyan of the Justice Ministry, as well as another senior official involved in the process in the central government apparatus (who asked not to be identified because they are not authorised to talk to the media), told Forum 18 on 6 July that the Justice Ministry sent the draft texts to the central government apparatus on 29 June.

The senior government official told Forum 18 that the government's religious affairs official Vardan Astsatryan of the Department for Ethnic Minorities and Religious Affairs was preparing an opinion on the drafts and that the government has not yet approved them. Astsatryan's telephone went unanswered each time Forum 18 called between 6 and 14 July.

However, by 11 July the Justice Ministry had changed its position and posted the texts on its website on 12 July. "The draft text will be published so that we can receive comments from the public," Deputy Justice Minister Emil Babayan told Forum 18 the day before they were made public. However, the Justice Ministry website posted the texts without any comment or invitation for comments from the public. Babayan insisted that comments would be sought from the Venice Commission at the same time as comments from interested parties within Armenia. "The Venice Commission is one of those parties. This is a simultaneous, twin-track process. All comments will be taken into account."

Justice Minister keeping his promises?

Following strong criticism of earlier drafts, including severe criticisms made of them and the existing Religion Law by a December 2010 joint Council of Europe Venice Commission / Organisation for Security and Co-operation in Europe (OSCE) legal review, Justice Minister Tovmasyan on 17 February 2011 promised that the proposals would be re-drafted to take account of the criticisms. Before a large audience of civil society activists, religious communities, local journalists and Venice Commission member Finola Flanagan, Tovmasyan specifically highlighted for the re-draft the need to:

- avoid defining proselytism or soul-hunting, as this may attack the right to share beliefs, but defining precisely what actions are prohibited;
- on the right to legal personality that unregistered religious activity should be permitted, that high minimum numbers of members to register a community should be avoided;
- that the actions of some members should not be a reason to liquidate entire communities, and that liquidation should be a final resort after other warnings and penalties have been exhausted;
- and that the state must respect the rights of parents to decide on the education of children in line with their own religion or beliefs (see F18News 24 February 2011 http://www.forum18.org/Archive.php?article_id=1546).

However, the latest July proposals appear to have largely ignored Tovmasyan's public commitments. It also appears, as the Venice Commission itself noted in its December 2010 Opinion, that "the drafters in many instances do not appear to have taken into account the recommendations in the 2009 Joint Opinion" – or the 2010 Opinion (see F18News 20 January 2011 http://www.forum18.org/Archive.php?article_id=1530).

The 2009 Joint Opinion was highly critical of an earlier restrictive set of Religion Law amendments, which Parliament passed on first reading in March 2009 (see F18News 2 July 2009 http://www.forum18.org/Archive.php?article_id=1321). Although these proposed amendments appear to have stalled, Parliament could still revive them.

On 14 July Forum 18 asked the Justice Ministry press office in writing to ask Minister Tovmasyan why the specific commitments on the content appear largely not to have been met and why the promise to hold a public consultation within Armenia before the texts were sent to the Venice Commission appears to have been abandoned. Forum 18 had received no reply by the end of the working day.

"Brought into line with Armenia's Constitution and with OSCE standards"

Human rights defenders and religious communities insist that the latest amendments restrict the right to religious freedom. But despite this, Nora Sargsyan, Minister Tovmasyan's legal adviser, claimed to Forum 18 that the amendments have been "brought into line with Armenia's Constitution and with OSCE standards". Despite her confidence in this, she would not on 9 July give Forum 18 a copy of the drafts and said at that time that they would not be made public.

On 14 July, after the drafts were made public contrary to Sargsyan's earlier assurances, she declined to discuss any of the provisions with Forum 18.

Several informed sources have strongly suggested to Forum 18 that the Armenian Apostolic Church has been closely involved in the repeated restrictive drafts, even to the extent of drafting texts for them. Sargsyan insisted though that the Apostolic Church (which has its headquarters at Echmiadzin near Yerevan) had nothing to do with preparing the drafts. "Echmiadzin is not responsible for legislative policy in Armenia," she told Forum 18. "Echmiadzin may be part of public discussion like anyone else."

