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Religious Discrimination Directed at Scientology in Russia: 2010

Censorship and Suppression of Religious Freedom under the Extremism Law

Scientology Scriptures Censored: Surgut Decision

OSCE High-Level Conference on Tolerance and Non-Discrimination (Kazakhstan, Astana, 29-30 June 2010)

Like other targeted faiths in Russia, authorities are also attempting to suppress the Scientology religion by seizing upon the June 2002 Extremism Law to justify confiscation and censorship of Scientology religious Scriptures.

A recent ruling on this issue now threatens to lead to suppression of Scientology Scriptures throughout Russia and raises the specter of liquidation proceedings and possible criminal investigations and prosecutions against religious organizations and Scientology parishioners using Scientology Scriptures. Moreover, this ruling directly affects the rights of the Mother Church's American publishing organization, Bridge Publications, a 501(c)(3) organization in California.

On 26 March, 2010, the Surgut City Court of Khanty-Mansi rendered a decision finding that 29 Scientology religious books, lectures and brochures should be labeled as "extremist" under the Extremism Law. This decision occurred after an *ex parte* hearing that did not include any party on behalf of Scientology. No one associated with the Church was allowed to intervene as a party to attend the hearing or was even given notice of the hearing. The Church and its parishioners were not heard at all regarding this matter. The decision thus contravenes every element of fundamental due process under international human rights treaties that Russia has signed and ratified, as well as the Rule of Law.

By way of background, in 2008, the Transport Prosecutor at the Surgut Airport seized and confiscated 6 sets of 28 books and lectures that form part of Scientology's Scriptures. These religious materials had been mailed to 6 Scientologists in Surgut from a Scientology Church in the United States. The Transport Prosecutor initiated civil proceedings under the Extremism Law, arguing that these materials are "extremist" pursuant to Article 13 of the Extremism Law as they "contain religious books and audio and video materials associated with Scientology teachings".

The Transport Prosecutor filed 28 suits, one against each book and one against each lecture series to find the material extremist. The Surgut City Court Judge combined these into one suit under the Extremism Law. Neither Scientology organizations nor Scientologists were a party to this proceeding. The 6 Scientologists who were the intended recipients of the confiscated religious materials filed numerous requests to intervene in the proceedings, but the Court denied them the right to participate in the case.

Likewise, the Church of Scientology of Surgut, a religious organization that successfully challenged Russia's refusal to register it a religious organization under the 1997 Religion Law in a decision rendered by the European Court of Human Rights (*Kimya v. Russia* Application nos. 76836/01 and 32782/03) in October, 2009 was denied the right to intervene, as was the American publisher of the seized Scriptural materials, Bridge Publications, Inc.

The Court therefore refused to give any Scientology organization and any Scientology parishioners the means to challenge the seizure and prove that the books were not "extremist" in accordance with fundamental principles of international law, which guarantees equality of arms and equal justice in adversary proceedings.

In April 2009, the Surgut City Court granted the Prosecutor's motion to assign experts in psychology and linguistic science to review the religious materials and to report back to the Court

with their opinion as to whether the Scriptures constitute "extremist" materials under the 2002 Extremist Law.

The psychologist assigned by the Court, Evgeny Volkov, is not a neutral and objective academic. Volkov is a notorious and controversial "anti-cultist". Volkov has translated and authored books and articles attacking New Religious Movements and minority faiths derogatorily referred to as "cults". He maintains a website containing uniformly derogatory and primarily false information on minority faiths, including Scientology. He has authored a number of "expertises" highly critical of Scientology that have been used in other types of proceedings. He is also an active member of FECRIS, an organization that actively engages in lobbying governments and intergovernmental groups against the rights of minority faiths.

