

January 2013



# Policy Brief

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## **RUSSIA: UNRULY STATE OF LAW**

Findings from a Visit of the  
U.S. Commission on  
International Religious Freedom  
(USCIRF)

**THE U.S.  
COMMISSION ON  
INTERNATIONAL  
RELIGIOUS  
FREEDOM**

was created by the International Religious Freedom Act of 1998 to monitor the status of freedom of thought, conscience, and religion or belief abroad, as defined in the Universal Declaration of Human Rights and related international instruments, and to give independent policy recommendations to the President, Secretary of State, and Congress.

**RUSSIA**

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Russia is now a police state, Russian civil society activists told USCIRF Chair, Dr Katrina Lantos Swett, during her Moscow visit in late September 2012. The Kremlin has not just passed a set of bad new laws in 2012, it has changed the Russian political system. One activist observed that while the previous “sovereign democracy” model had some minimal rule-of-law standards, now even that pretense is gone. Russia’s sweeping 2007 extremism law revealed the Kremlin’s propensity to outlaw dissenting views, and since there is no check on human rights abuses, the Russian government is now free to favor approved Russian groups and opinions. Russian activists also expressed their support for the Magnitsky Bill, a measure that would deny Russian human rights violators entry into the United States and freeze their U.S.-linked assets, as the most effective way for the United States to influence the Russian government to improve its human rights record. Chechen President Ramzan Kadyrov is on the list of Russian officials to be sanctioned, as USCIRF recommended. The Magnitsky Bill passed Congress as part of a measure (H.R. 6156) that would normalize U.S. trade relations with Russia. The President signed this measure into law (P.L. 112-208) on December 14, 2012.

Overall, religious freedom conditions in Russia continue to deteriorate. Chronic serious problems highlighted in previous USCIRF reports remain, including the application of the religion law and the use of the anti-extremism law against peaceful religious groups and individuals. USCIRF is concerned by the arsenal of new laws against civil society passed by the Putin administration in 2012. Moreover, there are increasing signs of an official policy of “selective secularism” that favors the Moscow Patriarchate of the Russian Orthodox Church (MPROC) over other religious communities. The draft blasphemy bill before the Duma, if passed in the spring of 2013, would further curtail the freedoms of religion, belief and expression.

### **Laws affecting Russia’s Religious Communities**

Russia’s 1997 religion law, the Law on Freedom of Conscience, defines three categories of religious communities, with each having varying legal status and privileges. With each category, the law requires that religious organizations exist for different periods and have a certain number of founding members. Moreover, the preface to the religion law singles out Islam, Judaism, Buddhism, and especially Orthodox Christianity as the country’s four “traditional” faiths, despite Russian constitutional provisions guaranteeing a secular state and equal legal status for all religions. Although the religion law’s preface lacks legal standing, its references to four “traditional faiths” set an official tone for state relations with Russia’s religious communities that is often prejudicial towards other religious communities.

During its September 2012 trip, USCIRF heard reports of Ministry of Justice officials requiring certain Protestant churches and new religious organizations to submit more detailed registration data than required for legal status or refusing to register such groups. Officials can bring court cases which may result in the banning of religious communities found to have violated Russian law. For instance, while the Salvation Army was re-registered in Moscow in 2009, it had to litigate all the way to the European Court of Human Rights (ECtHR) to achieve re-registration. Its re-registration was the first Russian remedial action in response to an ECtHR ruling, but the Jehovah’s Witnesses have not been re-registered after a similar ruling in 2010. Despite a 2009 ECtHR finding that the 15-year existence rule for registration violated the European Convention on Human Rights, the Church of Scientology is still denied registration, and the existence rule was cited in a 2010 refusal to register an Armenian Catholic parish in Moscow.

The lack of registration can have dire consequences. In September 2012, police presided over the destruction of the unregistered Holy Trinity Pentecostal Church near Moscow. According to Forum 18, the Pentecostal community had tried to register this church unsuccessfully for over 15 years. A Moscow city spokesperson defended the destruction as due to a court order.

Other laws also affect religious communities. Russia's 2006 NGO law, which also applies to religious groups, mandates that the Ministry of Justice examine documents on foreign donations and data on executive boards and other internal matters.

