

# STATUS OF THE RUSSIAN RELIGIOUS LAW



February 12, 1998

Briefing of the  
Commission on Security and Cooperation in Europe

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## **ABOUT THE ORGANIZATION (OSCE)**

The Conference on Security and Cooperation in Europe, also known as the Helsinki process, traces its origin to the signing of the Helsinki Final Act in Finland on August 1, 1975, by the leaders of 33 European countries, the United States and Canada. Since then, its membership has expanded to 55, reflecting the breakup of the Soviet Union, Czechoslovakia, and Yugoslavia. (The Federal Republic of Yugoslavia, Serbia and Montenegro, has been suspended since 1992, leaving the number of countries fully participating at 54.) As of January 1, 1995, the formal name of the Helsinki process was changed to the Organization for Security and Cooperation in Europe (OSCE).

The OSCE is engaged in standard setting in fields including military security, economic and environmental cooperation, and human rights and humanitarian concerns. In addition, it undertakes a variety of preventive diplomacy initiatives designed to prevent, manage and resolve conflict within and among the participating States.

The OSCE has its main office in Vienna, Austria, where weekly meetings of permanent representatives are held. In addition, specialized seminars and meetings are convened in various locations and periodic consultations among Senior Officials, Ministers and Heads of State or Government are held.

## **ABOUT THE COMMISSION (CSCE)**

The Commission on Security and Cooperation in Europe (CSCE), also known as the Helsinki Commission, is a U.S. Government agency created in 1976 to monitor and encourage compliance with the agreements of the OSCE.

The Commission consists of nine members from the U.S. House of Representatives, nine members from the U.S. Senate, and one member each from the Departments of State, Defense and Commerce. The positions of Chair and Co-Chair are shared by the House and Senate and rotate every two years, when a new Congress convenes. A professional staff assists the Commissioners in their work.

To fulfill its mandate, the Commission gathers and disseminates information on Helsinki-related topics both to the U.S. Congress and the public by convening hearings, issuing reports reflecting the views of the Commission and/or its staff, and providing information about the activities of the Helsinki process and events in OSCE participating States.

At the same time, the Commission contributes its views to the general formulation of U.S. policy on the OSCE and takes part in its execution, including through Member and staff participation on U.S. Delegations to OSCE meetings as well as on certain OSCE bodies. Members of the Commission have regular contact with parliamentarians, government officials, representatives of non-governmental organizations, and private individuals from OSCE participating States.

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THURSDAY, FEBRUARY 12, 1998

COMMISSION ON SECURITY AND COOPERATION IN EUROPE,  
WASHINGTON, DC

The briefing convened in room 538, Dirksen Senate Office Building, Washington, D.C., at 3:21 p.m., Dorothy Douglas Taft, Deputy Chief of Staff of the Commission, moderating.

Ms. **Taft.** We will begin our briefing. I apologize for the delay. Congressman Christopher Smith is the Co-Chairman of the Helsinki Commission, and he unfortunately is tied up at the moment. Ladies and gentlemen, I welcome you today to the briefing of the Commission on Security and Cooperation in Europe on the Status of Russia's Law on Freedom of Conscience and Religious Organizations.

My name is Dorothy Taft. I am the Deputy Chief of Staff for the Helsinki Commission. On behalf of Chairman Alfonse D'Amato and Co-Chairman Christopher Smith, I will begin the briefing today, and then shortly we will be joined by Mr. Smith.

Last September, President Boris Yeltsin signed the Russian Federation law on freedom of conscience and religious organizations. This law has been criticized both outside and within Russia because as written, it threatens to restrict religious liberty for minority religious faiths. Subsequently, President Clinton signed legislation, the (Senator Gordon) Smith Amendment to the Foreign Operations Appropriations Bill, that would cutoff aid to the Russian Government if implementation of the law leads to discrimination against minority religious faiths in Russia.

In January of this year, Congressman Smith, together with Representatives Frank Wolf and Tony Hall, and the distinguished Librarian of Congress, Dr. James Billington, traveled to Moscow as participants in the Deburght Conference to discuss the religion law. In this connection, they met with members of the Yeltsin administration as well as the Chairman of the Duma committee that drafted the religion law and with leaders of the Moscow Patriarchate of the Russian Orthodox Church. In addition, they met with individuals from both the clerical and lay communities who oppose the law. One of the most informative meetings, I am told, included a group of Russian Orthodox priests who were among the opponents of the law.

At present, there are indications that the Russian Department of Justice has informally softened the interpretation of the law, but I am unaware of any official regulations to that effect. As the deadline for the Smith Amendment approaches, we are following this issue closely, both in terms of formal implementation regulations and in terms of the implementation on the ground.

Today, for our briefing, our guests will provide their insights on this law, its current status, and how they see developments in Russia in light of the law. Our first guest is the distinguished author, Russian scholar, and Librarian of Congress, Dr. James Billington. Dr. Billington's expertise on Russia and his ability to interpret both literally and figuratively the

events of the day proved to be an enormous contribution to the delegation's work in Moscow.

Our second guest, Dr. Anatoly Pchelintsev, is the Director of the Christian Legal Center of the Institute on Religion and Law in Moscow, the only organization in Russia devoted exclusively to providing legal assistance to the religious community there.

Our third guest is Rachel Denber, Deputy Director for Human Rights Watch, Europe and Central Asia Division. From 1992 to 1997, Ms. Denber was head of the Moscow office of Human Rights Watch and has authored or co-authored numerous reports on human rights in the former Soviet Union.

Our final guest is Micah Naftalin, National Director of the Union of Councils. The Union of Councils is engaged in a project for human rights monitoring in Russia's regions, a very relevant endeavor, considering the deep concern about implementation of the religion law by local authorities.

I would also add that the Commission invited to this briefing a representative of St. Nicholas Church in New York which is associated with the Moscow Patriarchate, but a response has not been provided to date.

We look forward to our guests' presentations today, and afterwards we will open the floor to the participants and the attendees here for your questions. To begin our briefing, I will turn the microphone over to Dr. Billington.

**Dr. Billington.** Thank you very much. I will submit along with my own remarks some other, I think, very useful and important research work that has been done in the various branches of the Library, particularly the Congressional Research Service with James Nichol, the Law Library with Peter Rudick, and my own office with Irene Steckler. So there is a great deal of material to be harvested, and I will submit that together with somewhat more extended remarks for the record.

Madam Chairman, Russia today is still in the throes of one of the least expected and least understood social transformations of the 20th Century. Changes have already been far-reaching, evolutionary, and altogether unprecedented for a large modern country. It is an extraordinarily positive process, but it is inherently fragile and could be significantly retarded if not undermined by the new law on religion.

It is important to remember that the Russian people on their own initiative and in less than half a year, late in 1991, liquidated the largest land empire in human history and the most powerful and long-lasting totalitarian system of the 20th Century. Since then, they have drastically trimmed back their armed forces, largely privatized their economy, conducted multi-candidate elections, prevented starvation, avoided any major social upheavals, and more recently brought inflation under control. These are really remarkable accomplishments.

But not surprisingly amid such massive change, the Russian people have suffered a significant decline in their standard of living and social services and a great deal of well-publicized crime, corruption, and chaos. Nor, in view of their authoritarian and bureaucratic traditions, which were much intensified by the Soviet experience, is it surprising that they have not yet developed effective institutions of representative governance and the role of law.

Now this ongoing process of transformation is driven by two equally powerful impulses. One is to discover the present day West, the other is to recover the Russian past. Emerging from a closed insular society in the Soviet period, Russians today want to share in the present

material progress of the freer outside world, which Russians themselves now routinely call normal and civilized, two of the most commonly used words in Russia today. Emerging at the same time from the world's first horrendous experiment at linking central power with enforced official atheism, Russians today also want to draw on their own long-suppressed spiritual past in order to reintroduce some moral authority into a deeply cynical and psychologically disoriented society. This necessarily has brought to stage the Russian Orthodox Church, which dominated the millennium of a deeply Christian culture that pre-existed Soviet rule and is today, particularly in the wake of the army's loss of mystique in Chechnya, the only national institution with enough broad popular acceptance to have a chance at morally relegitimizing authority.

Two forces, neither of them in my view adequately understood, have converged to produce a law on religion which fundamentally contradicts the guarantee of equality of religions contained in the post-Soviet constitution of 1993. The first and most important force is the rising tide of authoritarian so-called red-brown nationalism, the coalescence of Communists with extreme nationalists on a new common political objective of delegitimizing and ultimately dethroning Yeltsin and the entire reform program.

Winning the church away from its prior electoral alliance with Yeltsin was central to this red-brown strategy, and Yeltsin eventually signed a law he had previously vetoed, despite only minor changes, in order not to lose this valuable source of legitimization.

The second force paradoxically is the very vitality and variety of the religious revival that Russia has experienced since the overthrow of 74 years of enforced atheist rule. Overwhelmed by its own material and numerical growth, the majority of the hierarchy of the predominant Russian Orthodox Church feels further threatened by rival Christian groups and new sects, and it is worried about the continued, and in some cases growing, allegiance of previously persecuted brands of orthodoxy, the old believers from the late 17th century, the Russian Orthodox Church Abroad since the late 1920's, and underground Orthodox groups that have arisen since. I think, in fact, concern about the internal situation in Russia is far more worrisome than the concern about foreign missionary forces that has been widely discussed.

In any event, the dominant faction within the hierarchy, a faction sometimes referred to by young Orthodox as the *metropolitburo*, has increasingly sought to identify the church with external discipline fortified by Russian nationalism to get as much support from the state as possible and to seek to institutionalize a preferential system, if not a reestablished church.

Now the Russian Orthodox Church or this faction within the Russian Orthodox Church were the initial drafters and the most insistent supporters of the new law, which essentially imposes on many other religious groups virtually the same lack of legal status and rights to teach and educate that were imposed on the Orthodox Church itself in the Soviet era. This gives a truly tragic dimension to this entire episode. Because, in fact, the Russian Orthodox believers suffered the greatest systematic Christian martyrdom of the 20th Century during the Soviet era. Yet, far from fully coming to grips with the deeper significance of that terrifying experience and the lesser, but still important, fact of a degree of accommodation to the Soviet system in the later Soviet period that many Orthodox believers found insulting to the prior martyrdom—despite all of this, the dominant faction in the hierarchy is willing and anxious, it would seem, to gain a measure of further authority by alliance with an essentially political law than it has suffered fear of losing moral legitimacy over the longer run.

Indeed, it is important to realize that this is not simply the only path of the Orthodox tradition. There is a great rift in Orthodox Christian life in Russia that dates back to the conflict between the possessors and the non-possessors in the very forming of the modern Russian state at the dawn of the 16th century—the end of the 15th and the beginning of the 16th century. The church has so many possessions now that it is very much in the position of the old possessors. As a result of this emphasis within the Orthodox Church itself as a result of this new law, there is a risk, I think, of seriously undermining the church's role and authority as a source of moral revival and restitution within broader Russian society and as a potential support mechanism for bringing back responsibility in the society to balance the admitted excesses of untrammled freedom that this sudden massive exposure to the West has brought.

Well, those in the Yeltsin government who negotiated with the Parliament and the church about the new law and are now writing its final instructions for implementation are for the most part not themselves religious and have neither the authority nor for the most part the courage to argue strongly against let alone override the perceived need to support a political alliance and political imperative that seems to have been endorsed by the top officials.

Some of those responsible for drafting these regulations and discussing it with outside and inside parties may genuinely believe, as the first articles of the law state, that the law was intended to uphold religious freedom in Russia and ensure local conformity with this objective. But the complex procedures for registering religious associations clearly threaten the rights of many existing congregations, will facilitate top-down control by established and central ecclesiastical hierarchies in all confessions as well as the Orthodox Church, and will also create a large amount of bureaucratic secular control over religious activity at all levels.

The new law basically returns to the Soviet legal practice of forbidding everything that is not allowed rather than, as in the pre-existing 1990 law on religion and in general Western legal practice, expansively allowing everything that is not expressly forbidden. The law creates two main types of religious associations: religious *organizations*, with substantial rights; and religious *groups*, with few rights. It also creates a totally unprecedented 15-year probationary period before a religious group may graduate to the category of a religious organization and acquire thereby the right to own property, print religious materials, and open religious schools.

The law also creates subtypes consisting of privileged faiths, with Russian Orthodoxy first among them and the only Christian body in this overwhelmingly Christian country so-mentioned; designated, and foreign and restricted-locality faiths, which are the least privileged.

Now officials of the Yeltsin government repeatedly reassure Western critics that the law will be interpreted expansively and that almost all religious associations would receive, as their top spokesman recently put it here in Washington, "the most favorable legal situation," and that the Yeltsin government might very well petition the Constitutional Court to annul Article 27, rescinding rights already possessed by religious organizations under previous laws.

The hard key facts are, however, that the new law will not be overturned or even seriously amended by the present Russian Parliament, which approved it almost unanimously, and that predictable future appeal by aggrieved groups to the Constitutional Court could well lead to protracted deliberations and/or unenforceable decisions. The law will be fully

formally implemented on January 1, 2000. The implementing regulations for registration are currently being finalized for delivery this spring by the Ministry of Justice.

Now high Russian officials agreed with participants, including Congressmen Smith, Hall, and Wolf at the recent DeBurght Conference that our Chairman has mentioned in Moscow, that the 15-year probationary period was excessive and that they would have preferred 5 all along. But it was privately explained later that this was a non-negotiable condition of the hierarchy of the Orthodox Church and there has been no subsequent indication of any modification of the 15 years that I know of.

High Russian officials have been receptive, however, to the suggestion made by the congressmen in a final meeting at the Kremlin for creating a high-level, high-profile ombudsman, preferably within the President's office, to whom aggrieved parties could appeal for defense of their religious rights. The Russian delegation that paid a rapid subsequent visit to Washington—itsself an encouraging sign—also expressed enthusiasm for more foreign visits by local Russian officials and other procedures that would help Russians to learn more about Western practices in upholding religious freedom.

The European participants in the DeBurght Conference were eloquent in reminding the Russians of their international obligations that were accepted to submit to the European Convention of Human Rights for ratification by the end of this month, the end of the 2-year period, since they joined. But there is little indication that Yeltsin will submit it and almost no likelihood that the nationalist Parliament would ratify it. European governments, moreover, have done regrettably little to express their concern over this matter and on the general subject of religious rights to their Russian neighbors.

I come to a conclusion, Madam Chairman, to your undoubted relief, by saying that it is obvious that there are severe limits on how, if at all, outside forces can influence the modification of the law designed in large part to restrict foreign influences and to use xenophobic prejudices for purposes of political mobilization. Possible congressional action in calling for cutting off central government to central government aid after May of this year would considerably inflame such sentiment and would involve in all probability only a small amount of money, mainly presently dedicated to programs that in fact favor reform.

But our reformminded friends and Russian partners in peace need to be reminded that the authoritarian and extreme nationalist tiger will eventually consume them if they continue to attempt to ride it; that their desired participation in the normal and civilized world requires adherence to international obligations they have begun to assume for respecting this, the most fundamental of human rights; that their own democratic experiment will have the best chance of surviving and indeed, their historically dominant Orthodox Church the best chance of prospering, if in the future—and only if, I would say—the religious conviction that so many Russians now seek in their difficult circumstances is allowed to develop freely from within and not by preferential coercion from without.

I felt privileged, I should say, Madam Chairman, on our recent trip to Russia to be in the company of legislators who gave eloquent testimony to the importance of both of these points and considerable personal witness to the compatibility and indeed reinforcing qualities of both deep belief and broad tolerance in the building of a democratic polity.