What is in the new proposals?

The latest published amendments are a proposed new Religion Law, as well as changes to the Law on Relations between the State and the Armenian Apostolic Church, and to the Criminal and Administrative Codes. The new proposed Religion Law would entirely replace the current Religion Law first adopted in 1991 and amended several times since, notably in 1997 and 2001.

The main proposals that so far most concern Armenian human rights defenders and religious communities are outlined below. As

discussion continues in Armenia (see below), further concerns may be raised.

- Freedom of religion or belief dangerous?

Many provisions of the proposed new Religion Law give the impression that allowing freedom of religion or belief is potentially dangerous, and that religious communities must be subject to special scrutiny. Religious communities are banned from functioning "in secret", using "preaching influence on persons holding other religious affiliation or views which is not compatible with respect for freedom of conscience, religion or belief", or controlling the "private life, health, property and behaviour" of adherents. They are required to act in accordance with Armenia's Constitution and Laws and respect others' religious or theological affiliation.

- Children's rights

Preaching to children under 14 without their parents' consent is banned and punishable. Forum 18 is not aware that any faiths in Armenia engage in this practice with the exception of the Armenian Apostolic Church, whose priests sometimes address children in schools without their parents' express consent.

- "Soul-hunting"

Crucially, "soul-hunting" is banned and punishable under amendments to both the Criminal and Administrative Codes. Defined on first mention in Article 4 of the proposed Religion Law as "improper proselytism", the Article identifies this as preaching to people of other faiths "with the aim of changing their faith" using or threatening "physical or psychological violence"; preaching while providing material or social help; abusing an individual's dependency while preaching; arousing hatred of other religions or religious organisations; "persecuting" an individual more than once; or preaching to children without their parents' consent.

Successive proposed Religion Law amendments have tried to introduce a concept of "soul-hunting" (hogevorsutyun), a derogatory term in Armenian for sharing one's faith, and make it a punishable offence.

Article 4 of the proposed new Religion Law bans "soul-hunting" and specifies that it is subject to administrative and criminal punishments. A new Article 160.1 would be added to the Criminal Code punishes "soul-hunting" with fines of up to 300 times the minimum monthly wage or up to two months' imprisonment when done by individuals. If done by a group or by officials using their official position, it carries a fine of up to 500 times the minimum monthly wage or a maximum two years' imprisonment.

The term "soul-hunting" is used to encourage religious intolerance leading to violations of freedom of religion or belief (see reports by the Collaboration For Democracy Centre http://religions.am/eng/index.php?option=com_content&view=article&id=97:coverage-of-religious-issues-in-the-armenian-media-2010&catid=1:articles and the Helsinki Committee of Armenia http://www.armhels.com/DownloadFile/344eng-Freedom_of_Religion_in_Armenia.pdf).

- Denial of legal status to small communities, compulsory registration

Article 5 of the proposed new Religion Law divides communities into groups of fewer than 25 adult members, which cannot gain legal status, and religious organisations, with more than 25 adult members. Under Article 6, organisations must register.

A new Article 205.3 of the Administrative Code would punish leaders of religious organisations which refuse to register with a fine of 100 to 600 times the minimum monthly wage.

- Do unregistered communities have rights?

Article 8 of the proposed Religion Law sets out what rights religious organisations have, such as to conduct rituals or teach religion. It states that registered religious organisations only receive such rights on registration. But the proposed Law does not specifically declare – as the human rights standards Armenia has signed state – that everyone has these rights without a need for registration. Officials in the former Soviet republics often interpret a lack of specific permission to imply that such rights do not exist without such permission.

- Intrusive and unclear information demands

Under Article 6, communities applying for registration must provide much information with its statute, including the "nature of the religious organisation" as well as a "description of the religion or belief". The Law does not specify whether a brief statement will be enough or whether this requires a detailed exposition of a community's entire beliefs.

It is unclear whether – as in the 2009 proposals – this will lead to officials or the Apostolic Church making and enforcing judgments on which beliefs or doctrines registered communities will be permitted to hold (see F18News 24 March 2009 http://www.forum18.org/Archive.php?article_id=1272).

