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RUSSIA: "How can a believer light a match to destroy holy books?"

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

Russian prosecutors are seeking to have the Russian translation of the most important work for Hare Krishna devotees – the Bhagavad-Gita As it Is – banned. "They are trying not just to declare our book extremist, but our religious teaching also. If they succeed, our community throughout Russia could be declared extremist", the community's lawyer Mikhail Frolov told Forum 18 News Service. Prosecution "expert analyses" have been severely criticised. Meanwhile, an appeal court in Dagestan has ruled that works by the Muslim theologian Said Nursi should be handed to the Dagestan Muslim Board "for a decision on the question of the destruction of the banned books and pamphlets". Forum 18 notes that Russian law bans handing over state functions – such as this decision – to religious organisations. Dagestan's Muslim Board told Forum 18 they have not been given the books, and would not destroy them on state orders. Mikhail Odintsov of the office of Russia's Human Rights Ombudsperson described the decision to Forum 18 as "incomprehensible", asking: "How can a believer light a match to destroy holy books?" Book confiscations and destructions have taken place in relation to both Nursi's works and Jehovah's Witness literature.

Prosecutors in Tomsk are seeking through the courts to have the Russian translation of the most important work for Hare Krishna devotees – the Bhagavad-Gita As it Is – declared "extremist" and placed on the Federal List of Extremist Materials. "This case is more than important for us – it is vital," Hare Krishna lawyer Mikhail Frolov told Forum 18 News Service from Moscow on 4 October. "This is the most important development in the whole history of our movement in Russia. They are trying not just to declare our book extremist, but our religious teaching also. If they succeed, our community throughout Russia could be declared extremist."

Meanwhile, an appeal court in Dagestan – while upholding a three-year suspended prison term on Ziyavdin Dapayev – has ruled that works by the late Muslim theologian Said Nursi confiscated from him should be handed to the Dagestan Muslim Board "for a decision on the question of the destruction of the banned books and pamphlets". Forum 18 notes that Russian law bans handing over state functions – such as this decision – to religious organisations. A spokesperson for Dagestan's Muslim Board told Forum 18 they have not been given the verdict or the books, and would not destroy them on state orders (see below).

Tomsk Prosecutor and FSB against Hare Krishna community

Viktor Fedotov, Tomsk's Prosecutor, asked the city's Lenin District Court to rule the third Russian edition of the Bhagavad-Gita As it Is extremist. The book is a Russian edition of a translation by Swami Prabhupada, founder of the International Society for Krishna Consciousness. An "expert analysis" completed in October 2010 by three academics at Tomsk State University – Sergei Avanesov, Valeri Svistunov and Valeri Naumov – found that the book "contains signs of incitement of religious hatred and humiliation of an individual based on gender, race, ethnicity, language, origin or attitude to religion", he said. The analysis claimed the book humiliated those who did not believe in or even know about Krishna or follow Krishna's teachings. It claimed that the author propagated the exclusivity and superiority of his faith and was hostile, insulting and humiliating about other faiths. It also claimed that the author called for hostile or violent acts against women and non-Hare Krishna devotees.

[For an analysis of the problematic nature of the concept of "the incitement of hatred [nenavist] or enmity [vrazhda], as well as the humiliation of an individual or group of persons on the basis of .. attitude to religion", and other problems with Russian anti-extremism legislation, see a personal commentary by Alexander Verkhovsky of the SOVA Center for Information and Analysis at F18News 19 July 2010 http://www.forum18.org/Archive.php?article_id=1468.].

Tomsk Prosecutor Fedotov argued that the Bhagavad-Gita As it Is was therefore extremist under Article 1 of the 2002 Extremism Law. Article 13 of the same Law bans the distribution or storage for the purposes of distribution of such extremist works. He cited a 24 June report by Tomsk regional FSB security service that it had obtained the Bhagavad-Gita As it Is at the Saraswati Indian shop in Tomsk. Fedotov also asked the court to send its ruling that the book is extremist to the federal authorities in Moscow, so that it could be included in the Federal List of Extremist Materials and banned throughout Russia.

Tomsk Prosecutor's Office refused to put Forum 18 through to Prosecutor Fedotov. Marina Osipova, the official who prepared the

30 June letter, refused to tell Forum 18 on 24 August who had initiated the action against the city's Hare Krishna community and the Bhagavad-Gita As it Is or why. "There is a special procedure for answering questions," she told Forum 18 and put the phone down.

An officer of the Tomsk FSB, who would not give his name, insisted the same day that it could not comment while the case was in the courts. However, he claimed that the FSB security service had played "no role" in the case and merely "carried out the instructions given by the Prosecutor's Office".