Ms. **Taft**. Thank you, Dr. Billington. Next we will turn to Dr. Pchelintsev, who is the Director for the Christian Legal Center of the Institute of Religion and Law in Moscow.

Dr. **Pchelintsev** [through interpreter]. Thank you very much. It is my great honor and

privilege today to speak here. I am fully in agreement with the point of view just expressed by Dr. Billington, and I am also alarmed by what I am seeing in Russia today.

So the question that I want to ask myself and to ask all of you is how did it happen that a law of this kind that violates the norms of international law on human rights so severely—how could a law like this be passed in Russia? I think Dr. Billington gave you a very eloquent answer. This law is possible because the tide of nationalist and Communist movements is on the rise in Russia today. Unfortunately, Communists and nationalists are in the majority in the Russian Parliament. So as they were debating that law and its language, they used all kinds of fabrications and all kinds of lies. It was said during the debate that this law doesn't violate the rights of any denomination or any church. Now that certainly contradicts the fact that most of the major churches and denominations in Russia are on record in writing as having opposed that law. As the draft law was being marked up, when Chairman Zorkaltsen made the speech that the 15-year rule doesn't really make Russia any different from many other countries of the world, that it is not an excessive or restraining time period and that in many countries they have legislation with similar probationary periods, he lied. No country of the world has a probationary period of this time. The law that I am talking about sets a 15-year probationary period in Article 9. Only those religious organizations that were in legal existence 15 years ago can get full legal status and all the legal rights associated with it.

However, let's look at what we had in Russia 15 years ago. What kind of country was Russia? What kind of government did Russia have? What kind of liberties are they talking about from 15 years ago? There was no freedom of religion then. Religion itself was under a very severe interdict. There was no political pluralism and there was no freedom of religion or pluralism of religion in Russia. So when this law goes into full force and effect, many religious organizations will find their rights severely diminished under this law.

I am talking about the Episcopalian Church, Methodist, Presbyterians, the Salvation Army, various charismatic churches, the Society for Krishna Consciousness, and many other denominations that will suffer from this law. Fifteen years ago, these churches and religions either didn't exist or were banned.

Look at Article 27 of this law. It violates every single human right there is. It is an absurd provision. The religious organizations that cannot prove that they were in existence 15 years ago don't even have the right to purchase religious literature. To me this smacks of Stalinism.

At home, I have an heirloom. It is the Bible that my mother copied down by hand. Because at that time, Bibles just weren't published in the USSR. Now in 1997, some religious organizations that cannot prove that they were in existence in Russia 15 years ago cannot acquire religious literature.

Now who benefits from this situation? Those political forces that want to go back to where we used to be is who benefits from it. I am talking about the political forces that ruled and lorded over us. The Bolsheviks are trying to gain power again. But unfortunately for them today, they cannot do anything unless they work hand-in-hand with the Moscow Patriarchate. Now in Moscow, we are using a term Orthodox Bolshevism.

Recently, we published a "white" book\* which listed all the instances of the violations of religious rights in the last 2 years. To my regret and chagrin, I found out that the Russian Patriarchate and the Russian Orthodox Church are responsible for almost 90 percent of all these violations.

Now what is it that we are planning to do? Two weeks ago, some members of the Russian official delegation came here and they informed you that they were going to raise the issue with the President of Russia and that he become a plaintiff in the Constitutional Court to question the legality and lawfulness and constitutionality of this law. Don't trust them. This will never happen. Unfortunately, this is exactly where the politician's double standard comes in. I was surprised to hear what they said. What we have established now is a task force that is busy gathering materials to be submitted to the Constitutional Court of Russia. We are also publicizing the various instances where we believe the freedom of religion has been violated. We will do everything necessary and proper to defend and protect religion. We need to make it clear and to explain and to convey to those who govern us that the freedom of religion is fundamental and that it is the foundation of all other freedoms. Without the freedom of religion, there is no freedom of conscience. There is no democracy. All the other freedoms—the freedom of press, the freedom of assembly, the freedom of speech—all these freedoms are inextricably tied with the freedom of religion. So all of the rights and all of the liberties that we have gained in Russia up to now are under threat at this time.

This is not just my personal point of view. This view is shared by quite a few Russians. So here I am not just expressing my personal point of view. The absolute majority of various denominations and churches are on record speaking against this law. Even about 5 months ago in August, we came out and we warned everybody that once this law goes into full force and effect, the believers will have to start emigrating again, and that is exactly what is happening. Unfortunately, the process is ongoing and they are beginning to emigrate now.

The Russian Government understands that they are facing a very serious set of circumstances. So what they are doing is they are dragging their feet at formulating and adopting the regulations to implement this law, whereby the re-registration will take place. In Russia, the legal practice is that the law and the regulations come out at the same time, simultaneously. So I can predict here that once the regulations are adopted, once they go into full force and effect, and once the implementation stage begins, there will be massive violations of human rights and violations of freedom of religion.

So what I would like to do now is I would like to thank you all and I would like to thank the Helsinki group and the Congress of the United States for the attention that you have been paying to this matter and for all your help. Your moral support, your help, your attention are very important to us in Russia. I don't know whether or not international law provides for any political leverage or for any political mechanisms that need to be pulled or used in order to influence Russia, but I think that this is something that needs to be done. Because we need to do it to save and safeguard our liberties and our democracy. Thank you.

**Ms. Taft.** Thank you, Dr. Pchelintsev. Now we will turn to Rachel Denber, who is the Deputy Director for Human Rights Watch, Europe and Central Asia.

**Ms. Denber.** Thank you very much. It is an honor to be here. Human Rights Watch has vigorously opposed the new religion law, and we have done so in a number of written interventions to a variety of governments and inter-governmental institutions for the reasons enumerated by Dr. Billington and by Mr. Pchelintsev.

Right now, I would like to build on Mr. Pchelintsev's and Dr. Billington's remarks by linking the law and the new crackdowns on religious communities it has unleashed to developments in Russia.

The first development is a growing intolerance to alternative expression across several

issues coupled with a growing tendency by the central government to overregulate institutions of civil society. This transpires in legislation and also in practice. In Federal legislation, beyond the religion law, the Russian government is attempting to secure greater control over, for example, the press and independent women's organizations.

Now while overregulation itself has very serious implications for rights, in the implementation of laws, as is very obvious in the case of the religion law, it invites overly restrictive or completely arbitrary interpretations by regional officials. In practice, it is indeed in Russia's regions where intolerance is the sharpest and where religious communities have been harassed most vigorously, even before the law's adoption. Indeed, whereas most Federal laws are ignored in the regions—Russia is famous for that—this law has served only to endorse earlier intolerant policies in some regions. It is, therefore, no surprise to see the local civil servants interpreting it in a very abusive way in their attempts to control and maybe even expunge religious communities.

It is overwhelmingly these local officials who abuse rights in order to stop, for example, exposure of corruption, the public exposure of government waste, or criticism of public officials. They do this by, for example, withholding journalist accreditation or jailing human rights activists on libel or other trumped-up charges.

The second point I wanted to make is that the federal government, except perhaps the Constitutional Court, tends to exert little or absolutely no control over the regions in the field of protection of rights. So here it came as no surprise that the government has completely reneged on its promise that the religion law in its implementation would not curtail the rights of religious communities. It is no surprise that the federal government has absolutely not intervened when religious officials have, in the absence of implementing instructions, have interpreted the most restrictive provisions of the religion law in a truly unduly restrictive fashion.

There are a couple of exceptions to this tendency by Moscow not to intervene in the affairs of the regions, and I think that they are instructive. In several cases, the Russian and international human rights communities in Moscow were able to sort of mobilize pressure on the central government to stop isolated cases of abuse in remote Russian regions. The cases that I can recall were mostly cases of local human rights activists who were being criminally prosecuted for public exposure of corruption or for criticizing public officials. This gives us some hope and it guides our work as a human rights organization, and I think it also means that the State Department and the Embassy in Moscow should expand its resources to monitor human rights developments in the regions and also to intervene, and in particular to monitor developments in religious communities in the law's implementation.

When the U.S. Government does intervene, it should not leave unanswered Russian claims that Russia is just merely following a European model in regulating religious groups. Mr. Pchelintsev has already addressed this and so has Dr. Billington. First, there are international standards that Russia is obligated by law to uphold. Second of all, the Russian law departs radically, I think, from probably most European law and practice. I must say that the religion law is not the only case where I have seen Russian officials say, "this is just our practice or this is our Russian way, don't impose U.S. standards on us, and this is general European practice." I have seen this with the way the Russian government regulates internal movement, their *propiska* system. I have seen it in other spheres as well. We don't buy it, and neither should the U.S. Government.

Third of all, we are heartened by the fact that European institutions have started now to express alarm over the Russian law. The Council of Europe, for example, last month at its Parliamentary Assembly session, appointed special rapporteurs on the religious freedom in Russia because of the law. That is a pretty significant development. The only two other times they have appointed special rapporteurs on Russia was during the devastation of the Chechnya War and also in the very obvious case of persecution of an environmental activist. They did good work, and I know that we are going to be targeting our advocacy efforts at them to make sure that they are as effective as they can possibly be.

**Ms. Taft.** Thank you, Ms. Denber. The last presenter for this afternoon is Micah H. Naftalin, who is the National Director of the Union of Councils for Soviet Jews.

**Mr. Naftalin.** Thank you very much. I am glad to say that when I was trying to keep my remarks to 5 minutes, I counted on my colleagues to say many things, all of which I completely agree with, Madam Director and Mr. Chairman.

It is my great pleasure to speak here today on the grave issue of Russia's new law on freedom of conscience. It is a matter of great concern to the Union of Councils for Soviet Jews and to its human rights bureaus in Moscow and St. Petersburg.

Our president, Yossi Abramowitz, led a delegation of our leadership to Moscow in late June and early July, where we first encountered this terrible discriminatory law. We immediately convened a weekend strategy conference of human rights and religious liberty activists that organized a concerted lobbying campaign to encourage President Yeltsin to veto the bill, which he did in later July. Additionally, we developed strategies to confront the likelihood that he would ultimately succumb to the pressures of the Russian Orthodox Church and the near majority of his extreme nationalistic Duma. Our concern and our efforts have not abated since last summer, as I will describe in a minute.

I am not going to recite here all the problems of this law, as I know that you and your colleagues and everybody in this room are extremely knowledgeable on the issue. In this connection, I will only note that it was our privilege to facilitate in concert with your staff and our Embassy and UCSJ's Moscow Human Rights Bureau the briefing session held at the Embassy on the last Tuesday evening of your Moscow trip.

The law on freedom of conscience is a patently discriminatory law, one that separates religious confessions into two classes. As we have all heard, the preferred class is the Russian Orthodox Church and those other religious organizations that were officially registered during the Brezhnev era 15 or more years ago, which is not much to talk about. These have full rights of a legal entity. All others are termed religious groups and lack the legal power to own property or bank accounts, publish religious literature, invite foreign leaders or missionaries, and so forth.

I would like to make a special point because there has been some confusion in the media at least that while the preamble to the law is often cited as confirming legitimacy to Judaism as a traditional religion, as the preamble says, no such escape from the 15-year rule is provided in the operational sections of the law. Indeed, only a handful of KGB dominated synagogues like that of Rabbi Shayevich's Moscow Chorale Synagogue or those willing to affiliate with him are even theoretically in the clear.

With this brief overview, I would like to turn briefly to the grassroots response of the human rights and religious NGOs in Russia. This law, like other issues, such as the case of the Russian environmentalist, Alexander Nikitin, raises in our mind the key question: Who

governs Russia? Is it forces aligned with President Yeltsin that are struggling to bring pro-Western democracy and human rights and rule of law to Russia? Or rather is it the forces of anti-Western nationalistic extremism? The red/brown controlled Duma? The prosecutors, the security apparatus, and the Russian Orthodox Church leadership? Is it the Yeltsin who vetoed the bill in July or the Duma that overwhelmingly passed it again and the prosecutors who will enforce it? And in very practical terms, is it the National center of power in Moscow or is it the largely independent provinces? Since it seems clear that in these early years after the collapse of the Soviet Union, the answer is all of the above, our responses to this law must be multi-levelled and nuanced.

One response is to mount a constitutional challenge, either to the entire law or more promising probably to those sections, such as Article 27, that are the most evidently unconstitutional. This is, of course, being planned. My colleague Anatoli Pchelintsev, President of the Moscow Institute of Religion and Law, is your best witness on this strategy, as we have all seen. It is likely that the Constitutional Court can be influenced by President Yeltsin. It is also likely in our judgment that the appeals process will take many months, if not years. In general, I would urge the Helsinki Commission to take notice of a phenomenon we have all witnessed over the years. President Yeltsin's representatives have assured us when they are here in Washington that they support challenges to the unconstitutional portions of the law and intend to use the regulatory process to not implement these provisions. At home, however, such assurances have not yet been voiced and we know of no clear evidence that they are saying those good words to their own people.

The second response is systematic monitoring of human rights in general and the implementation of this law in particular with of course special targeting in the vast Russian provinces. In this respect, key Yeltsin officials have told us that they are in agreement with this and recognize how little actual control they have yet to impose on the provinces. In recent months, I have been widely quoted to the effect that this law constitutes a legal hunting license aimed at Jews, Moslems, and Western-oriented Christians, especially evangelical Christians and Roman Catholics. While there is the obvious problem that laws tend to stay in force even after governments fall, it is probably fair to say that this administration is not likely soon to target traditional religions too fiercely, especially in Moscow and St. Petersburg, where the international media and Western Embassies are watching. I agree with the point that this is probably part of the strategy of delaying the implementing regulations as well. But the provincial authorities are already out of control, and we can reasonably expect hundreds, if not thousands of cases, in the months and years to come, especially if we fail to provide the essential protective spotlight of monitoring and a political response at the local level.

In this respect, there is actually some good news. In the spring of 1996, in a remarkably positive and constructive move, President Yeltsin established a network of official local human rights monitoring commissions across the entire 89 subjects of the Russian Federation to be coordinated by his Presidential human rights commission in Moscow. By now, there are more than 50 such local commissions having been appointed. His edict mandated that local human rights NGOs be part of each commission, and he appointed the world-renowned Moscow Helsinki group to take responsibility for ensuring that this happens. Last summer, the Helsinki group invited the Union of Councils to be its partner and to assist in the development of this monitoring network in areas such as training NGO monitors in Western tech-

niques of monitoring and advocacy, developing and preparing annual reports from the regions, preparing a national report annually, and disseminating these reports throughout the world, domestically and internationally. This joint project already enjoys the encouragement of relevant Russian officials and of senior officials in the White House and the State Department. Subject to developing financial support, we hope to launch this vital effort very soon and we expect that the issue of religious liberty will be incorporated directly into the work of this human rights network.

We see the Institute of Religion and Law as a vital partner in such monitoring efforts as well as their signal work in developing a Constitutional appeal. They and other special friends and colleagues of the Union of Councils, such as Father Gleb Yakunin, have been professionally active in this area of great concern for many years.

Thank you, Madam Chairman and members of the Commission for this important opportunity to educate the Congress and the public about a most serious dimension to the worldwide problem of religious persecution.

**Ms. Taft.** Thank you, Mr. Naftalin. I appreciate everyone's presentation this afternoon. At this time, I would like to open up the floor to any of you who may have questions for our panelists. I would ask that you use the microphone that is here [in the center] and please identify yourself. We are having the proceeding transcribed.

**Questioner.** My name is Lauren Homer. I am the President of Law and Liberty Trust. I have one thing I would like to say just to clarify the record. Because I think there has been a slight tendency to overstate the severity of the law on paper. The 15-year rule asks whether organizations existed in Russia for 15 years, not whether they were registered 15 years ago. So they are going to take evidence that religious groups had church buildings or had activities even in the pre-Bolshevik period as a basis for confirming the 15 years of existence.

