

LEGISLACIÓN RUSA SOBRE LIBERTAD DE CONCIENCIA Y ASOCIACIONES RELIGIOSAS ¹

INTERNATIONAL ACADEMY FOR FREEDOM OF RELIGION AND BELIEF

(Analysis approved by the International Academy's
Executive Committee)

Analysis of July 4 Russian Federal Assembly Law «On Freedom of Conscience and on Religious Associations»

July 9, 1997

Introduction and Background

On June 23, 1997, the Russian State Duma passed a new federal law «On Freedom of Conscience and Religious Associations». Ignoring recommendations from two of its committees to the effect that the legislation should be rejected or at least studied more deeply before action, the Federation Council passed the legislation on July 4, 1997. Because of a few particularly problematic provisions inserted into the legislation in the last few days before its passage by the State Duma, the legislation in its present form will violate the religious freedom rights of numerous religious groups, including Orthodox believers, Roman Catholics, Anglicans, Baptists, Pentecostals, Adventists, Mormons, Christian Scientists, and countless others.

As explained below, the International Academy believes that with a limited number of textual changes, the violations of the Russian Constitution and international religious freedom norms evident in the current version of the Law could be cured. The International Academy accordingly urges President Yeltsin to reject the law pending revisions that would comply with the Russian Constitution and applicable international standards.

¹ Se publica aquí la versión inglesa de la nueva Ley rusa de Libertad de Conciencia y Asociaciones Religiosas, tal como ha quedado definitivamente aprobada. Ofrecemos, además, dos análisis del tema de los que es autora la «International Academy for Freedom of Religion and Belief». Para la recta comprensión de ambos escritos, debe tenerse en cuenta que el primero —del 9 de julio de 1997— fue redactado con el propósito de apoyar el veto —que se esperaba— del Presidente Yeltsin al texto inicial de la Ley que había sido aprobado por la Duma; el segundo —del 29 de agosto de 1997— ignora muchos problemas potenciales de la Ley y se centra en lo que pareció, en aquel momento, ser un compromiso práctico que podría conformarse a los estándares internacionales. En cierto sentido, ambos documentos no fueron excesivamente críticos con la Ley rusa, en la confianza de abrir un camino más eficaz que facilitara el compromiso político en Rusia.

Adverse Reaction to the Legislation

The legislation has evoked strong international reaction from both religious groups and from high-level government officials. U.S. State Department officials report that President Clinton has discussed the legislation directly with President Yeltsin, urging him to reject it. Other sources indicate that former President Carter has also appealed directly to President Yeltsin for intervention. Eighteen members of the Senate Appropriations Committee that supervises Russian aid have joined in a letter to President Clinton, supporting his efforts to urge a Yeltsin veto. Senator Lugar has sent a letter signed by 26 members of Congress to President Yeltsin, and is circulating a second letter opposing the legislation which is expected to attract extensive support throughout Congress.

Similar concerns are being voiced in other countries. Both Canada and the Vatican have filed interventions critical of the legislation before the Permanent Council of the Organization for Security and Cooperation in Europe, as has the United States, and further interventions can be expected there now that both chambers of the Russian Federal Assembly have adopted the legislation. Non-governmental organizations have also voiced opposition to the legislation. The Fourth World Congress of the International Religious Liberty Association, whose participants included religious leaders, government representatives and academic religious liberty experts from numerous denominations and over thirty countries, adopted a resolution urging the rejection of the legislation.

Within Russia, a joint letter was sent to the State Duma by heads of the Baptists, Pentecostals, and Adventists opposing the legislation. Most religious groups in Russia (albeit not the groups representing the largest number of Russians) oppose the legislation. The Russian Helsinki Committee held a news conference addressing human rights violations associated with the Law today. Another press conference addressing problems with the law was held by two Moscow-based organizations, the Christian Legal Center and the Institute of Religion and Law.

Adverse Impact of the Legislation

Among other things, the Law if approved by Yeltsin would authorize de-registration of thousands of religious entities, including Russian Orthodox congregations out of sympathy with the Moscow Patriarchate and numerous legitimate groups. This would have devastating impact for affected groups, since religious groups lacking legal personality under the Law (see Art. 7) would not be eligible to:

- Request military deferment for clergy [Art. 3(4)].
- Obtain equal fiscal treatment [Art. 4(3)].
- Establish education institutions [Art. 4(3)].
- Establish foreign representation [Art. 13(2)].
- Establish and maintain religious buildings or other places or objects of worship [Art. 16(1)].

Produce, acquire, export, or import and distribute religious literature, video and audio material, and other articles of religious significance [Art. 17(1)].

Establish institutions to train indigenous clergy [Art. 19(1)].

Maintain the full range of international links and contacts (Art. 20).

Invite foreign citizens to come to Russia for preaching or other religious activity [Art. 20(2)].

Have benefits of entity ownership of land, buildings and other assets (Art. 21).

Have entity status for purpose of hiring employees (Art 24).

The foregoing is only a partial list of the activities for which religious organizations need entity status. The fact that religious groups may conduct worship and a few other limited activities without registering, as permitted under Article 7 of the Law, is small consolation when the range of normal religious activities for which entity status is critical becomes evident.

In addition to the numerous infractions of religious liberty associated with denial of entity status, there are a small number of additional problems that need to be addressed. For example, the Law authorizes religious groups to teach only their own «followers» [Art. 5(3)], in violation of both religious freedom and freedom of expression norms. The Law also threatens to violate a variety of other religious freedom rights of individuals and groups, including rights to autonomy in the internal affairs of religious organizations, freedom of expression rights, equality rights, children's rights, and property rights, all as articulated in the Russian Constitution and in applicable international human rights norms. The International Academy believes, however, that the problematic provisions could be revised fairly easily so that legislation that is substantially similar to the current version (with a few extremely problematic provisions revised or removed) could be approved in the near future.

Contrary to Representations Made by Supporters of the Legislation, No Other European Country Imposes a 15-Year Barrier to Acquisition of Legal Personality

While it is true that many European countries afford different religious organizations differing levels of recognition, all those that comply with the European Convention and with OSCE Commitments make some form of legal entity available to religious organizations whereby they can carry out the full range of religious activities. Many supporters of the Russian Law cite a recent Lithuanian law as justification for the 15-year requirement in the Russian legislation. But the Lithuanian example shows precisely what is wrong with the current version of the Russian Law. While Article 6 of the Lithuanian law provides that religious associations may be recognized as traditional religious communities only after 25 years «from the date of their initial registration», it is clear both from Article 6 and from Article 11 that «non-traditional» religious groups may attain legal personality in

a relatively short time, not to exceed six months. With this status, they can carry on the full range of activities open to «traditional» religious communities. The problem with the Russian legislation is that it bars numerous religious groups from access to what elsewhere is routine access to legal entity status.

In Germany, constitutional provisions indicate that some measure of permanence is a prerequisite to acquiring «public corporation» status, but most smaller religious groups have now acquired this status, and even those who don't are free to organize as privately registered societies free to carry out their religious mission. Among the groups that have «public corporation status in Germany (in addition to the larger religious denominations) are: Baptists, Christian Science, the Church of Jesus Christ of Latter-day Saints (Mormons), Evangelical Free Churches, Jehovah's Witnesses, Mennonites, Methodists, the New Apostolic Church, the Salvation Army, Seventh Day Adventists, and Unitarians. Many other groups are given legal personality as registered organizations under the civil code. A Federal Constitutional Court decision in 1991 made it clear that if structures provided by the Civil Code were inconsistent with the ecclesiastical polity of a religious organization (in the case: the Bahai religion), religious freedom concerns oblige public authorities to make exemptions to accommodate differences in religious belief. It is absolutely clear under German law that the civil law entities enjoy the same full measure of religious freedom that those with public corporation status enjoy. Many of the foregoing groups would be deprived of entity status under the Russian Law.

Examples could be multiplied, but the point is that all countries provide some kind of «base level» entity that is available to all religious groups willing to abide by the laws and constitutional order of the country involved. Professor Silvio Ferrari, a member of the Board of the International Academy and holder of the Chair in Ecclesiastical Law at the Faculty of Law of the University of Milan indicates he is aware of no country within the European Community that must prove 15 years of activity as a precondition to acquiring legal personality. All make available some form of legal entity so that religious groups can carry out the full range of their lawful religious activities.

In the contemporary world, for most religious associations, deprivation of entity status is a major encroachment on religious freedom. It is for this reason that Principle 16(c) of the Vienna Concluding Document (1989) commits participating states in the Helsinki Process, including Russia, «to grant upon their request to communities of believers, practicing or prepared to practice their faith within the constitutional framework of their states, recognition of the status provided for them in their respective countries». The wording of this commitment recognizes that the precise legal form of legal personality varies from legal system to legal system, but access to some form of legal entity, without waiting fifteen years, is vital to meeting OSCE commitments. Failure to grant such status constitutes a limitation on manifestation of religion that violates Article 9 of the European Convention of Human Rights, since it can hardly be said that denial of entity status «is necessary in a democratic society». To the contrary, granting such status is a crucial feature of contemporary democratic society.

The Law in Its Current Form Unnecessarily Violates Several Major Constitutional and International Human Rights Norms

The law violates several provisions of the Russian Constitution and of Russia's international commitments. The key provisions are noted in summary fashion here.

The Russian Constitution

Article 14 provides that «Religious association... shall be equal before the law». The Law in its current form deprives any religious association that has not met the 15-year requirement of equal treatment. Recognition of the distinctive historical role of some of Russia's major traditional religions does not in and of itself violate the equality provision, so long as that does not result in practice in discrimination against other religious groups. As currently formulated, «all Russian» status may give some groups privileged status that cannot be reconciled with Article 14. It is significant to note that other countries with «endorsed Churches» have constitutional provisions that address this issue, and do not have the strong language of Article 14 requiring equal treatment of religious associations.

Article 17(2) provides that the basic rights and liberties of the human being (including religious liberty) «shall belong to everyone from birth». Some of the provisions of Article 3 of the Law impose constraints on teaching religion to minors that may run contrary to minors' rights in certain contexts. The law should have some latitude to protect the rights of parents to «[c]are for children and their upbringing» under Article 38(2), but the rights of mature minors should be given appropriate respect.

