



This article was published by F18News on: 17 April 2012

AZERBAIJAN: Religious freedom survey, April 2012

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Ahead of Azerbaijan's hosting of the Eurovision Song Contest, Forum 18 News Service notes that freedom of religion or belief and related human rights such as the freedom of expression and of assembly remain highly restricted. Among issues documented in Forum 18's religious freedom survey are: state attempts to counter discussion of violations with claims of inter-religious harmony and religious tolerance; officials behaving as if the rule of law places no limitations on their actions; unfair trials lacking due legal process; steadily increasing "legal" restrictions on and punishments for exercising freedom of religion or belief, often prepared in secret, forming a labyrinth of restrictive state controls; "legal" denials of international human rights standards Azerbaijan has agreed to implement; a highly restrictive censorship regime; enforced closures of places people meet for worship; a ban on praying outside mosques; jailing of prisoners of conscience exercising the right to conscientious objection to military service; arbitrary deportations of foreign citizens exercising the right to freedom of religion or belief; and severe denials of human rights in the Nakhichevan exclave. Azerbaijan is likely to remain a place where fundamental human rights are violated with impunity, and the state tries to make exercising human rights conditional upon state permission.

Ahead of Azerbaijan's hosting of the Eurovision Song Contest in late May, Forum 18 News Service notes that freedom of religion or belief and related human rights such as the freedom of expression and of assembly remain highly restricted. Violations of fundamental human rights are commonplace, officials often insisting that human rights can only be exercised with the specific permission of the state.

Azerbaijan is the largest country in the South Caucasus region and with over 9 million people has the largest population. It includes the exclave of Nakhichevan [Naxçıvan], which borders Iran, Armenia and Turkey, where the human rights situation is worse than in other parts of the country. A bitter territorial dispute continues about the currently Armenian-controlled entity of Nagorno-Karabakh, which led to open war between 1988 and 1994. Well over 90 per cent of Azerbaijan's population are ethnic Azeris (regarded as being of mostly Shia Muslim background), with around 2 per cent of the population being Lezgins (who are regarded as being of Sunni Muslim background). Around 2 per cent of the population are Russians or other Slavs (regarded as being of Russian Orthodox or other Christian background), with smaller percentages of Jews and other ethnic minorities.

President Ilham Aliiev has run the country since 2003, taking over on the death of his father Heidar Aliiev who had run the country for the majority of years from 1969. Under both Aliievs, local and international human rights defenders have documented cases of electoral fraud, corruption, and violations of human rights and the rule of law. Despite massive oil wealth, much of the population remains in poverty.

Among freedom of religion or belief and interlinked human rights issues Forum 18 has documented are:

- state attempts to counter discussion of violations with claims of inter-religious harmony and religious tolerance;
- officials behaving as if the rule of law places no limitations on their actions;
- unfair trials lacking due legal process;
- steadily increasing "legal" restrictions on and punishments for exercising freedom of religion or belief, often prepared in secret, forming a labyrinth of restrictive state controls;
- "legal" denials of international human rights standards Azerbaijan has agreed to implement;
- arbitrary official actions denying fundamental rights to citizens and foreigners;
- a highly restrictive censorship regime, including bookshop, photocopy shop and postal censorship;
- an arbitrary compulsory state registration system, designed to make all exercise of freedom of religion or belief - including the

legal right to exist - dependent on state permission;

- enforced closures of places people meet for worship;

- a ban on praying outside mosques;

- jailing of prisoners of conscience exercising the right to conscientious objection to military service;

- arbitrary deportations of foreign citizens exercising the right to freedom of religion or belief;

- and severe denials of human rights in the Nakhichevan exclave.

Tolerance? Dialogue?

Officials have from the late 1990s attempted to counter discussion of violations of freedom of religion or belief and related human rights with claims of inter-religious harmony and religious tolerance. State-favoured religious communities echo such claims.

President Ilham Aliyev in April 2011, speaking at the official opening in the capital Baku of a government-initiated World Forum on Intercultural Dialogue, claimed that "it is already a fact that there is a high level of ethnic and religious tolerance in Azerbaijan, and it is the source of our strength". "Freedom of religion, freedom of conscience have been fully established in Azerbaijan," the presidential website quoted him as adding. The event was supported by among others the Council of Europe, UNESCO, and the UN Alliance of Civilizations.

As President Aliyev spoke, Sunni Muslim and Protestant Christian religious communities in the second city Gyanja [Gäncä] were banned from meeting for worship, in one case riot police being deployed to ensure that a congregation could not meet in their church. Babek Sadykov of Gyanja Police denied this, claiming to Forum 18 that "no one is being prevented from worshipping". Local people, who wished to remain anonymous for fear of state reprisals, told Forum 18 that one of the communities was warned that "if they met for worship on the following Sunday or at any future date they will all be arrested". Apologists for government policy never explain how it is possible to promote and practice tolerance and dialogue while directly attacking the rule of law and fundamental human rights such as freedom of religion or belief.

A rule of law state?

Officials behave as if the rule of law, including published laws, place no limitations on their actions. Trials for alleged offences have often flagrantly lacked due process, including trials taking place without those accused being aware that the trials are happening. Officials do not allow the international human rights standards to which Azerbaijan is party to limit their actions. These standards include the International Covenant on Civil and Political Rights, the European Convention for the Protection of Human Rights and Fundamental Freedoms, and the human dimension commitments of the Organisation for Security and Co-operation in Europe (OSCE).

Officials take full advantage of the unclear or undefined wording of laws. Police and other officials have routinely insisted during raids that unregistered religious activity and religious meetings within private homes are illegal - even before the 2009 legal changes formally introduced such "offences" into published laws.

Similarly, officials often ignore other laws and legal procedures. For example in June 2011, police and local officials of the State Committee for Work with Religious Organisations raided a Baptist Sunday morning worship service in Sumgait [Sumqayıt] near Baku. When congregation members asked to see a warrant for the raid and search, the religious affairs official responded: "I'm the permission and the warrant."