Secondly, we heard from Alexander Kudriatsev, who will be responsible for implementation in the Ministry of Justice, and from Andre Loginov some rather good news 2 weeks ago, and I guess many of the same things that Dr. Billington and Congressman Smith and the other members of the DeBurght delegation heard in Moscow. The question is, what are we to believe. Specifically, they were representing that centralized organizations that are currently registered would be exempt from the operation of the law. That they would not apply the 15-year rule retroactively to currently registered organizations. I think the phrase that Dr. Billington used about the Soviet period, when everything that was not prohibited—I am sorry, everything that was not allowed was prohibited—we were told were no longer rule. That instead, everything that is not prohibited specifically will be allowed. These are huge contradictions, both with the law itself and in reality. I wonder if I could ask Dr. Billington whether there were any mechanisms set up or ways put in concrete the promises that were being made. Are there going to be follow-up meetings? How can we be assured as we get to the deadline on the Smith Amendment and a decision has to be made by the President and the Congress about whether or not the law is being implemented in a way that is consistent with international agreements—whether or not that is what is happening?

**Dr. Billington.** Well, I will leave it to my colleagues on the panel to answer it in more detail. But in general, the sort of consensus in government circles at least seems to be that to at least tentatively accept the proposition that you have to wait and see how it works out. Because we do have all these verbal assurances. I must say the dialog with the Congress, which began actually last fall—Senator Bennett, for instance, made a visit over there. There

have been persistent and repeated efforts to get public statements internally in Russia which specify—which repeat some of the things that are said in private at lower levels in correspondence with the West. To say something publicly at higher levels internally in Russia that would at least make a public record of high level commitment to what is being privately assured in dialog with foreigners. To my knowledge, very little of that has happened.

So it is very difficult to know until the thing is implemented, but I think there has to be a fairly strong presumption on the basis of preliminary returns from the rural precinct, as H.V. Kaltenborn used to say back in the Stone Age, that the local authorities have seen this as, if not a full scale hunting license, an indication of direction with no public indications of counter measures. The ombudsman idea, for instance, was a specific proposal that was made inside the Kremlin at the highest levels of authority that we talked to, a significantly higher level than the levels that were present here in Washington. That seemed to be well received, but there has been no indication that that would be the case. More recently, there was an indication that they would not only possibly set up an ombudsman, but a kind of commission that would include a lot of human rights activists and have renewed sanction as a source of appeal. But there is no indication of that. So one has the feeling that with 6 months now—I don't know how many—I am always weak in elementary numbers—but since September, you have got quite a period of time in which you are getting constant reassurances that the next—semi-private reassurances that the next stage of this gradual implementation. Well, we don't have the final regulations. I think there were some encouraging signs.

In the guidelines, as distinguished from the regulations—there was a differential—I mean the test in service has seen a difference between encouraging signs in one and discouraging signs in others. They clearly are genuinely concerned about it. Not just because of the Western reaction, but because I think they realize that they didn't fully understand what they were getting into, and they are also frightened, properly so, at the forces to which they have made a concession by not continuing the fight that was established. But I don't believe—I have not seen any really major substantive guarantees or even public statements. There are lots of reassurances, but there are two stages behind that. There have to be public statements by high officials, and then there have to be some concrete actions that significantly would modify it and the implementation would guarantee it. It would have to be clear enough so that local authorities would realize that this wasn't a hunting license. Because although it isn't technically one, that is the way it is being interpreted and will be interpreted, I think, until there are some high level counter-indications. Perhaps there are others that I have missed or perhaps my colleagues have done more detailed research on this in the library and have something to add on this. I defer to my colleagues.

**Ms. Taft.** Any further questions from the floor?

**Questioner.** I am Sharon Payt with Senator Sam Brownback. Dr. Pchelintsev, Senator Brownback has asked me to extend his greetings to you once again and to acknowledge your excellent work in the rule of law and the field of religious liberty advocacy. There are numerous senators and human rights activists who are concerned about this law. My question to you is this. How best can we serve you here in the Senate?

**Dr. Pchelintsev** [through interpreter]. I am not a politician. I am a human rights activist and a lawyer. That is why it is very hard for me to say—to give you my wish list for the U.S. Senate and for the U.S. House. But I can tell you that the Russian White House—the Russian Duma—and the Council of the Federation listen to what their American colleagues

on the Hill have to say very attentively—very attentively. Now back in 1993, when they made a couple of attempts to pass a law limiting the freedom of conscience, which the President eventually vetoed, we received a lot of statements of support and a lot of very friendly messages from our friends in the West and the United States. Now President Yeltsin's office has received a lot of mail from those who oppose this law. Sometimes our mass media twist and distort the real picture and claim that Yeltsin only vetoed the law because he was influenced by the West. In fact, he vetoed the law because he received tens of thousands of letters with a strong condemnation of the law from within Russia.

I think that Senator Smith's amendment is very good leverage—a very good way to do it. So it is both economic sanctions and it is meetings like today which could be publicized, the news of which could be circulated. They really go a long way.

Ms. **Taft.** Yes, sir.

**Questioner.** My name is Bob Slaughter. I am on the domestic staff of a congresswoman of the same name. I don't speak for her. After 10 years in Congress, I have discovered that I never stick my neck out officially anymore. So as a private citizen—on a very superficial level, when I look at the history of religious freedom in Russia, I take the pre-revolutionary situation and the post-revolutionary situation, and now Russia thinks that they have adopted a European model, which they think is acceptable. I have to look at that as being real progress. But I realize that there is an international standard, and I think we should be grateful that there is. But since we are somewhat confused about where the centers of power are in Russia and who is governing Russia, would it not behoove us to concentrate at least equally as much on getting the countries that apply the European model to be certain that that conforms to the letter and certainly the spirit of the international standard? That would be an effective way to have Russia compare itself with a standard that might be a little more challenging than the one that they have right now. Thank you.

Ms. **Taft.** Do you want general comments on that point?

Ms. **Denber.** I find that—we get very frustrated by Russian attempts to deflect criticisms of its law and practices by saying, well, this is the Russian path or this is the European path, and please don't impose your values on our society. I don't think it is—I think the best way to go is to really insist that Russia has international obligations under international law. Because if we start saying—if we start giving ground to the Russian government by saying, well, you are making ground on coming closer to a European model—I mean, there are so many different European models, first of all. Second of all, it just comes too close to comparing countries, and that is something that actually the Russians hate. They hate being compared to other countries in terms of their human rights record. It drives them nuts.

The thing is that Russia has so many different international obligations in various institutions—with the United Nations, with the OSCE (that is a different level of international obligation of course), and with the Council of Europe. I think that Russia needs to be reminded, at a very high level and constantly, of its obligations under the Council of Europe. If it makes them feel better because it is the Council of Europe, which is guided by the European Convention and not, say, the U.S. values (or what they perceive to be U.S. values), then so much the better.

Dr. **Billington.** Well, I think it is important also not to let the argument pass that this is a European model, because this really isn't. I mean, they confuse—and sometimes it is out of ignorance and sometimes it is, I suspect, out of deliberate casuistry—the idea that many

countries have a technically established church. They confuse that with a license of the established church to impose second class citizenship on other churches or other religious associations. That is not the European model at all, even though many European countries have established churches or have a church that is specifically recognized and designated in law. So they confuse the fact of having a national church that is specifically recognized as having a special status with a license to put a deliberate set of restrictions on other institutions. That is not the European model at all, and I don't think they should be really allowed to keep on making that argument in public, which they often do.

**Ms. Taft.** Thank you very much.

**Dr. Pchelintsev** [through interpreter]. I would like to tell you that the representatives of the Roman Catholic Church and various Protestant denominations are really not against giving a special status to the Russian Orthodox Church. No one can deny that the Russian Orthodox Church is the traditional church of Russia. But at the same time, they don't have the right to restrict other religions in their exercise of religious freedom. At the present time, approximately 50 percent of all those who consider themselves believers in Russia are Orthodox. Which means that approximately 50 percent of all believers have the organization or the church that is privy to all the benefits and handouts that the government can provide while the other half is being oppressed. But I must remind you that everyone must be equal under law.

**Dr. Billington.** Also, it isn't just a question of persecution or other things. The leading icon painter in Russia and one of the great spiritual forces and head of one of the great monasteries has been thrown out of his monastery and put in virtual isolation for having services of intercommunion with Catholics. Six priests in the Moscow diocese have been turned out for voicing any public criticism of the law. Similar things have happened in St. Petersburg. So this is not just a case of the Orthodox Church as a total institution muscling down other churches. It is also aggression of a controlling faction within the Orthodox Church muscling other elements within the Orthodox Church, including some of those with the most vibrant and active following, particularly among young people.

**Questioner.** Wayne Merry from the Helsinki Commission. Following up on that for Dr. Billington, could I ask you to expand somewhat on your earlier reference that you felt the motivation of the Orthodox hierarchy was more from the question of internal dissent within the Orthodox community in Russia than from the better-known—or at least more publicized—activities of Western proselytizing missionaries. Could you both expand on the comments that you just made with particular reference to the newly-formed Ukrainian church and to the activities of the proselytizing foreign missionaries?

**Dr. Billington.** Well, it is a little hard to say what is the most bothersome. They seem to be beset by a series of concerns, and I am not MD30sure even what the relative weight is. You would have to get inside their minds. But they are certainly concerned with the situation in the Ukraine, which is a predominantly Orthodox country, in which there are three separate Orthodox churches—two other Orthodox churches besides the one that accepts allegiance to Moscow. The Patriarchate is particularly concerned about the situation in Estonia, where he used to be, and where the authority of the ecumenical patriarch in Constantinople has been juxtaposed against the referential traditional authority of the Moscow Patriarchate.

So there are those concerns. They are concerned about the growth in the church. They have an inadequate number of priests for the parishes. There are all kinds of internal prob-

lems. Generally speaking, the Orthodox Church periodically, when it has a period of dynamism and growth, wants to establish some kind of discipline over this. So I think that is a very strong impulse. I stress it because I think we tend to pay more attention to the Orthodox Church's concern over *foreign* competition and so forth. I think basically that while foreign competitions might have enormous initial impact, they don't tend to have the "staying power" that rival claims to orthodoxy have within the Orthodox culture.

But again, they are concerned about the fact that practically everybody got baptized Orthodox, and only one out of ten baptized Orthodox attend church services with any degree of regularity. That was rather vogueish for a while and it now seems to be slipping. So they seem to be losing their hold to atheism, indifference—residual atheism. The latest poll shows about 45 percent of the people identified themselves as Orthodox Christians and the other 45 identified themselves as atheists, and another 10 percent as other confessions of one kind or another. So it depends how you pose the question. You get a great deal of fluidity. Many more people identify themselves as Christians than as Orthodox. So in this kind of a fluid general situation in which no bastion seems safe, to different trends within orthodoxy as well as other confessions, there is sort of an understandable desire to draw the wagons in a circle and reassert a hard base of discipline. I mean, that is an understandable institutional reaction. Unfortunately, it undermines the whole moral revival of the country, which is as important for the health and development of a dynamic enduring democracy as are the institutions of democracy. So it is a great tragedy.

But you have the situation of the leading spokesman for the law—or it certainly was with our group—is Metropolitan Kirill, who was previously certainly one of the most intelligent, educated leaders of the church and was previously the leader in its liberal ecumenical posture. Now there are different explanations. Many people say he is just running for patriarch in this nationalist mentality. Others say and he would say himself that he is deeply concerned with this great flood of confusing Western influences which is disorienting the whole population and anxious to get them back into something which can balance responsibility and obligation with freedom and rights. That is a serious and legitimate concern. But who knows what the balance is. What is that the Chinooks say—who knows what evil or good, for that matter, lurks in the hearts of men? But it is very easy to say what the effects of it are and they are not good. I would defer to my colleague.

**Mr. Naftalin.** I would just like to add one point. I don't want to get it out of too much balance, but let's not forget that this is not just a religious competition for believers that the Russian Orthodox Church is involved in. It is the major uniting political force in the country and it is extremely nationalistic. So it has got an interest in government and in running the country. Then, it is also like most things in a world of this sort. It is about money and property. The Russian Orthodox Church—the leadership—this little leadership has more money than many countries. They have fantastic tax concessions that permit them to sell—to buy goods below cost and then sell them, like cigarettes. They are making a fortune in this. In many cases when a church gets delegitimized and put out of business, the property goes to the Russian Orthodox Church. So if it is a Lutheran Church and they don't want to have a Lutheran Church, so we will get rid of the Lutheran Church and then all of a sudden, lo and behold, the property transfers. It is not clear. We have to monitor what is going on. But this is not just state religion or whatever. It is everything in Russia going on all put together.

**Dr. Pchelintsev** [through interpreter]. This is absolutely correct. There are very com-

plex processes presently ongoing deeply within the Russian Orthodox Church. It is very unfortunate, but the Russian Orthodox Church, the Moscow Patriarchate, is relying on the powers of the state to suppress the competing Orthodox churches. Only 3 months ago, there was a large force of the police which chased the Ukrainian Orthodox Church, headed by Patriarch Adrian, from a church that they used about 100 miles south of Moscow. Once they dispossessed the church of this property, they then turned around and handed it to the Russian Orthodox Church and the Moscow Patriarchate. That was 3 months ago.

In the city of Abayan, the Kurst Oblast, the Russian Orthodox Church Abroad was dispossessed. They were chased out of their church with mustard gas and dogs. Two months ago in the Kaluga region, the authorities once again chased away a purely Russian Orthodox parish priest. The Moscow Patriarchate is becoming a government unit charged with a lot of force. It does not unite people. In fact, it is a destabilizing force. This is a matter of grave concern to us.

**Mr. Naftalin.** Could I add a footnote for the record so I don't go home and wonder why I missed it? It is not just religious issues. It is attacks on minorities of all kinds. The Russian Orthodox Church is one of the important purveyors of anti-Semitism in Russia. Many of its book stores are the most popular place in any city to find vicious anti-Semitic literature. It is part of the red/brown coalition and shouldn't be thought of strictly in terms of religious competition. It is really competition for the hearts and minds of the Russian people.

**Ms. Denber.** And I think I agree with my colleagues that this is a political phenomenon we are observing, and I think that one of the responses that we should have is to do as much as we can to strengthen civil society in Russia. Because where there is money and where there is politics, there is scandal. One of the best ways of combating abuse is to publicize—to give exposure, to give transparency. It would be tragic if we were remiss in understanding the importance of a strong civil society to combat all the negative political forces that are associated with this law.

**Dr. Billington.** I think it is important not to confuse the current manipulation by the political elite of nationalism and anti-Semitism and a lot of these things with what is assumed to be the genetic predispositions of the Russian people. There was a recent poll which gave 9 choices for who was responsible for Russia's present difficulties. The Jews were the 9th choice. They were the last choice. I forget what the other groups were. But this was an interesting indication that as far as popular sentiment is concerned—I mean, there are a lot of ethnic prejudices that are around in Russia and always will be. The anti-Semitism which certain leaders in the Orthodox Church but even more political leaders are playing with and utilizing, the so-called Radonezh Group, which is heavily backed by a second echelon of bankers who very much resent—are into this kind of intrigue. This kind of stuff isn't—these are games going on and a small number of them are the political elite.