Article 28 enunciates the right to freedom of religion in very broad terms, stating that «Everyone shall be guaranteed the right to freedom of conscience, to freedom of religious worship, including the right to profess, individually or jointly with others, any religion, or to profess no religion, to freely choose, possess and disseminate religious or other beliefs, and to act in conformity with them». Many of the provisions of the Law are inconsistent with this fundamental guarantee. To the extent the Law extends its protections only to citizens, it overlooks the rights of millions of foreigners, refugees, stateless persons, and so forth. Deprivation of entity status curtails the full freedom of both individual Russian believers and religious communities in a variety of ways. Constraints on a religious association's teaching religion to its «followers» violates the rights «to freely choose, possess and disseminate religious or other beliefs».

Article 29 provides broad protections for freedom of expression, whether religious or otherwise. A number of provisions of the Law in its current form abridge freedom of expression rights.

Article 35, concerning the right to property, is likely to be violated by the dissolution provisions of the Law. Many religious organizations were created with the assumption that their property would stay perpetually in the ownership of an association that has been created since 1990. If that entity is dissolved as

a result of the law, the religious community involved cannot create a new religious entity because of the 15-year constraint, deprivation of property rights is likely to occur.

Article 15(4) provides that «(i)f an international treaty of the Russian Federation stipulates other rules than those stipulated by the law, the rules of the international treaty shall apply». Thus to the extent the current version of the Law violates Russia's international treaty obligations, it also is in conflict with Article 15(4)'s supremacy clause.

International Agreements

Because the Russian Constitution already has strong provisions protecting human rights, international religious freedom norms are in a sense redundant, but certain features of applicable international instruments are worth highlighting.

Religious Freedom Norms

The language of Article 28 of the Russian Constitution parallels language of Article 18 of the International Covenant on Civil and Political Rights and Article 9 of the European Convention. Significantly, it is not enough under international law for regulations and restrictions on religious freedom (such as those that accompany lack of entity status) to be justified on the grounds that they simply further public safety, health, welfare, morals, or order or protect the rights of third persons. To satisfy international law, such restrictions must be «necessary in a democratic society» and proportionate to the nature of the state interests involved. In general, an otherwise legitimate state objective may not override religious freedom rights if the state objective could be satisfactorily attained in a less intrusive manner. The problematic provisions of the current version of the Law all violate this fundamental constitutional and human rights constraint.

Freedom of Expression

To the extent that provisions of the Law violate Article 29 of the Russian Constitution, they also violate Article 19 of the International Covenant on Civil and Political Rights and Article 10 of the European Convention.

Right to Entity Status

One of the key protections for religious freedom that has been recognized in the Helsinki process is the right of religious groups to acquire legal personality to carry out their affairs. This is perhaps most clearly articulated in Principle 16(c) of the Vienna Concluding Document (1989), which has been cited in full earlier. One of the most fundamental problems of the current version of the Law is that it clearly offends this right.

Anti-Discrimination Norms

International norms are replete with provisions proscribing discrimination on the basis of religion or belief. While the current version of the Law has excellent language endorsing anti-discrimination principles [e.g., Art. 3(3)], the denial of entity status to many religious groups will work a variety of direct and indirect forms of discrimination that are inconsistent with the spirit and letter of international norms.

Compromise Legislation Could Address Russian Needs Without Violating the Russian Constitution and International Norms

The tragedy of the Russian legislation in its current form is that but for a few egregious provisions, most of which were engrafted on otherwise respectable legislation in the final days before passage by the State Duma, the legislation would have been able to address perceived Russian needs without violating the Russian Constitution or International Standards.

The Law constitutes an overly broad reaction to worries about «dangerous» religious sects. It sacrifices the religious liberty of countless legitimate religious groups in an effort to deal with abuses that have occurred in a relatively small number of highly-publicized incidents. An anti-foreign animus running through the bill jeopardizes the religious freedom rights not only of foreigners in Russia, but of the countless Russian citizens who have chosen to exercise their religious freedom by affiliating with religious groups that have co-religionists abroad.

It is far from clear why deregistering numerous legitimate groups who have been recognized for less than fifteen years is necessary to deal with problems arising from a relatively small number of groups. By either eliminating the 15-year requirement for legal personality, or by providing an alternative form of entity eligible to carry out the full range of activities of legitimate religious groups, many of the most serious problems in the current version of the Law could be solved. Other problems could be cleaned up in the process of making this one major fix.

Conclusion and Recommendation

While the legislation contains many laudable provisions, its blatant discrimination against religious groups with shorter histories in Russia, its determination to strip untold religious organizations of legal personality, and a variety of other defects make the law in its present form unacceptable as a matter of Russian constitutional law, international religious liberty law, and sound democratic practice in respecting the rights of individuals and groups to freedom of religion or belief. These defects could easily be cured by removing or revising a relatively small number of problematic provisions. The International Academy would welcome the opportunity to consult with Russian experts working on these issues as it has done in the past. In any

event, the International Academy strongly recommends that the legislation be rejected in its present form, with the understanding that a revised version eliminating key infractions of religious freedom could be passed in the near future.

INTERNATIONAL ACADEMY FOR FREEDOM
OF RELIGION AND BELIEF

**Analysis of the Russian Legislation
«On Freedom of Conscience and on Religious Associations»
and Recommendations for Compromise**

August 29, 1997

Executive summary

The International Academy for Freedom of Religion and Belief is an organization of leading scholars and governmental experts from Europe, Latin America, Asia, Africa, and North America, and from a wide range of religious denominations, who specialize in issues related to freedom of religion and belief around the globe. Over the past five years, the International Academy has had extensive contacts and experience with those working on revisions of the 1990 Russian Law on Freedom of Conscience, and has accordingly followed closely legislation passed earlier this summer by the Russian Federal Assembly that would substantially restrict religious freedom in Russia.

The analysis that follows is respectfully submitted with the hope that it will provide expert perspective that can help inform debate currently going on in Russia on issues of religious freedom. The outcome of this debate is vital not only to the inhabitants of Russia, but to people in other countries who in coming years may be affected by legislation modeled on Russia's.

The International Academy welcomed President Yeltsin's courageous action in vetoing the Law on Freedom of Conscience and on Religious Associations (the «1997 Law») in its present form, and the thoughtful and thorough analysis of constitutional defects in the law provided in his veto message. At the same time, the International Academy understands there is considerable latitude for different countries to structure their relationships to religious organizations in ways that are consistent both with national tradition and with international standards governing the protection of religious human rights.

As noted in the Academy's statement of July 9, 1997, «the International Academy believes that with a limited number of textual changes, the violations of the Russian Constitution and international religious freedom norms evident in the current version of the Law could be cured». Members of the Academy have accordingly reviewed the legislation paragraph by paragraph, with President Yeltsin's veto message in

mind. In Section I (pp. 4-10), key principles that govern the sphere of religious freedom are identified, and then, in Section II (pp. 10-18), the specific provisions of the 1997 Law are analyzed to determine what changes are needed in order to assure compliance with the Russian Constitution and with applicable international standards.

Crucial Changes

A most vital change is the elimination of the 15-year limitation on the right to entity status. This provision changes what is otherwise reasonable legislation into a litany of human rights violations. A substantial percentage of the problems with the legislation can be solved by eliminating the offending language in Article 9(1) and Article 11(4)(5). Article 5(3), Articles 15 to 24, and Article 27 are all extremely problematic if the right to perform the activities described in these Articles is limited only to «organizations» that can pass the 15-year test; so long as entity status as «organizations» is reasonably available to legitimate groups, these problems are solved.

Strongly Recommended Changes

Preamble: Revise Second Paragraph of Preamble in a way that recognizes the distinctive role played by Orthodoxy and other major religious traditions, while respecting the role of other religions in contemporary Russia.

Article 2(2): Freedom of conscience and regulation of religious associations should be exclusively a matter of federal law.

Article 3(4) and throughout the Law, as appropriate: Replace «Citizen» with «everyone», or make it clear that references to «citizens» are intended to include all other persons in Russia as well.

Article 3(5): Prohibition on «attracting» minors is too vague and needs to be tightened. Every religious organization attracts at least some minors. Concerns could be adequately addressed by provisions that do not allow minors to join a church without parental consent, and that prohibit religious organizations from coercively interfering with lawful parental custody of minors.

Article 3(6): Nothing in this provision should be construed to mean that churches can regulate all speech in public squares located in proximity to churches.

Article 3(7). Clergy-penitent privilege. Expand notion of confession to include as well «or other religiously motivated confidential communications».

Article 5(3), First Sentence. Recommend deleting phrase suggesting that religion may be taught only to «followers». This is not a crucial change, because the law merely states that believers and religious associations have a right to teach religion directly to their followers, and does not expressly rule out teaching others. But the risk is that this phrase would be construed to disallow teaching anyone else, which would violate rights to freedom of expression and religion.

Article 8(3). Delete «permanent» from requirement that those who set up local organizations must be «permanently residing in one locality». Individuals do not need to become «permanent» residents in order to have rights to worship in accordance with their conscience.

Article 13(2) and (3). May need to improve language on «foreign representations» to meet needs of legitimate groups using such entities.

Article 14(2). The clause that allows dissolution for «forcing members and followers... to alienate property... for the sue of the religious association» is problematic because it might be construed to allow organizations to be dissolved for imposing mandatory tithes or other contributions. The provision, taken literally, would allow deregistration or banning of any church that requires contributions from its members. There are several vague and overbroad provisions in Article 14(2) that should be tightened to avoid possible abuse or misapplication: e.g., «igniting of social... or religious dissension or hatred between people» and «inciting citizens to refuse to fulfill their civic obligations».

Article 16: Language about military should make it clear that the right to reasonable access to worship facilities and clergy of the believer's choice is to be protected.

Article 24: Provision should be added to clarify that volunteers do not come under normal labor regulations.

Article 27: Provisions should make it clear that where charter provisions are amended to bring them into compliance with the act, the date of recognition of the group relates back to the date when the initial charter was approved. In general, transition provisions should be structured to protect the rights of existing groups, and to avoid retroactive dissolution of legitimate, law-abiding religious groups.

No Change Needed

No change is needed in the majority of provisions of the Law—namely, in Article 1, 2(1), 2(3), 3(1)-(3), 3(8), 4, 5(1), 5(2), 5(4), 10, 11(1)-(3), 11(5)-(12), 12, 13(1), 13(4); 14(3)-(4); 25, 26. In addition, as noted above, once the 15-year limitation is eliminated, so significant change is needed in Articles 5(3), Articles 15 to 24, and most of Article 27. Thus, the overwhelming number of provisions can be left intact. A number of these provisions could be misconstrued, but if applied in good faith, should not be problematic.