Because Volkov is clearly biased and therefore completely inappropriate to be assigned to conduct an expertise on Scientology, a complaint was filed in April 2009 by one of the Scientologists who was an intended recipient of the seized Scriptures to suspend the proceedings on the grounds that Volkov did not possess the required objectivity necessary to render an appropriate "expert" opinion. The Court refused to consider this complaint on the grounds that the Scientologist who filed it was not a party in the case. Volkov was then permitted by the Court to review the Scriptures and conduct an "expertise". The appointment of such a biased individual as a purportedly "neutral and objective expert" makes a mockery of the proceedings and the rule of law.

The Judge then held a hearing on 26 March 2010 without informing anyone and issued a ruling that all of the extensive Scriptural materials seized should be deemed as "extremist" under the Extremism Law. The Court made the following finding justifying labeling these Scriptures "extremist":

According to the findings of comprehensive forensic expert examinations in psychology and linguistics dated 02 November 2009, it was established that the information materials submitted for examination state the ideas justifying violence as such and, in particular, any countermeasures against critics and opponents of Scientology; there are quite a number of patent and latent

calls to social and religious hatred on the grounds of agreement or disagreement with ideas of R. Hubbard and activity of the Church of Scientology; there are quite a number of patent and latent calls to propagandizing exclusivity, superiority or inferiority of man according to one's social and religious affiliation and attitude towards religion; there are many patent and latent calls to propagandizing exclusivity, superiority or inferiority of man according to one's social and religious affiliation; there are quite a number of patent and latent calls to violation of rights, freedoms and legitimate interests of man and citizen depending on one's social and religious affiliation and attitude towards religion; there are patent and latent calls to obstruction of legitimate activity of public authorities, in particular, judicial and law-enforcement bodies; there are latent calls to commission of crimes motivated by ideological and religious hatred and enmity and motivated by hatred and enmity against the social group composed of critics and opponents of Scientology, and against the mankind at large as *genus homo sapiens*; there are quite a number of suggesting constructions and psychological "traps," as well as mechanisms of socio-psychological impact on person.

The Court simply accepted every finding by these so-called "experts" without allowing any challenge to their opinions and without questioning any of these outrageously biased and egregiously unsupportable conclusions. Tellingly, the Court admits it simply accepted these opinions without even attempting to question their veracity or accuracy. Instead, the Court notes that:

The Court has no reason not to trust the findings of the experts who were warned that willful false findings are punishable under article 307 of the Criminal Code of the Russian Federation.

A translation of this decision is enclosed.

Although the *ex parte* and secret hearing occurred 26 March, the Church and its parishioners only learned about the decision when it was reported in the Russian press and throughout the world in media articles on 21 April 2010. The parties that had

unsuccessfully attempted to intervene then requested a copy of the decision by the Court but were refused. They also filed notices of appeal against the decision they had never seen and these too were denied.

One of the intended recipients of the Scriptures, Anna Portnova, a founder of the Church of Scientology of Surgut, received a copy of the decision from the Surgut City Court, but only *after* the 26 March decision was rendered. Ms. Portnova received the decision in the mail on 6 May 2010 and promptly filed a notice of appeal within 10 days of receipt of the decision on 13 May (the other parties that were not granted intervention below also refilled notices of appeal at this time). It is not yet clear if any of these notices of appeal will be accepted by the Court.

If they are not, then the Surgut City Court decision becomes final and, under the Extremism Law, the Ministry of Justice may include these Scriptures in the federal List of Extremist Materials it maintains and publishes on its website. To date, over 578 materials have been included in this list. This means that these Scriptures, which form the basic foundation of Scientology religious doctrine, will be banned throughout Russia, placing all Scientology religious organizations and their parishioners at risk while severely suppressing the right to religious freedom for Scientologists.

Outrageously, the so-called “expertises” that the Court accepted and relied upon wholesale in its secret, *ex parte* hearing have never been disclosed and have not been provided to any of the parties who sought to intervene in the case, not even Anna Portnova, who only received a copy of the decision from the Court.