We have talked a lot about the danger of provincial authorities running with the ball as a hunting license on other religious groups. But there is also in the provinces much more progressive things going on than are going on in Moscow and even in Petersburg at the moment. So there are a lot of positive things. The positive processes which I alluded to at the beginning really are the dominant controlling forces. What you are seeing is a kind of cryptofacistic death rattle of a dying nomenclature playing and artificially fanning the most vulgar nationalist sentiments that have been largely discredited in the rest of the world but have some continuing lifespan as we can see with some of the more extreme things going on

in Yugoslavia. That, indeed, is the risk. Not that they are going to return to the Soviet system, but that they will produce a kind of Yugoslavian type chaos in central Eurasia which would have fantastically destabilizing geopolitical effects that we can't even imagine.

So the stakes are very high in this. But the up-side possibilities are also very substantial. It is precisely those that are the most serious casualty of this sort of spasm of reaction that we are currently seeing in the Soviet Russian scene.

**Ms. Taft.** Before we get to our last question, I want to acknowledge the fact that we have been joined by Co-Chairman Congressman Christopher Smith.

**Mr. Smith.** I will be very brief. I am sorry, Dr. Billington and distinguished guests, that I wasn't here earlier. We had a mark-up in my subcommittee on a new child labor bill that I have introduced, which passed. We are now taking the bill to full committee. But then we had a meeting on refugee issues in Vietnam with Assistant Secretary Julia Taft, which ran over and I apologize for being late. But, I was only to make the introductions anyway as opposed to substantively taking part in this discussion.

Let me begin by saying that I want to publicly acknowledge the great work that Dr. Billington did for all of us on that Codel to Moscow in January. Dr. Billington was our resident scholar who had such a sense of history as we approached our friends, both in the Duma and people who were there from Yeltsin's government to try to persuade them that they would be turning the clock back on religious freedom by imposing such discredited notions as having a 15-year rule for registration. We stressed that religious freedom needs to be unfettered. Otherwise, they are truly out of sync with all of the international covenants to which they have voluntarily acceded.

The dialogue later continued on this side of the Atlantic in Dr. Billington's office with many of our friends in the Russian Government. This has probably been discussed at great length, but our hope is to see some of the major aspects of that law brought to the Constitutional Court, where we have real hope and optimism that the determination will be made that the law is clearly violative of their own constitution. Second, we hope that the enforcement will be something other than energetic, so that there can be a transition period during which these major defects can be fixed. We have clearly conveyed this to the Russians. We did so in a bi-partisan way, along with the very esteemed Librarian of Congress. So, the January trip was very good and I am sure the panel has given much greater detail about the law and its potential consequences. I look forward to reading through your comments. Thank you very much.

**Ms. Taft.** Last question?

**Questioner.** Kate Nepveu, Congressman John Tierney's office. Given the complicated motivations behind the law that we have all been talking about, political and religious and economic, are we looking at a lengthy process of trying to get this overturned? Are you thinking that the best prospect is going to be the Constitutional Court through more overtly political avenues? How difficult is this going to be?

**Dr. Pchelintsev** [through interpreter]. There is only one realistic way to set this law aside and that is in the Constitutional Court of Russia. Because another potential way is to do it through the Parliament, but the Parliament will not lift a finger to amend the law because this is a very Red Parliament. Now if we go through the Constitutional Court, that all told will take us approximately a year and a half to 2 years. We have already begun to collect our materials to go to the Court.

**Dr. Billington.** I think there is at least a theoretical possibility that the next Duma elections might product a Duma—I mean, that is not probably very likely, but there could be modifications or even overturning of the law if you had a Parliament that was not the same complexion as this one. Of course, those elections are a while off too. But that is technically at least another possibility.

**Dr. Pchelintsev** [through interpreter]. We just had a Moscow City Council election and not a single nationalist and not a single Communist made it. So we are hopeful that democrats will be in the majority everywhere in Russia. You know, Moscow is hardly an indicator. In quite a few instances, the Russian provinces and regions are very different from Moscow.

**Dr. Billington.** One of the things that many of the Yeltsin officials stressed was that it would be wonderful if more of the provincial people involved in administering the law actually had a chance to see how other countries function. Because very few of these people—for a long time it was true that we had more Chinese in 1 year visiting this country than we had Russians in the entire post-war period. I think we have gotten past that in the last few years. But the provincialism and the lack of first-hand experience of seeing how a different society functions—it is worth all kinds of lectures and media things. What they see now is some of the worst America—if I may say so. I mean, some of the worst in television. Some of the most conspicuous consumption without the entrepreneurial energy of early capitalism. A lot of the things that reinforce for people who haven't even gotten as far as Moscow, let alone to the West, the perception that the West is much to be feared and is really a totally materialistic form of decadence and degeneration that will ruin what is left of a sturdy rural people with all their problems. Therefore, there is no substitute for coming. 1.5 percent of the Marshall Plan money was spent on bringing young Germans over here after the war. They went back and created a totally new Germany. That was probably the best spent money ever made. We have not done nearly as well in bringing over Russians, particularly from the provinces. It tends to be the same crowd who was coming over here before on sort of KGB assignments who are now negotiating joint ventures and monopolizing the contact with the West to an astonishing degree in their new more expensive Western suits.

**Mr. Naftalin.** I'd just like to get back to your question for a moment. You asked, is this a long term process? This is a long-term problem. It is very unlikely that the law will change without a change in the Duma. It is not too likely that it will change anyway. The Constitutional Court is the main short-term hope and it is not likely they will act quickly.

Having said all that, I think the situation is really worse. Because it doesn't matter in the provinces anymore. The genie is out of the bottle. This law has given them carte blanche. Of course there are some regions of Russia that are more progressive than anything going on in Moscow or Petersburg, but there are also major totalitarian, Communist, Bakashov-type, fascist-type governments all over Russia and they love this law. They don't even care—they started to implement it before it was even in effect. They love it.

So I come back to the point that I was making in my prepared remarks. We must take advantage of Yeltsin's creation of the local human rights commissions. We must move immediately to develop serious systematic monitoring in the provinces where nobody knows really what is going on—where we have no real data that will be needed to inform the strategies of the future. We must do the monitoring. We must help these local human rights NGOs that are working in those local commissions and train them how to work. I am hopeful that we will be able to get that going pretty soon. But that is going to be a long haul.

**Ms. Denber.** I couldn't agree with you more. I think moreover, the only thing to do—one thing to do in addition to that is to really focus efforts on making the implementing instructions a little less harsh and never letting up on the Russian officials. Never taking their word at face value. Always following up and always making sure that they have held to their promises. That is done through monitoring, that is done through pressure, that is done through letter-writing. I mean, it is done through constant meetings. But never, ever leave it at face value. Then once the implementation—because if there is a way to avert or sort of get around the law's harshest provisions—sort of a way for the Yeltsin administration to find a face-saving solution for having the law implemented, then just the mere issuing of more palliative implementing instructions isn't the end of it. That is just the beginning. Then we have to hold the Federal Government accountable to keeping local officials in line with the implementing instructions. It is a very long, drawn-out, and complicated process, and it sure doesn't help matters that Russia is so big.

**Ms. Taft.** Yes, sir?

**Questioner.** Julian Dee, researcher from the European Parliament in Brussels. I was very interested in the excellent idea that was put forward at the Kremlin by the American delegation to appoint a high-powered ombudsman, possibly in the President's office. I thought it was a really excellent idea. I wonder if other ideas that America has come up with—perhaps there would be benefit in the European Parliament seconding those ideas. We have had at the European Parliament a joint parliamentary delegation to the Duma which has recently set up a working group in the European Parliament to monitor implementation of it. I wonder if it would be useful for you guys if somebody else was saying the same things that you are saying.

I also just wanted to inquire about some of the psycho-social background to some of this. I was reading not long ago that around 1666, when there had been a very minor change to the Orthodox mass, that many thousands of old believers were very, very worried that the end times were upon us. I wonder if there is an element of end-times fear or millennium fever that the Russian establishment are genuinely worried about. I know that many people in 1666 committed suicide. I wonder, particularly with the problems that we have had with Solar Temple Order in Switzerland and so on, if there is an element of misguided but genuine concern. I wonder if, on that point, the non-Russian Orthodox Christian churches are getting their voice together to present a united front to Russian society and also to help break down prejudice by an ongoing sort of dialog rather than being sort of sidelined.

**Dr. Billington.** Well, that is a whole bundle of good questions. The periodic apocalyptic sense is very characteristic of the Russian tradition and the Russian Church and probably the end of the—the revival of the church is very much stimulated by the celebration of the centennial of Christianity in 1988. That was really a decisive turning point in this whole religious revival. They may very well—the old believers, of course, are among the most adamant opponents of this law. But they have been opposing laws for several hundred years.

I think that the millennium as such is not a particularly activating force. I think what really—with regard to your—although, the sense of—it is not so much the apocalypticism as the ability or the peculiar characteristic of Russian culture to put up with great difficulties for a long period of time and then suddenly without any warning to do something very violent. This has been amazingly non-violent. Except for Chechnya and some things in the caucuses and a few things in Central Asia, there has been almost no inter-ethnic and none at

all social class kind of violence, which was widely predicted and expected by everybody. That is almost unnatural. We are seeing the beginnings of this repressed—this is what the Russians call *dolgoterpenie*, long suffering. It could produce some kind of explosion without any warning.

So I think the danger is very great of something apocalyptic. One of the things they were most frightened about—there were two things that really genuinely frightened the Russian populous as a whole. One was this Japanese sect that put nerve gas in the subway. They discovered there were more people in Russia that adhered to it than in Japan. I don't think it was that much of a threat, but it inspired almost apocalypticism. The other was this White Brotherhood, this weird group that defaced Santa Sofia, the most sacred original kind of cathedral of old Russia. They were very apocalyptic oriented. So there is a kind of fear and fascination at the same time with weird far-out developments. But at the same time, there is a certain sense that—I mean, probably the most respected lay individual in Russia today is a 91-year-old man named Demetri Sergei Likhachev, who is a survivor of the first death—the only probably living survivor of the first of the great death camps in the 20th Century in Soviet. He told me that he—he is an extraordinary human being, a person of great moral integrity. They tried to murder him the night he voted against expelling Sakharov from the Academy of Science—almost the only one to stand up and speak eloquently in the presidium. But he had a manuscript he was writing in his pocket and it blunted the knife. Well, this is sort of the way in which Russian reality sometimes surpasses their fiction.

Likhachev has requested an old believer burial because he never got an answer from the patriarch to his request that the Russian Orthodox Church make a clean break and have some public penitential act for its degree of complicity with the Soviet State in the last years. So you are dealing at levels of depth and of unpredictability here that are greater than in the usual religious community, largely because Russia is a very, very religious people. So it is very hard to know where this—they are playing with fire all the time in this area and it is hard to know where the fire will break out.

Let me say one thing. I think the actions of Europe are very important, because the sophisticated thing among the Russian apologists is to say that the Americans are a little crazy, like our religious people. They have got all these sects. They always talk about the San Diego group that was launching into outer space. They say the Americans always foment these weird things. With that as the engine, they drive a whole train full of every respectable backbone of a decently functioning pluralistic democracy you can imagine. But they think this is sort of an American fixation, that the sophisticated Europeans don't really care that much about it. Unfortunately, the European reaction has not been, up to this point, nearly as strong as the American reaction, even though from a legal point of view the Europeans have a much stronger case to make because of the Council of Europe and the European Parliament and the other.

Ms. **Denber**. But they made cases that were tried via court.

Dr. **Billington**. But the Americans shouldn't be making the European case. The Europeans should make it. So I think it is a very important role. Probably even more important than our role for the Europeans to play here. I think anything that can be done to help show an interest, particularly in this process of monitoring and holding accountable. Because in the first instance, they are really rejoining Europe. It is particularly important that they get a sense that the Germans and others in Europe—but the European community as a whole

really has a very important role to play, I think.

Dr. **Pchelintsev** [through interpreter]. I'd like to address the second issue raised in your question concerning the united front for various denominations that expect trouble. The law was instrumental in pulling us together. There is a new committee on freedom of religion that has been formed in Russia which subsumes representatives and includes representatives from different churches and different denominations. That includes Russian Orthodox Churches with the exception of the Moscow Patriarchate. Then certain secular individuals established another committee for the protection of the freedom of conscience. Then finally, 2 months ago the Evangelical Council of Russia was established, and they are in the process of registering right now. The members of this council are leading Protestant denominations. The goal of the council is the guarantee of the freedom of religion and its protection. So the law was instrumental in pulling us together and in helping various Christian denominations to better formulate and define the freedom of conscience and religion that they seek. So in that way, it was a very useful law.

Ms. **Taft**. With that, I think we will close our briefing for this afternoon. I want to publicly thank all of our presenters today for the time that you took to be with us and to prepare your remarks. We appreciate all of you that attended and we look forward to our next time to be together. Thank you.

(Whereupon, at 5:06 p.m. the briefing was concluded.)

[Written submissions follow.]

APPENDICES

*Submitted by Dr. James Billington*

## **RUSSIAN FEDERATION: NEW LAW ON RELIGIOUS ORGANIZATIONS**

**BY PETER ROUDI, LEGAL SPECIALIST, EASTERN LAW DIVISION, LAW LIBRARY OF CONGRESS, OCTOBER 1997**

On June 23, 1997, the Russian Federation State Duma (lower chamber of the Russian Parliament) almost unanimously passed the Law on Freedom of Conscience and Religious Organizations which was approved by the Federation Council (upper chamber) on July 4, 1997. The law was strongly backed by the Russian Orthodox Church and drafted with the participation of the Russian Orthodox Church representatives. Although the new law mentions that Russian Federation still remains a secular state, it does not implement the constitutional principle that no religion shall be declared an official or compulsory religion, and states that Orthodoxy is the leading religion of the country because it is determined as an "inalienable part of the Russian historical, spiritual, and cultural heritage." Islam is given equal status with the Orthodox faith, but without being included in the common Russian heritage, while Judaism, Buddhism and other traditional religions are deemed respectable.

On July 21, 1997, Russian President Boris Yeltsin vetoed that controversial legislation following protests by human rights groups and a threat by the US Senate to block some \$200 million in aid if he did not. In the letter to the State Duma Chairman, the Russian President

for the first time in his legislative practice gave a detailed analysis of all provisions of the new Law which contradict guarantees of religious freedoms provided for by current Russian legislation and international agreements to which Russia is a signatory. Those documents include the Universal Declaration of Human Rights, the International Covenant of Civil and Political Rights, the Council of Europe Convention for the Protection of Rights and Fundamental Freedoms, Helsinki Final Act, and the U.N. Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief.

A major reason the new Bill has been called unconstitutional is due to its deviation from the principle of the equality of religious associations before law. The vetoed Federal Law stipulated that foreign religious organizations may open missions only under the auspices of Russian religious organizations. This norm made the missions of foreign religious organizations directly dependent on the attitude toward them of local government officials and Russian religious organizations. These organizations have been given the functions of state authorities with regard to foreign religious organizations, since before foreign religious organizations can obtain state registration for their missions in Russia, they must obtain the official consent of a Russian religious organization to open a mission.

Another contradiction to the Constitution is that the Bill officially refused to recognize the constitutionally declared principle of equality of individuals before the law. This entails fundamental discrimination against citizens on the basis of their attitudes toward religion. If a person chooses beliefs which coincide with a conviction of a centralized religious organization, then he receives full rights to engage in religious activities within one month; but, if his convictions do not coincide with any of the centralized structures, then he can receive the full range of these civil rights only after fifteen years.

Despite the fact that the Russian Constitution determines international legal acts as an integral part of Russian Federation legislation, this condition is omitted from the new Federal Law, which contained only an indication of the auxiliary use of the provisions of international treaties for the purpose of interpreting Russian Federation legislation on the freedom of conscience.