Under a law passed in November 2010, federal, regional, and municipal authorities must return no later than 2012 any property claimed by a religious community if it has a supporting court decision, either for rent-free use or full ownership of worship buildings, hospitals, or schools. The MPROC stands to gain by far the most property under this law, and its implementation thus far has negatively affected other religious communities. Russian officials turned over Catholic and Protestant churches in 2010 to the Russian Orthodox Church in the Kaliningrad exclave, despite that region's historic Catholic and Lutheran majorities. While some minority communities have lost property, a Jewish community representative told USCIRF that several synagogues had been returned under the law. USCIRF also was told that building or renting worship space is difficult for Jehovah's Witnesses, Mormons, Pentecostals, non-Moscow Patriarchate Orthodox, Molokans, and Old Believers.

### **Violations of the Rights of Muslims**

Muslims, particularly where they are in the minority, often face hurdles in gaining permits to open mosques. The St. Petersburg Muslim community has faced difficulty in opening worship space. While there are four mosques in Moscow, they are not enough to serve an estimated two million Muslims. Muslim representatives told USCIRF that although the Moscow mayor told them that every region of the city should have at least one mosque, they have been denied permission to build a fifth mosque. In Sochi, site of the 2014 Olympic Games, its 20,000 Muslims have applied for 15 years for a mosque building permit, but its mayor refuses to allow an official mosque. The ECtHR continues to consider a Russian Supreme Court ruling that an Astrakhan mosque community should demolish its own building.

Between January and August 2012, according to the Memorial Human Rights Center (MHRC), six individuals – most of them Salafis in the North Caucasus and other areas of Russia viewed as “overly observant” -- reportedly were arrested, disappeared, or even killed for alleged religious extremism. Some individuals suspected of links to Muslim extremist groups have been jailed, reportedly on the basis of planted evidence; they were later tortured in detention, prisons, and camps. MHRC reports that at least 100 individuals, allegedly connected with Islamic groups deemed extremist by the Russian authorities, were detained in police raids in Moscow and Bashkortistan in the fall of 2012.

Russia's most severe human rights abuses occur in the North Caucasus, where violators operate with almost total impunity. Chechnya's Kremlin-appointed president, Ramzan Kadyrov, condones or oversees mass violations of human rights, including religious freedom. He distorts Chechen Sufi traditions to justify his rule, instituted a repressive state based on his religious views, and ordered the wearing of the *hijab*. At least nine women were killed for “immodest behavior” since 2008, with Kadyrov praising the murders; the killers did not stand trial. Kadyrov also stands accused of involvement in murders, torture, and disappearances of political opponents and human rights activists in Russia and abroad. To date, Human Rights Watch (HRW) reports that the ECtHR has issued over 210 rulings against Russia for major human rights violations during its armed counterinsurgency campaign in Chechnya.

In the North Caucasus' most violent region, Dagestan, HRW reported Salafi individuals being targeted as suspected members or supporters of the insurgency. Observers noted to USCIRF that the 2012 murder of a Sufi leader, however, will likely undermine the Dagestani government's attempts at building social consensus on religious issues.

In Kazan, Tatarstan, five suspects were held in connection with a July 2012 attack on the republic's Chief Mufti and the murder of its Deputy Mufti, but dozens of independent Muslims not linked to these attacks were also arrested, according to Russian human rights organizations. Several recently publicized cases of police torture in Tatarstan have highlighted an allegedly widespread problem.

President Putin, speaking in October about the expulsion of five school girls for wearing the *hijab* in the Stavropol region, advocated that Russian students wear uniforms. By December 2012, Russia's multi-ethnic region of Stavropol – which borders the North Caucasus – will introduce a compulsory dress code that bans religion-related clothing in schools.

### **Extremism Law and Bans on Religious Materials**

The Russian government uses its extremism law against religious individuals and groups and other activists who are viewed, often unjustifiably, as security threats. Russia's 2002 Extremism Law defines extremist activity in a religious context as "propaganda of the exclusivity, superiority or inferiority of citizens according to their attitude towards religion," and after 2007 amendments, no longer requires the threat or the use of violence. Russian officials have equated the practice of Islam outside of government-approved structures with extremism and even terrorism.