Overall Result

The foregoing limited but vital corrections would bring the Law into full compliance with the Russian Constitution (assuming that the provisions are interpreted and applied fairly). It would give major religions the respect they deserve in Russian history, and it would allow adequate monitoring of smaller groups without violating their rights.

I. Constitutional and International Human Rights Principles Governing Adoption of Legislation Such as the 1997 Law

This is not the place for an exhaustive analysis of the array of constitutional and international human rights norms that determine the legitimacy and validity of legislation such as the 1997 Law. The aim here is merely to summarize the major principles and considerations that apply.

A. *The Law in Its Present Form Poses Severe Problems for Legitimate Religious Groups*

The 1997 Law as enacted would authorize de-registration of thousands of religious entities, including Russian Orthodox congregations out of sympathy with the Moscow patriarchate and numerous other legitimate groups, many of which have been registered in the relatively recent past. This would have devastating impact for affected groups, since religious groups lacking legal personality under the 1997 Law would not be eligible to:

- Request military deferment for clergy [Art. 3(4)].
- Obtain equal fiscal treatment [Art. 4(3)].
- Establish education institutions [Art. 4(3)].
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- Produce, acquire, export, or import and distribute religious literature, video and audio material, and other articles of religious significance [Art. 17(1)].
- Establish institutions to train indigenous clergy [Art. 19(1)].
- Maintain the full range of international links and contacts (Art. 20).
- Invite foreigners to come to Russia for preaching or other religious activity [Art. 20(2)].
- Have benefits of entity ownership of land, buildings and other assets (Art. 21).
- Have entity status for purpose of hiring employees (Art 24).

The foregoing is only a partial list of the activities for which religious organizations need entity status. The fact that religious groups may conduct worship and a few other limited activities without registering, as permitted under Article 7 of the Law, is small consolation when the range of normal religious activities for which entity status is critical becomes evident.

B. *Contrary to Representations Made by Supporters of the Legislation, No Other European Country Imposes a 15-Year Barrier to Acquisition of Legal Personality*

While it is true that many European countries afford different religious organizations differing levels of recognition, all those that comply with the European

Convention and with OSCE Commitments make some form of legal entity available to religious organizations whereby they can carry out the full range of religious activities. Many supporters of the Russian Law cite a recent Lithuanian law as justification for the 15-year requirement in the Russian legislation. But the Lithuanian example shows precisely what is wrong with the current version of the Russian Law. While Article 6 of the Lithuanian law provides that religious associations may be recognized as traditional religious communities only after 25 years «from the date of their initial registration», it is clear both from Article 6 and from Article 11 that «non-traditional» religious groups may attain legal personality in a relatively short time, not to exceed six months. With this status, they can carry on the full range of activities open to «traditional» religious communities. The problem with the Russian legislation is that it bars numerous religious groups from access to what elsewhere is routine access to legal entity status.

In Germany, constitutional provisions indicate that some measure of permanence is a prerequisite to acquiring «public corporation» status, but most smaller religious groups have now acquired this status, and even those who don't are free to organize as privately registered societies free to carry out their religious mission. Among the groups that have «public corporation status in Germany (in addition to the larger religious denominations) are: Baptists, Christian Science, the Church of Jesus Christ of Latter-day Saints (Mormons), Evangelical Free Churches, Jehovah's Witnesses, Mennonites, Methodists, the New Apostolic Church, the Salvation Army, Seventh Day Adventists, and Unitarians. Many other groups are given legal personality as registered organizations under the civil code. A Federal Constitutional Court decision in 1991 made it clear that if structures provided by the Civil Code were inconsistent with the ecclesiastical polity of a religious organization (in the case: the Bahai religion), religious freedom concerns oblige public authorities to make exemptions to accommodate differences in religious belief. It is absolutely clear under German law that the civil law entities enjoy the same full measure of religious freedom that those with public corporation status enjoy. Many of the foregoing groups would be deprived of entity status under the Russian Law.

Examples could be multiplied, but the point is that all countries provide some kind of «base level» entity that is available to all religious groups willing to abide by the laws and constitutional order of the country involved. Professor Silvio Ferrari, a member of the Board of the International Academy and holder of the Chair in Ecclesiastical Law at the Faculty of Law of the University of Milan indicates *he is aware of no country within the European Community that must prove 15 years of activity as a precondition to acquiring legal personality*. All make available some form of legal entity so that religious groups can carry out the full range of their lawful religious activities.

In the contemporary world, for most religious associations, deprivation of entity status is a major encroachment on religious freedom. It is for this reason that Principle 16(c) of the Vienna Concluding Document (1989) commits participating states in the Helsinki Process, including Russia, «to grant upon their request to communities of believers, practicing or prepared to practice their faith within the constitutional framework of their states, recognition of the status provided for them

in their respective countries.» The wording of this commitment recognizes that the precise legal form of legal personality varies from legal system to legal system, but access to some form of legal entity, without waiting fifteen years, is vital to meeting OSCE commitments. Failure to grant such status constitutes a limitation on manifestation of religion that violates Article 9 of the European Convention of Human Rights, since it can hardly be said that denial of entity status «is necessary in a democratic society.» To the contrary, granting such status is a crucial feature of contemporary democratic society.

C. *The Law in Its Current Form Unnecessarily Violates Several Major Constitutional and International Human Rights Norms*

The law violates several provisions of the Russian Constitution and of Russia's international commitments. The international commitments represent «minimum requirements» for all the countries they bind. The Russian Constitution incorporates these international standards (Article 15) in some areas imposes even stronger requirements of its own (e.g., Article 14). The key provisions are noted in summary fashion here.

1. The Russian Constitution

Supporters of the 1997 Law have frequently contended that it is consistent with church-state regimes in many other countries in Europe. Many European countries, for example, have established churches, and others have schemes of strong cooperation between church and state. Still others recognize the distinctive role that particular religions have played in the formation of national culture. As noted above, however, it is simply not the case that other European countries deprive religious organizations of entity status altogether for lengthy time periods (beyond what is reasonably necessary to register normal civil associations). More significantly, the question is not what is permitted by the constitutions of other countries, but what is allowed under the Russian Constitution, which in some respects imposes even higher standards than the requirements of applicable international treaties such as the European Convention of Human Rights. For example, none of the countries that grant privileged status to dominant religions have constitutional provisions as strict as Article 14, which provides that «Religious associations... shall be equal before the law». In analyzing the present law, it is not enough to rely on vague analogies to practices in other countries; it is vital to pay attention to Russian constitutional provisions.

The 1997 Law in its current form violates *Article 14* in that it deprives any religious association that has not met the 15-year requirement of equal treatment. Recognition of the distinctive historical role of some of Russia's major traditional religions does not in and of itself violate the equality provision, so long as that does not result in practice in discrimination against other religious groups. As currently formulated, «all Russian» status may give some groups privileged status that cannot be reconciled with Article 14. It is significant to note that other countries with «endorsed Churches» have constitutional provisions that address this issue,

and do not have the strong language of Article 14 requiring equal treatment of religious associations.

Article 17(2) provides that the basic rights and liberties of the human being (including religious liberty) «shall belong to everyone from birth». Some of the provisions of Article 3 of the Law impose constraints on teaching religion to minors that may run contrary to minors' rights in certain contexts. The law should have some latitude to protect the rights of parents to «[c]are for children and their upbringing» under Article 38(2), but the rights of mature minors should be given appropriate respect.

Article 28 enunciates the right to freedom of religion in very broad terms, stating that «Everyone shall be guaranteed the right to freedom of conscience, to freedom of religious worship, including the right to profess, individually or jointly with others, any religion, or to profess no religion, to freely choose, possess and disseminate religious or other beliefs, and to act in conformity with them». Many of the provisions of the Law are inconsistent with this fundamental guarantee. To the extent the Law extends its protections only to citizens, it overlooks the rights of millions of foreigners, refugees, stateless persons, and so forth. Deprivation of entity status curtails the full freedom of both individual Russian believers and religious communities in a variety of ways. Constraints on a religious association's teaching religion to its «followers» violates the rights «to freely choose, possess and disseminate religious or other beliefs».

Article 29 provides broad protections for freedom of expression, whether religious or otherwise. A number of provisions of the Law in its current form abridge freedom of expression rights.

Article 30, concerning the right to association, is also threatened or curtailed in certain respects by the 1997 Law.

Article 35, concerning the right to property, is likely to be violated by the dissolution provisions of the Law. Many religious organizations were created with the assumption that their property would stay perpetually in the ownership of an association that has been created since 1990. If that entity is dissolved as a result of the law, the religious community involved cannot create a new religious entity because of the 15-year constraint, deprivation of property rights is likely to occur.

Article 15(4) provides that «[i]f an international treaty of the Russian Federation stipulates other rules than those stipulated by the law, the rules of the international treaty shall apply.» Thus to the extent the current version of the Law violates Russia's international treaty obligations, it also is in conflict with Article 15(4)'s supremacy clause.

2. International Agreements

Because the Russian Constitution already has strong provisions protecting human rights, international religious freedom norms are in a sense redundant, but certain features of applicable international instruments are worth highlighting.

a. Religious Freedom Norms

The language of Article 28 of the Russian Constitution parallels language of Article 18 of the International Covenant on Civil and Political Rights and Article 9 of the European Convention. Significantly, it is not enough under international law for regulations and restrictions on religious freedom (such as those that accompany lack of entity status) to be justified on the grounds that they simply further public safety, health, welfare, morals, or order or protect the rights of third persons. To satisfy international law, such restrictions must be «necessary in a democratic society» and proportionate to the nature of the state interests involved. In general, an otherwise legitimate state objective may not override religious freedom rights if the state objective could be satisfactorily attained in a less intrusive manner. The problematic provisions of the current version of the Law all violate this fundamental constitutional and human rights constraint.

b. Freedom of Expression

To the extent that provisions of the Law violate Article 29 of the Russian Constitution, they also violate Article 19 of the International Covenant on Civil and Political Rights and Article 10 of the European Convention.

c. Right to Entity Status

One of the key protections for religious freedom that has been recognized in the Helsinki process is the right of religious groups to acquire legal personality to carry out their affairs. This is perhaps most clearly articulated in Principle 16(c) of the Vienna Concluding Document (1989), which has been cited in full earlier. One of the most fundamental problems of the current version of the Law is that it clearly offends this right.

d. Anti-Discrimination Norms

International norms are replete with provisions proscribing discrimination on the basis of religion or belief. While the current version of the Law has excellent language endorsing anti-discrimination principles [e.g., Art. 3(3)], the denial of entity status to many religious groups will work a variety of direct and indirect forms of discrimination that are inconsistent with the spirit and letter of international norms.