Being under pressure from leaders of all main religious beliefs presently existing in Russia, Yeltsin expedited the passage of the Law. Advocates of the Law have suggested that such legislation is needed to protect historical Russian faiths from the impact of missionaries for other religious groups who have entered Russia since the fall of communism. According to the data of the Russian Federation Ministry of Internal Affairs, more than 6,000 sects were officially registered in Russia in September. But if the total amount of all registered congregations was around 14,000, including almost 8,000 Orthodox, then all non-Orthodox religious groups were considered as sects.

Supporters of the Law argued that it protects not only Russian Orthodoxy but also Roman Catholicism, the Baptist Church, Islam, Judaism, and Buddhism. But such claims are not justified by the text of the Law. While the legislation might protect congregations and hierarchies already registered with the state, it would do little to protect congregations within those faiths not registered in the past. Thus, the many Jewish synagogues that have arisen since the end of the Soviet power might not be protected by the Law, and the large number of Roman Catholic congregations active underground even before 1991 might not have the right to continue to exist. As proof of the minority confessions' support of the President's bill, the administration collected signatures of Russian religious leaders under the widely publicized

statement on agreement. Among the signatories were the President of the Russian Union of Seventh-Day Adventist Church, the Chancellor of Moscow Roman Catholic Apostolic Administration, and representatives of the Pentecostal Church and the Directorate of Muslims in Eastern Europe. However, the final document did not correspond with the one which was signed, and did not include amendments proposed by the leaders of minority confessions.

A revised version of the Law was approved by the Conciliatory Commission of representatives from the Russian Orthodox Church and the Government which met behind closed doors. Suggested amendments just expanded the list of traditional Russian faiths including Catholicism and did not change the Law significantly, however, the purpose of the law is not to declare state preferences, but to improve the procedural part of the state-church relationships. The Committee on Public Organizations and Religion of the State Duma which is in charge of this legislation agreed with most amendments proposed by the President of Russia. Yeltsin's draft clarified the wording of the preamble and various articles of the document without changing the concept and essence of the Bill which received the Federal Assembly's approval (see Appendix 1).

The revised version of the Law with presidential amendments was signed into law by Yeltsin, and entered into force on October 1, 1997, when it was published in the Russian official gazette *Rossiiskaia Gazeta*. Like the original bill, the new legislation contains several provisions that many observers believe violate the letter as well as spirit of the constitutional guarantee of equality of religions before the law. The Law enjoys broad popular and political support in Russia. The Federation Council which consists of Russian Governors and Heads of provincial legislatures approved the Law unanimously.

The new version of the Law retains points subject to criticism and is, arguably, discriminatory toward different creeds and religious organizations. Like the vetoed bill, the new Law provides for unequal status of different organizations, restricts educational and charitable activities, and allows for one to exercise the right of freedom of religion in one's place of residence only. It makes the internal regulations regarding religious groups stronger, supports the fifteen-year probation period, and introduces an annual re-registration of religious organizations.

The new Law includes government proposed provisions that would make it more difficult for foreign and minority religious groups including those traditionally popular in the Western part of Russia (Catholics and Protestants) to operate in Russia. Under the Law, only religious groups that can prove that they have existed in Russia for at least fifteen years can be officially registered as a religious organization. The order of registration is also changed. The declarative character of registration is changed to the licensing through the administrative procedure. The Law requires that a "commission of experts to review the doctrines and practices of groups applying for registration" will be established, and the decision on registration shall be made by the commission. It should be noted that the mentioning of the state expertise in order to determine the eligibility of a religious organization for re-registration was not included in the final text of the Law (art. 7), and now such expertise shall be conducted by a board filled by the state and Russian Orthodox Church representatives. The Law does not determine conditions for recognition of those religious organizations now active in Russia.

Despite the fact that the Constitution of Russia prohibits the retroactivity of legal acts, final provisions of the Law (art. 27) provide for deprivation of rights currently present and

officially registered in Russia religious organizations which cannot prove their existence in Russia before 1982 in the way prescribed by this Law. Even though the Law allows religious organizations which were registered in Russia before this Law was adopted to continue their activities on the basis of annual re-registration, the list of cases when the religious organization may be denied this right on re-registration are prescribed by the Law. This list is relatively broad, and makes it possible to deny the re-registration not because of factually proven violations of the law, but exclusively because of the new 15-year requirement. It seems that the decision of re-registration will be a subject of actual face-to-face negotiations between interested priests and preachers and specific officials.

Even if the religious organization is allowed to re-register, many of its activities shall be suspended until the organization will be able to produce a document confirming the 15-year existence. The Law (art. 27.3) includes the list of activities not allowed for such organizations. It is prohibited for them to:

establish educational institutions;  
maintain relations with foreign religious organizations, invite foreigners, and open foreign representative offices;  
work in schools, hospitals, nursing homes;  
publish books, religious materials, periodicals, and to establish religious mass media;  
organize institutions of religious professional education; and  
request the deferment of military service for followers draftees.

It seems possible that the re-registered organization may even lose its registration during the annual re-registration process.

The analysis of these main provisions of the Law allows one to conclude that Russian lawmakers combined the right to exercise the freedom of religion with the struggle of a religious organization to become a legal entity, and significantly restricted the right of an organization which was not officially registered in Russia before 1982 to get the legal entity status and conduct the full range of religious activities. In particular, the only difference between a religious group and an organization is the possibility to claim the full legal entity status which cannot be granted to religious groups unable to fulfill a 15-year qualification period. This 15-year qualification period has become an insurmountable obstacle on the road to an untroubled legal existence for all faiths which were not mentioned as traditional in the preamble of the Law.

Only religious groups that have been officially active in the country for at least fifteen years, could be granted the status of a religious organization by the Federal or regional Government. Religious groups that have been operating in Russia for fewer than fifteen years would be denied the rights of legal entities including property rights. Depending on the legal status of the organization, only approved religious organizations will be allowed to own property, employ workers, maintain a bank account, or invite a foreign speaker or visitor, provide charitable programs and run educational institutions. The selection of the fifteen-year probation period is based on the fact that in 1982 all foreign religious organizations were prohibited in the Soviet Union. First Catholic communities were registered in Moscow in 1984.

The establishment of the principle of advantages for centralized religious organizations

entails discrimination by the state against those citizens who would like freely to leave such a centralized organization and form a new one without changing their religion or their convictions. Such citizens will be deprived of property, including property which they themselves have bought or built, and for up to fifteen years they would be forced to undergo detailed supervision just like representatives of a new religion.

The State and Law Administration under the President of Russia (GPU) explained that fifteen years of activity does not mean 15-years registration. As Ruslan Orekhov (Head of the GPU) was cited in an article in Segodnia newspaper, this means that "confirmation of fifteen years existence could be provided by a documented case of some Adventists being taken in by the police, an angry article in the newspaper Pravda branding the Baptist sectarians for befuddling the minds of Soviet citizens, a court ruling on anti-Soviet activities," and so on. However, the GPU has no legal power to give official interpretation of laws, and the Law itself mentions only two institutions which can confirm the previous existence of a religious group. They are local self-government authorities and centralized registered religious organizations. Police, courts and newspapers do not belong to any of these two.

The Law also provides for another restriction in regards to foreign religious organizations which can only open representative offices. All foreign organizations are reprimanded from religious services and activities. This provision allows any association, whether foreigners or Russians, which has a superior or governing center abroad, to be labeled a representative body of a foreign religious organization. Believers who, in accordance with their own convictions, cannot declare their doctrinal independence from a spiritual center located beyond Russia's borders, for example Roman Catholics, could by this principle be completely deprived of their rights to confess their faith publicly and jointly with others.

The new Law contains restrictions on the rights of Russian Federation citizens predominantly resident outside the Russian Federation and also of persons who are not Russian citizens. The Law stipulates that only Russian Federation citizens who are permanently resident in one locality can profess and propagate their faith collectively in the form of religious organizations. Foreign citizens are not entitled in Russia, under the new Law, to profess or propagate their faith collectively, but may satisfy their religious needs as individuals only, even though the Constitution of the Russian Federation declares that foreigners and stateless persons residing in Russia enjoy the rights enshrined in the Russian Constitution on equal terms with Russian citizens.

One of the most disputable questions of this legislative act is the problem of establishing and registering a religious organization. The Law states that additional normative documents devoted to the implementation of this Law shall be elaborated on by the Russian Government (art. 27.1). According to ancient Russian tradition, the Law puts the practice of regulating state-church relations in the hands of unpredictable bureaucrats. The Law obliges believers to present evidence of existence of their organization in an organized form over the course of fifteen years. But the Law does not oblige any state organ to grant the status, nor does it establish a system for granting it. In practice, it means that everything will be decided by local executive bodies and Orthodox priests who are included on local licensing committees.

Being organs directly connected with the local populace, the local government authorities could act in the interests of the majority, which could lead to the infringement of the rights of minorities. This might allow multiple violations of the rights of believers before the

completion of judicial determinations which can last for months. Radio Free Europe/Radio Liberty reported that the day after the Law entered into force, Protestant churches in the Northern Caucasus region were closed by orders of local self-government authorities without any explanation. After the adoption of this Law, the authorities in different Russian regions urgently began to establish social organizations whose goal is to resist the involvement of youth in sects and non-traditional religious groups.

Article 9 of the Law Establishing of Religious Organizations says that "local religious organizations shall be created under initiative of Russian citizens of age above 18 years and other persons permanently and legally residing on Russian territory if they joined the same religious group, and can submit a confirmation of the existence of their group in this locality during the last fifteen years issued by the local self-government authority, or a confirmation that the group was included as a structure in the centralized organization of the same religious confession." It is unclear how non-citizens can become members of a religious organization, if the Law allows Russian citizens only to enter local religious groups (art. 7.1).

The implementation of this Law may provoke such dramatic consequences as tensions between subunits of the Russian Federation; emigration on religious grounds; conflicts between creeds as well as between religious groups and states; and adoption of restrictive legislation in neighboring countries on a reciprocal basis. The only chance to argue the adversity of this Law is to appeal it to the Constitutional Court. It is doubtful that any parliamentary faction can get the necessary one-fifth of deputies (90) required to bring the case to the Court. Probably, some groups of Russian representatives of a "non-traditional religion" can appeal to the Constitutional Court. Some believe that Yeltsin might be secretly pleased if the Constitutional Court did the politically unpopular job of invalidating the Law on Religions. This would relieve Moscow of complaints from foreign governments and religions while sparing Yeltsin the political cost of opposing a popular measure. On the other hand, the Constitutional Court is swayed by popular opinion, and may hesitate to strike down a law with such broad support. (See Appendix 2 for the case study of Constitutional Court decisions in the area of human rights)

The new legislation repeals the 1990 Russian Law on Freedom of Conscience, and almost all legal results of the previous Law are now annulled. The Law, which was in force since 1990, was an example of a liberal religious legislation. It was passed when the Church and religions needed to be freed from total state control through the KGB and its department, the Governmental Council on Religious Affairs. Presently, because of inexperience to exist in a market society, some religious institutions are going to get the state as a protector and an ally. The state which is burdened with the problems of social stabilization is ready to cooperate with them and expects corresponding countermeasures from the Church.

The recently adopted Russian Law is often compared with the Lithuanian law on Freedom of Conscience and Religious Organizations which was adopted by the Parliament (Seimas) of Lithuania in October 1995. The reason for such comparison is that the Lithuanian Law introduces such definition as the state recognized religion and provides for term conditions which restrict the granting of this recognition. Although the Lithuanian Law states that Parliament can grant the state recognition to those religious organizations which have been present in Lithuania no less than 25 years from the date of their initial registration in the republic, the non-recognition by the state does not entail any significant shortage of rights of the religious organization. Moreover, all religious communities and organizations in Lithua-

nia acquire the rights of a legal entity upon registration of their statutes or other corresponding documents. Religious communities in Lithuania have no restrictions in their property rights and may establish their own enterprises, educational and medical facilities, provide related services, and conduct charity activities. At the same time, state recognized traditional religious organizations have more possibilities to work with state organizations and to enter state educational and medical institutions in order to fulfill their religious duties. That is the only difference between traditional and non-traditional religions in Lithuania. Latvian law is even more liberal. It guarantees legal equality to all religious organizations and prohibits any kind of discrimination.

**SUBMITTED BY DR. JAMES BILLINGTON**

**AMENDMENTS TO THE RUSSIAN FEDERATION FEDERAL LAW ON RELIGIOUS ORGANIZATIONS SUGGESTED BY THE PRESIDENT OF RUSSIA**

**BY PETER ROUDIK, LEGAL SPECIALIST, EASTERN LAW DIVISION, LAW LIBRARY OF CONGRESS, OCTOBER 1997**

The new draft of the federal Law which was prepared by the Conciliatory Commission does not change the concept of the Law passed by the State Duma. However, several serious improvements should be mentioned. The preamble is significantly extended. Unlike the preamble of the Law it confirms that Russia remains a secular state, and recognizes Christianity (not only Orthodoxy as earlier) as "an inseparable part of the historical heritage of Russian people." This amendment will give Catholics, Protestants and representatives of other religious groups the right to claim equal status for their organizations.

The second novelty is found in the numerous citations to laws (some not yet passed) of the Russian Federation. The requirement that activities of religious organizations should not contradict Russian laws was inserted to lessen the effect of repressive provincial laws and to give religious organizations the opportunity to appeal the actions of local authorities against them in the courts. The military service of clergymen can be used as an example. The President's proposal suggests that this question will be resolved uniformly in accordance with the laws on military service.

An essential amendment was included in article 3 which describes the implementation of the constitutional right to freedom of conscience. In the vetoed Law, this article mentioned citizens of the Russian Federation only. The most recent version states that foreigners and persons without citizenship, without regard to their legal status in Russia, are on an equal footing with Russian citizens in exercising their freedom of creed and religious association. The citizenship requirement is also lifted from those who want to establish a religious association or organization. The President's draft gives this right to all legal residents on Russian territory as well as to Russian citizens as in the text of the Law (arts. 6 & 8). However, there is no change regarding the legal status of members of religious groups which are basic cells for religious activities. Membership in religious groups is still open for Russian citizens only.

More liberal rhetoric is used in provisions regarding religious education. The Law allowed religious organizations to provide religious education to all students of state and municipal educational institutions, and the new draft restricts the right to teach religion directly to its followers only.

The proposal provides for a more detailed status of religious groups and organizations. It determines ways to transform a group into a religious organization, defines sources of income and property, and extends the rights of the religious group to teach its followers. However, the right of religious groups to conduct charitable activities is eliminated. The procedure of registration is also slightly changed. The list of required documents is reduced, and the mandatory number of local organizations required for the registration of a centralized religious organization is decreased to three.

These proposed amendments do not eliminate previously existing violations of the constitutional right to religious freedom. The draft still limits the rights of foreign religious organizations allowing them to have representative offices only. Such representative offices of foreign religious organizations may not engage in liturgical or other religious activities, and they do not have the status of religious association as established by the federal Law.

Like the vetoed bill, this draft requires a religious organization to prove that it has existed in Russia for fifteen years. Even though the activities of a religious organization that existed for fewer than fifteen years is allowed on conditions of re-registration which shall be conducted annually, such organizations will receive the status of a legal entity, but they will be seriously restricted in the different forms of activities they may conduct. Such organizations will not have tax privileges; they cannot host representative offices of foreign organizations and invite foreign guests; they cannot conduct religious ceremonies in places such as hospitals, orphanages, prisons, or nursing homes; obtain, export, import or publish religious literature; produce sacramental or ecclesiastical objects; create educational institutions or mass media.