Forum 18 is aware of no case where an official, while engaged in preventing people from exercising their right to freedom of religion or belief, has been punished.

Rushed and secret preparation of "legal" restrictions

Azerbaijan has constructed a complex labyrinth of steadily increasing "legal" restrictions on and punishments for exercising freedom of religion or belief, often prepared in secret. The aim appears to be to help impose state control of society, including any independent civil society activity, and to make all exercise of human rights dependent on state permission.

The Religion Law - misleadingly called the Law on Freedom of Religion - has been amended 14 times between 1992, when it was first adopted, and the latest July 2011 changes. Every significant change has imposed tighter restrictions on freedom of religion or belief. Many of these amendments - like changes to the Criminal Code and Code of Administrative Offences (see below) - were prepared in secret, with no public consultation, and were rushed through Parliament, the unicameral Milli Mejlis. This is dominated by President Aliyev's New Azerbaijan Party, which after the last 2010 election has 72 out of 125 seats. Ambassador Audrey Glover,

head of the OSCE election observation mission, condemned "restrictions of fundamental freedoms, media bias, the dominance of public life by one party, and serious violations on election day".

"Legal" restrictions

Many aspects of the Religion Law are highly problematic, and among the more important serious problems with the latest 2009 version are:

- Implementation of international agreements?

The Religion Law Preamble proclaims that it "provides for the implementation of Freedom of Religion (..) according to the Constitution of the Republic of Azerbaijan and international agreements". Article 2 also states that "legislation on freedom of religion consists of the Constitution, international agreements agreed by Azerbaijan, this Law and other relevant legislation of Azerbaijan." However the Law contradicts international standards on freedom of religion or belief which Azerbaijan has agreed to implement.

For example, Article 1 uses vague and undefined language - leaving much scope for arbitrary official interpretations - to ban "propagating a religion and religious lifestyle by using force or threatening to use force, as well as to cause racial, national, religious, social animosities and hostility. The dissemination and propagation of religions (religious sects) that degrade human dignity or contradict the principles of humanism is banned".

- Ban on conscientious objection?

Article 4 of the Religion Law includes a ban on "refusing or declining to fulfil obligations determined by the law for his/her religious beliefs." It also states, in unclear wording, that "substituting the fulfilment of one responsibility by another may only be allowed in cases provided for by the legislation of the Republic of Azerbaijan". There is no legislation on conscientious objection to military service or alternative civilian service. This Article may be aimed at barring objection to military service on grounds of religious belief, and similar objections based on conscience (see below).

- Religious education restricted

Article 6 states that religious education of children or adults in institutions can only happen if it is specified in the organisation's charter. It is unclear whether this is the only context in which religious education can happen. Article 10 now states that "religious educational institutions act on the basis of a special permit (licence) issued by the competent executive body as defined by the legislation of the Republic of Azerbaijan". Criminal Code punishments for breaking rules on religious education were also separately introduced (see below).

From July 2011, a new Article 6.5 adds a requirement that religious organisations must have permission from their headquarters to run religious education for young people.

Article 6 states that "the state educational system is separate from religion", goes on to state that "religious studies, religious knowledge, religion and philosophy courses, and an overview of the teachings contained in religious texts may be included in the curricula of state educational institutions". However, there is no provision for an opt-out from such teaching if it should be against the beliefs of the child, young person, or their parents or guardians, in contradiction to Article 1's statement that they "have the right to educate their children in accordance with their religion or their attitude towards religion".

- Religious education

Article 6 (since July 2011) also specifies requirements for conducting religious education. "If their statutes allow this, religious organisations may carry out

educational and training activities in a specified form for the education of young people and adults, by establishing educational institutions, as specified in legislation."

Article 29 requires the State Committee to both approve and monitor such education.

- Children's freedom of religion and education a potential crime

Article 167-1 of the Criminal Code, added in May 2009, punishes forcing individuals, including children, to take part in religious activity or religious education. The meaning of "forcing" is undefined. Ordinary people who violate this can be punished by a fine or up to two years' imprisonment. Officials who violate this can be punished by a larger fine or between two and five years' imprisonment. This is in addition to the Administrative Code Article 299 changes discussed below. In December 2011 fines under this article were dramatically increased (see below).

- Sale of religious literature and objects censored

The Religion Law reinforces the existing censorship regime, along with Administrative Code Article 300 (see below). Religion Law Article 22 states: "Religious organisations, and other natural and legal persons who are not religious organisations, may produce, import, export and freely disseminate religious literature, items and other information materials". However, it allows this only "with the consent of a relevant state body", once again breaking Azerbaijan's international human rights commitments.

It also states that: "The sale of literature and objects of religious designation and other informational materials of religious content is carried out only at specialised points of sale created with the agreement of an appropriate state body." The Presidential Decree implementing amendments to the Religion Law and the Criminal and Administrative Code identified the State Committee as the "appropriate state body".

- Unregistered freedom of religion or belief banned

The May 2009 amendments devote much space to restricting legal status, Article 12 stating that: "Religious organisations may function only after state registration by a relevant state body and the state registry of religious organisations". There is no legal possibility for more than one person to manifest freedom of religion or belief without state permission. State officials, as before, use such provisions to try to ban the "illegal" exercise of freedom of religion or belief.

- Doctrinal and other intrusive tests for registration

Article 12 demands: "information on the citizenship, residence, and date of birth of people founding the religious society, a copy of their identity cards, the basis of their religious teachings, information on the date of establishment of the religion and community, the form and methods of its activity, traditions, attitude to the family, marriage and education, information on limitations on rights and duties of the members of the community. Other documents demanded by the Law on State Registration of the Juridical Person shall also be submitted with the application." The Article does not indicate by what authority, standards, or competence state officials decide registration applications or appeals against their decisions.