In the past several years, extremism charges have been brought against Jehovah's Witnesses and readers of the works of Turkish Muslim theologian, Said Nursi. According to Forum 18, internal Russian government documents indicate high-level coordination and close police surveillance against suspected members of these two groups. In 2007, a Russian court banned Nursi's work as extremist, allegedly for advocating the exclusivity of the Islamic religious faith. In 2008, the Russian Supreme Court deemed Said Nursi's followers members of an extremist group, although experts doubt that they constitute a formal group. Suspected Nursi groups have been raided and those suspected of reading Nursi's works have been charged and sentenced for extremism.

If a Russian court's ruling of a text as extremist is upheld, it is banned throughout Russia. Individuals who prepare, store, or distribute banned texts may be criminally prosecuted for "incitement of ethnic, racial or religious hatred," with penalties ranging from a fine to five years in prison. Under December 2011 criminal code amendments, starting in 2013 individuals accused of organizing or participating in a banned group will face prison terms of up to three years. As of November 2012, 1502 titles have been banned as extremist, the SOVA Center reported to USCIRF. Islamic materials constitute most of the banned religious texts, including Russian translations of 15 texts by Nursi. As of 2012, 68 Jehovah's Witnesses texts were deemed extremist. A positive decision to delist a Scientology religious text is on appeal. Two bans on Scientology materials were overturned, as was a ban on the "Bhagavad Gita-As It Is."

In Russia's largest-ever ban of religious texts, an Orenburg court in March 2012 declared 65 Islamic texts "extremist," including books printed by all of Russia's officially-sanctioned Islamic publishers. A Muslim representative told USCIRF that several texts approved by the Council of Muftis were banned, including a book by Ravil Gainutdin, its Chairman. The Council of Muslims condemned these bans as

“an attempt to revive total ideological control,” and noted that such issues should be left up to the religious communities.

A Muslim representative told USCIRF that his organization would send lawyers to Orenburg for the appeal, which is underway at this writing. However, the Orenburg appeals court has retained the previous evaluation team of “experts” that does not include any Muslim representatives or experts on Islam. On June 18, Tatar human rights lawyer Rustem Valiullin appealed this ban on behalf of the Moscow-based Umma publishing house; he drowned six days later.

The Jehovah’s Witnesses repeatedly have been targeted under this law. In 2008, the Russian Supreme Court liquidated the Jehovah’s Witness congregation in Taganrog, partly due to a court designation of its texts as extremist. Raids, detentions, and literature seizures have continued during 2012 against Jehovah’s Witnesses. In addition, Jehovah’s Witnesses have been charged with “incitement of hatred or enmity” for distributing their religious literature. A court in the Chuvash Republic ordered two Jehovah’s Witnesses arrested in July to remain in pre-trial detention until late September. Reportedly, this is the first court-ordered detention in contemporary Russia of a Jehovah’s Witness solely due to membership in that community.

According to observers, of the 18 Nursi readers and Jehovah’s Witnesses whose “extremism”-related trials are known to have ended, five (all Nursi readers) received prison terms, five (all Nursi readers) ended with suspended sentences, two (both Jehovah’s Witnesses) resulted in required community service, and two (both Jehovah’s Witnesses) were acquitted. The trial of four (all Nursi readers) ran out of time before any verdict was reached. Trials and investigations against others continue.

The book, “International Tribunal for Chechnya -- Prospects of Bringing to Justice Individuals Suspected of War Crimes and Crimes Against Humanity During the Armed Conflict in the Chechen Republic” was issued in Moscow on July 15, 2009, the day of the murder of Russian human rights activist Natalya Estemirova. On December 6, 2012, a court in the Nizhny Novgorod Region began a trial to declare this 1,200-page book extremist. If there is such a ruling, the book’s authors -- Stanislav Dmitrievsky, Oksana Chelysheva and Bogdan Guareli – will face criminal charges. Human rights activists have argued the trial is an attempt to punish Dmitrievsky for his human rights work.