From the wording of the draft, it appears that the role of the state authorities will remain as strong as in the vetoed bill. Secular authorities have the duty to consider the territorial sphere of activities of a religious organization. The draft retains the hierarchical division of religious institutions into groups, organizations and associations with different kinds of rights, and requires different periods of probation for different organizations. Also it grants the right to use the word Russian only to centralized organizations whose structures have functioned in Russia for at least fifty years.

Although the majority of amendments introduced by the Russian Federation President were supported by the Russian Orthodox Church and the Duma's Committee on Public Organizations and Religion, several disagreements were reported. Most disputable questions are who can be a founder of a religious organization, and who can enjoy freedom of religion in Russia. Members of Parliament do not agree that foreigners shall have equal rights with Russian citizens. Sharp disputes exist concerning the fifteen-year probation period. Members of the Duma cannot decide whether this requirement shall apply to all religious organizations including those already registered, or to newly established groups only. Another unresolved question is the contribution of Orthodoxy to Russian history. Deputies demand that this term be included in the text of the Law instead of the proposed term statehood.

**SUBMITTED BY DR. JAMES BILLINGTON**

**RUSSIAN FEDERATION: CONSTITUTIONAL COURT AND HUMAN RIGHTS**

**ANALYSIS OF RECENT RULINGS IN CONNECTION WITH ITS POSSIBLE CONSIDERATION OF THE RUSSIAN LAW ON RELIGION**

**BY PETER ROUDIK, LEGAL SPECIALIST, EASTERN LAW DIVISION, LAW LIBRARY OF CONGRESS, SEPTEMBER 1997**

Traditionally, the judiciary neither played any important role in the Russian legal system, nor secured the enforcement of declared rights. Hopes that the establishing of the Constitutional Court will change the situation proved to be wrong, especially after the seventeen months suspension of activities of the judiciary that undermined its independence and hurt the human rights situation in Russia.

With respect to human rights violations, the Constitution authorizes the Court to examine, based on complaints about the violations of citizens' rights, the constitutionality of laws that have been applied or might be applied in specific cases, in accordance with the procedure established by federal law. Given an expansive scope of human rights in the 1993 Constitution, this provision opened the door for the Court to consider a variety of topics ranging from property issues to environmental problems. If a request satisfies the requirements set out in the law, the Constitutional Court cannot reject a human rights case presented by an individual.

The analysis of recent rulings of the Russian Constitutional Court allows one to argue that in many cases the Court takes a very broad view when implementing the constitutionally declared principle that "All are equal before the law and the court," especially discussing private questions or legislation of remote provinces. The following are some examples of cases invoking the principle:

(1) The Russian Law on Rehabilitation of Victims of Political Repression had put children who accompanied parents into exile in the less favored category of "sufferers from political oppression," while their exiled parents were in the more favored category of "the repressed." The Constitutional Court held that this distinction violated the equal protection clause, in that "the same measure of repression for political reasons... also applied to them."

(2) An individual was denied a court hearing on the question of whether or not his detention had been unlawful, because he was no longer detained at the time he brought the case. This denial was held to be a violation of his right to be "equal before law."

(3) The Russian Law on the Police stated that police below retirement age could only be fired for cause, while police above retirement age could be fired without cause. This was held to be a violation of a policeman's right to be "equal before law."

(4) A case on the Chuvash (one of the federation components) election law held that

changing rules during the middle of a multiple round election violated the right to equal treatment of those subjected to the changed rules.

At the same time, the Court seems much more cautious when the case has a public resonance or touches high executive authorities. A good example is the Court's decision on the residence permit policy. In 1993, Russia adopted a law guaranteeing freedom of movement. In July 1995, regulations were issued under this law establishing a residence registration system to replace the former residence permit rules under another name. The Constitutional Court ruled illegal any consequences attached to refusal of a residence permit or refusal of residence registration; but, trying not to confront directly all regional administrations which strongly supported these restrictive measures, the Court did not say anything against the residence registration.

In March 1997, the Court discussed the case which was in the focus of public interest and might dramatically change Russian procedural legislation as well as the human rights situation. An applicant questioned the constitutionality of the Criminal Procedural Code's provision which prohibits private attorneys from representing their clients in court in criminal cases and to participate in trials if they are not members of state registered collegiums of attorneys. Because of an active involvement in this case of the Russian Federation Ministry of Justice and city governments of Moscow and St. Petersburg, the Court decided to rule in their favor and to confirm the constitutionality of this restriction.

One of the tendencies of the Russian Constitutional Court is to avoid controversial cases and to attempt not to be directly involved in political disputes. One of the gravest violations of the human rights provisions of the Constitution took place in June 1994, when President Yeltsin issued a Decree on Combating Crime. Although the text of the decree was clearly in conflict with several articles of the Constitution, the President has rejected demands to cancel the measure. Many Russians saw the Constitutional Court as the only body strong enough to block implementation of the Decree, and Members of Parliament took the issue to the court. Even though the case was accepted by the Court in July 1994, it was pronounced unconstitutional in June 1997, a few days after Yeltsin repealed his Decree.

The study of cases resolved by the Court during the last two sessions shows that the Constitutional Court has not decided the question of equal protection and which differences justify disparate treatment and which not. The Court has not clearly enunciated equal protection standards, nor has it discussed the relative roles of the legislature and the judiciary in deciding when a difference is significant enough to merit unequal treatment. Therefore, the Court apparently finds itself under the pressure of different state authorities and its decisions may be politically influenced. Referring to article 3, part 2, of the Law on Constitutional Court, which states that the Court will "exclusively resolve questions of law," the Court often refuses to consider "the political consequences of legal acts or actions carried out on their basis."

One of such cases was the case on the validity of Yeltsin's decrees on the military invasion in Chechnya. The majority opinion devoted minimal attention to either the actual military methods employed by the Russian Army in Chechnya or any resulting human rights violations. Basically, the Court maintained that these questions were beyond its jurisdiction. Discussing this case, the Court managed to dodge the human rights implications. It ruled that it was only empowered to resolve questions of law, not the ensuing applications of these laws and; therefore, the human rights violations did not fall within its jurisdiction. No legal

verdict was rendered by the Constitutional Court on the massive human rights violations that occurred in the region. The Court also used its limited jurisdiction—and the question of mootness—to dismiss disputable presidential edicts.

Like in the Chechnya case where the Court struck down the Government's restrictions on freedom of movement and freedom of press during the Chechen War, the Constitutional Court can invalidate several unpopular provisions of the religion law if the Russian Law on Religious Organizations is brought to the Court, despite the fact that the Court ultimately provided in previous cases a rather generous interpretation of executive authority. Unwilling to contradict the popular opinion, the Court may also rule that it has no direct jurisdiction over human rights violations which are just consequences of the implementation of the Law and conclude that the examination of the practical implementation of the Law should be conducted by "other competent organs," i.e. the administrative and criminal justice system. Because certain courts of general jurisdiction are taking their role seriously as defenders of human rights standards and are ready to uphold rights included in the Constitution but not in ordinary legislation, these courts can contest the Federal Law because it violates human rights standards.

Under the Russian Constitution, the regulation of activities of social and religious organizations is in the area of joint, federal and regional jurisdiction, and regional executive authorities are in charge of the implementation of these laws. Currently, almost half of the Russian provinces have passed provincial laws which openly challenge constitutional guarantees of religious freedoms and are even harsher than recently approved federal legislation. For instance, on October 17, 1997, the legislature of the Republic of Buriatiya adopted a law which prohibits all confessions in the territory of the republic except of Orthodoxy, Schism, Islam, Lamaism, and Shamanism. One cannot exclude that the majority of problems will be brought for resolution to regional courts and authorities. The first case when the regional Constitutional Court evaluated provincial religious legislation and declared its provisions unconstitutional occurred in June 1997 in Udmurtiya.

**SUBMITTED BY DR. JAMES BILLINGTON**

**COMMENTS ON THE DRAFT OF THE RUSSIAN FEDERATION GOVERNMENT REGULATIONS FOR THE STATE REGISTRATION OF RELIGIOUS ORGANIZATIONS IN THE JUDICIAL BODIES OF THE RUSSIAN FEDERATION**

**BY PETER ROUDIĆ, LEGAL SPECIALIST, EASTERN LAW DIVISION, LAW LIBRARY OF CONGRESS, JANUARY 1998**

Regulations for the state registration of religious organizations were proposed and drafted by the Government of the Russian Federation to create and regulate the procedure for establishing and registering all kinds of religious associations. The positive features of this Regulations are the time frame for the review of applications (up to six months) and the possibility for judicial review of decisions issued by state registering authorities. However, the mecha-

nism for the registration of a religious organization in Russia remains uncertain.

In general, the Regulation follows the Law on Religious Organizations and repeats the definitions and procedures introduced by the Law. In accordance with the Law, the Regulation recognizes local and centralized religious organizations and favors those religious organizations which can prove their legal existence in Russia during the last fifteen years. It should be noted that the Regulation recognizes only the legal existence of a religious organization, and only legal evidence can be considered for registration. The Regulation stipulates that only acts of local government authorities may be accepted for confirmation of the association's existence during the fifteen-year period. This provision will exclude from full accreditation associations which had previously existed but had not been registered by the state religious organizations. Such organizations are able to provide such indirect evidence of the existence of an association such as the persecution of followers during the Soviet era, or established contacts with foreign partners. However, they are not recognized by the authorities.

Different procedures are introduced for the registration of local and centralized religious organizations. It seems that the authors of the Law expect that the majority of religious associations will be registered as local organizations by judicial authorities under the governments of the Russian Federation components. If centralized organizations are established, such associations may be legalized by the Russian Federation Ministry of Justice. Because the registration of judicial persons belongs to the competence of the Russian Federation subunits, one can suppose that regional authorities will impose additional requirements on the registration of religious organizations. The Regulation directly states (art. 4.3) that the procedure for notifying local government agencies of the establishment of a religious group shall be determined by the appropriate local regulations. Under this provision, the registration of branches of the same religious organization in different regions may vary significantly.

The registration of a centralized religious organization rests with the Federal Ministry of Justice if at least three local organizations already exist. It is unclear whether existing local organizations will need further registration and re-registration if the centralized organization will be opened, and whether the centralized organization will be able to create new local offices and place such new religious communities under easier procedures. It is impossible to say where new local organizations shall be registered: in Moscow together with the main office of the centralized organization or in the provinces. This doubt is confirmed by the provision of the Regulation (art. 9) which allows the centralized organizations to submit to the appropriate registering agency the annually requested information on local religious organizations without notifying the local organizations. Another question without an answer is, what will be the competence of the federally registered centralized organization? Will it be just an administrative body or it will be able to conduct religious services?

Like in previously passed legislation, the citizenship issue remains the most painful question left open by the Regulation. Even though it declares that a religious organization is a voluntary association of Russian Federation citizens and other persons legally and permanently residing in the Russian territory, the Regulation states that only Russian citizens have the right to be founders of a religious organization. The Regulation requires that the citizenship of all founders will be mentioned in the application for registration and imposes a duty of proof on the registering agencies (art. 11). It is not excluded that later governments

of Russian Federation components will give the right to form local religious organizations to residents of their particular localities only.

Officially, Russian citizenship is not required for one to submit the application to register a centralized organization. However, because the centralized organization may be established on the basis of existing local organizations where non-citizens are excluded, the registration of a centralized organization also depends on the Russian citizenship of the followers of the group. Also, the Regulation does not say definitely who can be a founder of a centralized religious organization. The interpretation of the Law and Regulation allows one to conclude that the centralized religious organization may be established by representatives of local religious organizations, by representatives of foreign mission of a religious organization, and/or by independent believers who want to join existing local organizations or to unite them.

A dubious question is the annual re-registration for those religious organizations which were established before the entry into force of the Federal Law on Religious Organizations, those that cannot claim to have existed in Russia for fifteen years. All these organizations have to pay unspecified fees, face numerous bureaucratic obstacles, and handle the consequences of a break between registration periods. It is difficult to say whether in such situations whether or not the previous years of existence of the religious organization in the country will be recognized as consecutive years. Similar problems were experienced by the Moscow office of the Israeli organization Sohnut.

Additional bureaucratic obstacles may be created by the registration procedure. Defining the list of founding documents to be submitted for state registration, the Regulation includes a proper standard letter of guarantee confirming the location of religious organization (art. 11.7). This requirement may be problematic because under currently in force administrative restrictions, the organization may not rent or buy a building, office space, or relocate in another place. At the same time, without a legal address, the religious organization may not be registered without official registration.

The registration may be complicated by the requirement to translate all materials into Russian "in accordance with the established procedure" (art. 15). Presently Russia has no uniformed rules for the acceptance of translated foreign legal documents. Even though Russia signed the Hague Convention of 1951 in 1994, and documents which bear the so-called apostill stamp should be accepted by authorities, different regions and institutions follow their own requirements.

Also, the requirement to inform the authorities about the fundamental tenets of the creed and associated practices followed by the organization, including the types and methods of its activities, its attitude toward the family and marriage, education and health (art. 11.6) sounds subjective. Discussing the origin of the religion, the registering agency may request the judgment of specialists on the issue. This judgment may be used as a reason to deny the registration. It should be emphasized that the decision of Expert Councils established on both federal and state levels may not be appealed to the court and prescribes the use of the negative conclusion of the Expert Council only to support the position of the registering agency in a case where the religious organization appeals the denial of the registration.

**SUBMITTED BY DR. JAMES BILLINGTON**

## **RUSSIA'S RELIGION LAW: ASSESSMENTS AND IMPLICATIONS**

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### **SUMMARY**

This short report provides an overview and assessment of the Russian religion law. On September 26, 1997, Russian President Boris Yeltsin signed the religion bill into law, and religious groups began to be registered during 1998. The Administration and Congress raised concerns that the law may restrict religion and have urged Russia to uphold its international commitments to religious freedom. The FY1998 Foreign Aid Appropriations Act (P.L. 10509118) prohibited Freedom Support Act aid to Russia unless the President determined and certified that the Russian government had not discriminated against religious groups in violation of its international commitments. The determination was released in May 1998, finding that Russia had not violated such commitments, but that U.S. officials would continue to monitor the situation. Omnibus Appropriations for FY1999 (H.R. 4328; including foreign operations; signed into law on October 21, 1998, P.L. 10509277) direct another aid cutoff unless certification is made by late April 1999.

### **BACKGROUND**

Since the collapse of the Soviet Union in 1991, most people in Russia have eschewed atheism and professed at least nominal adherence to a religious faith. Although most Russians profess to be Russian Orthodox, there has been an explosive growth in membership of other faiths, including those relatively new to Russia, and in the work of foreign missionaries. Faced with this activity, the Russian Orthodox Church has been at the forefront in lobbying the Russian government and legislature to impose restrictions on what it widely defines as "false faiths." Many hardliners, ultranationalists, and others in Russia also have argued that many faiths and foreign missionaries threaten Russia's "traditional" cultural and religious values. Elements of the Russian government have been sympathetic to these views. The Russian Ministry of Health issued a report warning that there are 6,000 sects in Russia, and the ministry set up a service to aid "victims" of these sects. The Interior Ministry (MVD), as part of its anticrime efforts, declared that several sects were involved in criminal acts and would be closely monitored. Passage of the Religion Bill. In the latest of several attempts to amend the existing, relatively liberal, 1990 religious law, Communist deputy Viktor Zorkaltsev and the government co-sponsored a bill "On Freedom of Conscience and Religious Association" which received its "first reading" (introduction) in July 1996. The bill was criticized by Yeltsin in September 1996 as unconstitutional. The Committee on Affairs of Public Associations and Religious Organizations, chaired by Zorkaltsev, continued work on the bill, however, and in June 1997 reported it to the floor for its "second reading" (substantive debate).

