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Academic Expertise and Anti-Extremism Litigation in Russia: Focusing on Minority Religions

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Abstract

This article contributes to the growing body of research on the increasing role of judicial systems in regulating politics and religion ('judicialization of politics and religion') across the globe. By examining how academic expertise is deployed in anti-extremist litigation involving Russia's minority religions, this article reveals important processes involved in this judicial regulation, in particular when legal and academic institutions lack autonomy and consistency of operation. It focuses on the selection of experts and the validation of their opinion within Russia's academia and the judiciary, and identifies patterns in the experts' approach to evidence and how they validate their conclusions in the eyes of the judiciary. Academic expertise provides an aura of legitimacy to judicial decisions in which anti-extremist legislation is used as a means to control unpopular minority religions and to regulate Russia's religious diversity. As one of the few systematic explorations of this subject and the first focused on Russia, this article reveals important processes that produce religious discrimination and the role that anti-extremist legislation plays in these processes.

Keywords

Russia – anti-extremism legislation – judicial regulation of religion – academic expertise

1 Introduction

For those who in the 1990s had high expectations for religious freedom in Russia or indeed for Russian democracy in general, its subsequent trajectory may look vagarious at the very least.¹ Within less than three decades a country with seemingly thriving religious freedom and mushrooming religious creativity has steadily become one where a host of restrictive laws and regulations serve as barriers to the enjoyment of constitutionally guaranteed rights and liberties.² In addition, arbitrary administrative decisions are almost routinely used to restrict or altogether curtail proliferation of thousands of religious books, practices, and entire movements.³ All these developments have taken place within the context of the changing political landscape in Russia, in particular the establishment and consolidation of the regime of “personified power” during Vladimir Putin’s third presidency (2013–2018).⁴

It is widely recognized that anti-extremism legislation has played a pivotal role in giving a semblance of legality to these developments and, more widely, in creating a new political or even philosophical climate in society.⁵ With its emphasis on immediate and palpable external and internal threats to national security, public order, safety, and well-being, anti-extremism laws

¹ Derek H. Davis “Russia’s New Law on Religion: Progress or Regress?,” *Journal of Church and State* 39, no. 4 (1997): 645–55; and Cole W. Durham and Lauren B. Homer, “Russia’s 1997 Law on Freedom of Conscience and Religious Associations: analytical appraisal,” *Emory Law Review*, no 12 (1998): 101–246.

² Zoe Knox “Religious Freedom in Russia: Putin Years”, in Mark Steinberg and Catherine Wanner (eds.) *Religion, Morality and Community in Post-Soviet Societies* (Bloomington: Indiana University Press, 2008): 281–314; and Geraldine Fagan, *Believing in Russia: Religious Policy after Communism* (London and New York: Routledge, 2013), 6–24, 155–71.

³ Mariia Kravchenko, “Inappropriate Enforcement of Anti-Extremist Legislation in Russia in 2017,” ed. Aleksander Verkhovskii, *SOVA Center for Information and Analysis*, April 24, 2018 <<https://www.sova-center.ru/en/misuse/reports-analyses/2018/04/d39253/>>.

⁴ Samuel Greene, *Moscow in Movement: Power and Opposition in Putin’s Russia* (Stanford: Stanford University Press, 2014).

⁵ Gleb Bogush, “Criminalisation of Free Speech in Russia,” *Europe-Asia Studies* 69, no. 8 (2017): 1242–56.

and associated regulations have served to construct and solidify “us vs. them” divisions in public imagination and perception, and related notions of morality/immorality, permission/prohibition, and acceptance/rejection. The escalation of the anti-extremism legislative flurry between 2013 and 2017 and the increasing audibility and visibility of the tropes and concepts associated with the ideas of “Russian civilization” or the “Russian world” and of the associated notions of “traditional” and “non-traditional” were hardly coincidental. In fact, these tropes and concepts came to be seen as a body of legitimate *knowledge* drawn on from certain experts and accepted by the judiciary. This kind of relationship between the experts and judiciary can be seen as an expression of “epistemological affinity” and an act of “epistemological collaboration.” This formulation helps to avoid making assumptions as to whether both the experts and the judiciary actually “believed” in their actions or were sincere in regard to the claims and decisions they made about minority religions. Indeed, in certain cases, these claims and decisions were quite unbelievable. The question at the center of this article is why both experts and the judiciary assumed that such claims would be seen as legitimate knowledge that would be virtually unchallenged within the legal system and the wider society.

The introduction of anti-extremism legislation can be seen as an attempt to legitimize the return to the style and structure of governance that is more consistent with the country’s historical legacy of authoritarianism, state dominance over civil society, and political control of the legal system. This also includes selective and biased deployment of academic experts by state-dependent judiciary. However, while it would be unreasonable to discount the link between the country’s historical roots and the routes of social and political change, a hard version of “path dependency” approach can take us too far along the road of determinism in explaining the current predicament caused by the anti-extremism legislation for minority religions and the role of academic expertise in this.⁶

Thus, this article considers the effects of Soviet religious policies, “scientific atheism,” and the legal treatment of religious dissidents alongside the complexities and even paradoxes of the contemporary situation. One fundamental paradox should not escape attention. On a number of significant factors, and for all of its institutional deficiencies, Russia is a

⁶ Stefan Hedlund, *Russian Path Dependence: a People with a Troubled History* (London and New York: Routledge, 2004).

modern society, with democratic constitutional arrangements, a legal system, advanced academic institutions, and a thriving cultural life and aspirations. In fact, deployment of academic knowledge in legal decision-making is a profoundly modern phenomenon and the centrality of academic expertise in anti-extremism cases involving minority religions testifies to the modern nature of the Russian judicial system.⁷ However, academic expertise in these cases is often used to subvert the proper functioning of the modern judicial processes. In this sense, this article reveals significant problems in the operation of Russia's modern institutions, in particular its academic and legal system.

Taking a broader view, a growing body research shows a growing role of law courts in regulating social relations, including those involving religion, in contemporary societies.⁸ Furthermore, this regulation can both protect and restrict human freedom; thus, with in his recent analysis Damon Mayrl points out that the increasing use of law courts in resolving disputes involving religion does not necessary serve to expand religious freedom.⁹ This article illustrates this point by focusing on the operation of Russia's legal system in cases involving minority religions.

The Russian judiciary is also not unique in having difficulties in understanding and adjudicating on minority religious groups, including deployment of academic expertise in cases related to them.¹⁰ In some sense, the treatment of minority religions brings into sharp relief the degree of autonomy of the legal system and its ability to withstand public, including political, pressures in adjudicating according to its procedures and the rules of evidence. Equally, it points to the significance of academic expertise in these cases, as scientific research is often the only way for the judiciary to obtain valid evidence on and understand the social reality of minority religious groups.¹¹ This raises the question of what constitutes academic

⁷ Donald Black, *The Behavior of Law* (New York: Academic Press, 1993), and Pamela J. Jenkins and Steven Kroll-Smith, *Witnessing for Sociology* (Westport: Praeger, 1996).

⁸ Alec Stone Sweet "Judicialization and the Construction of Governance," *Comparative Political Studies*, no 32(2) (1999): 147–184; and James T. Richardson, *Regulating Religion: Case Studies from Around the Globe* (New York: Kluwer, 2004).

⁹ Damon Mayrl "The Judicialization of Religious Freedom: An Institutional Approach," *Journal for the Scientific Study of Religion*, no 57 (2018): 514–530.

¹⁰ James T. Richardson and Francois Bellanger, eds., *Legal Cases, New Religious Movements and Minority Faiths* (Farnham: Ashgate, 2014).