### **Discrimination and Violent Crimes**

Russian officials and police often refer negatively to certain religious groups, particularly Protestants, Hare Krishnas, and Jehovah’s Witnesses, thereby contributing to a climate of discrimination, vandalism, and sometimes violence against members of these groups. For example, in the autumn of 2012 President Putin called for action against what he termed “totalitarian sects.” The “Young Guard” – the youth wing of Putin’s political party -- has staged protests outside Church of the Latter Day Saints’ buildings. Russian chauvinist groups also have stepped up their campaign, including death threats, against individuals, groups, and officials who defend the rights of religious and ethnic minorities and migrants.

Russian police, particularly in Moscow, have increased efforts to combat violent hate crimes and, according to the SOVA Center, there has been a three-fold decrease in violence since 2008. Local authorities, however, often fail to investigate crimes against members of ethnic and religious minorities, leading to impunity for “skinhead” attacks, mainly against Muslim Central Asians and migrants. Leaders of the Jewish community told USCIRF that although anti-Semitism still exists in Russia, the Russian government no longer supports it. Indeed, President Putin donated one month’s salary towards building

Moscow's state-of-the-art Jewish Museum of History and Tolerance Center, which opened in November 2012.

### **Arsenal of New Laws Against Civil Society**

In response to major demonstrations against Vladimir Putin's return to the Russian presidency, in 2012 the Putin administration passed a raft of new legal restrictions against civil society, including religious communities.

In June, Putin signed a law that imposed new administrative fines, which could amount to more than the average annual salary, on individuals taking part in unauthorized public gatherings that violate "public order." In September 2012, Forum 18 reported that this new law had already been used against several religious communities. A Pentecostal pastor was fined under the law for holding a religious service. In addition, in the north Caucasus republic of Adygea, the security service ordered the closure of a Muslim prayer room and Muslims in two other locations were warned that their Eid-ul-Fitr ceremonies in rented premises must conform to the new law.

In July, Putin signed a law requiring foreign-funded non-governmental groups (NGOs) involved in political activity to register as "foreign agents." In a discussion with USCIRF, Konstantin Dolgov, Ministry of Foreign Affairs Special Human Rights Representative, claimed that the Russian NGO law was modeled on the U.S. "foreign lobbyist" law. The Russian law requires the phrase "foreign agents" -- with its negative Soviet-era connotations -- to be included in all materials produced by such NGOs. Failure to comply will be punishable by heavy fines or even a two-year prison sentence.

Russia's leading human rights NGOs have said that they will not register as "foreign agents." On November 21 -- the day the new NGO law came into force -- some human rights groups found the phrase "foreign agent" spray-painted across their office buildings. While Russian human rights groups that publicize religious freedom violations are not exempt from the new law, religious groups are exempt. The new NGO law also penalizes groups alleged to have harmed public health -- a charge sometimes brought against Protestant health charities. Russian human rights activists with whom USCIRF met indicated that an NGO coalition will challenge the new law in the ECtHR.

Also in July, a new law increased government control of the internet. The law creates a federal website blacklist and requires site owners and internet operators to shut down any listed site. In theory, authorities will only be allowed to shut down sites that contain child pornography or promote drugs or suicide; all other sites would require a court order. Nevertheless, RFE/RL reported that 181 internet sites had been closed by November. Even before the new law, access to certain websites had been restricted. For example, for years the independent Moscow-based website Portal-credo.ru, which discusses religious freedom, has been subjected to blocking. In addition, internet providers in Russian regions such as Chechnya, Volgograd and Omsk have blocked access to the YouTube site hosting the controversial "Innocence of Muslims" video. According to the SOVA Center, internet advocacy of the superiority of non-violent religious views accounted for half of the convictions for alleged extremism in 2012.

July saw the passage of a new law criminalizing certain types of libel, particularly against officials such as the police. Unlike the criminal libel law overturned by then-President Medvedev, the new law introduces harsh administrative fines. Media libel is now subject to a fine of up to 2 million rubles (USD 61,000), while a person who is convicted of libel by false accusations of a major crime will be fined up to 5 million rubles (USD 153,000). One likely goal of the new law is to limit criticism of public officials, including those who may have acted in an arbitrary way towards religious communities.