From July 2011 Article 12 was amended to require 50 adults "or their authorised representatives", not 10 adults as previously, to submit a registration application. This particular provision appears to be being applied retrospectively to communities whose applications were submitted before the end of 2009 but have not been processed, as in the case of the Protestant Cathedral of Praise Church.

- Extra reasons to refuse legal status

If state officials do not find enough grounds in the doctrinal tests or documents demanded to refuse registration, Article 12 provides extra grounds for refusal. Among other reasons, state registration may be refused if "the activity or objectives of the religious organisation, or the nature and foundations of its teachings contradict the Constitution and laws", or if "the presented charter (regulation) or other documents contradict the requirements of legislation or the information is wrong".

There is no independent appeal process against official decisions. Article 12 merely states that: "Religious organisations denied state registration shall be informed of the reasons for this, citing relevant legislative provisions".

There is no timescale for officials to make decisions. In stark contrast, only 20 days are allowed by Article 12 for registered religious organisations to notify the state "of any changes to the information or documents required for state registration and submit documents certifying such changes." No definition is given of what constitutes "changes".

- Reasons for banning organisations

Article 12-1 allows officials to apply to a court to ban organisations for, among other reasons:

"propagating a religion and religious lifestyle by using force or threatening to use force, as well as to cause racial, national, religious, social animosities and hostility; the use of force to manifest religious faith; performance or participation in religious ceremonies, or the dissemination and propagation of religions (religious sects) that degrade human dignity or contradict the principles of humanism";

"undermining public order or security";

"inciting people to refuse to execute duties required by the law";

and "not observing the requirements of an executive body on submitting information on changes made in the information or documents necessary for state registration".

- Religious activity restricted to approved venues

Article 12 states that: "The religious organisation can act only at the legal address defined in the information presented for state registration." This appears to indicate that any activity outside such venues is regarded as illegal.

Article 29 requires the State Committee to approve "the suitability of planned new religious prayer sites, and reconstruction of existing religious prayer sites".

Administrative Code Article 196 punishes those who violate procedures for building in towns. From May 2009 a new Article 196.0.3-1 punishes those who build or reconstruct religious buildings without permission from the State Committee.

- Who can lead religious activity?

Article 4-1 of the Religion Law, added in July 2011, defines "Professional religious activity and religious persons". "Professional religious activity is activity directed to religious education, religious training, satisfying the religious needs of believers, spreading religion, performing religious ceremonies, giving sermons (preaching) and administering religious structures. A religious person engaged in religious activity is a person with higher or secondary specialised religious education."

The definition of "religious person" does not specify that only "professional" religious workers can conduct activities such as religious education or leading worship. But officials often interpret such definitions as banning people from doing anything they are not in published law specifically authorised to do. There are also particular restrictions on who can lead Islamic activity (see below).

Restrictions targeting Muslims exercising religious freedom

Muslims are subject to specific extra restrictions which do not apply to other faiths. All mosques must belong to the Caucasian Muslim Board.

Article 7 of the Religion Law (since July 2011) requires all Islamic communities to "present a report on their activity" to the Muslim Board. The Article does not state how often such reports must be presented.

Article 8 (since July 2011) specifically states: "Islamic religious communities shall be created in mosques by citizens of Azerbaijan." It remains unclear if this bans Islamic communities which wish to exist outside the framework of a mosque or whether it is targeted at mosques created by foreign citizens.

Article 8 (since July 2009) states: "The appointment of the religious functionaries who lead Islamic places of prayer is by the Caucasian Muslim Board, which informs the relevant organ of executive power."

Article 21 (since July 2009) specifies: "The performance of Islamic religious rituals and ceremonies can be carried out only by citizens of Azerbaijan who have received their education in Azerbaijan."

December 2011 changes

In December 2011 Criminal Code Article 168.1 came into force. This punishes: "Creation of a group carrying out activity under the pretext of spreading a religious faith and carrying out religious activity and by this illegally harming social order, or harming the health of citizens or violating the rights of citizens irrespective of the form of infringement, as well as distracting citizens from performance of duties established by law, as well as leadership of such a group or participation in it".

Fines under this Article were increased to between 7,000 and 9,000 Manats. (Each 1,000 Manats is equivalent to 7,320 Norwegian Kroner, 970 Euros or 1,275 US Dollars.) The maximum prison term under this Article remained two years.

Also increased at least ten-fold were fines under Article 167 for obstructing others from conducting religious rituals. Other penalties of corrective labour remain unchanged. However, Forum 18 knows of no cases when state officials who have broken up religious services or banned them have been brought to court under this Article.

Fines under Article 167-1 for those who force others to conduct religious rituals were increased dramatically. Fines were raised to between 3,000 and 5,000 Manats. For offences against a young person or by an organised group or an official, fines rose to between 7,000 and 9,000 Manats. Terms of imprisonment remained unchanged. The Article was introduced into the Criminal Code in May 2009 (see above).

Article 299

The Religion Law is also backed by Administrative Code Article 299, which punishes "violation of the procedure for creating or

running religious organisations":

- Article 299.0.1 punishes "religious leaders who fail to register their communities with the state".
- Article 299.0.2 punishes "violating legislation on holding religious meetings, marches, and other religious ceremonies".
- Article 299.0.3 punishes "clergy and religious associations holding special religious meetings for children and young people, as well as the holding by religious bodies of literature circles or other specialised groups".
- Article 299.0.4 punishes "religious activity not within a religious association's registered address".
- Article 299.0.5 punishes "activity by a religious association that is not in accordance with its statute". (The community's statute must be approved by the state for state registration to be given.)

The December 2010 fines for all "offences" under Article 299 were raised from those set in 2009:

- for individuals to between 1,500 and 2,000 Manats;
- and for officials to between 7,000 and 8,000 Manats.

These increases are up to 16 times more than the previous penalties. (Each 1,000 Manats is equivalent to 7,320 Norwegian Kroner, 970 Euros or 1,275 US Dollars.)

