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AZERBAIJAN: Repressive new Religion Law and new punishments enter into force

By Felix Corley, Forum 18 News Service <<http://www.forum18.org>>

Azerbaijan's repressive new Religion Law, and amendments to both the Criminal Code and the Administrative Code came into force on 31 May, Forum 18 News Service has learned. New "offences" - such as more severe censorship - and new punishments are introduced for religious activities and organisations the government does not like. All registered religious organisations must re-register by 1 January 2010, the third time re-registration has been demanded in less than twenty years. It is implied that unregistered organisations are illegal, and stated that "all religious organisations" can act only after gaining state registration. Parliamentary Deputy Fazil Gazanfaroglu Mustafaev told Forum 18 that "the new Religion Law will limit people's rights to freedom of conscience - that is clear." He thinks the Law should have been drafted in accordance with international human rights standards, and that this would have been more likely if expert advice from organisations like the OSCE and Council of Europe had been sought.

Azerbaijan's repressive new Religion Law, and amendments to both the Criminal Code and the Administrative Code came into force on 31 May, Forum 18 News Service has learned. The latest changes both introduce new "offences" and introduce new punishments for religious activities and organisations the government does not like.

All religious organisations which have currently managed to obtain state registration will have to re-register by 1 January 2010, the third time such re-registration has been required since Azerbaijan gained independence less than twenty years ago. Many religious organisations fear they will fail to regain their legal status, as happened with earlier re-registration rounds.

Echoing new provisions in the Religion Law, the amendments to the Code of Administrative Offences introduce new "offences" of producing, importing, circulating or selling religious literature without specific permission from the State Committee for Work with Religious Organisations. Also introduced are "offences" of conducting religious activity away from the legal address where a religious community is registered and conducting religious activity not specifically listed in a registered religious organisation's statute.

Condemning the adoption of the Law and the amendments to the Criminal Code and the Code of Administrative Offences was Fazil Gazanfaroglu Mustafaev, a parliamentary deputy and chair of the Great Formation Party. He said he was one of only about eight deputies to vote against them (while about 100 voted in favour). "The new Religion Law will limit people's rights to freedom of conscience - that is clear," he told Forum 18 from the capital Baku on 3 June.

Gazanfaroglu particularly condemned the re-registration requirement. "Re-registration each time the Law is amended is not right - once an organisation has registration it should continue," he insisted. "Each juridical entity should require registration only once." He also maintained that the responsibility for registering religious communities should be taken away from the State Committee - which has had it since 2001 - and handed back to the Justice Ministry.

While rejecting suggestions that the new Religion Law had been prepared in secrecy, Gazanfaroglu said not enough time had been given to consider the draft Law properly. "The process was not normal," he told Forum 18. He said he thinks the Law should have drafted to conform with international human rights standards, and said this would have been more likely to have been achieved had expert advice from international organisations like the Organisation for Security and Co-operation in Europe (OSCE) or the Council of Europe been sought.

Deputy Gazanfaroglu told Forum 18 he thinks public pressure may force parliamentary deputies to take another look at the Religion Law, given public unhappiness over the way religion is controlled. "Society will raise this issue," he maintained.

The Law breaks international standards on freedom of religion or belief which Azerbaijan has agreed to, as outlined in the OSCE / Council of Europe Venice Commission Guidelines for Review of Legislation Pertaining to Religion or Belief (see <http://www.osce.org/odihr/item_11_13600.html>). The OSCE's Office for Democratic Institutions and Human Rights (ODIHR) told Forum 18 that it has not been approached by the Azerbaijani authorities about the new legal changes, but that "in line with its

mandate, ODIHR stands ready to provide expertise in the field of freedom of religion or belief at the request of participating States" (see F18News 6 May 2009 <http://www.forum18.org/Archive.php?article_id=1291>).

Presidential approval and entry into force

The controversial new Law and amendments were prepared in the Presidential Administration amid great secrecy. President Ilham Aliyev signed and sent them to the Milli Mejlis (Parliament) on 4 March in a letter seen by Forum 18. The amendments to the Religion Law were approved on 6 May in a joint session of the Milli Mejlis Human Rights Committee and the Legal Policy and State Building Committee. They were approved in a single vote by the full Parliament - together with the changes to the Criminal Code and Code of Administrative Offences - two days later (see F18News 14 May 2009 <http://www.forum18.org/Archive.php?article_id=1295>).

The Presidential Administration did not reply to questions submitted on 13 May by Forum 18, asking why the President thinks these changes were necessary (see F18News 14 May 2009 <http://www.forum18.org/Archive.php?article_id=1296>).