3. Non-Interference in Internal Religious Affairs

One of the most fundamental aspects of religious freedom is the right of religious organizations to non-interference in their internal affairs. That is, religious organizations have a right to self-determination and autonomy in selecting personnel

and otherwise in structuring their respective organizations. This is one of the major objectives of the principle of «separation of church and state», protected by Article 14 of the Russian Constitution, and is clearly acknowledged in Article 4 of the 1997 Law. The difficulty is that other provisions conflict with the otherwise excellent provisions on religious autonomy in Article 4. This dimension of religious freedom is crucial because religious life is inherently communal in nature, and if a religious community is not left free to structure its own affairs (within the limits of laws necessary in a democratic society), the life of the community ceases, to the extent of the intrusion, to be its *own* religious life; it loses its purity and authenticity, and in the last analysis, it loses its identity.

A broad range of issues vital to the life of religious community falls within the ambit of the right to religious autonomy and non-interference in internal religious affairs. The following is a partial list of the types of issues that fall in this category:

1. Formation of religious dogma.
2. Beliefs about the nature of ecclesiastical polity.
3. Establishment and maintenance places of worship.
4. Administration of affairs of the religious organization, including:
 - a. Financial matters.
 - b. Territorial structure of the association (defining boundaries of church units).
 - c. Hierarchical structure.
 - d. Determination of nature of organization.
 - e. Selection and appointment of leaders, ministers, and all other church officials, including transfer of such individuals from one post to another.
 - f. Administration and training.
 - g. Communication with foreign co-religionists.
5. Determining and carrying out charitable mission of the religious organization.
6. Determining and carrying out training programs for present and future leaders and ministers.
 7. Structuring other educational programs for church members.
 8. Structuring outreach programs.
 9. Internal jurisdiction (canon law, disciplinary proceedings, etc.).
 10. Right to some form of legal entity for acquiring property, worship facilities, bank accounts, labor contracts, etc.
 11. Right to establish facilities for printing and producing materials for disseminating beliefs to members and others. (Applies to print and other forms of media.)
 12. Right to make, acquire and use religious items.
 13. Right to undisturbed day of rest, religious holidays, and worship services.
 14. Right to freedom from indirect constraints on manifestation of religion, such as residency permit requirements clearly aimed at curtailing religious expression.

Note that many of the foregoing are expressly protected by constitutional provisions and international commitments; others are implication of broader cons-

titutional phrases such as «separation of church and state». Each reflects a different concrete aspect of the right to internal autonomy. The important point for present purposes is that virtually all of the foregoing are adversely affected by the 1997 Law. One of the most critical blows to religious autonomy under the new Law is its potential to deregister numerous religious organizations and deprive them of entity status. As noted elsewhere, many of the most serious problems with the new Law could be solved by eliminating the 15-year requirement in its current form.

Even if the 15-year problems are solved, the law as drafted has additional problems. Many of the restrictive provisions regarding foreigners are clearly aimed at imposing direct or indirect constraints on individuals and organizations to make it more difficult for them to carry out their teaching missions. There are constraints that make it much more difficult to make appointments of religious officials or priests from abroad. Constraints may be placed on selecting personnel to fill various church positions from abroad. When the motivation appears to be to limit growth of smaller groups, such tactics constitute an impermissible interference with religious autonomy.

D. Compromise Legislation Could Address Russian Needs Without Violating the Russian Constitution and International Norms

The tragedy of the Russian legislation in its current form is that but for a few egregious provisions, most of which were engrafted on otherwise respectable legislation in the final days before passage by the State Duma, the legislation would have been able to address perceived Russian needs without violating the Russian Constitution or international standards.

The Law constitutes an overly broad reaction to worries about «dangerous» religious sects. It sacrifices the religious liberty of countless legitimate religious groups in an effort to deal with abuses that have occurred in a relatively small number of highly-publicized incidents. An anti-foreign animus running through the bill jeopardizes the religious freedom rights not only of foreigners in Russia, but of the countless Russian citizens who have chosen to exercise their religious freedom by affiliating with religious groups that have co-religionists abroad.

It is far from clear why deregistering numerous legitimate groups who have been recognized for less than fifteen years is necessary to deal with problems arising from a relatively small number of groups. Truly dangerous groups are unlikely to be effectively controlled by registration requirements; they will simply go underground. Restrictive registration provisions are thus peculiarly ineffective to achieve their objective: they unfairly burden legitimate groups while in fact making it less rather than more likely that state officials will have information about dangerous groups. By either eliminating the 15-year requirement for legal personality, or by providing an alternative form of entity eligible to carry out the full range of activities

of legitimate religious groups, many of the most serious problems in the current version of the Law could be solved. Other problems could be cleaned up in the process of making this one major fix.

II. Recommendations for Changes in the Russian Law On Freedom of Conscience and on Religious Associations

The following recommendations are intended as practical and politically viable approaches to reaching a compromise on the law «On Freedom of Conscience and on Religious Associations» (the «Law») passed by the Russian State Duma on June 23 and by the Federation Council on July 4, 1997. The law passed was based on drafts that had been considered by experts and religious communities in Russia. However, a number of last minute changes were introduced in June before the legislation was submitted to the State Duma for second reading and also in the course of preparing the third reading version. The result is there are a number of provisions that are not consistent with the Russian Constitution, as has been eloquently and thoroughly pointed out in President Yeltsin's veto message. The aim is thus to identify provisions that need to be adjusted to bring the law into full compliance with the Russian Constitution, while respecting the basic structure of the legislation. In general, if compliance with the Russian Constitution is achieved, this will automatically bring the legislation into compliance with Russia's international commitments. It is clear that the Russian Constitution was adopted with the intention of complying with international human rights norms, including internationally recognized religious rights, and accordingly it is sometimes helpful to refer to the applicable international norms in explicating the meaning of various general provisions of the Russian Constitution.

Preamble

The only question posed by the Preamble is its second paragraph referring to traditional religions. Many constitutions of the world recognize the distinctive role played by particular religious traditions in a country's history and culture. There is nothing objectionable to this so long as it does not lead to discrimination against other groups. President Yeltsin's veto message notes that as currently phrased, the preamble «entrenches inequality of religions, since only Orthodoxy is recognized as an integral part of the common Russian historical, spiritual, and cultural heritage». This problem can be solved by a simple change that conveys appropriate respect for the Orthodox tradition without treating others unequally. A possible revision might read as follows (underscoring additions and striking out deletions):

«Respecting *the profound role that Orthodoxy has had in the formation as an inseparable part of the all-Russian historical, spiritual, and cultural heritage, and equally that of Islam with its millions of members, and also that of Buddhism, Judaism, and other religions traditionally existing in the Russian Federation*»;

Chapter I. General Provisions

Article 1: No change needed.

Article 2: No change is needed in Clauses 1 and 3. A significant substantive change was added between second and third readings in the State Duma, and the final draft should be returned to the second reading version, as follows:

2. The rights of man and citizen to freedom of conscience and to freedom of creed are regulated *exclusively* by federal law. Federal laws and other normative legal acts enacted in the Russian Federation and affecting questions of freedom of conscience, freedom of creed and the activities of religious associations must be consistent with this federal law.

One of the ambiguities under prior law was whether this area should also be subject to coordinate regulation by the subjects of the Russian Federation. This has led to the proliferation of local laws that all too often are violative of human rights. The State Duma rightly decided that because of its sensitivity, this area should lie in the exclusive jurisdiction of the federation. The change made between the second and third readings was not a merely technical change, because it reverses the intended assertion of exclusive federal power in this area.

Article 3: No changes are required in **Clauses 1-3**. It should be noted that **Article 3 Clause 3** was moved to its current location from the end of **Article 4 Clause 1**. This might give the impression that the right to be free from religious discrimination is primarily an individual right. In fact, **Article 14 Clause 2** of the Russian Constitution and **Article 4 Clause 1** of the Law both proscribe discrimination against religious groups and associations regardless whether **Article 3 Clause 3** appears at its new location or in its original position. Hence, no change is needed in this respect. The word «Citizen» at the beginning of **Clause 4** should be replaced with «Everyone». As noted at length in President Yeltsin's veto, there are otherwise numerous resident aliens, stateless persons who are not assured equal protection under the Russian Constitution. **Clause 5** is problematic in that forbids the «attraction of minors to religious associations and also the teaching of religion to them against their will or without the agreement of their parents or guardians». Different constitutional systems may balance the competing rights of parents, children, and religious associations differently. What is unacceptable about **Clause 5** is that religious associations have the right to teach their beliefs, and there are many situations in which minors may be attracted to these teachings without any coercive activity on the part of the religious organization. Religious organizations cannot be required to have unattractive teachings. Moreover, mature minors may assert their own freedom of conscience in ways that do not necessarily coincide with the religious beliefs of parents. An approach that respects the rights

of parents to raise their children as they see fit and the rights of religious groups to express their beliefs would be to change the last sentence of **Clause 5** to read as follows:

Minors shall not be allowed to become members of a religious association without parental consent, and religious organizations shall not interfere with lawful parental custody of minors.

Clause 6 is acceptable provided that it is not abused to prevent legitimate religious speech in public squares. It is obviously inappropriate for individuals of one belief to harass or insult adherents of another belief, particularly in the immediate environs of a church or other object of veneration. However, the fact that a church is located near a public square should not give that church a monopoly on all religious expression in that public setting. **Clause 7** is acceptable as is, but it may be wise to add the phrase «or other religiously motivated confidential communications», since confession practices differ.