Religious organisations must provide much internal information annually to the Justice Ministry and publish it on their own officially recognised website. It remains unclear what a community without a website does. The required information – whose level of detail is unclear from the text – includes: expenditure and income, including "membership fees" (Forum 18 is not aware of any religious community in Armenia which charges "membership fees"); details of all "programmes" (undefined) the religious organisation has undertaken; numbers of "members" and the addresses of leaders and the official address.

Failure to publish such information would be punishable, under the revised Administrative Code Article 206, with fines of 300 to 500 times the minimum monthly wage.

- Funding

Article 9 contains the provision: "Religious organisations cannot be financed by foreign governments, individuals and legal entities." Violations of this are punishable under the revised Article 206 of the Administrative Code with fines of 700 to 1,000 times the minimum monthly wage. Forum 18 notes that as the Armenian Apostolic Church, the Armenian Catholic Church and many Protestant churches are among religious communities which depend heavily on foreign funding, such a provision would if impartially applied have a serious impact – notably on the dominant Apostolic Church.

- Data protection and arbitrary registration rejections?

It remains unclear how the registration authority – the Justice Ministry – will handle the information supplied (including the confidentiality of information such as private addresses), and whether any safeguards will be in place to protect arbitrary rejection of a religious community's application.

- Registration denials and liquidation

Article 7 provides reasons for the Justice Ministry to deny registration, while Article 13 allows for the Justice Ministry to go to court to have a religious organisation suspended for six months or, under Article 14, liquidated. Religious organisations can be liquidated if they provided "false information of significance" when registering, if they promote ethnic or religious hatred, or if they fail to remove violations they have been warned about or repeat them within a year. Providing "clearly false information" is punishable with a fine of 300 to 500 times the minimum monthly wage under the revised Article 206 of the Administrative Code.

Why?

Sargsyan of the Justice Ministry insisted to Forum 18 that the Religion Law and other legal changes were necessary to bring them into line with changes in recent years to Armenia's Constitution. The 2005 Constitutional amendments recognised "the exclusive historical mission of the Armenian Apostolic Holy Church as a national church, in the spiritual life, development of the national culture and preservation of the national identity of the people of Armenia".

In February, Justice Minister Tovmasyan noted that respecting the rights of the Apostolic Church was not a reason to restrict the rights to religious freedom of members of other religious communities (see F18News 24 February 2011 http://www.forum18.org/Archive.php?article_id=1546).

The Justification for the legal changes, published together with the draft texts on 12 July, also points to the Constitutional changes, as well as to Armenia's international commitments as a member of the Council of Europe. They did not explain why much of the advice of the Venice Commission review has apparently been ignored.

The Justification notes "shortcomings" in the current Religion Law, specifically pointing to the rights given at present only to "citizens", which it correctly notes is not in accord with provisions of the European Convention on Human Rights. This was one of the numerous problems highlighted by the Venice Commission / OSCE reviews. It also notes that the current law does not specify the right to change one's religion. It also claims the need to "regulate" the religious education of children and to protect children from being preached to without their parents' consent.

The Justification insists that "soul-hunting (proselytism)" needs to be dealt with in law, but does not explain why this is needed, how this matches Armenia's international human rights obligations, and how this deals with the use of the term to encourage intolerance.

It also fails to explain what concrete specific problems, which have happened in Armenia, the restrictive parts of the amendments are designed to solve.

Amendments are "absurd" and "a censorship tool"

Danielyan of the Collaboration for Democracy Centre noted that the Justice Ministry has taken account of several Venice Commission recommendations, particularly in extending rights to everyone, not just to citizens. But he remains adamant that the

current texts are worse than their predecessors.

He described as "absurd" the Articles covering "soul-hunting" and punishments for it, and the procedure for "suspending" religious organisations. "The draft Law does not say if, during a suspension of up to six months, people will be able to meet and pray," Danielyan complained to Forum 18. He also objected to the compulsory registration for communities with more than 25 adults. "Why should groups have to register if they don't want to?"

