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RUSSIA'S ASSAULT ON RELIGIOUS FREEDOM

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Religious freedom in Russia once again is in danger. On September 4, 1997, President Boris Yeltsin signed and sent to legislators in the Duma a draft bill "On Freedom of Conscience and on Religious Organizations" which, if passed, will redefine church-state relations in Russia. The draft incorporates Yeltsin's minor changes in a bill that he had vetoed after it was passed by the parliament this summer. In every essential respect, however, this "compromise" represents only cosmetic changes in the original harmful bill.

If passed, this legislation will turn back the clock on religious freedom in Russia. The 1990 Law on Freedom of Religion and the 1993 Russian constitution promised religious freedom for all Russians and allowed many denominations to function freely. Now this freedom is about to end as the Russian Orthodox Church, seeking a religious monopoly, has joined forces with xenophobic communist and nationalist politicians in the Duma. Under the bill, the government would be able to re-institute aspects of the persecution and oppression that prevailed under Josef Stalin and Leonid Brezhnev. The proposed legislation would affect many believers: Catholics, Protestants, Mormons, Jews, Christian Scientists, and others. It would permit the state to discriminate against citizens of the Russian Federation solely on the basis of their religion and to determine what is and is not appropriate religious activity. The legislation violates the Russian constitution's promise of separation of church and state as well as the principle of freedom of religion recognized by international conventions to which Russia is a party. The bill, therefore, is not only morally outrageous, but also illegal under both Russian and international law.

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If Russia legislates curbs on religious freedom, the goodwill that Yeltsin and other Russian reformers have worked hard to establish with the American people will be seriously diminished. President Bill Clinton already has told President Yeltsin of the strong American objection to this bill. But the law could cost Russia more than goodwill: On July 17, 1997, the U.S. Senate voted overwhelmingly to terminate U.S. assistance if Russia enacts laws discriminating against minority religious groups. Anti-religious legislation could poison U.S.–Russian relations for years to come.

COMMUNIST–NATIONALIST RETRENCHMENT AND RELIGIOUS MONOPOLY

The original bill “On Freedom of Conscience and on Religious Associations” was authored by Victor Zorkaltsev, a communist member of the Duma and chairman of its Religious Affairs Committee, and clearly reflects his ultra-nationalist leanings. It has the broad support of the country’s nationalists and communists, including Communist Party head Gennady Zyuganov, and has been the subject of incessant lobbying by the Russian Orthodox Church.

The bill would restore the practice of requiring all religious organizations and their individual members to register with the state. In addition, it would allow the government to discriminate between religious faiths. For example, the preamble creates a four-tiered hierarchy: Official Russian Orthodoxy would receive top recognition, followed by Islam; Judaism² and Buddhism; and a final category of “other” religions that would include Catholics, Protestants (including Baptists), Pentecostals, Mormons, Seventh Day Adventists, Jehovah’s Witnesses, Christian Scientists, and various “new age” beliefs. The groups in the lowest tier would have the greatest difficulty registering with the state, owning or renting houses of worship, providing charitable services, or teaching their creeds. The “other” category also would include historically Russian confessions such as Old Rite Orthodoxy (the original Russian Orthodox Church until the 17th century); the anti-Communist Underground (Catacomb) Orthodox Church; and the New York-based Russian Orthodox Church Abroad.

The communists hope to use this legislation to position their party as the most nationalist in Russia. They also are trying to embarrass Yeltsin, whose veto could be portrayed as a move against Russia’s national interests, aimed to protect Western and non-traditional Russian religions. As soon as Yeltsin moved to stop the bill, the communists began claiming that he had surrendered to Western pressure.

The Russian Orthodox Church: A New State Religion? The Soviet Communist Party was responsible for the persecution and murder of millions of believers and of hundreds of thousands of clergy, as well as the destruction of tens of thousands of churches, mosques, and synagogues. Stalin killed Patriarch Tikhon, the head of the Russian Orthodox Church in the 1920s. Ironically, however, the Russian Orthodox hierarchy now collaborates fully with communists in their common crusade to ban “foreign” beliefs. This is hardly surprising: After years of persecution, Stalin reversed himself and restored the moribund Russian Patriarchate in 1943 to help foster nationalist sentiment while the Soviet Union was fighting World War II. Many in the Church’s hierarchy were informers and even officers of the

2 Only Moscow-based Orthodox Judaism will be covered by the law. The Chabad movement, Reform Judaism, and Conservative Judaism may be treated as “foreign” denominations.

secret police. With the collapse of communism, the Church did not take steps to remove the offending clergy and regain the trust of the people after this dark period in its history. Today, newly independent and affluent, it loudly espouses anti-Western and xenophobic views, aspires to be recognized as a new state “ideology,” and wants the state to protect it from competition by other denominations.