Article 4: No changes are necessary as a matter of international law, provided that the material assistance to be provided pursuant to **Clause 3** is made available on a reasonably equal basis (to the extent such aid is requested; many smaller groups would reject such aid as a matter of principle). Care should be taken in structuring such financing to avoid using tax dollars from non-believers or believers in other faiths to pay for purely religious education; limiting such support to the secular aspects of education helps resolve this problem. The equality problem noted in the analysis of **Clause 3** in President Yeltsin's veto message would be solved if the fifteen-year limitation of **Article 9** is eliminated. Beyond the educational setting, support for the maintenance of religious buildings which are also monuments of Russian history and culture is permitted even in separationist France.

Article 5: No changes are needed in **clauses 1, 2, and 4**. **Clause 3** is problematic for two reasons. First, only «organizations» are eligible to establish educational institutions. This problem would disappear if the 15-year limitation of **Article 9** is eliminated. Otherwise, religious associations without entity status would be profoundly discriminated against, both in their right to establish schools for the children if they so desire, and in their ability to establish training institutions for their clergy. This violates equality principles, the right of religious communities to structure their internal affairs, and the rights of parents to be able to guide the education of their children. The second problem relates to the first sentence of **Article 5 Clause 3**. As originally worded, this Clause provided, «Religious organizations have the right in accordance with their own statutes, to directly teach religion and create educational establishments in accordance with legislation of the Russian Federation.» Just prior to second reading, this was changed to read, «Religious associations have the right directly to teach religion *to their followers*». This is fine as far as it goes, but it appears to suggest that religious associations do not have the right to teach or express their beliefs to others. This is clearly inconsistent with **Articles 18 and 19** of the International Covenant on Civil and Political Rights, **Articles 9 and 10** of the European Convention, and **Articles 28 and 29** of the

Russian Constitution. To avoid any ambiguity on this point, the phrase «to their followers» should be deleted. Of course, even if this change is not made, the law does not in fact negate the right to teach others; it merely affirms the right to teach followers. In general, it is important that it should be clear that the Law does not constitute an exhaustive enumeration of religious freedom rights.

Chapter II. *Religious Associations*

Articles 6-9: These articles need to be discussed as a unit. These provisions were added for the most part at the second reading stage, and contain some of the most problematic features of the new law. Most problematic of all is Article 9 Clause 1, which prevents the formation and recognition of local religious organizations unless they «have confirmation from the organs of the local government that it has existed for no less than 15 years on the said territory». This single provision transforms the rest of the law, with its extensive list of the rights of «organizations», into a rather comprehensive list of all the rights that will be denied to groups not eligible for entity status. While a number of European countries provide some forms of more favored status for more established religious organizations, none flatly deny entity status necessary for carrying out normal religious affairs for any substantial period. Lithuania's 25-year requirement for «traditional church» status—often cited as authority for the 15-year provision—is measured from the time of initial registration of a church as an entity. «Non-traditional» churches are not discriminated against in their rights to operate within the limits of the law, and clearly have entity status. The 15-year requirement flagrantly violates Russia's obligations under the Helsinki Process (most notably, Principle 16(c) of the Vienna Concluding Document), and it transmutes the rest of the law into a vast engine of inequality. As President Yeltsin's Veto Message makes abundantly clear, this provision creates numerous violations of the Russian Constitution, and clearly must be eliminated.

Once the 15-year limitation is dropped, most of the rest of the organizational provisions are acceptable. **Article 6**, so long as it is construed with some flexibility, recognizing the broad diversity among different types of religion in the world, provides a reasonable starting point for determining what kinds of associations qualify as «religious». **Article 7** on «Religious Groups» constitutes an inadequate form of legal organization from the perspective of most religious organizations, because acquisition of legal personality is regarded by most groups as an essential prerequisite for normal operations. Still, so long as it is not merely a category of «second class» status for religious organizations, it is an important category, because there are some religious organizations that have conscientious objections to seeking entity status from the state, and some starting point for new religious organizations (or older religious associations that are new to a particular locale) is necessary.

Article 8 provides a fairly flexible framework that most religious organizations, regardless of their distinctive ecclesiastical polity, can use for purposes of organizing

their affairs. **Clause 2** provides that religious organizations may be either local or centralized organizations, and that centralized organizations may be either «regional or all-Russian». **Clause 3** provides that a group of «ten or more who are at least 18 years old and who are permanently residing in one locality» may be recognized as a «local religious organization». The permanent residence requirement is vague, and may discriminate against foreigners living in a certain area for a relatively short period. That problem could be solved simply by eliminating the word «permanent». **Clause 4** provides that three or more local congregations may be recognized as a «regional religious organization». **Clause 5** provides that centralized religious organizations that have been functioning for 50 years in no fewer than half of the subjects of the Russian Federation (or in no fewer than three subjects as «ethnic-cultural formations») [have the right to use in its names The Word "Russia", Russian and derivatives of these]*. Much attention has been paid to this provision in the press, because it seems to create the basis for discrimination in favor of larger churches with extensive presence in Russia. In fact, however, all that seems to ride on «All-Russian» status is the right under **Clause 6** to use the words «Russia», «Russian» and derivatives of these in their names. This may be a matter of some consequence to some long-standing religious groups in Russia, and if it is religiously important to a group to claim that it is Russian, it is not clear why this claim should be denied. In any event, so long as the «All-Russian» designation does not operate to confer special privileges vis-a-vis smaller regional organizations, whether in the Law or in other legislation, this category does not appear to be objectionable. Otherwise, the «All-Russian» designation simply recognizes the undisputed fact that some religious organizations are larger than others. **Clause 7** allows centralized organizations (whether «All-Russian» or «regional») to create other entities, including presumably affiliated entities in new localities and other types of institutions such as coordinating organs or institutions of professional religious education. **Clause 8** is rather indeterminate. If it is used to give «All-Russian» organizations privileges denied to «regional» organizations, this would be impermissibly discriminatory; if it is merely a recognition that differences in size do in fact make some practical differences, this should be unproblematic.

In short, without the limitations of the 15-year-requirement in Article 9, Articles 6-9 create a flexible system for allowing a broad range of religious organizations to acquire legal personality. The entities available are sufficiently flexible to meet the needs of most groups. Some religious associations are congregational in their structure; others are hierarchical; still others have some intermediate structure. Some may prefer to use local organizations; some centralized. But so long as officials do not attempt to use the legal structures of Articles 6-9 to force religious associations to choose structures inconsistent with their religious beliefs about ecclesiastical polity, the structures made available by the law will work for most groups. Stripped of the 15-year-requirement, construed to assure that the «All-Russian» classification is not used as a basis of discrimination, and with the deletion of the word «permanently» from Article 8 Clause 3, **Articles 6-9** constitute an excellent

* Nota del Editor: Las palabras entre corchetes no figuran en el original. Las añadimos porque en otro caso la frase queda incompleta.

approach to the challenge of making legal entities available to the religious sector which are sufficiently flexible to accommodate the diverse needs of varying religious groups.

President Yeltsin's veto message (¶13) suggests that the provision of **Article 9 Clause 1** providing that a local organization can be formed on the basis of a «confirmation from a centralized religious organization of the same creed that it forms part of its structure» is a violation of the separation of church and state. This statement is made at the end of a paragraph pointing out that there is in an impermissible delegation of governmental power to Churches in **Article 13 Clause 2**, since it makes foreign representations dependent on the decision of Russian religious organizations. The two situations are quite different. One church should not be dependent on determinations of another church in order to establish itself; if a domestic church can block establishment of a foreign church, it has in effect exercised state power inappropriately. The situation in **Article 9** is quite different. There an existing church in effect tells the state that in exercising its rights to self-determination in its own internal affairs, it has created a sub-entity. The state's recognition of the sub-entity is part of its protection of the religious freedom of the already-recognized entity. In any event, it is significant that the sub-entity is not formally registered until the application made by the centralized organization is approved by a state registering organ (Article 11, paragraph 7).

Article 10 states a reasonable set of requirements for inclusion in the charter of a religious organization. Provided that those administering these requirements do not require excessive information or detail (for example, the Catholic Church should not be required to recite its entire history, world-wide sources of finance, etc.) and do not use requests for additional information to delay recognition or otherwise abuse discretion, Article 10 is acceptable.

Article 11 addresses the process of registration. **Clause 1** remains somewhat vague, because legislation that will govern the registration process (and the parallel processes for other types of charitable and non-profit organizations) has not yet been passed. Assuming that the legislation ultimately passed in that area is constitutional, it should add no further problems. It is not a problem now. **Clauses 2 and 3** provide reasonable direction on where organizations should be registered. **Clause 4** is acceptable, except that subparagraph 5 (requiring confirmation that the 15-year test has been met) must be deleted for the same reasons as the 15-year requirement itself. **Clause 5** is acceptable subject to two caveats. First, the fact that a Russian religious group has co-religionists elsewhere should not require that group to affirm an official linkage with the other body. For example, a Baptist organization with local congregations may have theological reasons why it does not want to treat another Baptist group elsewhere as a «governing center». Second, this requirement should not be pushed beyond the limits of feasibility. For example, what would count as the «founding document» of the Roman Catholic Church? There are literally thousands of legal entities affiliated with the Roman Catholic Church and its many orders around the world. Other churches may have similar problems that have to do with the history of their organizations. **Clause 6** is also reasonable, provided that this is not transformed into an overly detailed request

for information. It is not unreasonable to request that a centralized organization submit information about the sub-entities it include. **Clause 7**, with its provision for some additional study time to assess the bona fides of new applicants seems reasonable. Rejection of an application pursuant to **Clause 8** for failure to complete formalities of the application is acceptable, so long as the formalities are not transformed into unreasonable obstacles to registration. **Clauses 9-12** are all reasonable and require no change.

Article 12 needs no changes.

Article 13: **Clause 1** needs no changes. **Clause 2** is problematic in that it impermissibly delegates governmental power to Russian Churches to determine whether foreign churches should be able to establish a foreign representation. **Clause 3** leaves to other legislation the determination of the procedure for the registration, opening and shutting of foreign representations. Thus, one cannot tell from this legislation whether particular problems may eventuate for some foreign groups. **Clause 4** is fine.