Danielyan also questioned the privileges granted to the Armenian Apostolic Church and said it was unclear whether that Church was subject to the same provisions as other religious organisations. "If Armenian Apostolic priests go into schools, will they have to get the same permission from all parents that other communities would have to get?"

As for the extensive annual reporting by religious organisations to the Justice Ministry, Danielyan maintained: "They want everyone to be under their control."

Danielyan also pointed to the provisions banning promotion of "religious hatred". "At first glance this looks good," he told Forum 18. "But in reality it will be used as a censorship tool – if I speak badly of the Catholicos, even about previous Catholicoses in history. This will only be used to protect the Armenian Apostolic Church."

Media coverage in Armenia is often highly intolerant of religious minorities, at times accusing them of crimes they have not committed (see F18News 12 July 2011 http://www.forum18.org/Archive.php?article_id=1592).

Pastor Leonian, head of an Evangelical Church which has 45 congregations across Armenia, told Forum 18 his communities have the same concerns they had with the previous drafts. He believes the reduction of the proposed threshold for gaining registration from 500 in the previous draft to 25 is in order to ensure state control, pointing out the requirement for annual submission of detailed information.

Pastor Leonian expressed great concern about the provisions over "soul-hunting". "At first mention they speak of 'improper soul-hunting', but then they just talk about 'soul-hunting'."

He welcomes the removal of Article 17 of the current Religion Law, which grants a monopoly on preaching to the Armenian Apostolic Church, but laments that this has now been incorporated instead into the new Article 12.1 of the 2007 Law on Relations between the Republic of Armenia and the Armenian Apostolic Church.

The Council of Churches Baptists – who refuse to register in principle in any of the former Soviet republics where they operate, believing that this leads to unwarranted state interference in their internal affairs – have several small congregations in Armenia, with the two largest in Yerevan and in Armavir, a town west of the capital. Several church members told Forum 18 on 13 July that even if compulsory registration and punishments for those who refuse are introduced, they would continue to meet for worship without seeking registration.

Fr Arseni Grigoryants, priest of Yerevan's Russian Orthodox Church, broadly supports the drafts, believing that "more than before they are in accord with the demands of contemporary international democratic norms". However, the proposed Religion Law should go further in its "harsh attitude to incidents of proselytism", he told Forum 18 from Yerevan on 14 July. He lamented the current lack of "juridical mechanisms" for punishing spreading one's faith, which he claimed causes "deliberate harm to the spiritual health of the nation and individuals". He welcomed the drafts' "attempts to provide these mechanisms".

Fr Grigoryants lamented that his Church's suggestions of a three-tier level of recognition was not adopted, with the Armenian Apostolic Church in the dominant position, followed by "traditional confessions" (which he did not identify), and a third category of "other religious organisations". He told Forum 18 that this would better protect Armenia from "targeted destructive foreign influence".

Forum 18 tried to reach Fr Vahram Melikyan, spokesperson for the Armenian Apostolic Church, between 12 and 14 July, but he was not in the office and did not answer his mobile phone. Forum 18 also tried to seek comments from a range of other religious communities.

Discussion begins

Within hours of the Justice Ministry's publication of the proposed drafts, human rights defenders and religious communities began assessing them.

A group of Protestant churches met in Yerevan on 14 July. Danielyan of the Collaboration for Democracy Centre told Forum 18 that several organisations – including his own, the Open Society Foundation, and the OSCE – are planning public discussions. They hope that political parties which oppose the proposals – he named the Heritage Party (which has seven deputies in its parliamentary faction) and possibly Prosperous Armenia (which has 26 deputies) – will also discuss the proposals.

Proposals for a new Religion Law and other legal changes come as the government's proposed amendments to the 2003 Alternative Service Law are in Parliament. It remains unclear whether these proposed changes will allow for the creation of a genuinely civilian alternative service, which - in commitments to the Council of Europe - Armenia should have created by January 2004 (see F18News 7 July 2011 http://www.forum18.org/Archive.php?article_id=1591). (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://education.nationalgeographic.com/education/mapping/outline-map/?map=Armenia>.

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