¹¹ Eileen Barker "The Scientific Study of Religion? You Must Be Joking!," *Journal for the Scientific Study of Religion* no 34/3 (1995): 287–310.

expertise in these specific areas and how it is validated, as well as of the extent to which the independence of the academic expert is implicated in the autonomy of the entire legal system.¹² Thus, in litigation involving minority religions, academic experts often carry the burden of preserving the system's integrity, as they find themselves in a unique position to tell unpalatable (to the general public) truths about unpopular groups, which can be at odds with the public's, including judiciary's, entrenched views. Conversely, unwittingly or by choice academic experts can also go along with popular views or collaborate with politically influential groups, thus subverting the unique role that they and the legal system are supposed to play in delivering justice to minority religious groups.

2 The Soviet Legacy: Religion, Academia, and Law Courts

Contemporary scholarship is increasingly conscious of the many complexities and unintended effects of the Soviet state-imposed secularism and "scientific atheism." While the implications for both religious institutions and for those who aimed to eliminate religion as a precondition for ushering in the communist modernity have been comprehensively described and analysed, the anthropological effects of the Soviet modernizing project are much less understood.¹³ In the mid-1970s prominent Soviet scientific atheist Dmitrii Ugrinovich still felt in a position to formulate the main goal of the study of religion in the USSR as the "demolition of religion on the basis of scientific knowledge," but already some of his atheist colleagues were steadily turning toward social science to understand why Soviet policies had failed to achieve the goal of eliminating religion.¹⁴ In her excellent study of the history of Soviet atheism, Victoria Smolkin points to the unintended effects of Soviet scholars' ethnographic engagements:

Their experiences in the field showed them that religion was not just about "belief" but also about practice, emotion, community, and

¹² Black, *Behavior of Law*; and Richardson, *Regulating Religion*.

¹³ Fagan 2013, and Victoria Smolkin, *A Sacred Space Is Never Empty: A History of Soviet Atheism* (Princeton: Princeton University Press, 2018).

¹⁴ Dmitry Ugrinovich, *Vvedenie v teoreticheskoe religiovedenie* (Moscow: Nauka, 1973): 85. See also William C. Fletcher, "Soviet Sociology of Religion: An Appraisal," *Russian Review* 35, no. 2 (1976): 173–91.

experience. Setting out to overcome a religion that was believed, atheists run up against a religion that was lived. And the problem with lived religion was that it was a world distinct, if not apart, from religious dogma and institutions.¹⁵

Sonja Luehrmann comes to very similar conclusions in her anthropological work on the Soviet scholarship on religion. She points to a chain of paradoxes whereby Soviet scholars, motivated by the official ideological goal of achieving comprehensive secularization of society and individual consciousness, engaged in empirical research and discovered persistent and multifaceted religious practice. Baffled by this apparent contradiction to the official Marxist-Leninist “scientific” predictions, some scholars refined their methodological tools in order to offer more sophisticated explanations for their ethnographic observations and quantitative data. To put this differently, whereas the official scientific atheism insisted on the epiphenomenal nature of religion, more ethnographically inclined Soviet scholars grappled with having discovered thriving religious phenomena.¹⁶

Some have insisted that such Soviet scholarship should be considered as meeting western standards for academic religious studies or, as it also has been argued, the scientific standards for “pure anthropology.”¹⁷ This view is problematic, however, because while some Soviet atheist scholars’ findings were at odds with official claims and clichés about religion, they never challenged the Communist Party’s ideological line on inevitability of disappearance of religion following successes in eliminating its “material roots.” Although empiricism took these Soviet scholars along the road of science, the ideological and bureaucratic constraints of obligatory scientific atheism limited their ability to interpret data as a way of testing original theories, which, according to Karl Popper, is the key criterion that distinguishes science from non-science.¹⁸ Soviet scientific atheists could be puzzled by their data, but they could not change their theories and challenge Marxism’s indubitable truths.

¹⁵ Smolkin, *Sacred Space is Never Empty*, 162–63.

¹⁶ Sonja Luehrmann, “Antagonistic Insights: Evolving Soviet Atheist Critiques of Religion and Why They Matter for Anthropology,” *Social Analysis* 59, no. 2 (2015): 98–113.

¹⁷ Marina Schakhnovich, “Peterburgskaia religiovedcheskaia shkola: istoki i traditsii,” *Vestnik Rossiiskogo obshchestva prepodavatelei religii*, no. 1 (2008): 26–33.

¹⁸ Karl Popper, *Conjectures and Refutations: The Growth of Scientific Knowledge* (London: Routledge, 1963).

This situation led to a peculiar role of religious studies scholars, that is scientific atheists, as experts in legal cases related to religion. As a purportedly modern and progressive state, the Soviet Union constitutionally guaranteed the freedom of religion and therefore religious practice per se could not be the subject of a legal trial. In practice, religious believers were prosecuted not for believing or practicing their faith, but for “anti-social practices” or “anti-state activities” conducted “under the guise of religion.”¹⁹ In these cases, the academic expert (i.e. the scientific atheist) was expected to provide evidence of the detrimental effects of these practices on Soviet citizens’ well-being or on society as a whole. Crucially, as his (invariably *his* at that time) evidence was assumed to be based on science and its incontrovertible conclusions, his testimony was seen as indubitable, too.

The Chronicle of Current Events (Khronika Tekushchikh Sobytiĭ), a long-running samizdat periodical (1968–1983) that meticulously documented Soviet political trials, provides a wealth of material on the practical deployment of “scientific atheists” as experts producing incontrovertible proofs of religious dissenters’ criminality. Thus, Anatoly Levitin-Krasnov’s trial (1971) featured testimony from Professor Mikhail Novikov, Head of the Department of Scientific Atheism at Moscow State University, and Boris Griogoryan, then deputy editor of the leading atheist magazine *Science and Religion (Nauka i Religiiia)*.²⁰ Through selective reading and an ideological slant, their testimonies construed Levitin-Krasnov’s theological and philosophical treatise on religious freedom as political subversion and slander of the Soviet political system. Likewise, in the 1975 trial of Georgy Vins, the secretary of the Evangelical Christian Union, unnamed experts accused the defendant of “violating the Law on Freedom of Worship and Religious Organisations” and of “anti-social statements.” Ironically, they also accused him of publicly “violating the Law on the Separation between Church and State and between School and Church” and of “infringement of citizens’ rights under the guise of conducting religious ceremonies.”²¹

In a nutshell, the Soviet legacy of the relationship between academic expertise and legal treatment of religion can be described as follows. While

¹⁹ Nathaniel Davis, *A Long Walk to Church: A Contemporary History of Russian Orthodoxy* (Boulder: Westview Press, 2003), 11.

²⁰ “The Case of Levitin-Krasnov,” *Chronicle of Current Events*, August 31, 1970, available at <https://chronicleofcurrentevents.net/2014/05/09/15-5-the-case-of-levitin-krasnov/>.

²¹ “The Trial of Georgy Vins,” *Chronicle of Current Events*, March 31, 1975, available at <https://chronicleofcurrentevents.net/no-35-31-march-1975-2/>.

the knowledge of religion within the Soviet academia, in particular among scientific atheists, went well beyond the official ideological and political prescriptions, law courts used their expertise selectively with the purpose of providing proofs of state-imposed accusations. The official Soviet philosophy of science as uniquely capable of providing incontrovertible truth was congruent with the state's punitive approach to any ideological qua political dissent, which ruled out competition between experts and their versions of knowledge and truths. Seeing religion as epiphenomenal and as falsely reflecting social reality further facilitated the admissibility of academic expertise that ignored the complexity of religion and its reduction to subversive social practices and political views.