Article 14: The provisions on liquidation of religious organizations seem reasonable. That is, **Clause 1** respects the right to voluntary dissolution, and provides that involuntary dissolution can only occur on the basis of a judicial order which must find «frequent and gross infringement of the Constitution of the Russian Federation, or infringement of this federal law and other federal laws, or in the case of systematic activities by a religious organization which contradict the goals for which it was created». **Clause 2** then further specifies grounds for judicial dissolution. Some of the factors listed are vague and subject to abuse. For example, some might argue that merely asserting one set of beliefs, even if done in a reasonable way, «ignites... religious dissension or hatred», but such activity should clearly be protected by rights to freedom of religion and freedom of expression. If an adult member of a family exercises his or her right under the Russian Constitution and all applicable international covenants to «change her religion or belief», with the result that a family unit dissolves, does this justify dissolution of an organization? Much depends on how the term «forcing» is construed; the fact that a voluntary conversion occurs should not count as a religious organization's «forcing a family to disintegrate». The subparagraph allowing dissolution for «encouraging... the refusal on religious grounds of medical help to persons in life-endangering or health-endangering conditions» is obviously problematic for Christian Scientists and Jehovah's Witnesses. Most democratic societies have come to terms with these groups, whose histories date back to the 19th Century. Most believe that if adults in these religious communities wish to decline modern scientific medical help, it should be their right to do so. Jurisdictions are more divided on how cases of denial of medical assistance to minors should be handled. In general, deregistration of the religious association seems rather pointless: it will not affect the conduct of believers. If the threat of loss of life or health or loss of a loved child is not sufficient to deter these individuals from abstaining from medical care, deregistration is unlikely to have much effect. It makes more sense to maintain registration, and then deal with individual cases on a case-by-case basis. The insistence on an alternative to secular education should not in itself constitute «hindering the receiving of com-

pulsory education». The subparagraph on alienation of property is also problematic. Presumably, the authors of the legislation were concerned about cases where cult groups have required their members to donate all or most of their property to the religious organization. As written, however, the law would allow deregistration of any church that requests donations (however large or small) from their members. That is, it would allow dissolution of all known religious organizations. Different religious groups have differing beliefs about property. Early Christians believed in having all things in common. Many religious groups practice tithing. Many ask even greater sacrifices. The widow in the New Testament story of the «widow's mite» was praised by Jesus for having given all that she had. So long as donations are voluntarily made and not induced by fraud or coercion, it is difficult to say that such matters should be grounds for dissolution of the organization. As a practical matter, it makes more sense for the organization to remain recognized so that if there has been wrongdoing, the entity can be compelled to disgorge unjustly acquired donations. **Clauses 3 and 4** are fine.

Chapter III. *Rights and Conditions for the Activity of Religious Organizations*

Most of the Articles in this chapter (15-23) are for the most part not objectionable, provided that they are equally available to all religious associations. Thus, they are essentially unproblematic if the 15-year limitation is eliminated, but they violate numerous constitutional and international norms if that limitation is retained.

Article 15 needs no change (provided that the 15-year limitation on acquiring legal personality is dropped). It respects the established principle that religious freedom includes the right of religious organizations to self-determination and autonomy in their internal affairs.

Article 16 needs no change. Implementing regulations should make it clear that those in command of military units should do their best to accommodate the religious requirements of believers of all faith traditions.

Article 17 needs no change.

Article 18 needs no change.

Article 19 needs no change.

Article 20 is extremely problematic for numerous religious groups if the 15-year limitation prevents them from qualifying as «organizations». If that limitation is removed, and provided that the rights of religious organizations to invite foreign co-religionists, as may be required in furtherance of their right to structure their internal affairs and in organizing their religious activities, **Article 20** is acceptable. The Yeltsin Veto Message (¶19) explicitly mentions **Article 20** Clause 2 in a list of provisions that impermissibly discriminate against non-citizen believers.

Article 21 is not objectionable. Note that while the intent of **Clause 5** is to protect churches from judgments against their property, it may have the effect of making it impossible for religious organizations to borrow funds, since lenders cannot have any meaningful security interest in church property.

Article 22 needs no change.

Article 23 needs no change. Of course, tax rules may require taxation of profits from such enterprises to the extent they are not devoted to religious purposes.

Article 24 contains reasonable provisions for protection of employees of religious organizations. It is important to be clear, however, that many of those performing services for religious organizations may be volunteers, and not employees. If churches were forced to pay salaries, pension payments, and other such benefits for volunteers, they would be forced to decline volunteer assistance that would otherwise benefit not only the religious organization, but also society at large.

Chapter IV. *The Supervision and Monitoring of the Implementation of the Law on Freedom of Conscience and on Religious Associations*

Article 25: No change needed.

Article 26: No change needed. Of course, it is not exactly clear from this provision which «criminal, administrative and other liability» may be involved.

Article 27: As mentioned at several points in Yeltsin's veto message, this provision creates grave problems if the 15-year limitation remains; otherwise, it is a fairly standard implementation provision. If the 15-year limitation were to remain in effect, it is not clear what percentage of existing religious organizations would become ineligible for re-registration, and of those organizations dissolved for ineligibility, it is not clear how many of those have provisions in their charters that make it clear where their property should go. Thus, a legal morass of indeterminate scope would be created.

RUSSIAN FEDERATION
FEDERAL LAW

«On Freedom of Conscience and on Religious Associations»

The Federal Assembly of the Russian Federation,

Confirming the right of each to freedom of conscience and freedom of creed, and also to equality before the law regardless of his attitudes to religion and his convictions;

basing itself on the fact that the Russian Federation is a secular state; recognizing the special contribution of Orthodoxy to the history of Russia and to the establishment and development of Russia's spirituality and culture;

respecting Christianity, Islam, Buddhism, Judaism and other religions and creeds which constitute an inseparable part of the historical heritage of Russia's peoples;

considering it important to promote the achievement of mutual understanding, tolerance and respect in questions of freedom of conscience and freedom of creed; hereby adopts this federal law.

CHAPTER I

General provisions*Article 1. The subject regulated by this federal law*

This federal law regulates the legal relationships in the area of the rights of man and citizen to freedom of conscience and to freedom of creed, and also the legal status of religious associations.

Art. 2. Laws on freedom of conscience and religious associations

2.1 The laws on freedom of conscience and religious associations consist of the corresponding norms of the Constitution of the Russian Federation, the Civic Code of the Russian Federation, and also this federal law, other normative legal acts of federal law adopted in accordance with them and normative legal acts of subjects of the Russian Federation.

2.2 The rights of man and citizen to freedom of conscience and to freedom of creed are regulated by federal law. Laws and other normative legal acts enacted in the Russian Federation and affecting the realisation of freedom of conscience, freedom of creed and also the activities of religious associations must be consistent with this federal law. If normative legal acts adopted by subjects of the Russian Federation on questions of the protection of the right to freedom of conscience and freedom of creed, or on questions of the activities of religious associations, contradict this federal law, this federal law is to prevail.

2.3 Nothing in the law on freedom of conscience and religious associations may be interpreted in such a way as to diminish or limit the right of man and citizen to freedom of conscience and freedom of creed, as established by the Constitution of the Russian Federation or stemming from international treaties of the Russian Federation.

Art. 3. The right to freedom of conscience and to freedom of creed

3.1 Freedom of conscience and freedom of creed are guaranteed in the Russian Federation, including the right to confess, individually or jointly with others, any religion or not to confess any, and the freedom to choose, change, possess or disseminate religious or other convictions and to act in accordance with them.

Foreign citizens and persons without citizenship who are legally present on the territory of the Russian Federation have the right to freedom of conscience and freedom of creed on an equal footing with citizens of the Russian Federation, and bear responsibility as established by federal laws for the violation of the laws on freedom of conscience, freedom of creed and religious associations.

3.2 The right of man and citizen to freedom of conscience and to freedom of creed may be restricted by federal law only to the extent to which this is necessary for the goals of defending the foundations of the constitutional system, morality, health, or the rights and legal interests of man and citizen, or of securing the defense of the country and the security of the state.

3.3 The establishment of privileges or restrictions, just as any other form of discrimination on the basis of one's attitude toward religion, is not permitted.

3.4 Citizens of the Russian Federation are equal before the law in all spheres of civic, political, economic, social and cultural life, independent of their attitudes toward religion or religious affiliations. A citizen of the Russian Federation, in the event that military service contradicts his convictions or creed, has the right to substitute alternative civilian service for it. Upon the request of religious organizations, clergymen may in peacetime, by a decision of the President of the Russian Federation and in accordance with the laws of the Russian Federation on military service, be granted deferment from conscription into military service and exemption from military training.

3.5 Nobody may be required to discuss his attitudes toward religion, or be subjected to compulsion in the forming of his attitudes toward religion, toward the confessing or refusing to confess a religion, toward participation or lack of participation in worship services, other religious rituals or ceremonies, the activities of religious associations, or religious training. The attraction of minors to religious associations and also the teaching of religion to them against their will or without the agreement of their parents or guardians is forbidden.

3.6 Actions hindering the realisation of the right to freedom of conscience and freedom of creed, including actions entailing coercion of an individual, calculated insults of the feelings of citizens in connection with their attitudes toward religion, the destruction or damage of property, and threats of such actions, are forbidden and are to be prosecuted by law. The conducting of public activities and distribution of texts and images insulting the religious feelings of citizens immediately adjacent to objects of religious veneration is forbidden.

3.7 The secrecy of confession is protected by law. A clergyman may not be held accountable for refusing to provide evidence about circumstances which became known to him through confession.

Art. 4. *The State and religious associations*

4.1 The Russian Federation is a secular state. No religion may be established as a state or compulsory religion. Religious associations are separate from the state and are equal before the law.

4.2 In accordance with the constitutional principle of the separation of religious associations from the state, the state:

is not to interfere in questions of the formation by a citizen of his attitudes toward religion or of his religious affiliation, or in the upbringing of children by

their parents or guardians in accordance with their own convictions and with the right of the child to freedom of conscience and of creed;

is not to call upon religious associations to carry out the functions of organs of state power, other state organs, state institutions or organs of local government;

is not to interfere in the activities of religious associations if those activities do not contradict this federal law;

is to secure the secular character of education and of state and municipal educational institutions.

4.3 The state is to secure the observance and protection of the rights of citizens to freedom of conscience and creed and the equality of religious associations before the law; is to regulate by law the granting of tax privileges and other privileges to religious organisations; and is to provide financial, material and other aid to religious organisations in the restoration, maintenance and protection of buildings and objects which are monuments of history and culture, and also in providing instruction in general educational subjects in educational institutions created by religious organisations in accordance with the laws of the Russian Federation on education.