The Extremism Law represents a grave threat to the right to freedom of religion and freedom of expression for Scientology in Russia as the Law is extremely arbitrary and is applied in a discriminatory manner. If the decision is final, or if an appeal is allowed and the decision is upheld, the Church intends to have appropriate applicants, including the American publisher, file an application with the European Human Rights Court as the law and the ruling completely contravene numerous rights protected by the European Human Rights Convention, including freedom of

religion, freedom of expression, freedom of association, the right to a fair trial and due process.

Other Extremist Investigations targeting Scientology Scriptures

Over the past two years, authorities in Penza, Ekaterinburg, Novosibirsk and Moscow have initiated investigations seeking to block the importation of and censor Scientology religious Scriptures on the purported grounds that these materials are somehow "extremist".

As of April 2009, investigations in Penza and Ekaterinburg had been dismissed as groundless and the religious books originally seized and confiscated were finally released to the parishioners who purchased them. Yet, new seizures and confiscation of Scientology religious materials occurred in Ekaterinburg in July 2009 and Penza in September 2009 under the Extremism Law.

On 19 and 20 February 2009, the Moscow Scientology Church was subject to inspections to review religious materials in order to determine if they should be confiscated under the Extremism Law.

On 16 March 2010 over 25 police officials, Ministry of Interior, FSB and Prosecutor office personnel entered the Management Center of Scientology to conduct what is called a "pre-investigation" on the charge of Extremism and to interrogate officers of the Center regarding the seized materials. The next day, 17 March 2010, representatives of the same agencies entered Church of Scientology of Moscow and seized additional Scriptural materials.

As some of the seized Scriptures they seized are included in the list of Scriptures deemed "extremist" by the Surgut City Court, it is not clear if the authorities will pursue this investigation or rely on the Surgut City decision and wait to see if it is upheld or becomes final.

Scientology Basic Scriptures: Background

The 18 books and 11 lecture series seized and declared "extremist" in Surgut comprise all of the basic Scriptures created by Mr. Hubbard on the Scientology religion. It would simply be impossible to practice the faith fully without access to its extensive body of basic Scriptures.

To understand the absurdity of this ruling, it must be understood that these Scriptures have been published and accessed throughout the world for as long as 60 years.

L. Ron Hubbard (1911-86) is the Founder of the Scientology religion. His research on the spirit, the mind and life is recorded in the 35 million words that comprise Dianetics and Scientology. These are contained in 8,000 pages of book text, 29,000 pages of individual essays and writings organized into encyclopedic series, and nearly than 2,500 recorded lectures. His best-selling book *Dianetics: The Modern Science of Mental Health* was published May 9, 1950. It has appeared on 600 bestseller lists and is now translated in 50 languages with 22 million copies sold.

More than 296,345,000 L. Ron Hubbard books and lectures have been sold in the last 60 years, 81 million of which have been sold in the last decade.

L. Ron Hubbard has been awarded three Guinness World Records in the last three years:

- 2006 Most Published Works by a Single Author: 1,084
- 2006 Most Translated Author in the World: 71 languages
- 2009 Most Audio Books Titles on Earth: 185

Nine of the basic books and lecture series seized are available in 50 languages; the rest are available in at least 15 languages. These materials have been available to Scientologists, Scientology religious organizations and members of the public without any censorship in over 165 countries throughout the world. You can find these very materials in public libraries in countries and cities throughout the world.

It defies credulity, based on these figures, for a Court to suddenly claim that these Scriptures are somehow "extremist" when they have been widely published and read throughout the world by millions for as long as 60 years. A more egregious suppression of freedom of expression and religion is hard to imagine.

Moreover, expertises on the Scientology Scriptures conducted by neutral and objective academics and scientists in Russia and in other countries have come to the considered conclusion that these Scriptures are religious in nature and do not constitute "extremist literature" as that term is defined in the Extremism law. A list of these expertises is attached.