Anti-Western rhetoric is being dispensed by official Church spokesmen at the highest level. Patriarch Alexii II, for example, has compared the presence of other religions in Russia to the eastward expansion of the North Atlantic Treaty Organization (NATO),³ while another church leader has likened NATO expansion to the coming of the Antichrist. Clearly, the Orthodox Church is increasingly nervous about the surge in activity by competing Orthodox, Russian Protestant, and Western denominations in Russia. The Church’s leadership, from the Patriarch on down, has been lobbying heavily for the bill as a way to eliminate that competition.

By abolishing the *glasnost*-era Law on Freedom of Religion, enacted in 1990, the bill presents the communists with an opportunity to re-create the government agency that targeted religious activity. The 1990 law banned the State Committee on Religious Affairs, the communist government’s anti-religion watchdog that worked closely with the secret police (KGB) to infiltrate and manipulate religious organizations. A senior official of the former State Committee is now legal advisor to the Patriarch.

A BIG STEP BACKWARD

The Duma passed the new religion bill on June 23, 1997, by an overwhelming vote of 300 to 8.⁴ When President Yeltsin vetoed the bill on July 22, representatives of the Yeltsin administration, the Duma, the Patriarchate, and some religious denominations then went to work to devise a compromise text.⁵ This resulted in the current version, approved by Yeltsin and sent to the Duma on September 4, 1997.

Hard-liners still may attempt to override the presidential veto, however, and pass the bill in its original form. The lackluster resistance mounted by liberals and centrists in both the administration and the Duma⁶ has encouraged hard-line elements to seek a confrontation with the president. Whether the compromise bill is passed or the Duma overrides the presidential veto, Russia is about to make a 180-degree turn on the path to freedom of conscience that it has been pursuing since the beginning of the *glasnost* (openness) reforms of 1987.

Only an appeal to the Constitutional Court to declare this legislation unconstitutional can save Russia’s hard-earned religious freedom, and it is likely that Russian Protestants and religious freedom organizations will appeal to the Constitutional Court if the compromise bill is passed. However, the chances of success are not very high, as the young Constitutional Court is weak and overly dependent politically on both the president and the Duma. The split inside the administration between opponents and supporters of the bill,

3 Reuters news service, July 14, 1997, as cited in Paul Goble, “Restricting Religious Freedom in Russia,” *Newsline*, July 15, 1997.

4 On July 4, the Council of the Federation, the upper house of the Federal Assembly, approved it by a similar margin.

5 According to Russian and Western legal experts, the existing compromise draft fails to address the anti-constitutional aspects of the bill; and should a revised version become law, it will serve to curb religious freedom in a manner similar to the original.

6 Such as the liberal Yabloko faction and the pro-government Our Home Is Russia faction.

along with Yeltsin's desire to maintain good relations with Patriarch Alexii II, makes action by the Court far from certain.

The "Stalin–Brezhnev" Test of Religious Legitimacy. The final bill approved by Yeltsin allows the government to distinguish between two unequal forms of religious association: groups and organizations. Both forms would be required to register with the local or federal office of the Ministry of Justice. Less powerful religious groups would be allowed only to "perform worship services and to carry out religious rituals and ceremonies,"⁷ and only in places provided by their members, such as private apartments.⁸ They would not be permitted to teach, proselytize, rent or own property, or print or distribute written materials—all of which are essential if they are to share their faiths. According to the bill, representative offices of Western religious organizations would not be allowed to engage in any "liturgical activities" (worship) whatsoever. Nor would they be granted the legal status of religious organizations.⁹

More powerful and legally capable religious organizations would be divided into local, regional, and centralized categories. All of these organizations also would have to register with the state. They would be allowed to teach (though possibly not to proselytize), to own and rent property, and to engage in charitable activities.