President Aliyev signed the new Religion Law and amendments on 29 May and they were published in official publications - including the official newspaper Halq Qazeti - on 31 May, together with the Presidential decrees approving them. They came into force on the day of official publication.

The Presidential Decree approving the new Religion Law specified that the Cabinet of Ministers will draw up the normative act on how the revised Law is to be implemented. It also specified that the State Committee is the body mainly tasked to implement the oversight over religious organisations. It declared that the licensing of religious educational institutions has been transferred from the Education Ministry to the State Committee.

The latest changes both introduce new offences, and introduce new punishments under the Criminal or Administrative Codes.

Unclear wording of ban on some religious organisations

The amendments add to Article 1 of the Religion Law an undefined ban on "spreading propaganda of religions with violence or by threatening violence, as well as with the purpose of creating racial, national, religious, social hostility and enmity. It is prohibited to spread and propagate religions (religious movements) against the principles of humanity and human dignity."

Ban on conscientious objection?

Article 4 of the Religion Law is changed to include a ban on "refusing or declining to fulfil obligations determined by the law for his/her religious beliefs." This may be aimed at barring conscientious objection to military service on grounds of religious belief, and similar objections based on conscience.

Ban on criticism of religions

Article 6.1 states that "establishing any superiority or limitations for any religion in comparison to another shall not be allowed." This appears to attempt to ban criticism of any or all religious beliefs, or suggesting that one religion or belief (including non-religious beliefs, such as atheism) may be more valid than another belief.

Religious education restricted

Article 6.2 adds a provision 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 permission (license) issued by competent executive power by the rules defined by the legislation of the Republic of Azerbaijan". Criminal Code punishments for breaking rules on religious education have separately also been introduced (see below).

Unregistered organisations have no legal status

The new amendments devote much space to restricting legal status, and imply although do not explicitly state that unregistered organisations are illegal. State officials can be expected to regularly use this to try to ban the "illegal" exercise of freedom of religion or belief. Article 12 of the Religion Law declares that "all religious organisations" can act only after gaining state registration.

Doctrinal and other intrusive tests for registration

Among the ways the Religion Law is amended to break international standards even more is the addition of highly intrusive and vague registration requirements. New Administrative Code punishments for breaking registration rules have separately also been introduced (see below).

Article 12 of the Religion Law now 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 doctrine, information on the date of establishment of the religion and society, its form and methods, traditions, attitude to the family, marriage and education, information on limitations on rights and duties of the members of the society. Other documents demanded by the Law 'on State Registration of the Juridical Person' shall also be submitted with the application."

The amendments do not indicate by what authority, standards, or competence state officials will decide registration applications or appeals against their decisions. Only 20 days are allowed for a religious body to lodge appeals, or make changes demanded by state officials. The officials have no such deadlines within which their decisions must be made.

Extra reasons to refuse legal status

If state officials do not find enough grounds in the doctrinal tests or documents demanded to refuse registration, the Religion Law's Article 12 provides extra grounds for refusal. Among other reasons, state registration may be refused if "the activity of the religious organisations, their aim, or sense of the religious doctrines, and their main principles contradict the Constitution and laws" or if "the presented charter (regulation) or other documents contradict the requirements of legislation or the information is wrong."

Religious activity restricted to approved venues

The new Article 12 includes a provision: "The religious organisation can act only in the juridical address defined in the information presented for state registration." This appears to indicate that any activity outside such venues will be regarded as illegal. New Administrative Code punishments for breaking registration rules have separately also been introduced (see below).

A new Article 13.2 allows religious organisations to sell religious literature only at venues approved by the authorities. New Administrative Code punishments for breaking censorship rules have separately also been introduced (see below).

The new Article 29 requires the State Committee to approve any new place of worship or rebuilding of any place of worship. New Administrative Code punishments for breaking rules on places of worship have separately also been introduced (see below).

Reasons for banning organisations

Among the many - often undefined - reasons Article 12 allows a court to use to ban organisations state officials want to ban are:

- "spreading propaganda of religions with violence or by threatening violence, as well as with the purpose of creating racial, national, religious, social hostility and enmity. Forcing people to express a religious belief, participate in prayer, religious rites or ceremonies, learning about their religion. Spreading and propagating religions (religious movements) against the principles of humanity and human dignity."

- "violating social order or social rules"

- "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."

New offence in Criminal Code

A new article has been added to the Criminal Code, Article 167-1, punishing forcing individuals, including children, to take part in religious activity or religious education. 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.