Unregistered communities facing possible punishment for exercising freedom of religion or belief without state permission include: all Muslim communities outside the control of the state-backed Caucasian Muslim Board; all communities which were not registered in 2009 including most Baptist, Seventh-day Adventist, Jehovah's Witness, and many Protestant communities (see below). Officials insist that those who had registration before the 2009 Religion Law, and whose re-registration applications have not been decided upon, will not face action unless the State Committee goes to court to liquidate them. But, as in Gyanja (see below), some such communities have nevertheless been forced to stop meeting.

Article 300

A harsh censorship regime backed by the Criminal Code and Religion Law is in force (see below). This is backed by Administrative Code Article 300, which punishes "violation of legislation on freedom of religion":

- Article 300.0.1 punishes "producing, importing or exporting religious literature, religious objects, and other information material without permission from the State Committee for Work with Religious Organisations".
- Article 300.0.2 punishes "distributing religious literature, religious objects and information material without State Committee permission".
- Article 300.0.3 punishes "selling religious literature, religious objects and information material in places not approved by the State Committee for the sale of such religious material".
- Article 300.0.4 punishes "the conduct of religious propaganda by foreigners or stateless persons". If literature is used, this "offence" is to be punished by an unspecified article of the Criminal Code.

The increased December 2011 fines for Article 300 "offences" are:

- for individuals, whether Azeri citizens or foreigners, to between 2,000 and 2,500 Manats;
- for officials to between 8,000 and 9,000 Manats;
- and for organisations to between 20,000 and 25,000 Manats.

These increases are up to 20 times more than the previous penalties. (Each 1,000 Manats is equivalent to 7,320 Norwegian Kroner, 970 Euros or 1,275 US Dollars.)

Those found guilty under Article 300 have their religious literature confiscated. Foreigners or stateless persons involved in "religious propaganda" face deportation. This term includes selling religious books and materials which have not passed the compulsory State Committee censorship, or selling them in venues not approved by the State Committee (see below).

"Insanity is only increasing"

It remains unclear why Azerbaijan repeatedly amends its laws and increases fines - usually with little notice or public discussion and secrecy surrounding texts - to restrict the exercise of the right to freedom of religion or belief and other human rights. "Insanity is only increasing," one member of a religious community who asked not to be identified told Forum 18 in November 2011. Another - who also asked not to be identified - agreed: "I don't understand what they are trying to do."

Eldar Zeynalov, head of the Human Rights Centre of Azerbaijan, thought that the government may be motivated to increase fines by a fear of Islamic radicalism. "This danger is in some ways real, but I believe it should be tackled in a different way. Using administrative punishments has not worked in Central Asia and is not going to work here", he stated in January 2011.

Finding a defence lawyer willing to represent individuals accused under these Articles will be difficult, especially in rural areas, Zeynalov warns. "There is often just one lawyer for an entire region with a population of more than 100,000 people."

He also noted that those fined, especially rural residents without access to higher-paid work in Baku, will struggle to pay. "If for example, five members of one rural family were each fined 2,000 Manats, that would make a total of 10,000 Manats (73,000 Norwegian Kroner, 9,700 Euros or 12,700 US Dollars). This would represent the entire value of the family's assets, including their home." The minimum monthly wage rose to 93.50 Manats (685 Norwegian Kroner, 90 Euros, or 119 US Dollars) per month from 1 December 2011.

Censorship

Azerbaijan runs a highly restrictive censorship regime, breaking the international human rights standards it has formally committed itself to implement. All religious literature printed in and imported into the country must gain specific approval from the State Committee. The State Committee also specifies the number of copies of each named work that may be printed or imported, checks the contents of shops selling religious literature, and has a list of banned religious literature which the Expertise Department - which is responsible for the list - will not make public.

In August 2008 Aliheidar Zulfikarov of the State Committee's Expertise Department vigorously rejected suggestions that the compulsory prior approval required from the Committee for all religious literature was censorship. Asked how he would describe it, he stated that the Committee "merely checks" to see which books were "not appropriate" for distribution.

Also defending the censorship was Zulfikarov's colleague, Jeyhun Mamedov. "We have people who want to promote radical extremism," he told Forum 18 in May 2008. "If we allowed publications freely there'd be anarchy. Books have influence."

Abolished?

Then President Heidar Aliev claimed in 1998 that the country had abolished censorship, a claim which Azeri diplomats have also been heard by Forum 18 to make more recently. Censorship of literature violates Azerbaijan's Constitution, yet the Religion Law requires permission from the State Committee before a religious community can publish, import or distribute any religious literature. Also, Article 22.2 allows religious organisations to sell religious literature only at venues approved by the authorities.

In December 2011 a new Criminal Code Article 167-2, banned: "Production, sale and distribution of religious literature, religious items and other informational materials of religious nature with the aim of import, sale and distribution without appropriate authorisation". Such "crimes" - including distributing uncensored religious literature - had previously only been punished under Administrative Code Article 299 (see above).

Punishments for first time offenders acting alone under Criminal Code Article 167-2 are a fine of between 5,000 and 7,000 Manats or up to two years' imprisonment. Such an "offence" by a group of people "according to a prior conspiracy", by an organised group, by an individual for a second time or by an official would attract a fine of between 7,000 and 9,000 Manats or imprisonment of between two and five years.

Article 9.2 of the July 2001 regulation covering the duties of the State Committee clearly spells out its censorship tasks: "Take control of the production, import and distribution of religious literature, items, and other religious informational materials and give its consent on the bases of the appeals of the religious institutions and relevant state bodies in accordance with the established procedure."

The reality of censorship

Mamedov of the State Committee claimed in May 2008 that copies of sacred books, such as the Koran, and the Jewish and Christian Bibles, are not subject to censorship or restriction. "These can be printed without restriction," he claimed to Forum 18. However, religious minorities have insisted to Forum 18 that they cannot freely print or import such sacred books. Similarly they are also confiscated during police raids, police often insisting that they are "banned".