Attempts to ban book "absurd"

Nelli Krechetova, the Tomsk Region Ombudsperson for Human Rights, described attempts to ban the Bhagavad-Gita As it Is as "absurd", the local media reported on 3 October. She warned that "the possible ban on the book, and, therefore, the ban on the religious activity of its followers, violates the constitutional rights of the citizen to freedom of conscience, freedom of religion and freedom of speech." She called for the legal case to be reconsidered.

As the court case was underway, Swami Prabhupada's edition of the Bhagavad-Gita As it Is gained praise from the Indian Ambassador to Russia, Ajai Malhotra. In a recording on YouTube he said: "The translation by Swami Prabhupada is I believe one of the best that you can find," he told a celebration of the festival of Krishna Janmashtami in Moscow on 21 August. "The reason is because he gives you the words, their meanings and the options to understand it [Bhagavad-Gita] as it was written, not through any intermediary."

In June, Russia's Supreme Court made clear that cases under "extremism"-related Articles of the Criminal Code should be very carefully and narrowly framed. But this has not stopped the Tomsk case, or similar cases against Muslim readers of Nursi's works and Jehovah's Witnesses (see F18News 19 July 2011 http://www.forum18.org/Archive.php?article_id=1594).

Case begins

At Lenin District Court, the case was handed to Judge Galina Butenko, the court website notes. Four hearings took place between 12 and 30 August, when the case was suspended. As the case began, human rights defenders picketed the court, with posters quoting the rights to religious freedom and freedom of speech in the Universal Declaration of Human Rights and the Russian Constitution.

Also displayed were quotations from the 1953 novel Fahrenheit 451 by the writer Ray Bradbury, which envisages a future where all books are burnt and those who possess them punished. One poster quoted an exchange from the novel between a woman and her neighbour, a fireman who burns books: "Do you ever read any of the books you burn?" He laughed. "That's against the law!"

During the hearings the three compilers of the "expert analysis" were questioned. On 18 August, Avanesov admitted in court that the FSB security service had asked him to conduct the analysis in 2010, long before the case reached court. In response to a question from the judge, he acknowledged that he sees no direct incitement to discord in the book. He claimed that some people – though not himself – could be offended by the use of the word "pigs". The judge then pointed out that the Bible uses the same word in the saying "do not cast pearls before swine" (St Matthew 7,6).

Svistunov also stated in court that the Bhagavad-Gita As it Is contains no hostile comments about other faiths. He said the book supports the exclusivity of the faith, but added that this is the same for any faith.

Among other assessments, the defence presented a 2004 analysis by Professor Boris Falikov, of the Russian State Humanitarian University's Centre of Comparative Religions (who is Russian Orthodox), which noted that: "Prabhupada's books do not express any negative views or positions in relation to any ethnic, racial, national or religious groups". However, the court refused to accept the analysis because it did not specify which edition of the book it analysed.

In the evening of 30 August, Judge Butenko agreed to the Prosecutor's request to order a further "psychological/religious studies/linguistic expert analysis" of the Bhagavad-Gita As it Is, this time by three academics at Kemerovo State University. The three academics are Aleksey Gorbato (religious studies), Mikhail Osadchy (linguist) and Sergei Dranishnikov (psychologist). The instructions to the experts drawn up by the Prosecutor's Office include the formulation "manipulation of consciousness".

The book's publishers in Russia, the Hare Krishna-run Bhaktivedanta Book Trust, appealed against the judge's decision to send the book for further analysis. However, on 30 September Tomsk Regional Court rejected their suit. This allowed the Lenin District Court to request the expert analysis on 3 October, to be submitted by 1 December.

Concern over "experts"

The Hare Krishna community has expressed concern over the choice of "experts", pointing out that Gorbato is not an expert in Hinduism and that his main publications have been on the history of Christianity in Siberia. They are also concerned at another of the three new "experts", Osadchy, as he was one of three Kemerovo State University "experts" who found that Jehovah's Witness literature was "extremist".

The May 2009 "expert analysis" to which Osadchy contributed formed a basis for the prosecution in Gorno-Altai on extremism-related charges of local Jehovah's Witness Aleksandr Kalistratov (see F18News 1 December 2010 http://www.forum18.org/Archive.php?article_id=1516). This "expert analysis" was strongly criticised by Aleksei Nagovitsyn, a professor in Moscow State University's Social Anthropology and Sociology Department, in a written assessment. Equally critical of the "analysis" in court in Gorno-Altai on 16 March during Kalistratov's first trial was Mikhail Odintsov, the top official dealing with religious issues at the office of Russia's Human Rights Ombudsperson in Moscow. He described it as "unscientific" and stated that relying on it "is fraught with further miscarriages of justice and may prove a detonator of mass violations of human rights" (see F18News 30 November 2010 http://www.forum18.org/Archive.php?article_id=1515).