4.4 The activities of organs of state power and of organs of local government may not be accompanied by public religious rituals or ceremonies. Functionaries of organs of state power, of other state organs and of local government, and also military personnel do not have the right to use their official positions for the formation of one or another type of attitude toward religion.

4.5 In accordance with the constitutional principle of the separation of religious associations from the state, religious associations:

are formed and carry out their activities in accordance with their own hierarchical and institutional structure; choose, appoint and replace their personnel in accordance with their own rules;

are not to carry out functions of organs of state power, other state organs, state institutions or organs of local government;

are not to take part in the elections of organs of state power or of local government;

are not to take part in the activities of political parties or political movements, or to provide them with material or other help.

4.6 The separation of religious associations from the state is not to entail any limitation on the rights of their members to take part equally with others in the managing of state affairs, in the elections of organs of state power and of organs of local government, or in the activities of political parties or movements or of other social associations.

4.7 By request of religious organisations, the appropriate organs of state power in the Russian Federation have the right to declare religious holidays as non-working days in the appropriate territories.

Art. 5. Religious education

5.1 Everyone may receive religious education according to his choice, individually or jointly with others.

5.2 The upbringing and education of children is to be carried out by parents or guardians, taking into account the right of the child to freedom of conscience and of creed.

5.3 Religious organizations have the right, in accordance with their charters and with the laws of the Russian Federation, to create educational institutions.

5.4 Upon the request of their parents or guardians, with the agreement of children studying in state or municipal educational institutions, the administration of these institutions by agreement with the appropriate organ of local government is to offer religious organizations the opportunity to teach religion to children outside the framework of the educational program.

CHAPTER II

Religious associations*Art. 6. Religious associations*

6.1 As a religious association in the Russian Federation is recognized a voluntary association of citizens of the Russian Federation and other persons permanently and legally residing on the territory of the Russian Federation, formed with the goals of joint confession and dissemination of their faith and possessing features corresponding to that goal:

a creed;

the performance of worship services, religious rituals and ceremonies;

the teaching of religion and the religious upbringing of its followers.

6.2 Religious associations may be created in the form of religious groups or religious organisations.

6.3 The creation of religious associations in organs of state power, other state organs, state institutions, organs of local government, military installations, or in state or municipal organisations is not permitted.

6.4 The creation and activities of religious associations the goals and actions of which violate the law is forbidden.

Art. 7. A religious group

7.1 A voluntary association of citizens, formed for the goals of joint confession and dissemination of their faith, carrying out its activities without state registration and without obtaining the legal capabilities of a legal personality, is recognized as a religious group in this federal law. Premises, and property necessary for the

activities of a religious group, are to be provided for the use of the group by its participants.

7.2 Citizens forming a religious group with the intention of eventually transforming it into a religious organization are to inform the local authorities about its creation and the beginning of its activities.

7.3 Religious groups have the right to carry out worship services, religious rituals, and ceremonies, and also the teaching of religion and religious upbringing of their followers.

Art. 8. *A religious organization*

8.1 A free association of citizens, or other persons permanently and legally residing on the territory of the Russian Federation, formed with the goals of joint confession and dissemination of their faith, and registered as a legal personality in accordance with practice established by law, is recognized as a religious organization.

8.2 Religious organisations, depending on the territory where they are active, are divided into local and centralized ones.

8.3 A religious organization consisting of ten or more participants who are at least 18 years old and who are permanently residing in one locality or in one urban or rural settlement is recognized as a local religious organization.

8.4 A religious organization consisting in accordance with its charter of no fewer than three local religious organizations is recognized as a centralized religious organization.

8.5 A centralized religious organization the structures of which have been active on the territory of the Russian Federation on a legal basis for no fewer than 50 years as of the moment when the said religious organization files its application for state registration to the registering organ has the right to use in its names the words «Russia», «Russian» and derivatives of these.

8.6 An institution formed by a central religious organization in accordance with its charter or an organization which has the aim and features specified in point 1 of Article 6 of this federal law, including a governing or coordinating organ or institution or also an institution of professional religious education is also recognized as a religious organization.

8.7 The organs of State, in considering matters touching upon the activity of religious organizations within society, are to take into account the territorial sphere of the activities of a religious organization, and are to grant the appropriate religious organizations the chance of participating in considering these questions.

8.8 A religious organization is to have a full name which contains information on its confessional adherence. A religious organization must indicate its full name when it carries out its activities.

8.9 Religious organizations are obliged to inform annually the organ registering religious organizations of the continuation of their activities, including the information contained in the single state register of legal personalities. Such information

about local religious organizations can be presented to the registering organ by the appropriate centralized religious organization. Failure to submit this information over a three-year period gives the registering organ grounds to appeal to a court to declare that the religious organization has ceased its activities.

Art. 9. The creation of a religious organization

9.1 No fewer than ten citizens of the Russian Federation may be founders of a local religious organization, joining together as a religious group which must have confirmation from the organs of the local government that it has existed on the given territory for no less than fifteen years, or confirmation from a centralized religious organization of the same creed that it forms part of its structure.

9.2 Centralized religious organizations are formed when there exist no fewer than three local religious organizations of the same creed, in accordance with the internal procedures of the religious organizations if these do not contradict the law.

Art. 10. The Charter of a religious organization

10.1 A religious organization functions on the basis of its charter, which is confirmed by its founders or by a centralized religious organization, and which must conform with the demands of the civic law of the Russian Federation.

10.2 The charter of a religious organization is to include:

- its name, address, type of religious organization, creed, and, when it belongs to an already existing centralized religious organization, its name;
- its aims, goals and basic forms of activity;
- the procedure for its creation and termination of activity;
- the structure of the organization, its administrative organs, the procedure for their formation and areas of competence;
- the sources of finance and other property of the organization;
- the procedure for introducing changes and additions to its charter;
- the procedure for disposing of property should it cease its activity;
- other information relevant to the peculiarities of the activities of the said religious organization.

Art. 11. State Registration of religious organizations

11.1 State registration of religious organizations is performed by the federal organs of justice and by the organs of justice of the subjects of the Russian Federation by rules to be established in accordance with the civic law of the Russian Federation and with this federal law.

11.2 State registration of a local and also of a centralized religious organization consisting of local religious organizations located within the limits of the territory

of one subject of the Russian Federation, is performed by the organ of justice of the corresponding subject of the Russian Federation.

11.3 The federal organ of justice registers centralized religious organizations which have local religious organizations on the territory of two or more subjects of the Russian Federation.

11.4 State registration of religious organizations formed by centralized religious organizations in accordance with point 7 of Article 8 of this federal law is performed by that organ of justice which registered the corresponding religious organization.

11.5 For the state registration of a local religious organization, its founders are to submit the following to the relevant organ of justice...

- an application for registration;

- a list of those who form the religious organization with an indication of their citizenship, their home address, and date of birth;

- the charter of the religious organization;

- minutes of the constituent meeting which founded it;

- a document issued by an organ of the local government and confirming that the said religious group has existed over the course of no less than fifteen years on the relevant territory, or a document confirming its membership in a centralized religious organization and issued by that centralized organization's governing body...;

- 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 toward the family and marriage, toward education, particulars 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;

- a document confirming the location (legal address) of the newly formed religious organization.

11.6 In a case in which the supreme governing organ (center) of the religious organization which is being formed is located outside the Russian Federation, in addition to the documents stipulated in point 5 of the present article, in accordance with established practice, the statutes or other founding document of the foreign religious organization, confirmed by a state organ of the country in which the organization is located, must be submitted.

11.7 The basis for state registration of centralized religious organizations, and also of religious organizations formed by centralized religious organizations, is:

- an application for registration;

- a list of the founders of the religious organization;

- the charter of the newly-formed religious organization, confirmed by its founder (founders);

- a document confirming the location (legal address) of the newly-formed religious organization;

- a copy, attested by a notary, of the charter and proof of the state registration of the founder (founders);

- the appropriate decisions of legally competent organs of the founder (founders).

In the creation of a centralized religious organization the founder (founders) is to present also the charters of no fewer than three local religious organizations which belong to its structure, and information about any other religious organizations included in its structure.

11.8 An application for state registration of a religious organization created by an existing religious organization or according to a confirmation issued by an existing centralized religious organization is to be reviewed within a month from the day when all the documents listed in this article have been submitted.

In other cases, the registering organ has the right to extend the period for examination of the documents for a further six months for the carrying out of state expert analysis by specialists in religious studies. The procedure for the execution of this state study is to be established by the Government of the Russian Federation.

11.9 In cases where an applicant (applicants) does not observe the requirements in points 4,5 and 6 of the current article, the registering organ has the right to disregard the application, informing the applicant (applicants) of this decision.

11.10 In cases where the decision is positive, a certificate is given to the applicant of the state registration of the religious organization in the established form, and information about the registration is recorded in the single state register of legal persons, available for public scrutiny.

11.11 Changes and additions to the charters of religious organizations are subject to state registration in the same way as the registration of religious organizations, and come into force for third parties from the moment they are registered with the state.

11.12 When a religious organization changes any of the data included in the single state register of legal persons it must inform the registering organ within a month from the day of the change.

Art. 12 Refusal by the state to register a religious organization

12.1 The state can refuse to register a religious organization in the following cases:

if the aims and activity of a religious organization are linked with the infringement of the Constitution of the Russian Federation and of current laws, with references to specific articles and laws;

the non-recognition of an organization as religious;

when the charter and other representative documents do not conform with the demands of laws of the Russian Federation or when the information contained therein is inauthentic;

the presence of a previously registered organization of the same name in the single state register of legal personalities;

when a founding member (members) is not legally competent.

12.2 The refusal of state registration to a religious organization is communicated in writing to the applicant giving the grounds for refusal. Refusal on grounds of the inexpediency of creating a religious organization is impermissible. The refusal

of a registering body to grant state registration to a religious organization, as well as the evasion of such registration, can be brought before a court.

Art. 13. *Representative bodies of foreign religious organizations*

13.1 A religious organization is designated as foreign if it has been created outside the confines of the Russian Federation and according to the laws of a foreign state.

13.2 The right to open a representative body in the Russian Federation may be granted to a foreign religious organization. A representative body of a foreign religious organization may not engage in liturgical or other religious activities, and does not receive the status of a religious association as established by this federal law.

13.3 The procedure for the registration, opening and closing of a representative body of a religious organization is to be established by the Government of the Russian Federation in accordance with the law of the Russian Federation.