3 The Making of the Post-Soviet Expert in Religion

One definitive factor that shaped the role and profile of academic experts has been the evolution of the legislative framework since the collapse of the Soviet Union. This has included the introduction of the 1993 Constitution, specific legislation on religion, and laws that have influenced both the legal treatment of religious minorities and their perception by the general public. Considerable scholarship in this area and the meticulous monitoring of the state of religious freedom in post-Soviet Russia by human rights and religious freedom NGOs, both domestic and overseas, point to this evolution.²² While the provisions of the 1990 Law on Freedom of Worship and the 1993 Constitution were informed by appreciation of religious freedom as a universal value and an inalienable individual right, the rationale for the subsequent legislative changes presumed the need to protect society and the individual from inevitable insecurities and threats inherent in the apparently open religious marketplace.

The 1997 Law on Freedom of Conscience and Religious Associations can

²² Durham and Homer 1998; Marat Shterin and James Richardson, "Effects of the Western Anti-Cult Movement on Development of Laws Concerning Religion in Post-Communist Russia", *Journal of Church and State*, no. 42 (2000): 247–72; Marat Shterin and James T. Richardson, "Local Laws Restricting Religion in Russia: Precursors of Russia's New National Law," in *Religious Liberty in Northern Europe in the Twenty-First Century*, ed. Derek H. Davis (Waco: J.M. Dawson Institute of Church-State Studies, 2000); Knox, "Religious Freedom in Russia", and Fagan, *Believing in Russia*. For domestic monitoring organizations, see SOVA Center for Information and Analysis (<https://www.sova-center.ru/>). For international monitoring organizations, see Forum 18 News Service (<http://www.forum18.org/>).

be seen as the first step toward introducing this legislative philosophy and legal provisions that reflected it. Its preamble presumed the differential benevolence of religions, depending of their historic connections with the Russian nation and its constituent ethnic groups.²³ While stopping short of formally using the concept of “traditional religion” as a judicial term to refer to more socially acceptable and legitimate faiths, the law effectively smuggled it into the public domain by pointing in its preamble to the historic contributions of Russian Orthodoxy, Christianity (listed separately), Islam, Judaism, and Buddhism and other religions of the “peoples of the Russian Federation” and by distinguishing between “religious organisations” and “religious groups.” Whereas the former could enjoy the full rights of a legal entity, the latter were restricted to mainly private religious practice before they could provide proof of existence in Russia for at least fifteen years prior to their application for registration.

Equally important, Article 14 of the law listed a number of grounds on which a religious association could be “liquidated,” such as “violation of public security and public order and damage to the security of the state,” “actions directed toward violent change of the bases of constitutional order and violation of the integrity of the Russian Federation,” “propaganda of war and incitement of social, racial, national, or religious discord,” “infringement of the rights and freedom of citizens,” “encouragement of suicide or refusal of medical care for religious motives,” “committing extremism activity,” and “damaging the morality and health of citizens.”²⁴

A second significant factor shaped the role and profile of academic experts in cases involving minority religions: the proliferation, in the 1990s, of hundreds of new religious groups, both foreign and domestic, such as Unification Church, Church of Scientology, International Society for Krishna Consciousness, Church of the Last Testament, Mother of God Centre, and others. Given that Western research on these groups was largely unknown to wider audiences and domestic academic studies of them were in their infancy, an alliance of anticult groups and the leadership of the Russian Orthodox Church (Moscow Patriarchate) dominated the public’s perception of these minority groups, in particular through their negative representations

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²³ Marat Shterin, “Friends and foes of the ‘Russian World’: the Post-Soviet state’s Management of Religious Diversity,” in *The Politics and Practice of Religious Diversity: National Contexts, Global Issues*, ed. Andrew Dawson (London and New York: Routledge, 2016), 29–48.

²⁴ “Law on Freedom of Conscience and Religious Associations,” English translation available at <<https://www2.stetson.edu/~psteeves/relnews/freedomofconscienceeng.html>>.

in the mass media.

Drawing primarily on Western anticult sources and supported by Western anticult activists, this alliance was instrumental in popularizing the generalised threatening image of these groups as “destructive cults” and “totalitarian sects” and, ultimately, as proof of the need to protect society from the “excesses” of religious freedom.²⁵ However, the demands for protection were also appeals for exclusive support by the state and its legal system of the Russian Orthodox Church’s claim to be the guardian of the nation’s moral and spiritual well-being and to have exclusive influence on the state in these areas. Even in heady post-Soviet days of religious freedom, the constitutional provisions did not prevent government agencies from using extralegal means to advocate anticult approaches to religious minorities and to warn society about these alleged threats, such as the 1996 letter of the Russian Ministry of Interior.²⁶

The constitutional provisions for religious freedom and democratic reforms of the legal system also made it possible for minority religions to contest negative public representations and attempts to curtail their activities through the law courts. Their fortunes within the law courts varied considerably, but irrespective of the outcome, these cases involved a considerable measure of competition between plaintiffs and defendants and their deployment of academic experts.²⁷ In one such case, *Yakunin vs. Dvorkin*, prominent human rights activist Rev. Gleb Yakunin challenged the derogatory portrayal of a range of minority religions in a brochure by the key anticult ideologist Alexander Dvorkin.²⁸ The trial became a battleground between research-based academic approaches to minority religions, presented by a constellation of prominent Western scholars (Eileen Barker, Gordon Melton, James Richardson, Bryan Wilson, and others) and anticult views presented by some of its most prominent advocates (Thomas Gandow

²⁵ Shterin and Richardson, “Local Laws Restricting Religion,” and Shterin, “Friends and Foes.”

²⁶ In this letter, entitled “Inquiry into the Activities of Certain Foreign Religious Organisations”, the Ministry warned about ‘the criminal nature’ of a range of specifically named new religious minority groups that were legitimately operating in the country according to the 1990 law (personal archive of Dmitry Dubrovsky). See also Emily Baran’s and Zoe Knox’s contributions to this special issue.

²⁷ James T. Richardson, Galina Krylova and Marat Shterin, “Legal Regulation of Religion in Russia,” in *Regulating Religion: Case Studies From Around the Globe*, ed. James Richardson (New York: Kluwer Academic, 2004), 247–59.

²⁸ Marat Shterin and James T. Richardson, “The Yakunin vs. Dvorkin trial and the Emerging Religious Pluralism in Russia,” *Religion in Eastern Europe* 22, no. 1 (2002) 1–38.

and Johannes Aagaard in particular).

These cases were early harbingers of the future challenges facing both academic experts and the judiciary, namely a combination of epistemological and political pressures to present a particular view on unpopular minority groups. The epistemological challenge concerns the issue of what constitutes and who decides on the validity of knowledge of these groups, which was contested in these cases.²⁹ In the Russian situation, the complexity of these issues was compounded by the widespread perception or explicit claims that the dominant religious institution, the Russian Orthodox Church, should be the ultimate arbiter validating academic knowledge in this area. The solidifying alliance between political elites and the Church, in particular during Putin's presidencies, put political pressure on both academic experts and the judiciary. Analysis of 1990s cases indicates a considerable degree of uncertainty among the judiciary about how to tackle the issue of validity among competing academic testimonies.³⁰ However, this analysis also revealed that in such cases the judiciary almost invariably took the position of representatives of the Russian Orthodox Church as the guiding light in resolving their quandary. The epistemological alliance between certain academic experts and the judiciary was thus formed, based on the shared assumption that viewing minority religions as a potential threat to society and the individual must be taken for granted. Thus, by securitizing religion, in particular minority religions, anti-extremism legislation further solidified this alliance.