Kalistratov was prosecuted under Criminal Code Article 282, Part 1 ("Incitement of hatred [nenavist] or enmity [vrazhda], as well as the humiliation of human dignity"). However, after a six-month trial he was acquitted in April. But after prosecutors appealed a second trial was ordered on the same charges, which began on 22 June. Among "witnesses" on Kalistratov called by the prosecution has been a Russian Orthodox priest who did not know him and an "anti-cult" activist (see F18News 31 August 2011 http://www.forum18.org/Archive.php?article_id=1606).

The 17th hearing in the second trial took place at Gorno-Altai City Court on 6 October, according to the court website. The trial is due to continue on 13 October.

Will new assessment be accurate?

Some doubt that the second analysis of the Bhagavad-Gita As It Is will be more accurate than the first. "The defence succeeded in completely rejecting the conclusions of the 'expert analysis'," Nikolai Karpitsky, a philosophy lecturer at Siberian State Medical University, told Forum 18 from Tomsk on 4 October. Karpitsky, who is Russian Orthodox, attended court hearings as an expert for the defence. "The court had two choices: to agree that no reason exists to consider the Bhagavad-Gita As It Is extremist, or to decide that the court didn't have enough evidence to make a decision. The court chose the second option."

Kemerovo State University is "practically the only place where the Prosecutor's Office analysis that a book is extremist would be confirmed", Karpitsky told Forum 18. "That's why the court rejected the defence's suggestions of possible experts in Moscow or Yekaterinburg. I think all the mistakes of the first 'expert analysis' will be removed this time round, making it much harder to challenge the new 'expert analysis' in court."

"I can't be an expert on every single faith"

Gorbatov, one of the newly-appointed "experts", told Forum 18 from Kemerovo on 5 October that he had not yet had any official document about the analysis. He said he did not know if he would be paid for it, though he told Forum 18 its question about payment was "not appropriate".

At Kalistratov's trial for manifesting his Jehovah's Witness beliefs in Gorno-Altai on 16 September, the defence revealed that the contract with Osadchy and his colleagues for the "expert analysis" had provided for the experts to be paid 50,000 Roubles (9,000 Norwegian Kroner, 1,160 Euros, or 1,600 US Dollars) each. Although billed as a "judicial expert analysis", the contract also revealed that it had been prepared by the Prosecutor's Office without informing the court, and that it had made 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". Jehovah's Witnesses point out that this gives the "experts" a strong incentive to reach the conclusions the Prosecutor's Office wants.

Gorbatov told Forum 18 that he did not know why the court had chosen him, but that his dissertation had been on relations between the state and religious communities. Asked if he has a special knowledge of Hinduism, he responded: "I am a religious studies expert, but I can't be an expert on every single faith."

Gorbatov told Forum 18 he is not personally a religious believer, but is positive to all faiths. He defended his colleague Osadchy's contribution to the "expert analysis" on Jehovah's Witness literature. "He was one of those who judged my dissertation." He said he was aware of criticism of the analysis Osadchy contributed to, including from Odintsov of the Human Rights Ombudsperson's office. "He is entitled to his views. But Jehovah's Witnesses are a problem all over the world." He declined to explain what he meant by "problem".

Asked whether he believes it is right that the state carries out "expert analyses" of religious texts, Gorbatov responded: "All states do this." Asked to name some, he responded: "France and Germany."

The Tomsk case is not the first occasion on which Hare Krishna devotees have recently been targeted. Outdoor public religious activity by Russian Jehovah's Witnesses, Hare Krishna devotees and Protestants has resulted in harassment by the police, repeated bans, and in one case a refusal to defend a Protestant meeting against violent attack involving stun grenades (see F18News 26 July 2010 http://www.forum18.org/Archive.php?article_id=1469).

"How can a believer light a match to destroy holy books?"

In his 20 September decision in the case of Muslim reader of Said Nursi's works Dapayev, Judge Magomed Onzholov of Makhachkala's Lenin District Court rejected his appeal against his three-year suspended prison sentence, according to the verdict seen by Forum 18. He upheld Dapayev's appeal against the lower court decision that 1,820 books confiscated from him should be destroyed. However, Judge Onzholov ruled instead that the books – which the verdict says are being held by the Investigation Department of Dagestan's FSB – are to be handed to Dagestan's Muslim Board "for a decision on the question of the destruction of the banned books and pamphlets".

Forum 18 notes that the ambiguous wording of this sentence does not make clear if the Muslim Board can choose whether or not to destroy the books, or only to choose how they will be destroyed. Most of the books were copies of Nursi's commentary on the Koran, Risale i-Nur, many Russian translations of which have been banned and placed on the Federal List of Extremist Materials (see F18News 28 January 2010 http://www.forum18.org/Archive.php?article_id=1400).

Judge Onzholov refused to discuss his decision on 5 October. When Forum 18 pointed out that Article 4, Part 2 of Russia's Religion Law bans handing over state functions to religious organisations, he put the phone down.

