

USCIRF Hearing
“Religious Freedom in Russia and Central Asia”
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Written Testimony of Maria Kravchenko

Anti-extremist legislation, as a comprehensive legislation in the sphere of state and public security, emerged in Russia in 2002. It represents an ambitious attempt at a comprehensive solution to problems usually linked in the realm of social sciences rather than in the realm of law. This approach has been adopted by several post-Soviet countries, such as Kazakhstan, the Kyrgyz Republic and Tajikistan, to varying degrees. This applies both to the adoption of Russian legal innovations and law enforcement activities.

Vague and problematic definitions of “extremism” in Russian law give the authorities wide latitude to interfere in the religious sphere. Numerous cases of prosecution for “religious extremism” rely on the problematic definitions of extremist activity contained in the relevant framework law. In particular, the law defines “propaganda of exclusivity, superiority or inferiority of a person on the basis of their religious affiliation or attitude toward religion” as an extremist activity. The definition of extremism is often seen simply as the propaganda of the superiority of one’s religion, which is, in fact, inherent in any religion. As a result, any discourse – from literature to debates on spiritual topics – about the merit of a particular religion or critical of others can be characterized as extremist activity. The definition provided Russian law enforcement agencies with a way to suppress any unwelcome religious group regardless of whether it poses any actual danger to society or not. In fact, authorities deem suspicious many different aspects of religious community life, including unusual religious practices or principles inconvenient for the state (for example, refusal to serve in the military), the closed nature of some religious communities, alleged links to terrorism, and undesirable foreign influences.

The legal tools used by the Russian government include the placement of print and audiovisual information on a federal list of banned materials, the blocking of information on the Web, the banning of religious communities as extremist, the imposition of fines and short-term detention under the Administrative Code, and multi-year terms of imprisonment under the Criminal Code. Such measures may be used individually or in concert to build a wider case for delegitimizing an entire community.

It should be noted that in 2019, Russia ratified the Shanghai Cooperation Organization (SCO) Convention on Countering Extremism, signed in 2017 by Russia, China, Kazakhstan, Kyrgyzstan, Uzbekistan and Tajikistan. Among other provisions, it expands the definition of extremism previously adopted at the SCO level, making it closer to the definition of extremism used in the Russian law “On Combating Extremist Activity.” The Convention imposes on SCO members obligations to establish penalties for extremist acts and for a number of related actions. The document provides for close cooperation between law enforcement agencies in their investigation of extremist cases, including travel to the territory of other participating states to attend operational search activities. In addition, the Convention imposes on participating countries an obligation to deny refugee status to all those involved in extremist crimes.

The main targets of Russia’s anti-extremism policies have typically been Muslims, ranging from fundamentalist groups like the Tablighi Jamaat missionary movement to readers of the texts of Turkish theologian Said Nursi, who do not even represent a single organization. In both Tajikistan and Kyrgyzstan, Salafiya (or Salafism) – a broad area of Islamic thought and religious practice that has no structure at all – is banned as an extremist community. Even if a ban has been imposed on actual registered organizations, Russian law enforcement agencies still attempt to prosecute

believers in places where no banned entities have ever existed. Given that the criminal laws on continuing the activities of banned organizations are formalistic in all the countries under review – that is, the very fact of participation in the activities of such an organization is criminal – such regulations conflict with constitutional guarantees of freedom of expression, assembly and conscience, create legal uncertainty and entail blatantly disproportionate restrictions on civil rights.

Non-Muslim denominations are also targeted in Russia, including those whom the Russian Orthodox Church has traditionally disapproved of, among them religious groups of Western origin – Jehovah’s Witnesses and Scientologists. Following the complete ban on Jehovah’s Witnesses organizations as extremist in 2017, believers in Russia face criminal prosecutions for continuation of their religious activities interpreted by the law enforcement as continuation of activities of extremist groups. According to the latest data, 1130 searches of believers’ homes by armed forces were held during the two and a half years; criminal cases have been instigated against nearly 384 Jehovah’s Witnesses. About 30 believers have been sentenced, 10 of them have got real prison terms of up to six years. Even cases of torture of believers by law enforcement agents have been reported. In Central Asia Jehovah’s Witnesses have not been persecuted as extremists yet.

At the moment, in Saint Petersburg a group of Scientologists faces criminal charges, including incitement to hatred. There is a chance that if they are found guilty, their conviction may lead to the banning of Scientology centers as extremist organizations. In Kazakhstan, Scientologists cannot register as a religious organization and in Kyrgyzstan they have lost their registration and thus their activities are illegal, but they do not face extremism-related charges.

Baptists and Pentecostals have increasingly experienced various problems with registration and facilities as well as missionary restrictions both in Russia and Central Asia.

Expressing atheist views is not welcomed by the Russian authorities as well. Before 2013, atheists have faced prosecution for inciting hate against believers. Since 2013, the Russian legislation contains several prohibitions that fall within the concept of ‘defamation of religion’/blasphemy. The Criminal Code provision on insulting religious feelings of believers criminalizes speech ‘expressing obvious disrespect for society and committed in order to insult religious feelings of believers’ and has most frequently been applied to online statements critical of religion (almost exclusively Orthodox Christianity), for example, atheist memes. In Central Asia there are no such special provisions, but in some of the countries insulting religious feelings of believers is seen as a manifestation of inciting hate.

The concepts of extremism and terrorism are often lumped together in Kazakhstan, Kyrgyzstan and Tajikistan. Some organizations are even recognized in Kyrgyzstan and Tajikistan as both extremist and terrorist. Meanwhile, Russia has developed separate anti-terrorism legislation, so the concepts of “extremism” and “terrorism” are distinguished much more clearly in the legal field. In Kazakhstan, Kyrgyzstan and Tajikistan a well-known radical Islamist party “Hizb ut-Tahrir” is recognized as an extremist organization and its followers have been prosecuted but not as harshly as in Russia. In Russia Hizb ut-Tahrir has been banned as terrorist organization (though it has never actually practiced terrorism). Therefore, its followers face prosecution under counter-terrorist articles of the Criminal Code. At present, they are being sentenced to up to two dozen years in prison just for participation in the party. The investigation of the cases against Hizb ut-Tahrir followers often entails gross human rights violations, including the use of torture. In Ukraine Hizb ut-Tahrir is not banned and it was somewhat popular with part of the Crimean Tatar population before the annexation. The fact has been used by the Russian authorities as a pretext for ordering permanent raids, searches, detentions, arrests and interrogations, sometimes with the use of violence, in the peninsula.