However, many Muslims have told Forum 18 that publishing Islamic literature is not difficult, and that often printers do not ask to see any approval from the State Committee before they print books or other literature.

Religious minorities though, especially those wanting to publish in Azeri, face difficulties. "If a book is connected with religion, the printer will ask to see permission in writing from the State Committee, including the number of copies they are allowing to be printed," one Protestant told Forum 18. "No printing house will print anything without this approval." Religious minorities expressed frustration to Forum 18 not only about denials of permission, a frequent occurrence, but at the way the State Committee often fails to respond to requests for permission. This has resulted, for example, in Catholics receiving lectionary readings (daily excerpts from the Bible for reading at Mass each day) by e-mail from outside Azerbaijan, rather than importing this information in printed form.

The State Committee Expertise Department's main task is censorship of religious literature which individuals or religious communities want to publish or import into Azerbaijan. Not only does the State Committee give or deny approval for specific publications and even their titles, if it approves them it also specifies the number that it approves. Such numbers are often far below the number sought, members of a variety of religious communities have told Forum 18. In November 2011, State Committee Chair Hidayat Orujev had also revealed that 167 manuscripts had been examined. He attributed the growing number of books his Committee had to check to the increased border controls to prevent the import of uncensored books.

Postal censorship

Azerbaijan also imposes a strict censorship regime on literature sent by post - owing to which many religious communities have stopped using the postal system as a way to receive literature. All incoming postal parcels are sent to the International Post Office in Baku, regardless of where the intended recipient lives in Azerbaijan. Wherever they live in the country, the intended recipient has to go - in person - to the International Post Office in Baku.

The intended recipient then has to collect one copy of each title posted to them and - in person - take it to the State Committee. When and if the State Committee grants or withholds permission to receive the title, the intended recipient then has to - once again in person - collect a letter from the State Committee and take it back to the International Post Office. If the State Committee has granted permission, the intended recipient will at last receive the literature they have been sent.

Many members of religious communities have complained of the extraordinary effort needed to try to extract even a handful of books that should rightfully be theirs, which often ends in failure. One Baku-based Muslim complained to Forum 18 in April 2012 that it took about a month to get a parcel of books containing religious books sent from abroad, though another parcel from abroad containing religious books had been delivered uncensored.

Censorship at the borders

Religious literature is also often confiscated from those crossing into Azerbaijan, and is occasionally confiscated also from those leaving the country. No mention is made in Azerbaijan's laws - such as the Religion Law, or the Regulations of the State Committee for Work with Religious Organisations - of censorship of religious literature taken out of the country. Customs regulations are also silent on this point.

Religious books - Muslim, Christian, Jehovah's Witness, Hare Krishna or of other faiths - are frequently seized by the State Customs Committee from travellers entering Azerbaijan through land or sea borders. Seizures also sometimes occur at Baku airport. Confiscated Christian books have on occasion been handed to Azerbaijan's Russian Orthodox diocese, even though many of the books may have been confiscated from people who are not Russian Orthodox. Literature confiscated has included personal copies of the Koran and the Bible.

Some religious communities, such as the Georgian Orthodox Church, have had limited success in appealing directly to the State Committee to allow small quantities of religious literature into the country. Jehovah's Witnesses have repeatedly tried through the courts - even up to the Supreme Court and the Constitutional Court - to challenge the State Committee's right in law to censor religious literature. They have also tried to challenge the State Committee's rejection of some of their literature import applications or reduction in the numbers of copies of a work they are authorised to import. However, they have failed.

Bookshop and photocopy shop censorship

Justifying the restrictions on where religious literature could be sold, Expertise Department head Mamedov claimed in 2009 that sometimes religious literature was being sold in shops selling alcoholic drinks, tobacco, food, clothes, building material and in underground passageways. The compulsory licensing before religious books can be sold is not uniformly applied across the country. Some general bookshops, street traders and places of worship sell religious titles apparently without the necessary permission. However, some local people noted to Forum 18 that this leaves them vulnerable to officials seeking bribes to turn a blind eye to evasion of the regulations.

State Committee delays in processing licences to sell religious literature, as well as approvals of the titles and quantities to be sold,

appear common. One such trader in Baku told Forum 18 in April 2011 that they have been waiting for more than one year for the State Committee to respond to their application. Ilgar Ibrahimoglu Allaverdiev, head of the Devamm Muslim religious freedom organisation, noted that traders were reluctant to make official complaints in writing, fearing state reprisals, and preferred to complain verbally.

Religious minorities have also told Forum 18 that some photocopy shops refuse to copy their literature. "If it's 50 or so copies many won't accept it, either because they are Muslims or because they are afraid of the police," one Protestant told Forum 18 in February 2009. "Please don't do it here - it's dangerous, they say."

The State Committee pro-actively searches for shops breaking the censorship regulations. For example, in February 2010 the southern representative of the State Committee, Miryahya Badirov, conducted a check of 16 shops selling religious books in seven southern districts bordering Iran, complaining that none had applied for a licence. Vendors in the Baku Metro told Vesti.az news agency in early April 2012 that the head of the metro, Tagi Ahmedov, had ordered them to remove all religious books and other items from sale. State Committee officials backed up the ban several days later, pointing out the legal requirement to have a special licence to sell any religious items.

Registration

Without state registration individual religious communities cannot legally exist or exercise freedom of religion or belief. Police and the National Security Ministry (NSM) secret police have raided many religious communities that have chosen not to register, or have tried to register but have been refused. Azerbaijan completely ignores the fact that requiring registration to exercise freedom of religion or belief and other human rights is against international human rights standards.

Selective denial of legal status also affects NGOs whose activity is linked to religion (including campaigning for religious freedom or discussing religious themes). For example, the International Religious Liberty Association (IRLA) and Devamm are among such organisations denied registration by the Justice Ministry. By contrast, Idrak, a Baku-based organisation which notes on its website its closeness to the State Committee and has published a book on religion in Azerbaijan by State Committee Chair Orujev, was registered with the Justice Ministry shortly after its establishment in September 2006.