Dapayev told Forum 18 from Makhachkala on 6 October that Judge Onzholov said at the hearing that he is a religious man and that he was afraid to order the books' destruction because they contain ayahs (verses) from the Koran. This is why he handed the issue to the Muslim Board.

"This is the first time I have heard of such a decision – it is incomprehensible," Odintsov of the Human Rights Ombudsperson's office told Forum 18 from Moscow on 5 October. "The court was wrong to hand the books' destruction to the Muslim Board." He said his interpretation of the verdict is that the Board will have to destroy the books. "How can a believer light a match to destroy holy books? It would be considered sacrilege."

Odintsov said that if the court thinks the books should be destroyed – something he thinks is unjustified in the case of Nursi's works – it should do it itself. He stressed though that Vladimir Lukin, Russia's Human Rights Ombudsperson, "has said more than once that it is wrong to consider Said Nursi's books extremist".

"We can't destroy books"

Dagestan's Muslim Board has not yet received a copy of the verdict, or the books confiscated from Dapayev, its spokesperson Magomedrasul Omarov told Forum 18 from Makhachkala on 5 October. "We can conduct an expert analysis of books according to the canons of Sharia, but we can't destroy books," he insisted. "We publish books, not destroy them." He said the Board would reject any order that they should take religious books and destroy them. Omarov added that he knew Dapayev and regarded him as a "good fellow".

Many Russian translations of Nursi's works – as well as many Jehovah's Witness publications - have been ruled "extremist" and placed on the Federal List of Extremist Materials, making it illegal to distribute or store them for distribution (see eg. F18News 21 June 2011 http://www.forum18.org/Archive.php?article_id=1582).

Several court decisions seen by Forum 18 in Jehovah's Witness cases order that publications on the Federal List seized from members in the course of cases should be destroyed. When Lyubov Belimova from Tver was fined in December 2010, the magistrate ordered that her confiscated literature be destroyed. She failed to overturn the decision on appeal in March 2011 (see F18News 13 April 2011 http://www.forum18.org/Archive.php?article_id=1562).

"Such court decisions to destroy our literature are offensive," Jehovah's Witness spokesperson Grigory Martynov told Forum 18 from St Petersburg on 8 September. "For a religious believer, any of their literature is important." He noted that in one case a court in Belgorod ordered that a confiscated Bible belonging to a Jehovah's Witness be destroyed, but the ruling was overturned on appeal. Such confiscations and destructions have affected both Muslim Nursi readers and Jehovah's Witnesses (see F18News 5 March 2010 http://www.forum18.org/Archive.php?article_id=1417).

Russian-language editions of four Jehovah's Witness publications were among the 11 new items added on 26 September to the Federal List posted on the Justice Ministry website. Three issues of their magazine The Watchtower and a book Draw Close to Jehovah had been ruled "extremist" by First of May District Court in Krasnodar on 22 April. Two of the four are already on the Federal List, so it is unclear why they have been listed a second time.

Jehovah's Witness publications are regularly added to the Federal List, with the previous addition of two items on 18 July. The most recent work by Nursi added to the Federal List came on 12 May.

Latest Dapayev appeal to be heard in November?

The investigation into Dapayev's activities began in December 2009, following armed raids on homes associated with Nursi readers in three Dagestani towns (see F18News 28 January 2010 http://www.forum18.org/Archive.php?article_id=1400). Dapayev freely admits he reads Nursi's works, but vehemently denies any association with terrorism (see F18News 4 March 2010 http://www.forum18.org/Archive.php?article_id=1416).

Dapayev was convicted on 18 May 2011 by a local magistrate in Makhachkala, who gave him a suspended three-year prison sentence under Article 282.2, Part 1 ("Organisation of the activity of a social or religious association or other organisation in relation to which a court has adopted a decision legally in force on liquidation or ban on the activity in connection with the carrying out of extremist activity"). His appeal began under Judge Onzholov on 20 June (see F18News 19 July 2011 http://www.forum18.org/Archive.php?article_id=1594).

Dapayev told Forum 18 that his lawyer Murtazali Barkayev lodged his further appeal against his conviction to Dagestan's Supreme Court in late September. He said he expects the hearing to take place in a month's time, in November. (END)

For more background, see Forum 18's Russia religious freedom survey at http://www.forum18.org/Archive.php?article_id=1196.

Analysis of the background to Russian policy on "religious extremism" is available in two articles: - 'How the battle with "religious extremism" began' (F18News 27 April 2009 http://www.forum18.org/Archive.php?article_id=1287 - and - 'The battle with "religious extremism" - a return to past methods?' (F18News 28 April 2009 http://www.forum18.org/Archive.php?article_id=1288).

A personal commentary by Irina Budkina, Editor of the <http://www.samstar.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.

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.

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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