The main test of legitimacy established by the bills would be whether a particular faith had been recognized officially in the Soviet Union under Stalin and Brezhnev. In the case of religious organizations, the law would require 15 years' prior legal registration—in other words, an organization would have to have been accorded legal recognition under the Brezhnev regime. Organizations claiming national or "all-Russian" status would have to have been recognized by the Soviet Union for 50 years and to have existed since 1947 under the Stalin dictatorship. This stringent test of legitimacy would prevent all "unofficial" and dissident Orthodox churches from competing with Moscow's Patriarchate for membership. For a new organization to exist legally under Yeltsin's version of the bill, it would have to submit to a cumbersome re-registration procedure every year. Even then, however, "new" religious organizations would not be allowed to engage in educational or charitable activities, to receive tax exemptions, or to enjoy numerous other privileges granted to recognized religions.¹⁰

The Stalin–Brezhnev tests would deny freedom of worship to Western denominations. The original Duma version also would deny foreign citizens the right to incorporate a religious organization; only Russian citizens could do so.¹¹ Russian citizens would have the right to register as "foreign agents" for religions based abroad, but the government would retain the power to "register, open and shut" such "foreign" religious organizations. The Yeltsin compromise text recognizes the ability of legally and permanently residing foreigners to register religious groups.

7 "On Freedom of Conscience and on Religious Associations," Article 6 to Article 8, as translated by Keston Institute.

8 It is common practice for city bureaucrats in the Russian provinces to deny non-Orthodox believers the freedom to rent or lease movie theaters and public halls.

9 Lawrence A. Uzzell, "Tide Swinging Against Religious Freedom in Negotiations on New Law," Keston News Service, August 29, 1997.

10 "Translation of Main Points of the Legislative Text Approved by President Boris Yeltsin," memo from Lawrence A. Uzzell, Keston News Service, September 5, 1997.

11 "On Freedom of Conscience and on Religious Associations," Article 13.

Cumbersome Registration Procedures. The registration procedures in the new bill are extremely cumbersome. To be registered, each faith would have to submit

information on its basic creed and related practice, including the history of how the religion arose and a history of the said association, the forms and methods of its activity, its attitudes towards the family and marriage, toward education, peculiarities of its attitude toward the health of its followers, restrictions on the organization's members and clergy as regards their rights and duties as citizens.¹²

The bill demands that each religious organization submit the names, dates of birth, and addresses of its founding members for registration with the federal or state (*oblast*) office of the Ministry of Justice. The government retains the right "to carry out governmental religious-studies analysis by official religious specialists."¹³ Moreover, the state may allow representatives of "established religions" to pronounce whether a new faith may be granted registration nationally or regionally (thus allowing the Orthodox Church hierarchy, for example, to decide whether Catholics would be allowed to function in a particular region).¹⁴ The Ministry of Justice and "religious specialists" would proceed to examine the organization's creed and decide whether it qualified as a religion. To complete the circle, the state could refuse to register any religious organization if it did not "recognize it as religious."¹⁵

"Liquidating" Faiths in Russia. The bill would establish a repressive and arbitrary procedure for shutting down churches. Article 14, ominously titled "The Liquidation of Religious Organizations and the Banning of Religious Associations' Activities in the Event of Breaking the Law," is a classic example of Stalinist legislation.¹⁶ Federal and state-level offices of the Ministry of Justice and the sometimes legally inept Russian courts would have the authority to shut down a church "for systematic activities... which contradict the goals [in its charter] for which it was created." The bill goes on to specify that the grounds for liquidating a religious organization or for banning the activities of a religious organization or group "will include the undermining of social order and security or threats to the security of the State." A church also could be closed for the "igniting of social, racial, national or religious dissension or hatred between people." With this language, the bill justifies the involvement of state security organs like the secret police in monitoring, controlling, and infiltrating churches, mosques, and prayer groups.

Other grounds for banning religious activities and liquidating churches under this article are "the refusal on religious grounds of medical help to persons in life endangering or health endangering conditions...and hindering the receiving of compulsory education," and "inciting citizens to refuse to fulfill their civic obligations established by law [such as compulsory military service] or to perform other disorderly actions."

12 *Ibid.*, Article 11, paragraph 4.

13 *Ibid.*, Article 11. The presidential text eliminates the words "official" and "governmental," thus allowing the use of "preferred" church representatives and experts in analyzing religious doctrinal documents and creeds.

14 *Ibid.*, Article 8. See Lawrence A. Uzzell, "Yeltsin Accepts his Staff's 'Compromise' Bill on Church-State Relations," Keston News Service, September 4, 1997.

15 "On Freedom of Conscience and on Religious Associations," Article 12.

16 After destroying churches and shooting clergy, in the 1920s and 1930s Stalin and his heirs allowed limited exercise of religion, tightly controlled and monitored by the state.