The emergence of the epistemological alliance between the judiciary and academic experts did not require direct political pressure, as it reflected broader cultural and social trends in post-Soviet Russia. What has been called a resurgence of Orthodoxy included the widespread popular perceptions about the exclusive validity of the nation's dominant religious institution and the increasingly assertive claims of the Church leadership to be directly involved in other social institutions, in particular education.

This leads to the third factor that contributed to shaping the collage of experts on minority religions, including those providing legal testimonies on these groups. One expression of the increasing institutional impact of the Russian Orthodox Church has been the integration of theology into the Russian university system, with little distinction made between theology as

²⁹ Shterin and Richardson, "Yakunin vs. Dworkin Trial."

³⁰ Richardson, Krylova and Shterin, "Legal Regulation of Religion."

an academic subject and doctrine and, most consequentially, between academic theology and religious studies.³¹ The situation in Islamic Studies is quite similar.³² This, in turn, has resulted in the mass production of professionals who claim academic expertise in religion on the basis of their doctrinally-based theological education. The question of epistemological validity shows itself here again, with secular religious studies experts pointing to the problematic nature of doctrinally-based knowledge when it defines perspectives on and views of other religions. On the other hand, their “theological” opponents have questioned the validity of the secular and empirically based approach of religious studies.³³ Furthermore, in the eyes of some officials and legal professionals, Russian Orthodox and mainstream Islamic clergy have become *sui generis* experts on religion and a substitute for the defunct scientific atheism and its institutions. On several occasions, in both policy and legal decisions, religious studies expertise has been represented by Russian Orthodox priests or Islamic clergy.

The lack of shared academic standards and institutions to uphold them has resulted in what can be called the Alexander Dvorkin phenomenon that epitomizes the trends described above. Without any relevant academic qualifications or research-based credentials, Dvorkin carved out a role for himself as the key academic expert, both in higher education and in legal cases involving a range of minority religions. Drawing almost exclusively on Western anticult sources and concepts (e.g. substituting the notion of “destructive cult” with that of “totalitarian sect”), Dvorkin has claimed to have created a legitimate academic discipline of “Sectarian Studies.”³⁴ While from the beginning funded and hosted by the Russian Orthodox Church, Dvorkin’s views have become widely accepted as legitimately academic within the Russian legal system, from the Ministry of Justice where he was the founding Chair (2009–2015) and then permanent member of the Expert Council on Religious Expertise, to the law courts where his numerous expert testimonies have been invariably admitted.

³¹ For advocacy of seeing doctrinal theology as proper religious studies, see Aleksei Kozyrev, “Vmesto poslesloviia. Religiovedenie – nauka o religiovedakh?,” *Religioznaia zhizn’*, December 12, 2011, available at <<http://religious.life/2011/12/kozyrev-vmesto-poslesloviia-religiovedenie-nauka-o-religiovedah/>>.

³² Sergei Ivanenko, “Problemy obosnovannosti i dostovernosti vyvodov religiovedcheskoi ekspertizy,” *Islamovedenie*, no. 4 (2013): 46–55.

³³ Kozyrev, “Vmesto poslesloviia.”

³⁴ Aleksandr Dvorkin, *Sektovedenie. Totalitarnye Sekty. Opyt Sistematicheskogo Issledovaniia*, 3rd ed. (Nizhnyi Novgorod: Saint Alexander Nevsky Publishing House, 2002).

In this situation, dissent from this epistemological consensus against minority religions has taken the form of independent associations of religious studies scholars and legal professionals, such as the Institute for Religion and Law, the Guild of Experts in Religion and Law, the Independent Centre for Religious Studies, and the All-Russian Association for Religious Freedom (MARS). These associations have been instrumental in engaging academics with relevant qualifications in legal cases involving minority religions.

In the current Russian situation, the epistemological alliance between the judiciary and academic experts is facilitated by the lack of autonomy of the Russian legal system, in particular its judges. As Ella Paneyakh points out, judges operate within an institutional system with a high degree of interdependence between law enforcement agencies and prosecutors who, in turn, have a range of bureaucratic mechanisms to control the judiciary.³⁵ Unconstrained by public scrutiny, judges tend to cooperate with prosecutors, which accounts for the accusatory bias in their decision-making (only 0.2 percent of all defendants are acquitted in Russia). In this context, anti-extremist legislation only exacerbated a general trend by giving extraordinary powers to both law enforcement agencies and prosecutors, and by incentivizing their use of power and by providing a broad interpretation of punishable offences. While Paneyakh also notes that in some cases judges have exercised a degree of discretion and avoided unnecessarily severe punishment, this is unlikely to apply to litigation involving minority religions, as judges tend to share popular misconceptions about them.

Finally, for some academics, going against the presumably consensual view about unpopular minority groups has come with a considerable social cost. Thus, in early 2017 a well-known Religious Studies scholar Professor Ekaterina Elbakyan became subject of highly derogatory media reporting that focused on her expert testimonies for the defense in cases involving the Church of Scientology and Jehovah's Witnesses.³⁶ Almost immediately this was followed by termination of her professorial contract with the Russian

³⁵ Ella Paneyakh, "The Practical Logic of Judicial Decision Making", *Russian Politics & Law* 54, nos. 2–3 (2016): 138–63. See also Maria Popova, *Politicized Justice in Emerging Democracies: A Study of Courts in Russia and Ukraine*. (Cambridge: Cambridge University Press, 2012).

³⁶ https://www.facebook.com/permalink.php?story_fbid=1252257978161516&id=100001319782804.

Academy of Industrial and Social Relations. In August 2018 Alexander Panchenko, prominent Social Anthropologist known for his work on religious minorities, lost his professorial position at the Faculty of Liberal Arts of St. Petersburg University.³⁷ This happened soon after his expert testimony in an anti-extremism case involving a Pentecostal Church challenged the original conclusion provided by the Centre for Forensic Research of the same university. The latter conclusion, commissioned by the Counter Extremism Centre of the Ministry of Interior, was reached by academics without research-based expertise in Pentecostalism, while Panchenko's view drew on his longitudinal studies of this form of Christianity in Russia and beyond. Irrespective of whether or not university management's decisions resulted from direct political interference, these cases clearly point to the social pressures that can be brought to bear on forming the 'epistemological alliance' within the academic expert community and between academic experts and the judiciary.

4 Anti-Extremism Legislation and Academic Expertise in Religion

As other scholars note in their contributions to this special issue, one of the key effects of anti-extremism legislation has been that it forged a range of conceptual tools to construe political dissent and even moral or social non-conformism as political subversion. It also created a legal and administrative basis to act according to these constructions. Moreover, the vagueness of the definition of extremism leaves considerable room for the arbitrary implementation of this legislation, including in relation to minority religions. This has had a range of implications for academic expertise in the cases in question.

To begin, the law does not deploy "religious extremism" as a legal term, nor does this concept exist elsewhere in the body of Russian law. Instead the 2002 Law provides a general list of loosely defined acts of extremism, including those committed on religious grounds.³⁸ These acts are included in

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https://www.facebook.com/permalink.php?story_fbid=1252257978161516&id=10000131978280

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³⁸ Aleksander Verhovskiy, "Protivodeistvie religioznomu ekstremizmu: rossiiskoe gosudarstvo v poiskakh otvetov na vyzov desekularizatsii," *Gosudarstvo, Religia i Tserkov' v Rossii i za rubezhom*, no. 2 (2013) available at <<https://www.sova->

the Russian penal code as crimes, such as membership in a terrorist organization (Art. 205.5), participation in activities of an extremist organizations (Art. 282.2.2), and hate speech denigrating a group's dignity (Article 282). In addition, a religious association and its members can be prosecuted for extremism on the grounds of violating the 1997 Law on Freedom of Conscience and Religious Associations. In this sense, the 2002 law solidified and legitimized the trend of construing religion as a potential threat to national security, which was explicit in a number of earlier high-level political pronouncements and documents, such as the 2000 *National Security Concept of the Russian Federation*.³⁹ In turn, these pronouncements and documents juxtaposed "traditional religions" and "Russian spirituality" as guarantors of national well-being and, by implication, competition to them from "foreign" and "non-traditional" religions as potential threats.

