

**Zakonodatelstvo o religii v SSSR. Doklad Komitetu prav cheloveka**  
(“**Legislation on Religion in the USSR. Report submitted to the Human Rights Committee**”) by I. R. Shafarevich, Paris, 1973. 81 pp.

This report sometimes resembles an annotated bibliography rather than a consecutive narrative, as it contains a wealth of important information in a compressed form. It deals primarily with the present social status and legal position of the Russian Orthodox Church, but historical aspects are also considered in spite of the author's assertions to the contrary.

Most of the information given has previously been available to readers and students interested in Church-State relations in the USSR. Some facts are perhaps less well known, such as the existence of secret unpublished by-laws and administrative or Party orders, containing norms frequently divergent from published laws and the Constitution, and yet enforceable on equal terms with laws of a higher order.

Section I of the book deals with the positive law governing Church-State relations, such as the decrees of 1918 and 1929, and diverse by-laws, orders and instructions. The favourable change of policy towards the Church at the end of World War II and immediately after is noted, and the opening of some 15,000 to 17,000 churches mentioned. The same section contains also an account of the drastic revision of that policy under Khrushchev with its mass closure of churches, liquidation of congregations and monasteries (e.g. the Pochayev Monastery). The frustrating tribulations experienced by congregations wishing to open a church or to register are illustrated by the futile attempts of the Naro-Fominsk congregation to obtain registration between 1968 and 1971.

Section II deals with the rights and duties of religious communities. *Inter alia* it contains an account of the rules for the “liquidation” of *holy relics* (itl. supplied). Another rather odd decree is mentioned (8 Dec., 1923, No. 254), which prohibited intercessory prayers for persons convicted or indicted of serious crimes against the State. Under special headings the following are discussed: organizational and economic aspects of church life; the legal and social status of believers; baptismal rites; the ban imposed on priests and laymen to give religious instruction to children (this ban does not include a child's parents); the position of the Church when one of its members falls sick, dies, or needs to be buried. The restrictions governing the recruitment and education of candidates for the priesthood are also discussed. The last section contains the author's conclusions and is followed by a bibliography of source material.

This booklet was originally a report, submitted by the author to the Moscow ‘Human Rights Committee’. As such it has the character of an

indictment against the Soviet authorities for their biased and unjust treatment of the Church, which appears to be subjected to constant persecution and interference and granted a most precarious status by the State.

It is unnecessary to stress that the treatment of religion in general, and of the Russian Orthodox Church in particular, is unjust and, to all intents and purposes, biased and arbitrary. However, situations like that of the Church require meticulous study "on the spot" so that *the law in action* may be rightly assessed. According to the author's computations on p. 42-43 (inexact though they may be due to lack of statistical data) there are at least 70,000,000 Orthodox Christians in the USSR. It would be surprising if such a numerically strong group did not have *some* influence on policies and certain powers as a pressure group in the face of the authorities. It would be unrealistic to assume that local authorities, for the sake of ideological principles and because of poorly formulated (even unpublished) regulations, *always* disregard the pressure of strong local religious groups. There is some evidence to the contrary. Thus, according to a trial report from the Georgian Republic, even members of a small, weak and proscribed sect like the Jehovah's Witnesses long enjoyed certain favours and a certain immunity in places such as Sukhumi. One of this sect's leading members was the local radio announcer, another was permitted to live and work in the city without a residence permit, whilst some of the children were allowed to perform religious plays in the woods outside the town. The report mentions examples of official Soviet press articles which have condemned the activities of the authorities. It is, however, unfortunate that the example given (p. 25) misspells the name and misrepresents the case. The voice "in the press" is that of the USSR Supreme Court Judge and chairman of the Collegium for Criminal Cases, G. Z. Anashkin (misspelt in the report as G. E. Avashkin). "The press" here refers to the most important legal periodical of the USSR, *Gosudarstvo i pravo* (the title is, however, printed in the footnotes). Other articles condemning breaches of the law should have been included, such as "Religia i zakon" (Religion and the Law) by V. Kuroedov, Chairman of the Council for Religious Affairs, attached to the Council of Ministers of the USSR, published in the popular and widely read journal of the USSR Ministry of Justice, *Chelovek i zakon* (No. 12, 1971, pp. 1-19). In this article Kuroedov states :

Sometimes officials act wrongly . . . by groundlessly requesting (*khodataistvovat*) higher authorities to permit them to close churches. . . . Prayer-houses

(*molitvennoe zdanie*) may be closed only when the religious community has disintegrated (*raspalos*), when it does not adhere to the agreement with the *raispolkom* (executive committee of the district soviet) for the use of the building and the property, and when it seriously offends against the laws on religious cults (p. 18).

It is essential to study the changing attitudes and developments of Soviet legal thought. Lately a number of articles have been published in legal periodicals which discuss the civil rights of individuals and the need for more efficient legal and procedural guarantees. Unfortunately Shafarevich in his report does not discuss the absence of an independent constitutional and administrative court in the USSR, which could safeguard the civil rights of persons and organizations. Such courts are particularly needed in socialist countries with their predominantly public legal relationships and strong hierarchical bureaucracies.

RENE BEERMANN

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