

1. Ahead of the Universal Periodic Review of Azerbaijan by the UN Human Rights Council in April/May 2013, Forum 18 News Service has found a decline in the government's respect for freedom of thought, conscience and belief compared to the previous review in February 2009. Widespread, systematic violations of this freedom by the state continue.

2. All exercise of freedom of thought conscience and belief in association with others without state permission was in May 2009 banned. Other issues include: 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; "legal" denials of international human rights standards; 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.

A rule of law state?

3. Officials behave as if the rule of law, including published laws, places 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 they are happening. In June 2011, police and local officials of the State Committee for Work with Religious Organisations raided Baptists meeting for Sunday worship in Sumgait. When congregation members asked to see a warrant for the raid, the State Committee official responded: "I'm the permission and the warrant." Forum 18 is aware of no case where an official has been punished for preventing people from exercising their right to freedom of religion or belief.

Rushed and secret preparation of "legal" restrictions

4. 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 on 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 - were prepared in secret, with no public consultation, and were rushed through Parliament.

5. Unless the reason is to impose even more state control of society, it remains unclear why laws affecting human rights are repeatedly amended and fines and other penalties increased – usually with little notice or public discussion and secrecy surrounding texts. 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 accused individuals is 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.

"Legal" restrictions

6. Many aspects of the Religion Law and laws such as the Criminal Code and Code of

Administrative Offences are highly problematic. These problems include but are not limited to:

7. Religion Law Article 2 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.

8. Religion Law Article 4 includes a ban on conscientious objection to military service, or "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". Military conscription is compulsory and there is no alternative civilian service.

9. In July 2012 Jehovah's Witness Amid Zohrabov was forcibly conscripted into the army, but released in August. He was first called up in 2007 and immediately stated his conscientious objection to military service and his readiness to do a fully civilian alternative service. However, in May 2012 Zohrabov was again called up. Some conscientious objectors have previously been imprisoned under Criminal Code Article 321.1, such as Farid Mammedov who completed a nine month jail term in June 2011.

10. Religion Law 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 states that "religious educational institutions act on the basis of a special permit (licence) issued by the competent executive body". Those teaching religion without such permission can be fined under the Administrative Code. The State Committee for Work with Religious Organisations must both approve and monitor such education.

11. The Religion Law reinforces the existing censorship regime, along with Administrative Code Article 300 and July 2012 legal amendments (claimed to be for "consumer protection") requiring "literature with a religious purpose (both hard copy and electronic), audio and video material, goods and produce and other information material with a religious theme" to have a state-issued "verification mark" before being sold. Religion Law Article 22 permits the production, import, export and dissemination of "religious literature, items and other information materials" only "with the consent of a relevant state body".

12. The State Committee specifies the number of copies of each named work that may be printed or imported, actively checks the contents of shops selling religious literature, and has a list of banned religious literature which it refuses to make public. Compulsory State Committee licensing before shops can sell religious books and objects is not uniformly applied across the country. Some bookshops, street traders and places of worship sell religious titles apparently without the necessary permission. Local people noted to Forum 18 that this leaves them vulnerable to officials seeking bribes to ignore evasion of controls. State Committee delays in processing such licences, 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.

13. Members of religious communities have told Forum 18 that they cannot freely print or import sacred books such as the Bible and the Koran. They are frequently confiscated during raids, police often insisting that they are "banned". However, many Muslims have told Forum 18 that publishing Islamic literature is not difficult, as often printers do not ask to see State Committee approval before they print Islamic books or other literature. But other religious communities, especially those wanting to publish in Azeri, face difficulties. "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." Denials of permission are frequent, and the State Committee often fails to respond to requests for permission.

14. Religious books – Muslim, Christian, Jehovah's Witness, Hare Krishna or of other faiths – are frequently seized from travellers entering 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 they may have been confiscated from people who are not Russian Orthodox. Personal copies of the Koran and the Bible have been confiscated. But some religious communities, such as the Georgian Orthodox, have had limited success in appealing directly to the State Committee to allow small quantities of religious literature into the country.

15. There is no legal possibility for more than one person to manifest freedom of religion or belief without state permission. Religion Law Article 12 states: "Religious organisations may function only after state registration by a relevant state body and the state registry of religious organisations". Registration requires "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." From July 2011, 50 adults "or their authorised representatives", not 10 adults as previously, were required to submit a registration application. This appears to be being applied retrospectively to communities whose applications were submitted before the end of 2009 but have not been processed.

16. There is no legal indication by what authority, standards, or competence state officials decide registration applications or appeals against their decisions. If officials do not find enough grounds in the doctrinal tests or documents demanded to refuse registration, extra grounds for refusal include 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". No independent appeal process exists, or timescale for officials to make decisions.

17. Muslims are subject to specific extra restrictions. All mosques must belong to the Caucasian Muslim Board. Religion Law Article 8 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 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."