This created a situation whereby judiciary had to deliberate and make decisions on associations that could legitimately exist in Russia under the Russian Constitution and 1997 law, but could also be prosecuted and banned according to anti-extremism legislation. There have been two major ways to resolve this dilemma. First, in some cases the judiciary has questioned whether a religious association is genuinely religious. Second, the judiciary has sometimes investigated if certain activities of an association are incompatible with its religious status and present threats to national security, according to the 1997 law, the Russian Penal Code, and the 2002 law. Indeed, a 2009 decree of the Russian Ministry of Justice requires that experts on religion must:

1. establish if the association is religious in nature on the basis of its constituent documents and the expert's knowledge of its religious dogmas and practices;
2. assess the plausibility of the information provided by this association on its religious dogmas and practices;

center.ru/misuse/publications/2013/08/d27775/#_ftn30>.

³⁹ *The Concept of National Security of the Russian Federation* was signed into Decree No 24 by President Putin on 10 January 2000. It contains references to the preservation of Russia's cultural and spiritual legacy as a matter of national security, which includes "counteraction against the negative influence of foreign religious organizations and missionaries." See, http://www.mid.ru/en/foreign_policy/official_documents/-/asset_publisher/CptlCkB6BZ29/content/id/589768.

3. check and assess the conformity of the actual forms of religious life of the association to how they are described in its registration documents.⁴⁰

This obligation requires academic experts to answer questions that would be considered unanswerable in contemporary academic studies of religion and that can only be addressed from either a doctrinal position or by ignoring the religious nature of particular associations.⁴¹ Compounded by the overall rhetoric of anti-extremism legislation and the general political context of its implementation, this situation creates difficult dilemmas for academic experts testifying on minority religions, unless, of course, their position is *a priori* biased against these groups. This, in turn, has profound effects on the choice of experts by law courts and the quality of expertise in these cases, which can be described as their “punishing bias.”

In Russian law, expert opinions count as evidence, carrying the same weight as material evidence and testimony by witnesses. However, expert testimony, according to the Russian Code of Criminal Procedure, is not subject to full scrutiny in the adversarial process. In reality, experts are allowed both to establish facts and draw legal conclusions. One of the recent decisions of the European Court of Human Rights considers this dynamic a serious violation of the legal procedure as stipulated in Article 6 of the European Convention on Human Rights.⁴² This legal approach to academic expertise has an uncanny resemblance to the Soviet treatment of scientific evidence as an expression of indubitable truth and has led to a lack of genuine competition among experts in law courts.

These trends have resulted in an identifiable profile of experts on religion, deployed in Russian law courts. First of all, these experts tend to come from disciplines other than religious studies or related areas (e.g. sociology or

⁴⁰ “Prikaz ministerstva iustitsii ‘O gosudarstvennoi religiodcheskoi ekspertize,’” February 18, 2009, available at <<https://rg.ru/2009/03/13/religia-ekspertiza-dok.html>>.

⁴¹ A. Panchenko, “Spor o religii: ekspertizy po Tserkvi Saentologii,” in *Spetsial'naia humanitarnaia ekspertiza v Rossiiskom anti-ekstremistskom zakonadatel'stve i praktike*, ed. Dmitrii Dubrovskii (St. Petersburg: Aleteya, 2018, in print).

⁴² European Court of Human Rights' Decision on *Dmitriyevskiy v. Russia case*, application no. 42168/06 is available at <file:///Users/maratshterin/Downloads/Judgment%20Dmitriyevskiy%20ov.%20Russia%20-%20conviction%20of%20editor%20for%20publication%20of%20statements%20by%20Ch%20e%20separatist%20leaders.pdf>.

anthropology of religion). Instead they primarily come from linguistics and psychology, or represent particular theological viewpoints, mainly Russian Orthodox and “traditional” Islamic views. Second, they tend to focus on identifying hidden threats to society from minority religions, mostly through secularized and reductive interpretations of religious language in order to prove its destructive impact. As a result, experts in linguistics and psychology tend to ignore specific religious meanings, or hermeneutics, in religious texts and discourses. For example, believers’ claims to exclusive truth are typically represented as illegal assertions of superiority, their criticism of other religions or non-believers as hate speech, and expressions of religious belonging as attempts at social separatism and discrimination against other “social groups.” Finally, these experts tend to assume the validity of the distinction between “traditional” and “non-traditional” religions, with the implications of their respective acceptability and tendency for extremism.

This approach is well articulated by Marina Gradusova, secretary of the Altai Regional Committee for Combatting Extremism. In her analysis of expertise on religion in anti-extremism litigation, Gradusova identifies specific articles of the Russian Criminal Code, which, in her view, require specialized knowledge of religious studies: Art. 282 (“incitement of hatred or enmity and abasement of human dignity”) and Art. 148 (“obstruction of the exercise of the right to the freedom of conscience and freedom of religion”). Interestingly, when referring to expertise in religion in connection to the articles on terrorism, the author specifically points to the need for a knowledge of Islam and emphasizes the counter-extremism activities of the Russian state. The author concludes that the goal of the religious studies expert in litigation of this kind is to clearly identify signs of extremism in behavior, speeches, and “special words” in what she already assumes to be extremist literature and activities propagating the worldview of a particular extremist organization.⁴³

At the same time, the selection of experts by courts is not necessarily based on a requirement for a specialised knowledge, validated by relevant professional associations. The Russian legal system does not apply the equivalent of a *Frye* or *Daubert* test in the U.S. legal system, whereby an expert opinion on specific issues is supposed to be consistent with the

⁴³ M. Gradusova, “Religiovedcheskiye aspekty sudebnoy ekspertizy po delam of ekstremizme,” *Lingva-Expert*, June 29, 2016, <http://lingva-expert.ru/articles/Religiovedcheskaya-ekspertiza-ekstremizm/?sphrase_id=6>.

methodological and theoretical standards accepted within professional academic associations.⁴⁴ Furthermore, Russian courts tend to select experts who are known for their opposition on religious grounds to the defendant in the legal case. In addition to the example of Dvorkin mentioned above, Russian courts have deployed expertise from Timur Urazmetov, who served as an academic expert in several anti-extremist trials of Hizb ut-Tahrir, including in Ufa in 2016.⁴⁵ In fact, Urazmetov has academic qualifications in European medieval family law and has no scholarly credentials in the study of Islam in general and Hizb ut -Tahrir in particular.

On the other hand, in several anti-extremist litigations Russian courts have rejected the expertise of religious studies scholars on the grounds that they did not have relevant knowledge. Thus, in its decision to ban Islamic scholar Said Nursi's literature, Koptev District Court dismissed the testimony from Sergei Mezentsev who had a PhD in Philosophy with special reference to Religious Studies and who came out against the ban. In a remarkable throwback to the Soviet-style secularist reductionism, the court justified its decision as follows:

⁴⁴ James T. Richardson and Gerald Ginsburg, "A Critique of 'Brainwashing' Evidence in Light of *Daubert*: Science and Unpopular Religions," in *Law and Science: Current Legal Issues*, vol. 1, ed. Helen Reece (New York: Oxford University Press, 1998), 265–88.