New offences in Administrative Code

A new clause has been added to Article 196, which punishes those who violate procedures for building in towns. Article 196.0.3-1 punishes those who have or build religious buildings without the permission required from the State Committee.

Article 299, which punishes those who violate the procedure for creating or running religious organisations, has had two new "offences" added. Article 299.0.4 punishes religious activity at an address other than a religious organisation's registered address. Article 299.0.5 punishes activity by a religious organisation that is not in accordance with its statute. The punishment for all "offences" under this article - previously 10 to 15 times the minimum monthly wage for individuals and 40 to 70 times for officials - is now between 100 and 300 Manats (790 - 2,360 Norwegian Kroner, 90 - 260 Euros, or 125 - 375 US Dollars) for individuals and 200 to 500 Manats (1,580 - 3,945 Norwegian Kroner, 180 - 440 Euros, or 250 - 620 US Dollars) for officials.

Article 300, which previously punished "religious propaganda" by foreigners or people without citizenship, has had three "offences" added. Article 300.0.1 punishes producing, importing or exporting religious literature without permission from the State Committee. Article 300.0.2 punishes circulating religious literature without such permission. Article 300.0.3 punishes selling literature in places not approved by the State Committee for sale of religious literature. Those found guilty will have such literature confiscated. All "offences" under this article are punished by fines on individuals, whether local citizens or foreigners, of 200 to 400 Manats (1,580 - 3,155 Norwegian Kroner, 180 - 350 Euros, or 250 - 500 US Dollars). "Offences" by officials attract a fine of 400 to 600 Manats (3,155 - 4,735 Norwegian Kroner, 350 - 525 Euros, or 500 - 745 US Dollars) and by organisations 2,000 to 4,000 Manats (15,800 - 31,550 Norwegian Kroner, 1,800 - 3,500 Euros, or 2,500 - 5,000 US Dollars). Foreigners involved in "religious propaganda" - as in the previous version of the Article - can also be deported.

Even before the latest changes, Azerbaijan's censorship regime was already extremely restrictive (see F18News 6 August 2008 <http://www.forum18.org/Archive.php?article_id=1168>), and had been further tightened this year (see F18News 24 February 2009 <http://www.forum18.org/Archive.php?article_id=1259>).

Forum 18 notes that while articles of the Criminal Code are rarely deployed to punish religious believers for peaceful religious activity, Articles 299 and 300 of the Code of Administrative Offences have been used.

Criticism from human rights defenders and religious communities

Criticism voiced by human rights defenders and religious communities in the run-up to President Aliev's decision to sign the new Religion Law has continued.

Ilgar Ibrahimoglu Allahverdiev, a Muslim rights activist, told Forum 18 that the new Law limits religious freedom and makes the current difficult situation for religious communities even worse. "It takes us back to Soviet practice," he told Forum 18 from Baku on 3 June. He condemns the complex and intrusive registration demands, believing that "as in the rest of the world", registration should be achieved merely by notifying the authorities. "All communities will also have to re-register yet again, and have to provide answers to yet more questions," he complained.

Elnur Jabiev, the General Secretary of the Baptist Union, also maintains that re-registration will create "many problems" for religious communities, especially Protestant churches. He stresses that for many years no Protestant churches have been able to gain registration with the State Committee, despite submitting proper applications. "It is difficult to say how many churches will be unable to gain re-registration, but we have already tried so hard to register churches, without success," he told Forum 18 from Baku on 3 June.

He points out that Article 2 part 1 of the new Law sets out individuals' rights to meet together with others and Article 6 part 1 declares that all religions are equal. "Yet the police already violate this by intervening and preventing people from meeting for religious worship," he complained.

Arzu Abdullaeva, head of the Helsinki Citizens' Assembly, a Baku-based human rights group, describes the adoption of the new Law as "not positive". However, she is mainly concerned at the way it will be implemented. "After adoption of a new Law, bad things happen," she told Forum 18 from Baku on 3 June. She too remains sceptical that many religious communities will be able to achieve re-registration with the State Committee, a body she describes as "unprofessional". (END)

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>.

For more background information see Forum 18's Azerbaijan religious freedom survey at <http://www.forum18.org/Archive.php?article_id=1192>.

More coverage of freedom of thought, conscience and belief in Azerbaijan is at <<http://www.forum18.org/Archive.php?query=&religion=all&country=23>>.

A printer-friendly map of Azerbaijan is available at <<http://www.nationalgeographic.com/xpeditions/atlas/index.html?Parent=asia&Rootmap=azerba>>.

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