13.4 In the case of a positive decision about the registration of the representative body of a foreign religious organization, a certificate in a form to be established by the Government of the Russian Federation is issued to the representative body of the foreign religious organization.

13.5 A Russian religious organization has the right to have attached to itself a representative body of a foreign religious organization.

Art. 14. *The liquidation of a religious organization and the banning of a religious association's activities in the event of their breaking the law*

14.1 Religious organizations can be liquidated:

by decision of their founders, or by the organ empowered to do this by a religious organization's charter;

by a court decision in the case of frequent and gross infringement of the norms of the Constitution of the Russian Federation, or infringement of this federal law and other federal laws, or in the case of systematic activities by a religious organization which contradict the goals for which it was created (the goals in its charter).

14.2 Grounds for liquidating a religious organization or for banning the activities of a religious organization or religious group by judicial order are:

the undermining of social order and security or threats to the security of the State;

actions aimed at forcibly changing the foundations of the Constitutional structure or destroying the unity of the Russian Federation;

the creation of armed units;

propaganda of war, the igniting of social, racial, national or religious dissension or hatred between people;

forcing a family to disintegrate;

the infringement of the person, the rights and freedom of a citizen;
 the infliction of damage established in accordance with the law on the morality or health of citizens, including the use in connection with their religious activities of narcotic or psychoactive substances, hypnosis, the performing of depraved or other disorderly actions;

encouraging suicide or the refusal on religious grounds of medical help to persons in life-endangering or health-endangering conditions;

hindering the receiving of compulsory education;

forcing members and followers of the religious association or other persons to alienate property which belongs to them for the use of the religious association;

hindering a citizen from leaving a religious association by threatening harm to life, health, property if there is a danger of this threat's actually being carried out, or by using force or other illegal actions;

inciting citizens to refuse to fulfill their civic obligations established by law, or to perform other disorderly actions.

14.3 The organs of the procuracy of the Russian Federation and the organ carrying out the registration of religious organizations and also the organs of local government have the right to bring a case to court on the liquidation of a religious organization or the banning of the activities of a religious organization or a religious group.

14.4 The legal capacity of a liquidated religious organization as a legal personality ceases and the property of this religious organization is distributed in accordance with its charter and with the civic law of the Russian Federation.

14.5 The grounds and procedure for the liquidation of a religious organization by decision of a court also apply to the banning of the activities of a religious group.

CHAPTER III

Rights and conditions for the activity of religious organizations

Art. 15. Internal regulations of religious organizations

15.1 Religious organizations act in accordance with their own internal regulations if these do not contradict the laws of the Russian Federation in force. They possess the legal capabilities stipulated in their charters.

15.2 The State respects the internal regulations of religious organizations if these do not contradict the laws of the Russian Federation in force.

Art. 16. Religious rites and ceremonies

16.1 Religious organizations have the right to found and maintain religious buildings and equipment and other places and objects specially designated for worship services, for prayer and religious gatherings, for religious veneration (pilgrimages).

16.2 Worship services, religious rites and ceremonies take place without hindrance in religious buildings and structures and on their adjoining territory, in other places made available to religious organizations for these purposes, in places of pilgrimage, in institutions and at the enterprises of religious organizations, in cemeteries and crematoria, and also in residential buildings.

16.3 Religious organizations have the right to carry out religious rites in health centers and hospitals, in children's homes, in old people's homes and institutions for the handicapped, and in institutions applying sentences of imprisonment for criminal offenses at the request of the citizens held there in premises specially designated by the administration for these purposes. Religious rites are permitted in premises at places of detention under guard with the proviso that the laws of criminal procedure of the Russian Federation are observed.

16.4 Those in command of military units, while observing the requirements of military regulations, are not to hinder military personnel from participating in worship services and in other religious rituals.

16.5 In other instances, public worship services, religious rites and ceremonies are to be carried out in accordance with the rules established for mass rallies, street processions and demonstrations.

Art. 17. *Religious literature and articles of religious significance*

17.1 Religious organizations have the right to produce, acquire, export, import and distribute religious literature, printed, audio and video material and other articles of religious significance.

17.2 Religious organizations have the exclusive right to institute enterprises for producing liturgical literature and articles for religious services.

17.3 Literature, printed, audio and video material issued by religious organizations, must be marked with the full official name of the said religious organization.

Art. 18. *Charitable and cultural-educational activities of religious organizations*

18.1 Religious organizations have the right to carry out charitable activities, either directly or by instituting charitable organizations.

18.2 In order to enact their charters' aims and goals religious organizations have the right in accordance with the law of the Russian Federation to create cultural-educational organizations, educational and other institutions, and also to found organs of mass media.

18.3 The state is to cooperate with and support the charitable activities of religious organizations, as well as the implementation of their socially significant cultural and educational programs and undertakings.

Art. 19. *Institutions of professional religious education*

19.1 Religious organizations in accordance with their charters have the exclusive right to create institutions for professional religious education (spiritual educational institutions) for preparing clergy and religious personnel.

19.2 Institutions of professional religious education are subject to registration as religious organizations and are to receive state licenses for the right to carry out educational activity.

19.3 Citizens who are studying as resident students in departments of professional religious institutions which have state licenses have the right to defer their military service in accordance with the laws on military duty and military service and to make use of other privileges granted in accordance with the laws of the Russian Federation.

Art. 20. International links and contacts

20.1 Religious organizations have the right to establish and maintain international links and contacts, including those for the goals of pilgrimages, participation in meetings and other undertakings, for receiving religious education, and also they have the right to invite foreign citizens for these purposes.

20.2 Religious organizations have the exclusive right to invite foreign citizens for professional purposes, including preaching and religious activity in the said organizations in accordance with federal laws.

Art. 21. The right to property of religious organizations

21.1 Religious organizations can own buildings, plots of land, objects for the purpose of production and for social, charitable, educational and other purposes, articles of religious significance, financial means and other property which is essential for their activity including that necessary for historical and cultural monuments.

21.2 Religious organizations have the right to own property which has been acquired or created by their own means, by the donations of citizens or of organizations or transferred to them by the State, or acquired by other means in conformity with the laws of the Russian Federation.

21.3 The transfer to the ownership of religious organizations of religious buildings and constructions, with the adjoining land, and other property of religious significance for their use for functional purposes from state and municipal ownership, is to take place free of charge.

21.4 Religious organizations have the right to own property abroad.

21.5 Creditors may not institute proceedings against real estate or other property designated for worship purposes. The list of types of property designated for worship services, against which creditors may not institute proceedings, is to be established by the government of the Russian Federation according to the recommendations of religious organizations.

Art. 22. The use of property belonging to the state, to citizens or their associations

22.1 Religious organizations have the right to use for their own needs plots of land, buildings and property provided by state, municipal, social and other orga-

nizations and citizens in accordance with the laws of the Russian Federation.

22.2 The transfer to religious organizations, for their use according to their stated functions, of buildings or other structures for worship with the land adjoining them owned by the state or by a municipality, or of other property of religious significance owned by the state or by a municipality, is to take place free of charge.

Art. 23. Business undertakings of religious organizations

Registered religious organizations have the right to carry out business undertakings and to create their own enterprises in accordance with the law established by the civic laws of the Russian Federation.

Art. 24. Labour laws in religious organizations

24.1 Religious organizations in accordance with their charters have the right to hire employees.

24.2 Payment and conditions of work are established according to the laws of the Russian Federation with a working agreement (contract) between the religious organization (employer) and the employee.

24.3 Citizens who work in religious organizations according to a working agreement (contract) are subject to labour laws.

24.4 Employees of religious organizations and also clergy, are to be provided social guarantees, social insurance and pension guarantees in accordance with the laws of the Russian Federation.

CHAPTER IV

The supervision and monitoring of the implementation of the law on freedom of conscience and on religious associations

Art. 25. Implementation of supervision and monitoring

25.1 Monitoring the implementation of the law of The Russian Federation on freedom of conscience and on religious associations is carried out by the organs of the Procuracy of the Russian Federation.

25.2 The organ which registers a religious organization monitors that organization's observance of its own charter as regards the aims and rules of its activity.

Art. 26. Liability for violating the law on freedom of conscience and on religious associations

Violation of the law of the Russian Federation on freedom of conscience and on religious associations involves criminal, administrative and other liability in accordance with the laws of the Russian Federation.

Art. 27. Closing provisions

27.1 This Federal law is to take effect from the day of its official publication.

27.2 The Government of the Russian Federation is to adopt the necessary normative legal acts for the implementation of this Federal law.

27.3 The charters and other founding documents of religious organizations established before this Federal law comes into force must be brought into conformity with this Federal law. Until the charters and other founding documents of religious organizations have been brought into conformity with this Federal law, only those parts of the charters and other founding documents of religious organizations remain in force which do not contradict this Federal law.

A religious organization may not be re-registered if there are grounds for its liquidation or prohibition of its activities as indicated in point 2 of article 14 of this Federal law. When re-registration has been denied on these grounds, the registering organ is to transmit the materials to a court.

Religious organizations which do not possess a document proving their existence on the corresponding territory over the course of at least 15 years are to enjoy the rights of a legal person on the condition of re-registration every year until the expiration of the indicated 15-year period. During this period these religious organizations are not to enjoy the rights stipulated in point 4 of article 3, points 3 and 4 of article 5, point 5 of article 13, point 3 of article 16, points 1 and 2 of article 17, point 2 of article 18 (as applicable to educational institutions and mass media), article 19 and point 2 of article 20 of this Federal law.

27.4 The re-registration with the State of religious organizations created before this federal law has come into force must take place no later than 31 December 1999 in accordance with the requirements of this federal law. Once this period has expired, religious organizations which have not completed re-registration may be liquidated by court order upon the appeal of the body which conducts state registration of religious organizations.

27.6 Recognize as no longer in force the Law of the RSFSR «On Freedom of Religious Confession» (Gazette of the RSFSR Congress of Peoples' Deputies and of the RSFSR Supreme Soviet, 1990, No. 21, Art. 240; Collection of the Laws of the Russian Federation, 1995, No. 5, Art. 346) and the Resolution of the Supreme Soviet of the RSFSR «On Freedom of Religious Confession» (Gazette of the RSFSR Congress of Peoples' Deputies and of the RSFSR Supreme Soviet, 1990, No. 21, Art. 241) from the day when this federal law comes into force.
(END)