⁴⁵ T.Z. Urazmetov, Iu. V. Osheeva, Iu. S. Fomina and E.E. Khazimullina, "Expert conclusion no. 53, case no. 2016427012," 2016 (Dmitry Dubrovsky's personal archive).

The Court does not accept the testimony from this witness because, in the Court's opinion, the question about the extremist character of the books from the collection of works "Risali-I Nur" by Said Nursi requires specialist knowledge in the disciplines of social psychology, linguistics and psycholinguistics, i.e. specialists [are required] with competence in investigating meaning of literary texts, mass communications and propaganda of relationships [sic], linguistic behavior, and their influence on social consciousness. S.D. Mezentsev does not have this knowledge.⁴⁶

5 Anti-Extremism Cases Involving New Islamic Groups

Legal cases involving Islamic minority groups are particularly revealing, as some of these groups are known for, or popularly represented as, radical and extremist, which in the Russian public discourse, implies the propensity for or actual involvement in terrorism. This highly unfavorable and threatening image has been publicly validated by the pronouncements of some academic experts, such as Roman Silantiev and Rais Suleymenov, who routinely present all non-traditional groups as "Wahhabi extremists."⁴⁷ In addition, whenever a new Islamic group shows the propensity to comment on current affairs or elaborates a religiously inspired political ideology, it becomes vulnerable to the reductionist approach of experts with backgrounds in linguistics and psychology, who tend to treat these pronouncements as direct calls for extremist actions. On the other hand, more nuanced and or even alternative views by other academic experts, such as Akhmet Yarlykapov, Vladimir Bobrovnikov, and Alexei Malashenko, are rarely represented in Russian courts.

Hizb ut-Tahrir is a particularly telling example of these trends. In some sense, it is a classical radical Islamist movement whose main declared goal is the return to the caliphate as an ideal universal polity for all Muslims. Its literature is awash with impassioned invectives against *kuffar* (unbelievers), Jews and Christians, and various ethnic groups, as well as against those

⁴⁶ Cited in Vitalii Ponomarev, *Rossiyskie spetsluzhby protiv 'Risale-i Nur': 2001–2012* (Moscow: Memorial, 2012), 146.

⁴⁷ On Russian experts in Islam, including Roman Silantiev and Rais Suleymenov, see Kristina Kovalskaya, "Nationalism and Religion in the Discourse of Russia's 'Critical Experts of Islam'", *Islam and Christian-Muslim Relations*, no 28/2 (2017): 141–161.

treacherous Muslim rulers who pursue secular policies or collaborate with non-Muslim governments. The movement sees Western liberal democracy and the religious pluralism that accompanies it as ungodly.⁴⁸

However, academic experts and security analysts on the movement have pointed out that it does not condone terrorism as a means of achieving its ideal theocratic state and violence can be justified only in very specific circumstances, mainly in defence of Muslims under attack.⁴⁹ Significantly, according to Hizb's concept of *majal*, its aim of restoring the caliphate can only be achieved in Islam's historic Arab lands and cannot be pursued simultaneously in several countries and certainly not in Muslim-minority countries; thus the idea of global violent jihad for the caliphate is unequivocally rejected.⁵⁰ Violence is only justified in cases of rebellion by Muslims against unjust and anti-Islamic leaders in Muslim-majority states.

Despite this and the objections of some Russian human rights organisations and experts on hate speech and extremism, in particular Aleksandr Verkhovskii, in 2003 the Russian Supreme Court declared Hizb a terrorist organisation and banned it.⁵¹ This decision immediately triggered a number of legal prosecutions and arrests on the grounds of belonging to a terrorist organisation, which still continues today, most frequently in the Muslim-majority republics of Bashkortostan and Tatarstan, but also in the rest of the country, including Moscow, Cheliabinsk and Stavropol in European Russia and Nizhnevartovsk in Siberia.⁵² In addition, since 2007 membership in Hizb incurs charges of attempted violent overthrow of the constitutional order (Art. 278), which deprives the defendants of the right to

⁴⁸ See Victoria Koroteyeva, "Hizb ut-Tahrir in Russian Courts: Radical Islamism as Ideology and Crime", paper presented at the conference Islam in Russia at the Davis Centre for Russian and Eurasian Studies of Harvard University, October 15–16, 2015. The current authors are grateful to Victoria Koroteyeva for permission to use and quote from this unpublished paper.

⁴⁹ Suha Taji-Farouki, *A Fundamental Quest: Hizb- al-Tahrir and the Search for Islamic Caliphate* (London: Grey Seal, 1996), Jean-François Mayer, *Hizb ut-Tahrir. Next Al-Qaida, Really?* PSIO Occasional Papers, no 4 (Geneva: Federal Department of Foreign Affairs, 2004); and Vitalii Ponomarev, *Rossia: Spetsluzhby protiv islamskoi partii Hizb ut-Tahrir* (Moscow: Memorial, 2005).

⁵⁰ Ponomarev, *Rossia*, 3, and Koroteyeva, "Hizb ut-Tahrir."

⁵¹ Ponomarev, *Rossia*, and Aleksandr Verkhovskii, "Iavlaiet'sia li Hizb ut-Tahrir ekstremistskoi organizatsiei?," in *Tsena nenavisti: Natsionalizm v Rossii i protivodeistvie rasistskim prestupleniām*, ed. Aleksandr Verkhovskii (Moscow: Sova Center, 2005).

⁵² Koroteyeva, "Hizb ut-Tahrir."

a trial by jury.⁵³

In the legal trials of Hizb's members (or sometimes alleged members), academic experts gain access to evidential material, from the movement's publications in print and on the Internet to videotapes, audio recordings of conversations, and personal diaries, confiscated during the members' homes raids by police and security forces.⁵⁴ While, in theory, this material allows for a nuanced and sophisticated analysis of the movement's and its members' actual views and actions, academic experts tend to use it selectively, looking for proofs of terrorist intent and subversive activities against the Russian state. Despite forensic analysis not being one of their tasks, these experts tend to use quasi-logical conjecture in place of detailed consideration of actual beliefs, actions, and the relationship between them. For example, they emphasise, with full certainty, that Hizb's aim is to restore the Caliphate, but ignore the principle of *majal* and non-violence in publications by Russian members, such as the "Answer to Sheikh Anwar al-Awlaki" that defends this principle in relation to Russia.⁵⁵

The experts further interpret the idea of caliphate as the intent to violently overthrow the Russian state, in particular in Muslim-majority regions of Tatarstan, Bashkortostan, and Dagestan. In that light, discussions among and speculations by the criminal defendants are interpreted by the experts and the judiciary as established facts relating to actions. This tendency becomes particularly evident when experts refer to political conversations among members or within splinter groups about the possibilities of violent actions, such as a popular uprising or military coup, as a way to come to power in Muslim-majority countries.⁵⁶ Such conversations are typically presented as evidence of preparation for terrorist acts and subversive anti-state actions. Koroteyeva provides an example of such quasi-logical conjecture typically used by the experts:

A future Islamic state, as the sole sovereign entity in the world, would

⁵³ Koroteyeva, "Hizb ut-Tahrir."

⁵⁴ Ponomarev, *Rossia*, and Koroteyeva, "Hizb ut-Tahrir."

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⁵⁵ Abdul' Aziz, "Otvét sheikhu Anvaru Al'Avlaki-raz"iasnenie o shariatskom pravile metoda vosstanovleniia Khalifata," *Halifat-Info*, January 10, 2010, <<http://halifat.info/fikra/clarifications/403-otvet-4eihu.html>>.