On November 13, President Putin signed amendments to the treason bill into law -- the same day that Putin told the new Presidential Human Rights Council that he might not sign it in its current form. According to the Law Library of Congress, the new law amends the Criminal Code with a new article prosecuting illegal access to information considered state secrets; amends three current articles, on state treason, espionage, and disclosure of state secrets; and amends the Code of Criminal Procedure so that all cases under the new criminal code article now come under Federal Security Service jurisdiction. The legal definition of high treason was expanded from acts that endanger state security to include those that undermine Russia's "constitutional order, sovereignty, and territorial and state integrity." Moreover, Russian citizens who furnish financial, material, technical, consultative or other help to a foreign state or an international or foreign organization now face possible 20-year prison terms. Under the new law, Russian citizens who participate in international human rights conferences or supply information on religious rights violations to international organizations potentially are liable for criminal prosecution as traitors.

### **Actions Against "Blasphemy"**

All four political parties in the lower house of the Russian parliament supported a bill introduced on September 26 to levy fines and penalties for "offenses against religion and religious sentiment." This so-called blasphemy bill, however, has not passed the first reading in the parliament. According to press reports, Putin announced on November 28 that its consideration would be postponed until the spring of 2013.

The bill seeks to amend current Russian law to include legal penalties against individuals found specifically to have affronted the rites and ceremonies of groups whose religions are an integral part of the historical heritage of Russia. Under the bill, those found to have engaged in "public insults to the faith and humiliation during liturgical services" would be subject to a fine of up to 300 thousand rubles (USD 10,000), 200 hours of community service, or a three-year prison term. For the desecration and destruction of religious objects, places of worship and pilgrimage sites, fines range from 100 to 500 thousand rubles, 400 hours mandatory community service, or up to five years in prison.

Russia's Public Chamber -- which has no legislative authority -- held an October hearing on the bill. Most speakers agreed that it should be redrafted and requested that it be withdrawn because it could fuel ethnic hatred. They also pointed out that the 1997 religion law does not include the concept of a religion constituting part of Russia's historical heritage and that the proposed law would lead to discrimination. Moreover, the bill includes the legally undefined terms of "religious beliefs and feelings of citizens." In its written assessment of the bill, the Russian Supreme Court observed that it would be difficult to implement unless terms like "worship" and "religious traditions and ceremonies" were clarified.

According to a public opinion survey, 82% of Russians favor heavier penalties against blasphemy. Archpriest Vsevolod Chaplin, head of the Moscow Patriarch's Synodal Department for Relations between State and Society, told USCIRF that the blasphemy bill has wide societal support and that Russia has the right to choose to support specific religious traditions. Jewish representatives told USCIRF that the blasphemy amendment is "over the top," but also that "law in Russia is almost irrelevant."

Even without these proposed changes, current Russian law has been used to punish expression deemed to be blasphemous. In October, a Russian appeals court confirmed the two-year prison sentences of two members of the group Pussy Riot for "hooliganism motivated by religious hatred" for their February punk art performance in Moscow's main MPROC cathedral. A third defendant was given a suspended

sentence because guards had blocked her from participating. The defense argued that the group's actions were not anti-church but were meant to protest the close ties between Russian political and religious elites. Although the group received largely positive support outside Russia, in Moscow USCIRF heard largely negative views about their punk protest, although only MPROC representatives supported the prison sentence.

### **Other Relevant Issues**

As of the 2012 school year, a new law requires that public school children must choose between courses on Orthodox Christianity, Islam, Judaism, or Buddhism; world religion; or (the most popular selection) secular ethics. Atheists and agnostics have objected to these compulsory courses, while minority religious groups view them as divisive and have expressed concern about biased or uninformed teachers and textbooks. According to the Federation of Jewish Communities of Russia (FEOR), the new course on the "Foundations of religious cultures and secular ethics," is "ineffective" due to poor teaching and may lead to "religious strife and xenophobia and sometimes even to aversion to religious organizations."

In 2009, the Russian government established state-funded military chaplains. As of early 2010, 200 MPROC clergy, but no known Muslim, Jewish, or Buddhist chaplains, had been appointed to Russian military units. Various Russian military units have adopted Russian Orthodox saints in official insignia and there are MPROC chapels on army bases. Reportedly, Russian authorities rarely allow Islamic services in the military and often deny Muslim conscripts time for daily prayers or alternatives to pork-based meals.