"Without registration you can't pray"

The experience of the Baptist Church in Neftechala in south east Azerbaijan is typical of many communities without registration. Registration was lost in 1999, following attempts to re-register the Church during one of the five times since 1992 that communities have been forced to re-register. After 1999, the Church's re-registration attempt was blocked by the State Committee. Following passage of the 2009 Religion Law, the Church applied once again for registration. This was rejected.

While meeting for worship the police raided the Church in December 2011, church members being summoned for police questioning on 23 December, after threats of criminal prosecution were made. The authorities declared the Church "closed" and confiscated all the books they could find. Officials asked Pastor Aliev for the full addresses of all Church members, saying they would ask them how they became Church members and whether they attended voluntarily. They also wanted to know how many were ethnic Russians and how many ethnic Azeris.

The State Committee for Work with Religious Organisations official responsible for the area, who took part in the raid and would not give his last name, insisted to Forum 18: "Without registration you can't pray. We close any place of worship that isn't registered, including mosques." He then insisted: "We don't ban, we just demand documents." Aliev was subsequently fined under Administrative Code Article 299.0.4, which punishes religious activity at an address other than a religious organisation's registered address. Pastor Aliev told the Judge he did not consider himself guilty of breaking the law and would not sign the document or pay the fine.

Raids on those exercising freedom of religion or belief without state permission individually also continue. For example, on 16 March 2012 Sheki [Shäki] District Police raided the home of Yashar Aliyev in Turan, a village 50 kms (30 miles) from Sheki in northern Azerbaijan. About 10 police officers took part in the raid, fellow Muslims who read Nursi's works - who asked not to be identified for fear of state reprisals - told Forum 18. The confiscated books were mainly copies of Nursi's collection of sermons Risale-i Nur (Messages of Light). Police read out the court order sanctioning the search, but would not give a copy.

No prosecution has yet followed, but the books were sent to the State Committee for an "expert analysis".

Registration applications need prior approval from local authorities before they even reach the State Committee, giving much scope to stop communities registering. For many years the former State Notary in Zakatala, Najiba Mamedova, refused, with no legal basis, to notarise the signatures of the founders of a Baptist congregation in nearby Aliabad. The church began applying for registration in 1994, making it the religious community denied registration for the longest period. Two Aliabad Baptist congregations finally managed to get approval from the new State Notary and the local authorities in early 2011 and submitted their applications to the State Committee. However, the State Committee rejected them as containing unspecified "violations". Church

members are trying to prepare new applications in 2012.

Arbitrary statute restrictions

Many religious communities have complained to Forum 18 that, when they try to register, the State Committee has imposed on them a model statute. The text of the statute, which Forum 18 has seen, reinforces restrictions included in the Religion Law, as well as using unclear formulations giving scope for arbitrary official actions. Most controversial are the territorial restrictions imposed via the model statute, which reinforce provisions in the Religion Law. Article 1.1 of the "model statute" states that the community is founded for religious activity "on its own property", while Article 1.11 includes the bald statement: "The territory of activity: The community can only function on the territory of its own legal address." The model statute specifies that the community will inform the State Committee when it gives religious education to its young people and adults.

Several Protestant Churches complained that State Committee officials objected to provisions in their proposed charters over inviting foreign fellow-believers to visit communities for religious purposes and over including children in religious activity. "Officials refused to allow us to include these, but we are going to try to fight for them," one told Forum 18.

One community which refused to accept the model statute was the Baha'i community, which has a national centre and a community each in Baku and Sumgait. "They told us to change our current statute to conform to the new Law and we complied," one Baha'i told Forum 18 in December 2009. "Whatever you write in the statute is meaningless anyway, because the Religion Law takes precedence."

Not all non-Muslim communities were given the model statute. State Committee officials told the Catholic Church in Baku that its statute had to conform to the new Religion Law, but did not impose the model statute. Although the Church lodged its application in December 2009, legal status was not granted until after an agreement between Azerbaijan and the Holy See came into force in July 2011. The agreement specifies that the Catholic Church in Azerbaijan remains subject to local laws. This meant that it had to gain registration of its statutes from the State Committee like other religious communities. Foreign priests and nuns still require visas and work permits.

Arbitrary hostility

Many communities complain that State Committee officials arbitrarily and repeatedly question information in founding documents on the aims and procedures, the identity of office-holders, the territory where the community operates, and the address the community wished to register at. Officials also have questioned the grammar of registration applications, and the completeness of documentation provided.

Several religious communities have told Forum 18 that the State Committee dismisses their complaints about slowness and hostility in processing registration applications. Some have complained of officials telling them: "If you're not happy you can take us to court."

Appeal to courts

Two religious communities who applied for registration in 2009 - the Jehovah's Witnesses and the Baku-based Cathedral of Praise Pentecostal Church - lodged suits in court challenging what they regard as unjust and arbitrary registration denials. On 1 February 2012 the Jehovah's Witness finally lost their case in the Supreme Court and are preparing to take their case to the European Court of Human Rights (ECtHR) in Strasbourg.

By contrast, Cathedral of Praise on 20 February 2012 finally won its case in the Supreme Court. It instructed the Appeal Court to instruct the State Committee to register the community. No such instruction has yet been issued.

Other religious communities have told Forum 18 they are afraid to challenge the State Committee in court as they believe they cannot win. They state that this is because of the "corrupt nature of this country's courts", and their fear of antagonising the State Committee still further.

Who has acquired legal status?

Prominent among religious communities which have failed to gain legal status are all independent mosques outside the framework of the state-backed Caucasian Muslim Board, as well as some of the Board's own mosques. Also without legal status are almost all Protestant denominations (including Baptists, Seventh-day Adventists and Pentecostals), as well as Jehovah's Witnesses. The Protestant churches allowed to re-register are Baku's Erlösergemeinde Lutheran community, three Molokan communities in Baku, Sumgait and Hilmilli, as well as New Life Church in Baku.