⁵⁶ Koroteyeva, "Hizb ut-Tahrir."

necessarily include Russia, thereby attacking its constitutional order. The Russian state would certainly resist a Muslim, theocratic state on its territory. *Jihad* would require confrontation with the Russian state, even if Hizb abjures violence before the Caliphate's establishment.⁵⁷

In many cases, academic experts deploy even simpler logic in identifying signs of extremism in Hizb's publications. One expert conclusion for a Hizb trial in 2006 in Kazan' pointed to the "non-traditionalist" nature of the movement's beliefs as an indicator of its extremism, and to its rhetoric of exclusivity and rejection of non-Muslims and "wrong" Muslims as evidence of "hate speech." In the analysis of the Hizb magazine *Al-Way* (now prohibited in the Russian Federation), three experts for the trial (a linguist, philosopher and psychologist) concluded that the text in question had clear indications of extremism, as it showed "the ability of people, organized on the basis of their religion, to engage in a collective action to promote religious interests" and to propagate "opposition between Muslims and non-Muslims and antagonism between Islam and other religions and ideologies."⁵⁸

In the trial of Hizb members in the Crimean city of Yalta, a group of three linguists and one religious studies scholar from the Ufa State Pedagogic University were asked the question: "Is there direct or indirect evidence of extremism in the information under investigation of Hizb ut-Tahrir' activity?"⁵⁹ The information under investigation was supplied by the FSB and consisted of transcripts of audio recordings, with specific highlighted parts where the experts were supposed to identify the signs of extremism in the defendants' "linguistic behavior." In reality, one goal the experts set for themselves was to identify evidence of Hizb's presence in the conversations among the defendants, including references to specific publications that were presumed to be extremist. Another goal pursued by the experts was to analyse the "communicative strategy of speakers," from which they concluded that the analysed conversations revealed the existence of a particular social structure that was characteristic of that of an "extremist organization."

The same approach and practice appears in expert testimonies on the Islamist organization that was referred to as Hurjular and that has been

⁵⁷ Koroteyeva, "Hizb ut-Tahrir."

⁵⁸ T. Gubaeva, T. Islanova, and N. Islanova, "Zakliuchenie Ekspertov," Kazan', March 24, 2005 (authors' personal archive).

⁵⁹ Urazmetov, Osheeva, Fomina, and Khazimullina, "Expert conclusion."

banned on the grounds of extremist activities. In fact, this organisation remains unknown to any scholar of Islam in Russia or elsewhere. Most likely it was invented by the FSB, possibly through misinterpretation of communications among followers of Nursi. This “organisation” is a good example of how experts’ methodology can result in the production of evidence on extremism even of nonexistent entities.⁶⁰ Thus, in a 2014 trial of alleged Nurjular members in Nizhni Novgorod, three scholars of religious studies, linguistics and psychology from a local university were asked to make a determination on the following question: “Are these persons members of international religious organization Nurjular, which is banned in Russia? Has this organization ever been registered as a religious organization anywhere?”⁶¹ Their conclusion was affirmative, despite the complete lack of references to this organization in the literature and audio-recordings supplied to the experts by the security services. Rather, they used a semi-logical conjecture to conclude that the absence of such references was the proof of a deep conspiracy among the defendants who had to protect themselves against possible prosecution by the security services.⁶² In an earlier (2008) trial in Krasnoyarsk, academic experts used a different kind of conjecture, claiming that Nursi texts insulted “non-religious people” and indirectly propagated violence by expressing negative attitudes toward non-Islamic people and cultures. Nursi’s injunction, “Dignity and decency have to put in place uncultured infidels” was referred to as proof of his “social aggression against non-Muslims.” In a further, psychological conjecture, the experts concluded that this “textual construction” will most likely negatively influence the reader, who would feel compelled to see unbelievers as criminals and use violence against them.⁶³

Finally, this methodology has been used in the recent (2018) trial of members of Tablighi Jamaat.⁶⁴ The “complex ethnical – religious-

⁶⁰ Maria Kravchenko, *Inventing Extremists: The Impact of Russian Anti-Extremism Policies on Freedom of Religion or Belief* (The United States Commission on International Religious Freedom: Washington, D.C., 2018), available at <https://www.uscirf.gov/sites/default/files/Inventing%20Extremists.pdf>.

⁶¹ F.A. Dorofeev, E.N. Volkov, and E.A. Koltunova, “Ekspertnoe zakliuchenie po delu 724043,” 2014 (authors’ personal archive).

⁶² Dorofeev, Volkov, and Koltunova, “Ekspertnoe zakliuchenie,” 5.

⁶³ Dorofeev, Volkov, and Koltunova, “Ekspertnoe zakliuchenie,” 6.

⁶⁴ For this transnational Islamic movement, see Muhammad Khalid Masud, ed, *Travellers in Faith: Studies of the Tablighi Jama’at as a Transnational Movement for Faith Renewal* (Leiden: Brill, 2000).

sociological-political” (sic) expertise for the court, produced by Roman Silantyev, expert in Islamic Studies, and Alexander Savvin, a theologian, asserted that Tablighi’s ideology was rooted in the “extremism of Wahhabi-Deobandi thought, which was the prototype of current Islamic extremism.” Apparently based on recorded meetings, the experts concluded that the defendants were Tablighi members, as they wore specific white clothes of “Pakistani style,” and used characteristic words, like “zikr.” In addition, the experts presumed that the references to jihadi acquaintances, which appeared in the recordings, also pointed to the defendants’ membership in the extremist organization Tablighi Jamaat.⁶⁵

Finally, associating acceptable behavior and actions with allegiance to traditional religions and their institutionally defined norms while treating deviations from them as extremism constitutes another basis for using conjecture in expert conclusions. It is quite common for Russian religious studies experts in counter-extremism litigation to identify extremism through juxtaposing normative prescriptions of traditional Islam and “illegitimate” theological deviance by newer Islamic groups. Thus, in response to a request from the Special Counter-Extremism division of the Interior Ministry, the scholar Ramil’ Adygamov from the Russian Islamic University in Kazan’ concluded that the recordings of a lecture he was asked to investigate show that the lecturer’s views “do not fully fit the traditional Islam of the Muslims of Volga-Ural region” and contain “criticism of the Sufi School” from the viewpoint of Ibn Taymiyya and Muhammad Ibn Abd al-Wahhab (reputed to be the founders of Wahhabism). He concludes that this non-traditional version of Islam is extremist and will likely to have alienating effects on local Muslims.⁶⁶ This is a clear example of an academic expert’s seeing his role as comparing non-traditional and traditional versions of Islam, and defending the latter.

6 Anti-Extremism Litigation Involving Other Religious Minorities

The approaches to and practice of academic expertise in anti-extremist

⁶⁵ “Ot propovedi do ‘Al’ Kaidy.” *Pochemu v Rossii presleduiut aktivistov musul'manskogo dvizheniia* “Tabligi Dzhamaat.” *Zona Media*, June 6, 2018, <<https://zona.media/article/2018/07/06/tabligi>>.

⁶⁶ R. Adygamov, “Religious expertise,” Russian Islamic University, May 11, 2010, Kazan’ (Authors’ personal archive).

litigation have also manifested themselves in a range of cases involving minority groups known as totalitarian sects among anticult and anti-sectarian activists. Jehovah's Witnesses stand out as a particularly salient target of the anti-extremist prosecution in Russia, for the reasons well-articulated in Emily Baran's and Zoe Knox's contributions to this special issue. While Baran and Knox provide the broader exploration of these cases, this article focuses its discussion on the academic expertise involved in them.