### **A New State Policy of "Selective Secularism?"**

The MPROC – which claims adherents among 60 percent of Russians and has a special role in Russian history and culture – receives *de facto* favored status among the four listed faiths. The MPROC has special arrangements with numerous government agencies and bodies, including with the Ministries of Education, Defense, Health, Internal Affairs, and Emergency Situations, to conduct religious education and provide spiritual counseling. The vast majority of religious facilities in prisons are Russian Orthodox. But while the MPROC receives most Russian state support for religious groups, Islam, Buddhism, and Judaism can also benefit from government funding, as can other groups, including Old Believers in Moscow. Protestants and other minority religious communities do not receive state subsidies.

There are widely divergent views on the current official status of the MPROC. A Russian government official observed to USCIRF that although Russian society seems to support the MPROC in effect as the state church, he fears that this trend will lead to social conflict. A Jewish representative told USCIRF that the MPROC is "too close to the government and is losing parishioners." A Russian religious rights activist told USCIRF that the Alternative Autonomous Orthodox Church has had property confiscated and faced numerous law suits. A Muslim leader noted to USCIRF that often the MPROC is the sole religious community represented in government agencies.

Vsevolod Chaplin, Chairman of the MPROC Department for Church and Society, told USCIRF that the 1997 religion law defines the religions of Christianity, Islam, Buddhism, and Judaism as an integral part of the historical heritage of the peoples of Russia. In his view, the equality of basic rights of religious organizations does not exclude "varying degrees of respect for religious traditions and different degrees of public support and protection."



The Russian government has numerous institutions for liaison with religious communities, but many religious minorities are not included in these official bodies. For example, the Inter-Religious Council, which deals with the return of confiscated religious properties, tax issues, state subsidies and various social problems, only includes representatives of the four so-called “traditional religions.” In November 2012, the Inter-Religious Council issued a statement calling on the Russian government to provide better protection for religious leaders who have been the targets of slander and of violent attacks.

Another such body is the Justice Ministry’s Expert Council for State Religious Studies, chaired by Russian Orthodox priest Aleksandr Dvorkin, which assesses whether groups qualify for registration as religious communities. However, a Protestant activist told USCIRF that this council became largely inactive after protests from his and other religious groups. A similar agency under the Justice Ministry, the Council for Expert Analysis of Religious Literature with Regard to Extremism, reportedly is no longer called upon by the Russian government after the majority of its members voted that the works of Turkish theologian Fetullah Gulen did not express extremist views.

In mid-November 2012, the Russian parliament passed in its first reading amendments to the education and 1997 religion laws that would allow, at the request of parents and students, religious buildings and chapels inside Russian schools and higher education institutes. The MPROC welcomed these proposals, but Muslim and Jewish representatives have not.

### **Recommendations for U.S. Policy**

In response to continuing violations of religious freedom in Russia, the U.S. government should:

- Urge the Russian government, in public and at high political levels, to undertake programs and adopt legal reforms to ensure respect for international norms on freedom of religion or belief;
- Make freedom of religion or belief a key human rights and security concern in the U.S.-Russia relationship, such as by creating in the U.S.-Russia Bilateral Presidential Commission a working group comprised of legal experts on international norms on freedom of religion or belief;
- Press the Russian government to reform the extremism law by adding criteria related to advocacy or use of violence to ensure the law is not used against peaceful religious communities, and to amend the process for banning books by either removing that power or giving it only to the Supreme Court;
- Recommend Chechen President Ramzan Kadyrov for inclusion in the Politically Exposed Persons list of government officials whose bank assets should be frozen due to their corrupt practices and gross human rights violations;
- Include in U.S.-funded exchange programs participants from Russian regions with sizeable Muslim and other religious minority populations and initiate an International Visitor’s Program for Russian officials on the prevention and prosecution of hate crimes; and
- Reprogram funding from the \$50 million slated for the now defunct USAID Russia program to other programs benefitting Russian civil society, including a new Internet program to address issues relating to post-Soviet historical and cultural issues and practical programs on tolerance and on freedom of religion or belief.