About 2,000 religious communities are thought to currently function in some form, of which 406 had registration with the Ministry of Justice before the State Committee was set up in 2001. As of 17 April 2012, 570 religious communities are listed as registered on

the State Committee website (550 of them Muslim, 20 of other faiths). In 2011 the State Committee only registered a further 60 of the religious communities which lodged registration or re-registration applications in 2009. None have been added to the published list since 21 November 2011.

The State Committee insisted to Forum 18 in April 2012 that "All religious communities' re-registration applications have been attended to. A small proportion of them have not yet undergone re-registration because their documents contain several defects, of which they have been informed."

Some religious communities have found that compulsory re-registration has meant de-registration. For example, the Baptist Union had 10 registered congregations in 1992. After compulsory re-registration in 1994 it was six. After compulsory re-registration in 1999 it was two. By 2009 - before the latest round of compulsory re-registration - the Union had been able to register three congregations, in Baku, Sumgait and Gyanja. Now it has no registered congregations.

First "legal" liquidation?

The State Committee in December 2011 started moves to close down Greater Grace Church in Baku for failing to regain the compulsory re-registration. This is thought to be the first attempt to compulsorily close a religious community through the courts since compulsory re-registration was imposed by the 2009 Religion Law. If successful the Church - which registered with the Justice Ministry in April 1993 - would lose the legal right to exist. Church members have noted numerous procedural violations in the conduct of the case, which may be decided as early as 19 April 2012.

Places of worship

As well as preventing religious communities from meeting for worship, Azerbaijan also closes buildings used for this. These have mainly been mosques, most of the mosques closed or demolished by the authorities since 2009 having been Sunni. State officials have denied that the religious affiliation of the mosques was the reason for their closure or demolition.

Among those which remain closed, which local Muslims still hope will be allowed to resume their activity, are the Albanian Mosque in Gyanja, the Martyrs' Mosque near the Milli Mejlis in Baku (built in the 1990s by Turkey's Diyanet, like Nakhichevan's Juma Mosque - see below) and Baku's Abu Bekr Mosque. The Abu-Bekr Mosque was hit by a grenade attack on 17 August 2008 that killed three people, also injuring the imam Gamet Suleymanov. He has insisted that it should be reopened for worship as soon as possible. Police officers of both the 8th and the 9th Police Stations in Baku's Sabail District forcibly shaved off the beards of 20 men in his congregation, Imam Suleymanov said on 26 August 2008. Forum 18 has independently heard complaints about the forced shaving, which the police refused to explain.

The state has refused to re-open the mosque and after court ruling in 2009 that the Mosque should be allowed to reopen was overturned. After this, Suleymanov said, the community lodged a complaint to the United Nations Human Rights Committee. The Committee has sought and received further documentation backing up the complaint, but has not yet issued a ruling. A case against the Azerbaijani government to the European Court of Human Rights (Application No. 16599/09) over its failure to recognise anyone as victims of the 2008 attack. The Court registered the case on 13 March 2009, but no admissibility decision has yet been taken.

Members of the only Sunni mosque in Gyanja, known as the Albanian Mosque, in the city's Shahsevenler district, have seen "no movement" in their campaign to achieve its reopening, community member Vidadi Abbasov told Forum 18 from the city in April 2012. "The only hope we have is what God gives." The Mosque - which opened in 1995 - was suddenly closed by the authorities in 2009 without explanation. Abbasov told Forum 18 that the Mosque building - which the community had restored over many years - was turned into a library.

Mosque members are now forced to pray in groups of no more than five people in private homes, though under often close police surveillance. Police forced one group of former mosque members to sign statements in summer 2011 that they would stop meeting for joint prayers. Another group - which met in Abbasov's home - was raided by police in November 2011. All twelve present for Friday prayers were taken to the police station and forced to sign similar statements. A court handed Abbasov an official warning.

Rufat Nuriev, head of the Cultural Heritage Department at the Culture Ministry in Baku, defended the confiscation of the mosque. "The building was used illegally for religious purposes in the 1990s," he insisted to Forum 18 in April 2011. "We don't know who these people were and the community didn't have registration." He said the building is in the hands of the city Administration.

Also in Gyanja, riot police have been used to stop Protestants worshipping. They are among three religious communities in the city banned in March 2011 from meeting for worship.

Ban on praying outside mosques

In August 2008 a "temporary" ban on praying outside all mosques in the country was imposed, whose text has apparently never been made public. At Friday prayers on 29 August 2008, several days before the start of the Muslim fasting month of Ramadan, police

prevented worshippers from praying outside several Baku mosques, including the Shehidler Mosque (commonly known as the Turkish Mosque) near the Milli Mejlis building, and the Lezgin Mosque in Baku's Old City. Only afterwards was the fact of the ban communicated through the media. It remains unclear how long the ban will last. "With the rise in the number of Muslims performing the namaz [Islamic prayers] the numbers who cannot fit inside mosques and have to pray outside has been rising in Baku," a Muslim who preferred not to be identified told Forum 18.

Zeynalov of the Human Rights Centre of Azerbaijan told Forum 18 in April 2012 that the ban on praying outside mosques appears still to be in force. "You no longer see the crowds around mosques at Friday prayers." He points out that officials try to avoid issuing such bans in their own name, preferring to have the Muslim Board issue them instead.

Communities denied use of their places of worship

Orthodox Christians from among the ethnic Georgian population in the north-western Gakh Region, which borders Georgia, are also banned from meeting in their own places of worship. The Georgian Orthodox Church would like to fully reopen four churches in the region, and establish a monastery. In recent years the authorities have restricted worship to no more than 30 minutes in only three of the churches. "But our services need at least an hour and a half," Bishop Sergi Chekurishvili of Nekrisi, whose diocese in eastern Georgia includes the churches and has often visited the Region, told Forum 18 in January 2009. He fears that many Georgian Orthodox are deprived of the sacraments, and can die without access to communion. As of April 2012, two Georgian Orthodox communities have state registration.