The Jehovah's Witnesses' strong emphasis on exclusive religious truth and strict prohibition of certain civic and medical practices and activities, such as expressions of allegiance to the state, carrying arms, and blood transfusion, makes them particularly vulnerable to the dominant tendency among Russian academic experts to bracket sectarianism and non-traditionalism with extremism. As early as a 1999 Moscow trial, a panel of experts concluded that Witness' religious literature contained conspicuous hate speech and violated citizens' rights and freedoms, including the "right for medical help and leisure time." Significantly, among the five experts on that panel there was only one religious studies scholar, and he was the only one who refused to sign the conclusion.⁶⁷ Anticipating (or, to some extent, precipitating) the philosophy of anti-extremist legislation, this conclusion claimed that as behavioral and ethical norms are defined by traditional religions, adherence to Jehovah's Witnesses belief system leads to its members' social and moral disorientation and deviance.

The introduction of anti-extremism legislation provided both incentives and legal tools for state prosecutors and law courts to deploy this kind of expertise. The decision of the Taganrog City Court to ban the Witnesses local organization and their literature, which was confirmed by Russia's Supreme Court in December 2009, was based on the expert conclusion of the Rostov Center For Forensic Expertise, which included linguist Tatiana Kasyanyuk, psychologist Sergiei Shipshin, and philosopher Sergei Astapov. They found elements of extremism in Witness' beliefs, practices, and publications, claiming that the group endangers the lives of its members by prohibiting blood transfusion, propagating superiority over other religions and their adherents by insisting on exclusivity of its truth, and causing alienation of its

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⁶⁷ M. Belianin, D. Gromyko, S. Leontiev, and S. Nebol'sin, "Kompleksnoe ekspertnoe zakliuchenie po ucheniiu 'Svidetelei Iegovy,'" available at: <http://www.kistine.ru/sects/iegova_witness/iegova_witness_expert.htm>.

members from other religions “by denying the immortality of the soul” and “inciting hatred to the entire Christian world.” The conclusion also claimed that the group propagates negative attitudes toward “social groups” such as governments, ordinary people, and priests.⁶⁸ These and other conclusions had created a foundation for the eventual ban (‘liquidation’) on the Russia-wide organization of Jehovah’s Witnesses in 2017, discussed in Knox’s contribution to this special issue.

Academic expertise took a similar approach in legal cases involving the Church of Scientology in Russia. In the seminal case against this group in the Siberian city of Surgut, academic experts concluded that books by church founder L. Ron Hubbard represented an “anti-social manifesto, propagating humiliation and hatred towards *homo sapiens* [sic] and any social system in general, and especially toward those who are making critical statements about Scientology.”⁶⁹ This was followed by a trial in 2011 in St. Petersburg where experts have found dissemination of hatred against ‘the social group of psychiatrists’ in L. Ron Hubbard’s anti-psychiatry writings. On this basis, the city Prosecutor’s Office demanded that these publications be included in the list extremist publications banned in the Russian Federation.⁷⁰ In a rare act of defiance of the prosecutor’s view, after a year of deliberation, the judge dismissed the case, as its absurdity became apparent. However, in June 2018 another case was brought, based on conclusions from experts from the City Prosecutor’s office and special Counter-Extremism Department of the Ministry of Interior, in which a group of Scientologists was accused of extremist activities, hate speech, and money laundering. One of the grounds for prosecution, cited by the experts, was that the Church allegedly disseminated hatred to the “social group of trouble-makers” or “potential trouble-makers,” pointing out that the 2002 Law includes dissemination of hatred to particular social groups in the list of extremist activities.⁷¹

⁶⁸ “Presledovaniia Svidetelei Iegovy v Taganroge,” SOVA Center for Information and Analysis, January 21, 2010, <<https://www.sova-center.ru/misuse/news/persecution/2009/09/d16846/>>.

⁶⁹ E. Volkov and M. Beliakova, “Zakliuchenie kompleksnoi psikhologo-lingvisticheskoi ekspertizy po grazdanskomu delu no. 2-752\2009,” *Surgut*, 2009 (Personal archive of Dmitry Dubrovsky).

⁷⁰ Andzhei Belovranin, “Razdrzhaiut pravozashchitniki? Vy khotite pogovit’ ob etom?,” *Novaia gazeta*, July 11, 2011, <<http://novayagazeta.spb.ru/articles/6667/>>.

⁷¹ Tatiana Voltskaia, “ ‘Poka my budem molchat’ – nas budut pytat’. Delo Saentologov – Ekstremistov,” *Radio Liberty*, June 24, 2018.

Finally, a somewhat curious case of using the anti-extremist legislation to outlaw literature by an undesirable minority group was the attempt, in 2011, in the Western Siberian city of Tomsk, to ban the *Bhagavad Gita*, the sacred book for many Hindus, in particular followers of the Hare Krishna movement.⁷² Local academic experts, including Dean of the Department of Philosophy at Tomsk State University, had agreed with the city prosecutor that this ancient text included passages that are “extremist in nature,” propagated superiority of Krishna devotees, and were humiliating to other religions. Dvorkin, the leading Russian expert on sectarianism, visited Tomsk and made a passionate speech at the local university. However, the case was met with unexpectedly strong resistance from a coalition of local oriental studies scholars, other academic experts and, significantly, a coalition of local minority religious leaders who came out in defense of the Krishnas.⁷³ In a further move, the Indian Embassy in Moscow issued a note protesting the ban on a sacred Hindu text. Soon after the judge dismissed the case, thus demonstrating that mobilization of academic and public opinion, combined with political pressure, can occasionally outweigh the Russian legal system’s bias against minority groups and its propensity to rely on anti-sectarian experts.

7 Conclusion

By examining the relationship between academic experts and Russia’s judicial system in regulating religion, this article has revealed a significant aspect of ‘judicialization of politics and religion’, which can be observed across the globe. In particular, it charted the politico-epistemological alliance between law courts and academic experts in anti-extremist litigation involving minority religions in Russia. This alliance shows itself in the way both courts and academic experts look for evidence of the defendants’ extremism. It is facilitated by the status of the academic expert in Russian courts, who is seen as providing incontrovertible evidence that cannot be subject to further scrutiny. Their views are conclusions rather than testimonies that could be countered by other testimonies in an adversarial

⁷² Alexandra Filkina, “‘Interfaith Dialogue’ as a Form of Opposition of ‘Minority Religions’ to Governmental Pressure in Russia,” *Journal of Contemporary Religion* 33, no. 2 (2018): 291–30.

⁷³ Filkina, “Interfaith Dialogue.”

process; therefore, the facts they provide directly lead to legal conclusions. In fact, the line between offering facts and making legal conclusions tends to be blurred in many statements by experts, and in the very questions that they are asked to address. Finally, the experts can get away with making their conclusions through conjecture rather than the validity and reliability of their evidence not only because of their monopoly on telling the truth to the courts, but also because their narratives are consistent with the overall discourses that underpin political power.

Focusing on minority religions brings into sharp relief broader issues in the operation of a legal system that lacks autonomy and is marked by interdependence between law enforcement agencies, prosecutors, and the judiciary. Equally important, this analysis reveals how the lack of proper validation of knowledge in humanities and social sciences contributes to the production of experts prepared to form the epistemological alliance with a biased judiciary and to legitimize discriminatory decisions. Anti-extremism legislation further exacerbates this situation by facilitating the political use of the legal system for managing dissent.

Author Queries

AQ1: Please check the unmatched open quotation mark in the sentence “damaging the morality...”.

AQ2: Please check the unmatched close quotation mark in the sentence “Abdul’ Aziz, “Otvét sheikhu...”.

AQ3: Please check the unmatched open quotation mark in the sentence “M. Belianin, D. Gromyko...”.

AQ4: Please check the unmatched open quotation mark in the sentence “*Novaia gazeta*, July...”.