18. About 2,000 religious communities are thought to currently function in some form, of which 406 had registration with the Justice Ministry before the State Committee was set up in 2001. As of 9 October 2012, 576 religious communities are listed as registered on the State Committee website (555 Muslim, 21 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. Only six more were added between January and early October 2012. For some religious communities, compulsory re-registration has meant de-registration. 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 - it had three. Now it has no registered congregations. In April 2012 a Baku court upheld the State Committee suit to close down the city's Greater Grace Protestant Church for failing to regain the compulsory re-registration. This was the first known compulsory closure of a religious community through the courts since 2009 compulsory re-registration. The Church – which had registration since 1993 - failed in its first appeal in July 2012. Procedural violations in the legal conduct of the case were numerous and church members fear being prevented at any time from meeting for worship.

19. Exercising freedom of religion or belief in defiance of state restrictions risks heavy punishment for organisers and participants. Administrative Code Article 299, which punishes "violation of the procedure for creating or running religious organisations" – including failing to register a religious community, holding religious meetings for young people, or holding religious activity away from a community's registered address – carries heavy fines. Administrative Code Article 300 punishes "violation of legislation on freedom of religion" – such as distributing religious

literature without state permission – with heavy fines on individuals and even heavier fines on communities. Criminal Code Article 167-2 punishes uncensored religious literature production or distribution with up to two years' imprisonment for first time individual "offenders". Two other Criminal Code Articles could be interpreted to punish bona fide religious education or leadership of a community.

20. 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 not registered in 2009 including all Baptist, Seventh-day Adventist and Jehovah's Witness communities. Officials insist that those who had registration before the 2009 Religion Law, and whose re-registration applications have not been processed, will face action only if the State Committee goes to court to liquidate them. But, as in Gyanja from March 2011, some Muslim and Protestant communities have been forced to stop meeting. Riot police have been used to enforce this.

21. The experience of the Baptist Church in Neftechala is typical of many unregistered communities. Registration was lost in 1999, following attempts to re-register the Church during one of the five times since 1992 that compulsory registration has been enforced. After 1999, the State Committee blocked the Church's re-registration attempt, as it did after passage of the 2009 Religion Law. Raids on this community continue.

22. Raids are often conducted against groups such as Jehovah's Witnesses, Protestants and Muslim readers of Said Nursi's works. In May 2012, police and National Security Ministry secret police raided the Baku home of Muslim Zeka Miragayev, confiscating copies of the Koran and other Muslim books. Officers also took money from his home. Police declined to comment to Forum 18. In Gyanja in April 2012, police raided a private home where the hosts and three visiting Turkish students were praying the namaz. Two family members and the students were questioned for eight hours at a police station. The Muslims say police beat at least some of them. All five were given heavy administrative fines, but orders to deport the three students were overturned on appeal. "They were praying where they weren't allowed," the local police chief explained to Forum 18. He denied anyone was beaten.

23. As well as preventing religious communities from meeting, places of worship are also closed - mainly Sunni mosques. State officials denied that the religious affiliation of the mosques was the reason for their closure or demolition. Closures continue, and include places without public visibility, such as unregistered Muslim prayer rooms. Also, Religion Law Article 12 states: "The religious organisation can act only at the legal address defined in the information presented for state registration." Activity outside such venues is punishable under the Administrative Code. Religion Law Article 29 requires the State Committee to approve "the suitability of planned new religious prayer sites, and reconstruction of existing religious prayer sites". Activities at permitted places of worship are restricted: only one of Gyanja's six permitted mosques was in 2012 allowed to hold iftar meals at the end of each day's Ramadan fast.

24. Among the closed mosques is Baku's Abu Bekr Mosque. This community's lawyer told Forum 18 that it lodged a complaint to the UN Human Rights Committee, but it has not yet issued a ruling. Members of the only Sunni mosque in Gyanja are now forced to pray in groups of no more than five people in private homes, often under police surveillance. Police in 2011 forced groups of former mosque members to sign statements that they would stop meeting together.

25. In August 2008 a "temporary" ban on praying outside all mosques was imposed, whose text was apparently never made public. This ban appears still to be in force.

Nakhichevan

26. The situation in the Nakhichevan exclave is worse than in the rest of the country. Muslim communities are under strict control, and other known religious communities – Baha'i, Adventist and

Hare Krishna - have been banned. Like other communities, Muslims who read Said Nursi's works have told Forum 18 that some have left Nakhichevan, to live where pressure on them is not so intense. Nakhichevan's only Sunni mosque was taken over by the Shia community in February 2011.

The future?

27. Azerbaijan systematically violates intertwined fundamental rights - such as freedom of thought, conscience and belief, of expression and of assembly - while proclaiming its alleged "religious tolerance". Legislation has been repeatedly changed to harshen the penalties for exercising freedom of thought, conscience and belief. These repeated changes, often with little notice, make it likely that the government intends to continue introducing and implementing such legislation. Azerbaijan is likely to remain a place where fundamental human rights are violated with impunity, and the state makes exercising human rights conditional upon state permission. (END)