Other religious communities - such as the Baptists in Baku - are also seeking the return of their historic places of worship.

Closures continue

Such closures of places where people meet for worship continue, and extend even to places without much public visibility. In mid-January 2012 a group of Muslims who used a room for prayers in a building in Baku's Yasamal District owned by the Society for the Deaf, a non-governmental organisation, had to close the prayer room. The State Committee accused the Society of allowing the Huseiniya prayer room to function without state registration, State Committee officials told the local media in mid-January.

An official of the Society said those who rented the building told those using the prayer room that they had to stop using it until they gain registration. "It's not a bad thing if people pray - indeed it's good. But they need registration. The government doesn't like it otherwise", they told Forum 18.

Conscientious objection

Azerbaijan marked the tenth anniversary of its accession to the Council of Europe by rejecting a prisoner of conscience's appeal against his conviction. Ahead of its accession in January 2001, Azerbaijan promised "to adopt, within two years of accession, a law on alternative service in compliance with European standards and, in the meantime, to pardon all conscientious objectors presently serving prison terms or serving in disciplinary battalions, allowing them instead to choose (when the law on alternative service has come into force) to perform non-armed military service or alternative civilian service".

On 25 January 2011 the Supreme Court rejected Jehovah's Witness conscientious objector Farid Mammedov's appeal against his nine month jail term, which he completed in June 2011. He is now preparing a case at the European Court of Human Rights. Less than a month beforehand, the Supreme Court also rejected the final appeal against a fine imposed for conscientious objection from fellow Jehovah's Witness Mushfiq Mammedov (no relation of Farid). He and a former Jehovah's Witness prisoner of conscience, conscientious objector Samir Huseynov, lodged a joint application (No. 14604/08) on 7 March 2008 to the ECtHR. "This application is pending before the Court and no date has yet been fixed for its examination," an ECtHR spokesperson told Forum 18.

Article 76, Part 2 of the Constitution states: "If the beliefs of citizens come into conflict with service in the military then in some cases envisaged by legislation alternative service instead of regular military service is permitted". But Criminal Code Article 321.1 states that: "Evasion without lawful grounds of call-up to military service or of mobilisation, with the purpose of evading serving in the military, is punishable by imprisonment for up to two years [in peacetime]". A similar but not identical "offence" is the June 2009 Article 4 of the Religion Law (see above), which punishes "refusing or declining to fulfil obligations determined by the law for his/her religious beliefs".

Deportations

Religion Law Article 1 and Administrative Code Article 300 break international human rights agreements by banning undefined "religious propaganda by foreigners and stateless persons" (see above). Among those deported for exercising their freedom of religion or belief in recent years - which include Muslims, Protestants and Jehovah's Witnesses - have been a number of long-term residents who like many in the former Soviet states hold foreign passports. For example, Baptist Javid Shingarov (who holds a Russian passport) was cut off from his wife, father and children in his native village near Yalama in northern Azerbaijan when he was deported to Russia in September 2009.

Nakhichevan

The situation in the Nakhichevan exclave is worse than in the rest of the country. Muslim communities are under strict control, and the known non-Muslim communities of Baha'is, a small Adventist congregation and a Hare Krishna community have been banned.

The authorities in Nakhichevan warned employees of state enterprises and students not to attend mosques during Ashura in December 2009, and prevented people from entering mosques, local human rights defender Malahat Nasibova told Forum 18. The day after the Ashura commemorations many Muslims were detained, including some in a psychiatric hospital. It is not clear if this was official punishment for their Ashura commemoration or to prevent potential opposition.

In May 2010 four Muslim readers of Nursi's works were held for three days without trial by Nakhichevan's NSM secret police. "There was no administrative trial - they were just held there," Muslims complained to Forum 18. No officials, whether in Nakhichevan or in Baku, were prepared to explain why the four Muslims were held without trial. The NSM denied the incident, claiming that they "didn't arrest anyone for reading books. That would be absurd." Trouble began for the Nursi readers when one of them was arrested at Nakhichevan airport after Nursi literature was found on him. Five other local Nursi readers were then arrested at home, and eventually late at night two of them were freed. The remaining four were held in the NSM cellars for three days, a Nursi reader told Forum 18. Like Baha'is and Adventists, Nursi readers have also told Forum 18 that a number of them have left Nakhichevan, to live in other parts of Azerbaijan where pressure on them is not so intense.

After the one Turkish-funded imam left Nakhichevan in February 2011, the city's Sunni Juma Mosque was taken over by the Shia community. This left local Sunni Muslims nowhere to pray in the way they wish. While it was still open, those who attended the Juma Mosque were under close state scrutiny.

The future?

Azerbaijan systematically violates intertwined fundamental rights - such as freedom of religion or belief, of expression and of assembly - it has solemnly undertaken to respect and defend, while loudly proclaiming the governments alleged "religious tolerance". In recent years legislation has been repeatedly changed to harshen the penalties for peacefully exercising the right to freedom of religion or belief. These repeated changes, often with little notice or chance for public discussion, make it likely that the government intends to continue introducing and implementing legislation which violates human rights. Azerbaijan is likely to remain a place where fundamental human rights are violated with impunity, and the state tries to make exercising human rights conditional upon state permission. (END)

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A compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments can be found at

<http://www.forum18.org/Archive.php?article_id=1351>.

For a personal commentary, by an Azeri Protestant, on how the international community can help establish religious freedom in Azerbaijan, see

<http://www.forum18.org/Archive.php?article_id=482>.

Previous Forum 18 religious freedom surveys of Azerbaijan are at <<http://www.forum18.org/Analyses.php?region=23>>.

A printer-friendly map of Azerbaijan is available at

<<http://education.nationalgeographic.com/education/mapping/outline-map/?map=Azerbaijan>>.

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