Zorkaltsev stated that the bill, totally recast as a replacement to the 1990 law, would introduce state control over "pseudoreligious" and "destructive cults," which are "tearing the fabric of society." The bill was quickly and overwhelmingly approved by the legislature, but Yeltsin vetoed it on July 22, 1997, rather than sign it into law. As he explained, the bill did not respect constitutional provisions prohibiting the government from giving preferences to one faith or another, and did not accord with Russia's international commitments. However, he also agreed that a strong law was needed "to protect the moral and spiritual health of Russian citizens and put up secure barriers against the infiltration of radical religious sects." Zorkaltsev and some other Duma leaders denounced Yeltsin's veto as allowing Western influences to "trample on Russia" and "brainwash the younger generation," alluding to political and generational divisions in Russia which also animated advocacy for the bill.

Advocates of the bill strongly urged Yeltsin to soften his objections. In talks between Yeltsin and Orthodox Church Patriarch Alexey II on August 6, 1997, Yeltsin reportedly agreed to support major provisions of the bill backed by the Patriarch. Andrey Loginov, presidential advisor on domestic affairs and executive secretary of the presidential Council on Relations with Religious Associations, played a primary role in guiding the deliberations within the government. According to reports, at a meeting in early September 1997, the Council managed to get several representatives of minority faiths to sign a memorandum that Loginov represented later as indicating their support for the presidential draft. However, the draft that reached Yeltsin did not take the concerns of the Catholic, Pentecostal, Baptist, and Adventist emissaries into account, according to a letter they later sent to Yeltsin. On September 4, 1997, Yeltsin approved the draft and sent it to the legislature for its perusal. The bill had few substantive changes from the earlier version he had vetoed. The State Duma overwhelmingly approved the presidential draft with few changes, the Federation Council unanimously followed suit, and the bill was signed into law by Yeltsin on September 26, 1997.

**Key Features.** The main characteristics of the law are as follows. (Some characteristics that raised initial Western concern appear to have been partly addressed during implementation—see below.)

It affirms the separation of church and state and freedom of religious opinion, including nonbelief. The preamble mentions Islam, Buddhism, Judaism, and "Christianity" as part of Russia's heritage. However, it also highlights "the special role of Orthodoxy in the history of Russia and in the establishment and development of its spirituality and culture." Beyond mentioning "Christianity," the preamble does not cite other faiths long practiced in Russia, such as Roman Catholicism, Baptism, or Pentecostalism.

The bill requires the registration of all religious associations by December 31, 1999, by local and central offices of the Ministry of Justice. A congregation must register at the local level. A faith that has congregations in two or more regions or republics, which often occurs, must also register with the central Justice Ministry.

The bill affirms the 1990 law in distinguishing between "religious groups" and "religious organizations," but changes registration requirements and the rights of the former. "Religious organizations" are those that have been registered by the Russian government. In order to be registered, a group must prove that it has existed in Russia for at least the past fifteen years. Groups existing for at least fifty years with congregations registered in at least half of the 89 federal subunits, or if ethnically-based, in at least three subunits, are accorded the special status of "All-Russian religious organizations."

If registration is denied, the rights of a religious association are circumscribed to those allowed to "religious groups," or it may even be banned by court order. "Religious groups" may choose whether to inform the authorities about their "formation and commencement of activity," depending on whether they seek later to become "religious organizations." "Religious groups" are forbidden to own property, publish religious literature, host foreign guests, set up schools, or carry out charitable work, among other restrictions.

A change introduced by Yeltsin (Article 27(3)) permits religious associations that cannot prove through "documentation" that they have existed for fifteen years in Russia to appeal for provisional, yearly registration. If granted, they are allowed to conduct charity work, but the law otherwise treats them as "religious groups" prohibited from carrying out many activities.

Besides the requirement that a "religious organization" show that it has existed for fifteen years, registration is dependent on governmental approval of the aims and activities of the group. A group will not be registered if it does not abide by all provisions of the constitution and laws or if its petition "contains information that has not been confirmed" (does not reflect what the government views as the real aims and activities of the group).

The new law allows a foreign "religious organization" to open offices in Russia upon the approval of the authorities. However, they are forbidden to engage in any "cultural and other religious activity." If a Russian "religious organization" wishes to sponsor a foreign group, it must provide the government with the charter and confirmation of the group's legality abroad, spell out the purpose of the group's activities in Russia, and disclose its beliefs, history, and practices.

Areas of Concern. Some features of the bill appear unobjectionable, including provisions restating a Constitutional provision that alternative service be provided for conscientious objectors, and proclaiming the protected status of the confessor-confessee relationship. The bill also states that, if a religious association is denied registration, it can appeal the decision in court. Once a "religious organization" is registered, it has legal rights to own buildings, hold meetings, publish literature, run schools and businesses, and carry out charitable work within the territory where it is recognized to operate.

On the other hand, religious rights concerns are heightened by vaguely written and contradictory provisions that appear to greatly increase the role of the government in regulating religious practice. The Keston Institute, a U.K.-based religious rights organization, suggests that religious associations will be increasingly vulnerable to the caprice and graft of central and local Russian bureaucrats. All religious associations must report to the authorities, except those groups never intending to seek the full rights accorded by registration. Reports include changes in a "religious organization's" charter or activities, and a report every two years to renew its registration.

Expert councils composed of representatives of privileged faiths will help judge the registration materials as necessary, furthering the possibility of bias against some faiths. Registration may be denied or revoked, and religious groups may be proscribed, based on a broad but vague list of offenses that some also warn may single out some faiths, including violating public order, promoting "religious enmity," using drugs and "hypnosis" in services, performing lewd and "illegal" actions, and promoting non-medical forms of healing. Offenses are referred to the courts, which may order the "liquidation" or "prohibition" of the faith and possible prosecution of its members. Other provisions seem to restrict the freedom of a reli-

gious association to disseminate its faith to non-members, especially minors, or to set up new congregations where it is not already registered.

Opponents of the law have pointed to language that seems to give special status to certain faiths as violating the Constitution. Article 14 of the Constitution stipulates that "religious associations are separated from the state and are equal before the law," and Article 19 prohibits the restriction of citizens' rights on the grounds of religious affiliation. Article 28 stipulates that "each person is guaranteed freedom ... to choose, hold, and disseminate religious and other convictions and to act in accordance with them." Opponents of language that seems to give special status to certain faiths also can point to the Constitution's Article 29, which prohibits propaganda of religious supremacy. Many in Russia and elsewhere have criticized the law's apparent violation of Russia's international commitments, including the Helsinki Final Act and Vienna Concluding Document, the European Convention on Human Rights, and the International Covenant on Civil and Political Rights.

The provision requiring that foreign representatives may not engage in religious activities threatens to restrain the over 4,000 foreign missionaries working in Russia. The provision that all "religious organizations" be headed by and composed of Russian citizens or permanent legal residents may affect local congregations that are headed by or composed of foreigners or some faiths where the parent church or center is abroad. In the latter cases, a congregation must have the foreign center provide Russian authorities with its charter and a confirmation of its legality by the home government. The provision that "religious groups" may only be composed of citizens seems to restrict religious observance by non-citizens.

In January 1998, regulations for reviewing applications for registration of branches of foreign religious associations were promulgated, followed in March by regulations for other religious associations. Disappointingly to many in the West, the regulations closely follow the letter of the law. Guidelines for implementation issued by the Justice Ministry provide a more liberal interpretation of the law and regulations, but the guidelines are not legally binding. The guidelines suggest that most religious organizations registered under the 1990 law will be re-registered, that the 1509year rule will not apply to centralized religious organizations and their branches, and that unofficial documents such as news clipping will be used to satisfy the 1509year rule. Several registration decisions made by late091998 have followed these guidelines, easing some concerns about how harshly the law would be implemented. These registrations include those of Pentecostal, Roman Catholic, Mormon, and Seventh-Day Adventist groups. However, all faiths have not received similar treatment and some localities do not accept the guidelines. Schismatic and independent religious associations that cannot meet the 1509year rule have faced discrimination, since they eschew affiliation with centralized religious organizations. Local religious groups that are awaiting registration face criminal charges and liquidation if they carry out worship activities in the meantime.

About one-third of Russia's federal subunits have passed laws restricting certain religious activities. While the new federal law supersedes local laws, it also provides a major role for the localities in judging whether groups should be registered. Some localities have viewed the new law as a "green flag" to restrict religious activities of which they disapprove. According to the Keston Institute, evidence during early 1998 indicates that foreign missionaries have not yet generally suffered restrictions on their activities. Petitions by individuals and groups to Russia's Constitutional Court to examine and overturn objectionable parts of the

law (such as Article 27(3)) have not yet been considered. Critics note that, during the Soviet period, vague religion laws were interpreted liberally or restrictively depending on political expediency, and warn that the current law similarly falls short of rule of law standards.

## U.S. RESPONSE

The United States has generally praised religious freedom in Russia while closely monitoring Russian behavior and urging it to abide by international human rights commitments. During the April 1996 U.S.-Russia Summit in Moscow, President Clinton stated that "it is a real sign of the health of the Russian democracy that religion is respected and people are free to pursue it and express their honest convictions." In November 1996, the Administration formed an Advisory Committee to the Secretary of State on Religious Freedom Abroad, which has counseled the Administration on the ramifications of the passage of Russia's religion bill. President Clinton reportedly sent a letter to Yeltsin in mid-September 1997 urging him not to sign the revised religion bill. Vice President Gore, during his September 1997 meeting with then-Prime Minister Chernomyrdin, reported that he was unsuccessful in convincing the Russian leadership to reconsider the bill, and in his meeting in March 1998 reported that he urged Russia to uphold its religious rights commitments. During 1997-1998, Secretary of State Madeleine Albright, National Security Council Director for Russia William Courtney, and Ambassador at Large for the NIS Stephen Sestanovich, also have worked with U.S. religious groups to exhort Russian authorities to uphold religious freedom.

Congress has had some long-term concerns about religious freedom in Russia and the former Soviet Union, including those reflected in the Lautenberg amendment in 1989 (P.L. 101-09167, Sec. 599D), which established enhanced opportunities for Soviet Jews, Evangelical Christians, Ukrainian Catholics, and Ukrainian Orthodox Church members to qualify for admission to the United States as refugees. The Jackson-Vanik Amendment (P.L. 93-09618, tying trade to Soviet emigration standards) has required the President to report on Russian emigration policies, which includes assessments of religious tolerance. The Congressional Commission on Security and Cooperation in Europe (Helsinki Commission) has held hearings dealing with religious freedom in Russia and other New Independent States of the former Soviet Union. Congress also has raised concerns about acts of religious intolerance such as Russian government moves in 1996 against Jewish organizations and negative remarks about certain faiths made by then-Security Council head Aleksandr Lebed. The issue of religious persecution worldwide (H.R. 2431; signed into law on October 27, 1998), has included discussions of possible repercussions of Russia's religion law.

After the Russian legislature's June 1997 passage of the religion bill, many in Congress signed or sent letters to Yeltsin strongly urging him to veto the bill. After President Yeltsin signed the religion bill into law in September 1997, many in Congress sent letters urging Russia to uphold religious freedom and suggesting changes to the law. The Senate approved S.Con.Res. 58 on November 8, 1997, condemning the potential restrictiveness of the Russian religion law and calling for Russia to uphold its commitments to religious freedom. Members of Congress also visited Russia in late 1997 and early 1998 to make their concerns known, and met with Loginov and other visiting Russian officials in January 1998. Among other proposals, some Members of Congress and others urged Russia to establish an ombudsman office or other means to monitor religious rights violations during implementation of the

religion law. Perhaps taking these proposals into account, an Oversight Working Group with this function was formed, chaired by Loginov, and held its first meeting on May 21, 1998.

The FY1998 Foreign Aid Appropriations Act (P.L. 10509118) contained a provision prohibiting Freedom Support Act aid to Russia unless the President certified by May 1998 that the Russian government "has implemented no statute, executive order, regulation, or similar government action that would discriminate, or would have as its principal effect discrimination, against religious groups . . . in violation of accepted international agreements on human rights," to which Russia is a party. In introducing the amendment in July 1997, Senator Gordon Smith stated that Congress should send "a strong signal to President Yeltsin that American tax dollars will not find their way to support any country that treats religious freedom in such a manner."

On May 26, 1998, the President determined and certified to Congress that Russia had applied the religion law "in a manner that is not in conflict with its international obligations on religious freedom. However, the issue requires continued and close monitoring as the Law on Religion furnishes regional officials with an instrument that can be interpreted and used to restrict the activities of religious minorities." A separate justification document released on May 28 cited awareness of about 25 cases of religious harassment by local Russian officials since the law was enacted. These cases appeared somewhat isolated, did not appear to reflect a discriminatory policy by the central government, could not be attributed to the effects of the new law, and did not appear to constitute violations of Russia's international obligations. The Administration called on the Russian government to reverse discrimination at the local level and to ensure that the localities abide by Russia's international obligations and urged the ultimate replacement of the flawed law.

Omnibus Appropriations for FY1999 (H.R. 4328; including foreign operations; signed into law on October 21, 1998, P.L. 10509277) reflects ongoing Congressional concerns about reports of local Russian government discrimination against several religious groups. P.L. 10509277 directs a cutoff of Freedom Support Act aid to Russia unless the President determines and certifies to Congress by late April 1999 that Russia is not implementing a statute or taking other action to discriminate against religious groups in violation of its international human rights commitments.

**CHRONICLE OF THE RUSSIAN RELIGION LAW—  
“ON FREEDOM OF CONSCIENCE AND ON RELIGIOUS ASSOCIATIONS” (1997)**  
*Updated February 1998*  
SUBMITTED BY MICAH NAFTALIN

**INTRODUCTION**

In 1997, allegedly responding to the proliferation of religious groups performing missionary work in Russia, the Russian Federation passed the law, “On Freedom of Conscience and on Religious Associations,” to regulate these groups and protect people from the influence of “dangerous cults.” As a bill, it had the strong backing of the Moscow Patriarchate of the Russian Orthodox Church, which felt threatened by the presence of these new groups and therefore wanted to solidify its dominant position in Russian society. (See page 9 for background information on how this law came to be enacted.)

This law creates two classes of religious associations: “Religious Organizations” and “Religious Groups.” Only religious institutions that have been registered for 15 years or more are included in the privileged class of Religious Organizations. A Religious Group is barred from engaging in most religious activity and religious publishing, and may only re-register as a Religious Organization if it can provide evidence from a local government that the group has existed for a least 15 years. The law also threatens freedom of religion in Russia by encouraging arbitrary enforcement throughout the country.

UCSJ vehemently opposes this law because of the negative effects it will have on all non-Russian Orthodox faiths, including Judaism. Many in the Western media have asserted that Jews and their synagogues and other institutions would be protected because of the inclusion of Judaism in the law's preamble among Russia's “traditional religions.” In effect, however, only five synagogues in all the Federation, because they were recognized and controlled by the Soviets 15 years ago, are granted this protected status. All other congregations—including Reform and Lubavitch synagogues, as well as those in the provinces—are delegitimized until they can meet the rigorous and arbitrary annual registration process. Moreover, despite claims to the contrary from Moscow, antisemitic and anti-religion officials in the Russian provinces have been given ample opportunity to shut down most non-Orthodox Christian and Jewish activity under the pretense of law and order. UCSJ National Director Micah Naftalin summarized UCSJ's opposition to the law by calling it “a hunting license” against Jews, Moslems and Western-oriented Christians.