Refusal to Register Scientology Religious Organizations as Required by Law and Retaliation Against these Organizations through Application of Extremism Law

Scientology Churches and Missions have been refused the right to register as religious organizations under the 1997 Russian Federation law "On Freedom of Conscience and Associations." The Religion Law requires religious groups to have at least a 15-year presence in the country to be eligible to register as religious organizations. Scientology Churches have been refused registration under the 15-year rule of the Religion Law and, in the case of the Moscow Scientology Church, pursuant to arbitrary and discriminatory rulings designed to bar any registration of Scientology religious groups under the Religion Law. Three Churches of Scientology have successfully challenged this discrimination in the European Human Rights Court.

In 2007, the Human Rights Court in the case entitled Church of Scientology Moscow v. Russia (application no. 18147/02), overturned the Moscow City government's refusal to register the Church of Scientology of Moscow as a religious organization. The Court found that Russia had violated the rights of the Church of Scientology under ECHR Articles 11 (the right to freedom of association) "read in the light of Article 9" (the right to freedom of religion), when it refused to re-register the Church of Scientology Moscow.

Specifically, the Human Rights Court determined that, in denying registration to the Church of Scientology of Moscow, the Moscow authorities "did not act in good faith and neglected their duty of neutrality and impartiality vis-à-vis the applicant's religious community." The Court also awarded the Church 10,000 Euros in respect of non-pecuniary damage and 15,000 Euros for costs and expenses.

Despite this decision, the Russian government has refused to re-register the Moscow Church. In light of the government's bad faith in complying with the Church of Scientology Moscow ECHR decision, the Moscow Church has filed submissions with the Committee of Ministers Subcommittee on Execution of Human Rights Court Decisions in the Council of Europe, requesting that the Council direct Russia to comply with the Moscow Scientology final decision. This request is pending.

In October 2009, the European Court of Human Rights found that the refusal to register Scientology Churches in Surgut and Nizhnekamsk as religious organizations because they had not existed for 15 years as required by the 1997 Religion Law violated the rights of the applicants, in particular, violation of the provisions of Article 9 of the Convention (freedom of religion) in the light of Article 11 (freedom of association). The Court found that "the restricted status afforded to religious groups under the Religion Act did not allow members of such a group to enjoy effectively their right to freedom of religion, rendering such a right illusory and theoretical rather than practical and effective, as required by the Convention". The two organizations were awarded 20,000 € in costs and damages.

This ruling became final on 1 March 2010. Rather than registering the Surgut Church as a religious organization as required by the Human Rights Court, the Russian government has instead manufactured an assault on the Surgut religious association and its founders by seizing all the basic Scientology Scriptures sent to them and declaring these Scriptures as "extremist" in the secret, *ex parte* hearing held 25 days after the ruling of the Human Rights Court became final and binding on the Russian Federation.

Likewise, Russian authorities have initiated an "extremism" investigation of the Moscow Church while refusing to re-register

it as a religious organization as required by the Human Rights Court.

The Church of Scientology of St. Petersburg also filed an action in the European Court of Human Rights in November 2006 against the Russian Federation challenging the refusal to register it as a religious organization because of the 15 Year Rule. This case remains pending before the Court.

Shortly after the ruling of the Surgut City Court, and well before anyone associated with Scientology had received a copy of the Surgut City ruling, the Prosecutor in St. Petersburg contacted the St. Petersburg religious organization and provided a verbal "warning" to cease and desist distribution and use of the materials deemed extremist by the Surgut City Court.

There should be no question that these actions have been taken in retaliation for the Church of Scientology filing actions and prevailing in the Human Rights Court.

Extremism Law and its Use Against Other Faiths

The Extremism Law has been typically used against other religions to censor religious literature based on biased expert reports. For example, Forum 18 notes that, in one case, Muslim literature was banned because the expert argued the literature was "extremist" as it "propagandizes the idea of the superiority of Islam - and therefore Muslims - over other religions and the people who adhere to them". Yet a fundamental tenet of religious freedom is the right to say that yours is the only true religion¹. NGOs and the Russian Human Rights Ombudsman have expressed concern over the use of the Extremism Law to suppress and censor religions.