LACK OF CONSTITUTIONALITY AND INTERNATIONAL LEGALITY

The bill makes a mockery of the guarantees of religious freedom proclaimed in the Russian constitution, which states clearly that “The Russian Federation shall be a secular state. No religion may be instituted as state-sponsored or mandatory religion. Religious associations shall be separated from the state and shall be equal before the law.”¹⁷ However, by granting *de jure* and *de facto* preferential treatment to the Orthodox Church based in Moscow, the law confers on it the status of a quasi-state religion. It discriminates between the quasi-official Orthodoxy and Islam and the other traditional religions of Russia, and does not even mention Protestantism and Catholicism. Moreover, it discriminates against “foreign-based” religions and makes their operation in Russia all but impossible.

The bill violates the key provisions¹⁸ of the Russian constitution that guarantee citizens internationally recognized human rights, assure that these rights have direct application in the law, and specifically forbid discrimination on religious grounds. In addition, it violates such international laws as Articles 2, 7, and 18 of the Universal Declaration of Human Rights, which were incorporated into the Russian constitution. These articles ban discrimination on the basis of religious belief and specifically enshrine freedom of worship, teaching, and practice unencumbered by time tests, state registration, or recognition by the former Soviet regime. The bill also violates Principle 16(c) of the Vienna Concluding Document of the Conference on Security and Cooperation in Europe (1989), which grants religious believers the unencumbered right to register with the state. In doing so, the bill also violates Article 9 of the European Convention of Human Rights—an agreement signed by Russia.

The bill already has triggered the passage of similar legislation by the city government of Moscow to monitor and control religious activity in the diverse and multi-ethnic Russian capital. The Russian Army, lacking communist political officers since 1992, is cooperating closely with the Orthodox Church and is recruiting Orthodox chaplains to fill the ideological void. However, it is shunning contacts with other religions.

THE U.S. MESSAGE TO RUSSIA: GO BACK TO THE DRAWING BOARD

Both the U.S. Congress and the American people are understandably outraged by the passage of such a repressive bill. President Clinton expressed this concern to President Yeltsin at the G-8 Summit of leading industrialized nations on June 17-18, 1997, in Denver, and U.S. Ambassador-designate to Moscow James Collins criticized the bill strongly during his confirmation hearing on July 15. On July 17, 160 Members of Congress led by Senator Alfonse D’Amato (R-NY) and Representative Gary Ackerman (D-NY) sent a letter to President Yeltsin stating that the Duma’s bill “would create a chilling atmosphere and perhaps even reverse the tremendous steps towards democracy and freedom that the Russian people have taken over the past several years...and set a very bad precedent in U.S. Russian relations.” Since then, more Members have signed the letter. Also on July

17 Constitution of the Russian Federation as Approved by the RF President Boris Yeltsin and Submitted to National Referendum in December 1993, Article 14, as found on the Internet at <http://solar.rtd.utk.edu/oldfriends/constitution/russian-const-ch1.html>.

18 *Ibid.*, Articles 17 to 19.

17, Senator Gordon Smith (R-OR) proposed an amendment to the U.S. foreign aid appropriation bill (S. 955) to prohibit foreign assistance to the government of Russia should it enact laws that discriminate against minority religious faiths in the Russian Federation. The amendment passed by a vote of 94 to 4. International dismay is surfacing quickly as well. Pope John Paul II has written directly to President Yeltsin to complain about the treatment of Catholicism proposed in the original bill.

CONCLUSION

Religious freedom, openness, and pluralism are especially important in Russia as it advances toward democracy and attempts to integrate itself into the international community. Anti-Western and authoritarian forces are about to score a victory in their attempt to make Russia once again a hostile and xenophobic fortress.

President Clinton faces a stark choice: Stand by and accept this anti-democratic and xenophobic bill and risk a severe deterioration in U.S.-Russian relations, or tell President Yeltsin directly what is at stake. Clinton should ask Yeltsin and the Duma to go back to the drawing board and draft a bill that the international community, as well as religious minorities in Russia, can accept. American lawmakers should express their concern directly to their Russian counterparts, such as Duma Speaker Gennady Seleznev, Duma International Relations Committee Chairman Vladimir Lukin, and Yabloko faction leader Grigorii Yavlinsky.

Congress and the executive branch should ask that Russia respect its own constitution and its obligations under international law. In addition, U.S. religious and non-governmental organizations should be ready to support an appeal to the Russian Constitutional Court by affected denominations. The President, Congress, and the American people should continue to stand firmly in support of religious freedom throughout the world.

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