These fears were justified on Oct. 15, 1997, when a Reform synagogue in Bryansk (a city near the Belarussian border) was told by city officials that they would not act on their application to register as a religious organization, thereby jeopardizing its continued functioning as a house of worship. The Bryansk synagogue has yet to receive registration. UCSJ's director of International Bureaus, Dr. Leonid Stonov, explained that in Bryansk, as well as in other provincial regions, local officials were using the new religion law to carry out their personal antisemitic agendas. Furthermore, Stonov argued that certain Jewish supporters of the bill, namely Russian Chief Rabbi Adolph Shayeveich and some leaders of the Russian Jewish Congress, should have been ashamed for their endorsement, because this was erroneously interpreted as widespread Jewish support. In fact, the RJC basically represents the interests of its elite, rich members, while other Jewish religious leaders who endorse the bill feared reprisals from the Russian Orthodox Church. The Russian Vaad, the secular umbrella

group representing the hundreds of Russian Jewish communities and institutions, voiced its opposition to the law, as did UCSJ's Moscow bureau.

Following is a reverse chronicle of events related to the implementation of the law, mainly instances of church closures and interference in religious affairs by provincial government officials or extremist groups:

**Feb. 2**—Prime Minister Chernomyrdin signs a decree that requires foreign religious organizations with bodies in Russia to apply for registration with the justice ministry within six months. However, Protestant activists complain that such an amount of time is unrealistic: by the time they complete the complicated process, the six months will expire. Furthermore, new federal regulations allow provincial officials to terminate the activities of a foreign-based religious group without needing to seek an order from the court. (RFE/RL, 2/9/98)

**Feb. 2**—A Pentecostal pastor in Yaroslavl (200 miles northeast of Moscow) receives a letter from the local procurator that demands his congregants stop distributing religious publications, recordings and e-mail bulletins, citing the religion law. Pastor Viktor Tatach is warned that if such activities do not cease, the church's entire operation will be shut down. (KNS, 2/6/98)

**Jan. 23, 1998**—Andrei Loginov, an aide to President Yeltsin on domestic affairs, appearing at a press conference in Washington, in response to American criticism promises that some of the more abusive provisions of the religion law will be altered. However, the next week, Foreign Ministry spokesman Gennady Tarasov railed against the U.S. State Department's criticism of Russia's human rights record. (Heritage Foundation report, 2/13/98)

**Dec. 30, 1997**—The parliament of Dagestan votes to amend the religion law to empower local administrators to ban religious groups that violate the public order from re-registering. (Radio Free Europe/Radio Liberty, 1/5/98)

**Dec. 9**—Members of a small Jesuit order in Moscow say members of a local militia checked their church. Fr. Stanislaw Opelia reports that the militiamen "had a list of over ten religious organizations to visit and asked the Jesuits, 'Do you agree with this law?'" He also argues that, because he, like many other Roman Catholic priests in Russia, has to renew his multi-entry visa every three months, the law creates a great financial expense for him and his colleagues to travel through the Federation. (Keston News Service, 12/19/97)

**Dec. 9**—The draft of the new rules for registering religious organizations is presented to the State Commission on Affairs of Religious Associations for review. The rules attempt to specify the procedures for registration of faiths. (ITAR-TASS, 12/9/97)

**Dec. 5**—A Roman Catholic parish in Prokhladny (1100 miles south of Moscow) is informed by regional authorities that it must apply for re-registration, even though it had previously been accorded registered status. They are told that their charter "fails to specify their territorial sphere of activities," and that the charter must be amended to forbid religious training of children without parental consent (there are no allegations that such training has ever taken place). (KNS, 2/9/98)

**Dec. 4**—The Committee for Rescuing Youth from False Religions names a dozen faiths as "dangerous sects." Included on this list are the Church of Scientology, Jehovah's Witnesses, the Mormon Church, the Unification Church, and the Church of Christ. The committee is comprised of those "who had one way or another suffered from totalitarian sects" and had helped in the drafting of the religion bill. (Argumenty I Fakty, 12/4/97)

**Dec. 2**—A Baptist church in Ioshkar-Ola is ordered by the president's office of the Mari El Republic, in European Russia, to cancel its evangelic festival scheduled for December 11-

13. The decision is apparently driven by a presidential adviser who also works for the KGB and an Orthodox priest, who demanded that this "sect" be barred from holding meetings in the Lenin Palace of Culture. (The order was reversed on Dec. 7 by the president). (Robert Hosken, 12/5-7/97)

**Nov. 28, 1997**—The Lutheran church in Tuim, Siberia is once again told by the provincial government that its registration will be canceled. Authorities argue that the church's 1996 registration was "granted improperly and is thus invalid." (KNS, 12/1/97)

**Nov. 23**—Authorities in Ryazan, in European Russia, threaten to evict a parish of the dissident Russian Orthodox Church Abroad from its building, a 17th century edifice. The building was originally a church but was unoccupied when the Church Abroad was given it in 1992; its members made significant repairs to the neglected structure. But in October the Ryazan administration won a court case to transfer the church to the Moscow Patriarchate. (KNS, 11/27/97)

**Nov. 19**—Six self-proclaimed Russian Orthodox "warriors" disrupt a Protestant service in Iskitim, Novosibirsk in Siberia. They waved icons and "made exaggerated signs of the cross, as if they were going into battle against the forces of the antichrist." They had to be forcibly removed by police; one of the six was the director of the local Children's House of Art. (Radiotserkov, 11/21/97)

**Nov. 13**—Foreign-born Catholic priests working in Siberia report having difficulties in obtaining visas. They have been required to return to their home countries every three months to renew their visas, a time-consuming and expensive process. They also complain about the arbitrary increases in rental fees for their church's land. (KNS, 11/17/97)

**Nov. 12**—A Christian-operated charitable cafeteria in Moscow is forcibly occupied by about 20 men, who bar its employees from entering. They refuse to identify themselves, saying only that they are carrying out their leaders' orders. The local police refuse to investigate; the police chief refuses to answer whether or not the band is associated with him. A spokesman for the kitchen acknowledges that they were behind in paying their rent, but adds that they were charged a rate applicable to commercial ventures, rather than the standard lower rate for charities. Inside the cafeteria are large quantities of food and equipment purchased through a grant from the European Union. (KNS, 11/14/97)

**Nov. 1**—A Pentecostal congregation in Izmailovsky (south of Moscow) is expelled from the schoolroom it has rented to conduct services. The school director states he was pressured by the regional superintendent to expel the group with only two weeks' notice in mid-October, soon after the religion law took effect. The director also claims that Communists and representatives of the Moscow Patriarchy were behind this directive. (KNS 3/10/98)

**Oct. 30, 1997**—A Presbyterian Church in Reutov (Moscow Oblast) is denied registration even though its members had applied for registration before the new religion law had taken effect; the government's reply did not come until today. The request was denied because the church allegedly did not have proof that it had operated for at least 15 years, or that it was affiliated with a "centralized" religion. Yet the church claims it does possess documentation to that effect. (KNS, 11/24/97)

**Oct. 15**—A Bryansk Reform synagogue's application for registration is returned without approval by local authorities, even though the congregation is a member of the Congress of Jewish Religious Societies and Organizations of Russia, itself registered as a "centralized religious organization." UCSJ protests this action and initiates a letter-writing campaign to

Bryansk officials, in European Russia, demanding they recognize the synagogue as a legal organization exempt from such restrictions. (UCSJ)

**Oct. 13**—A Pentecostal pastor in the city of Semnadsat, in Siberia, reports that in September, his congregation was expelled from a schoolroom that it had rented to conduct Sunday worship. The religion law was cited even though it had not even passed the Duma at the time. The Pentecostals, barred from using municipal buildings, have been forced to conduct their services in the streets. Allegedly, the local Orthodox priest was worried that their services were "attracting children." (KNS, 10/15/97)

**Oct. 7**—A rally for religious freedom in Moscow's Gorky Park draws only 500 people. (KNS, 10/7/97)

**Sept. 29, 1997**—A Moscow cathedral belonging to the Ukrainian Orthodox Church is seized by police, following a court order that transferred the property to the Russian Orthodox Church. The government in Kiev protests to Moscow. (Reuters, 10/1/97)

**Sept. 28**—The Salvation Army of St. Petersburg is told it must discontinue its services on October 5. Later, the date is extended until the end of October, but the SA has a rental agreement running through the end of 1997. It is told it cannot renew its lease for 1998. (KNS, 10/15/97)

**Sept. 26**—Moscow Mayor Yuri Luzhkov issues an executive order that expands the authority of the city government's religion committee into all matters affecting religious institutions, such as buying or renting buildings and the "medical-psychological effects" inflicted by "pseudo-religious organizations." (KNS, 9/26/97)

**Sept. 26**—Although the religion law is not due to take effect until Oct. 1, a Lutheran parish in Tuim, Khakassia in Siberia is informed by the provincial government that its registration has been canceled and thus will be closed. The government cites the new law for this action. Prime Minister Chernomyrdin's office said the closure was "without foundation in law," but it refrained from taking action against the Khakassian government, saying it instead would issue a general resolution to the provinces against taking "sharp steps." (KNS, 10/7/97) The Lutherans later receive a reprieve, but the provincial plenipotentiary for religious affairs declares he will continue to "do everything he can to close the parish." (KNS, 10/10/97)

## BACKGROUND—ENACTMENT OF THE RELIGION LAW

Following is a chronology of events relating to the enactment of the law:

**June 23, 1997**—The Duma overwhelmingly approves a bill that will restrict the practice of religion in the Russian Federation. Its intent is to stem the growth of cults and sects in post-Soviet Russia by barring proselytizing by faiths that have been registered for less than 15 years. The bill's preamble recognizes the Russian Orthodox Church—whose leader, Patriarch Alexy II, strongly lobbied for the bill—as a central Russian institution, and designates Judaism, Islam, and Buddhism as "traditional religions," although the preamble has no force of law and is contradicted in the body of the law. Alexy hails the vote as a step toward the "moral health of society;" opponents like dissident Orthodox priest Gleb Yakunin decry the new legislation for reinstating "Soviet-era controls over religious activities." (Associated Press, 6/23/97).

**July 1, 1997**—Leaders from UCSJ and Russian Jewish, Christian, and human rights organizations sign and release a statement in Moscow condemning the new law. "Because

the law is a direct violation of Russia's obligations under international law," the statement reads, "and is in fundamental conflict with the principles of a free society, we call on President Yeltsin to take all steps necessary to insure that this law is not enacted. The Russian government should seek full consultation with the human rights community if it decides to prepare a new draft to ensure that it will comply with international standards." Signatories include UCSJ leadership, the head of the Russian Vaad, a representative of Helsinki Watch, and Father Gleb Yakunin.

**July 11**—Chief Rabbi of Russia Adolph Shayevich, whose Moscow Choral Synagogue was one of only five Jewish congregations in Russia allowed to operate from 1982 to the demise of the Soviet Union in 1991, expresses his support for the bill. Also supporting the bill is Russian Jewish Congress Executive Vice President Alexander Osovtsov, who declares the law "reasonable and necessary if not to cut, to at least decrease, the activity of extremist cults." (The Jewish Week (NYC), 7/11/97). In response, UCSJ President Yosef I. Abramowitz called such support from the Jewish community "reprehensible and narrow-minded—from a historical point of view and a moral point of view." (Forward, 7/11/97)

**July 15**—Roman Spector, vice president of the Vaad, urges President Yeltsin to veto the bill. "The law needs to prove the legal character of the state, which is responsible for establishing an open society—it must not be a truncheon for the 'hunting of traitors.' Extremists who abuse our citizens' confidence can and must be prosecuted only by criminal legislation."

**July 17**—The U.S. Senate approves an amendment, by a vote of 95-94, to suspend certain forms of aid to Russia if the religion bill becomes law. (AP, 7/17/97)

**July 22**—Yeltsin, with a strongly worded message, vetoes the bill, sending it back to the Duma with proposed amendments. (RFE/RL, 7/23/97) President Clinton's national security adviser, Sandy Berger, praises Yeltsin for his "act of courage." (New York Times, 7/23/97) Alexy II threatens civil discord if the law is not passed. (AP, 7/24/97)

**July 22**—In its report on religious liberty around the world, the State Department expresses "concern" over the Russian religion bill, yet noted that religious freedom in Russian has "improved dramatically" since the breakup of the Soviet Union. (AP, 7/23/97) Secretary of State Madeleine Albright calls religious liberty "a fundamental source of our strength in the world." (Washington Post, 7/23/97)

**July 24**—Yeltsin, reacting to Alexy and other critics of his veto, praises "the overall thrust of the bill" to protect Russians from "radical sects," but defends his decision as protecting democracy, pursuant to the Russian Constitution. (AP, 7/25/97)

**July 28**—Communist Party leader Gennady Zyuganov slams Yeltsin for vetoing the bill but predicts that it will pass eventually with enough votes to override the veto. (RFE/RL, 7/28/97)

**Aug. 1, 1997**—Yeltsin and Alexy announce an agreement to make changes to the bill. (Moscow Times, 8/2/97)

**Aug. 10**—Yeltsin establishes a commission to rework the wording of the bill. (Jewish Telegraphic Agency, 8/11/97)

**Aug. 25**—Russian Orthodox Deacon Sergi Shevchenko of Ivanovo is dismissed from his post for protesting an order from his archbishop to collect signatures in support of the religion bill. Shechenko states that many parishioners signed without even seeing the text of the petition. After he complained that the bill was a purely civic issue and opposed the legislation in an unpublished editorial, he was dismissed for "impertinent disobedience." (KNS, 10/23/97)

**Sept. 8, 1997**—Yeltsin sends a new but essentially unchanged version of the religion bill to the Duma. Rabbi Shayevich (incorrectly) assures all Jewish congregations they will be protected under the bill. (JTA, 9/9/97)

**Sept. 10**—The Roman Catholic Church, which previously had been denied the status of a traditional religion under the bill, agrees to support the "modified law" based on the promise that its functionaries would not be targeted by Russian officials. (RFE/RL 9/10/97)

**Sept. 19**—The Lower House of the Duma approves the compromise bill, 358096. Attempts to delay consideration of the measure fail. (KNS, 9/19/97)

**Sept. 22**—U.S Vice President Al Gore, in Russia for a summit, urges Yeltsin to veto the "modified" bill. (Chicago Tribune, 9/23/97) Gore states, "the latest draft falls far short of the principles [Yeltsin] enunciated in his veto message." (Washington Post, 9/23/97)

**Sept. 24**—The Federation Council, the upper house of the Russian Parliament, passes the modified bill unanimously, in a matter of minutes. (AP, 9/24/97)

**Sept. 26**—Yeltsin signs the bill into law.

## ACTIONS TO DELEGITIMIZE NON-RUSSIAN ORTHODOX CONGREGATIONS UNDER THE NEW LAW

### *Faiths*

Judaism  
Roman Catholicism  
Lutheranism  
Mormon Church  
Jehovah's Witnesses  
Presbyterian Church  
Unification Church  
Church of Christ  
Church of Scientology  
Baptist Church  
Russian Orthodox Church Abroad  
Ukrainian Orthodox Church  
Pentecostal Church

### *Cities/Regions*

Moscow  
St. Petersburg  
Dagestan (Caucasus)  
Ioshkar-Ola (European Russia)  
Touim (Siberia)  
Ryazan (European Russia)  
Iskitim (Siberia)  
Reutov (Moscow Oblast)  
Bryansk (European Russia)  
Semnadstat (Siberia)

*\* White book is a term for expose-type reports. The most famous one in the U.S.S.R. was Alex Ginsburg's "White Book," on political repression. There was also a "white book" on anti-semitism.*