The fundamental law in the sphere of extremism is the Federal Act of 25 July 2002 (with subsequent amendments), "On Counteracting Extremist Activity" (hereinafter referred to as "the Act"). The Act qualifies as extremism the activity of social and

¹ "Russia: How the Battle with Extremism was Begun" Geraldine Fagan, 27 April 2009
<http://www.forum18.org>.

religious associations, other organizations, mass media or physical persons involving planning, organizing, preparing, and committing acts aimed at:

- Forcible change of the fundamental constitutional structure and destruction of the integrity of the Russian Federation;
- undermining the security of the Russian Federation;
- usurpation or appropriation of powers of government;
- creation of illegal armed forces;
- conduct of terrorist activity or public justification of terrorism;
- incitement to racial, national or religious hatred, as well as social hatred associated with violence or calls to violence;
- humiliation of national dignity; creation of mass disorders, hooligan activities, and acts of vandalism motivated by ideological, political, racial, nationalistic or religious hatred or enmity, or motivated by hatred or enmity in relation to a social group;
- propagandizing exclusivity, superiority or inferiority of citizens according to their attitude towards religion, social, racial, national, religious or language affiliation;
- obstruction of legitimate activity of public authorities, electoral commissions, legitimate activity of officials of the specified bodies or commissions accompanied with violence or threat to use violence;
- public defamation of any person on duty holding a public office in the Russian Federation or a public office in a subdivision of the Russian Federation, or in connection with exercising by him of his duties, where such defamation is accompanied with charging the person concerned of commission of acts qualified by the Act as extremist activity, provided that the fact of defamation was established by court;
- use of violence against a representative of a state authority body or aimed at threat of violence against a representative of a state authority body or his relatives in connection with exercising by the representative concerned of his duties;
- infringement on life of a public official or community leader committed with a view of termination of his public or other political activity or out of retaliation for such activity;

- violation of human rights and freedoms or rights and freedoms of a citizen, causing harm to health and property of citizens in connection with their beliefs, racial or national identity, religious denomination, social set-up or social origin;
- production and (or) distribution of printed, audio-, audiovisual and other materials (works) intended for public use and containing at least one of the signs of extremist activity;
- promulgation and public demonstration of Nazi paraphernalia or symbols or paraphernalia or symbolics similar enough to be confused with Nazi paraphernalia or symbols;
- public calls to conduct acts qualified by the Act as extremist activity, public appeals and statements encouraging to conduct extremist activity, validating or justifying conduct of acts qualified by the Act as extremist activity; and
- financial support of extremist activity or other assistance in planning, organizing, preparation and accomplishment of the actions qualified by the Act as extremism, including by way of making available of the following facilities for accomplishment of extremist activity: financial assets; real estate; educational, graphic and material and technical resources; telephone, facsimile and other communications; information services; other facilities.

The list of the extremist organizations and the list of extremist literature are posted on the website of the Ministry of Justice of the Russian Federation. As of April 2010, the extremist literature list comprises 578 items, including articles, leaflets and brochures, books, specific newspaper and magazine issues, films, videos, pieces of music.

The Act provides for harsh penalties against organizations, providing for the possibility of suspension or banning of their activity, liquidation of the organization conducting or suspected of conducting of extremist activity, forfeiture of property and prosecution of individuals associated with the organization for distributing banned materials or for continuing the activities of the organization subsequent to liquidation.

In December 2009, the Russian Supreme Court issued a decision against the Jehovah's Witnesses. This gives a good snapshot of

how the Extremism Law is and can be applied and the dangers it contains. The Supreme Court upheld the finding that 34 Jehovah's Witness publications are extremist and therefore banned nationwide. Any person distributing or using those materials can be arrested. Any organization distributing them can be charged. The Jehovah's Witness community in the local town of Taganrog was also found by the lower Court as an "extremist organization" and is banned from meeting as a community. The Court also ordered that the religious organization be liquidated. The organization's property – including land, office and residential premises – were placed under state control.

The Supreme Court also upheld, as part of the ruling, the liquidation of the Taganrog Jehovah's Witness congregation as "extremist". The congregation's property was confiscated, and it was banned from meeting as a community.

It is our understanding that the religious community has filed or is about to file an application with the European Human Rights Court to challenge these repressive actions and the draconian law.

Another ruling finding 18 written materials of Jehovah's Witnesses as extremist was delivered by the Gorno-Altaisk City Court of the Altai Republic on 1 October 2009. The ruling was based on the conclusions of expert examinations in psychology and linguistics finding the texts to be negative propaganda containing promotion of superiority of the doctrine of Jehovah's Witnesses and inferiority of other religions.

Muslim literature that has been the target of "extremist" investigations and rulings includes, for example, *The Personality of a Muslim*, a popular work among Russian Muslims, that was deemed extremist in August 2007 and several distributors of it have since been fined. Readers of the late Turkish Muslim theologian Said Nursi have been detained and subject to prosecution.

Forced Liquidation

Once the decision by Russian authorities to refuse to allow the St. Petersburg Church to register as a religious organization pursuant to the 15 Year Rule was upheld in Russian courts, authorities initiated actions designed to liquidate the Church. The government claimed that the Church should be liquidated for, among other reasons, not allowing psychiatrists to attend parishioners' private religious minister-parishioner sessions and not allowing them to review confidential minister-parishioner files.

The Church litigated the liquidation matter in Russian courts and the trial court's decision to force liquidation of the Church on these spurious grounds was upheld. In July, 2008, the Church of Scientology of St. Petersburg filed an application with the ECHR challenging this forced liquidation. This case remains pending with the ECHR.

Because of the refusal of Russian authorities to register Scientology Missions and Churches as religious organizations under the 15 Year Rule, individual Scientology Churches in Chelny, Rostov, Ufa, Samara, Barnaul, Vladivostok, Novosibirsk, Surgut City, Penza, Ekaterinburg, and elsewhere have experienced discriminatory treatment by local officials in the form of never-ending investigations and attempts to close down the Churches. These actions include civil and criminal charges with the initiation of proceedings on the specious grounds that the Scientology Churches are either practicing medicine or running unregistered schools. Authorities in Barnaul, Rostov, Naberezhniye, Chelny, Vladivostok, and Samara, for example, have filed actions attempting to liquidate the Scientology Missions in those cities, while at the same time refusing to register them.

In March 2009, the Rostov Mission of Scientology was ordered liquidated by the trial court on the purported grounds that the Church practiced education without a license because it offered parishioners classes on Scientology Scriptures. This investigation was finally closed in the last two weeks.

The Barnaul Mission of Scientology was registered as a social organization (it cannot register as a religious organization under the Religion Law's 15-Year rule). In 2007, the local prosecutor brought an action to liquidate the Mission on the grounds that it

practiced medicine and education without a license. These charges were dismissed by the trial court. In August 2008, the trial court's decision was overturned by the Altay Regional Court and the case was sent back for trial. The Court ordered the prosecutor to obtain an expertise regarding the charges. The expert retained by the government determined that the organizations activities were not educational but religious in nature. In August 2009, the trial court relied on this evidence to order liquidation of the Mission on the grounds that it could not conduct religious activities as a social organization but had to be registered under the Religion Law! This ruling was affirmed on appeal.

Likewise, in November 2008, the trial court ordered liquidation of the Samara Mission of Scientology (which had registered as a noncommercial organization in order to obtain legal entity status) on the purported grounds that it practiced education without a license. This decision was upheld on appeal in December 2008.

While the Churches have successfully challenged some of these claims in court, it seems that for each one that is dismissed another one starts. Where decisions in the first instance have been negative, all necessary appeals are being pursued.

Conclusion

The Church of Scientology, Scientology parishioners and Scientology organizations have been the target of systematic religious repression and discrimination by Russian authorities in contravention of international human rights law which Russia is obliged to follow.