

22 July 2009

AZERBAIJAN: "The government doesn't want to give up control over religion"

By Felix Corley, Forum 18 (<https://www.forum18.org>)

Azerbaijan's President Ilham Aliyev has modified the text of legal changes targeting the freedom of religion or belief of Muslims, Forum 18 News Service has learned. The Caucasian Muslim Board alone will now appoint mosque leaders, only subsequently informing the State Committee for Work with Religious Organisations. Non-citizens and citizens who have gained their religious education abroad will still be banned from leading Muslim rituals. Parliamentary deputy Fazil Gazanfaroglu Mustafaev of the Great Formation Party stated that the revised text is "a little better". "But it doesn't resolve the problem," he told Forum 18. "The government doesn't want to give up control over religion." He also noted that the President has no legal authority to make changes to the amendments without parliamentary approval. Also, in addition to the state's continuing harassment of minorities such as the Jehovah's Witnesses, followers of the Muslim theologian Said Nursi are also being targeted. Three followers of his approach to Islam have been detained and internally deported.

Ahead of signing the controversial new amendments to the Religion Law on 20 July, President Ilham Aliyev bowed to pressure from the state-favoured Caucasian Muslim Board and changed one of the two controversial new provisions which will restrict the rights of Muslims, Forum 18 News Service has learned. While non-citizens and citizens who have gained their religious education abroad will still be banned from leading Muslim rituals, a provision which would have required the leaders of mosques to be appointed jointly by the Muslim Board and the state has been changed. They will now be appointed by the Board, which will then have to inform the State Committee for Work with Religious Organisations.

Opposition parliamentary deputy Fazil Gazanfaroglu Mustafaev of the Great Formation Party – who voted against the amendments in the Milli Mejlis (parliament) - believes the revised text is now "a little better". "But it doesn't resolve the problem," he told Forum 18 from the capital Baku on 22 July. "There will still be interference by the state in the activity of the Muslim community. The government doesn't want to give up control over religion." He pointed out that Azerbaijan's Constitution decrees the separation of religion from the state, and asks why Muslim communities are being treated differently from other faiths.

Deputy Gazanfaroglu also objects to the continuing legal requirement that all Muslim communities have to be subject to the Muslim Board. He has also previously objected to restrictions on the freedom of religion or belief of non-Muslims and called for laws to be drafted in accordance with international human rights standards (see F18News 3 June 2009 http://www.forum18.org/Archive.php?article_id=1305).

The new amendments were approved as Azerbaijan faced critical questioning by the United Nations Human Rights Committee in Geneva, including over its violations of religious freedom. An official delegation headed by Deputy Foreign Minister Khalaf Khalafov was questioned on 20 and 21 July about recent legal changes restricting freedom of religion or belief and practical difficulties faced by religious communities in registration.

However, it was notable that in the press report of the meeting issued by the UN - which is not an official record - Azerbaijan appears to have avoided answering these questions, limiting its replies to the statement that "under the jurisdiction of the European Court [of Human Rights in Strasbourg], Azerbaijan had committed to not limit religious instruction."

The delegation also noted the existence of an Islamic theological school (madrasa) and claimed that "people who graduated from it could perform religious services."

Also in July, the police and National Security Ministry (NSM) secret police in the north-western Gakh [Qax] District moved against Jehovah's Witnesses and adherents of the Muslim theologian Said Nursi, confiscating religious literature and detaining several people.

The telephones of State Committee spokespersons Gunduz Ismailov and Yagut Alieva went unanswered each time Forum 18 called on 22 July.

The new amendments

The amendments – as approved by the President on 20 July – consist of two additions to the Religion Law. A new provision is added to Article 8: "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." The other new provision is added to Article 21: "The performance of religious rituals and ceremonies of the Islamic faith can be carried out only by citizens of Azerbaijan who have received their education in Azerbaijan."

As well as the change to the provision in Article 8, the President also added "and ceremonies" to the wording of the new provision in Article 21.

The Presidential Decree approving the amendments indicated that the State Committee is the "relevant organ of executive power" which must be informed of the appointment of Muslim leaders.

The Presidential Decree was posted to the presidential website on 20 July, together with the text of the amendments. The website indicated that the amendments were from 30 June, the date they were approved in the Milli Mejlis (see F18News 30 June 2009 http://www.forum18.org/Archive.php?article_id=1320). However, it did not indicate that the text had been amended after Parliament approved it.

Curiously, the provision that the amendments come into force on official publication, present in the text approved by Parliament, has also been removed. It thus remains unclear when these amendments come into force. The President's accompanying Decree gives the government one month to bring other laws and regulations into line with the new amendments.

Deputy Gazanfaroglu pointed out that the unilateral amending of the text after parliamentary approval is illegal. "The President doesn't have the right to do this," he told Forum 18. "If he wanted changes he should have returned the text to Parliament."

It remains unclear what will happen to Muslim communities if they allow non-citizens or citizens who have studied Islam abroad to lead their worship.

While the latest amendments to the Religion Law affect only Muslims, amendments to the same Law which came into force on 31 May brought in sweeping new restrictions on the freedom of religion or belief of people of all faiths. The May amendments also introduced a range of new punishments for religious "offences" in both the Criminal Code and the Administrative Code. In addition, all religious communities which have been able to get state registration will again have to submit to re-registration by 1 January 2010 (see F18News 3 June 2009 http://www.forum18.org/Archive.php?article_id=1305).

Neither set of amendments was sent for review to the Organisation for Security and Co-operation in Europe (OSCE) or the Council of Europe's Venice Commission. On 24 June the Monitoring Committee of the Council of Europe's Parliamentary Assembly expressed concern about the first set of amendments to the Religion Law and urged Azerbaijan to send them for review to the Venice Commission. However, parliamentary deputy Rabiyyat Aslanova of the ruling Yeni Azerbaijan (New Azerbaijan) Party dismissed this suggestion to Forum 18 (see F18News 25 June 2009 http://www.forum18.org/Archive.php?article_id=1318).

Both sets of amendments flagrantly break Azerbaijan's international human rights commitments, as for example outlined in the OSCE / Council of Europe Venice Commission Guidelines for Review of Legislation Pertaining to Religion or Belief (see <http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD%282004%29028-e>).

Muslim Board opposition

While Muslim activists and human rights defenders complained publicly about these new amendments, the Muslim Board appears to have been working behind the scenes to have the provisions softened. The First Deputy Chair of the Caucasian Muslim Board, Haji Salman Musaev, told Forum 18 in June of his "personal" opposition to the amendments, but did not commit the Board (see F18News 25 June 2009 http://www.forum18.org/Archive.php?article_id=1318).

The local Turan news agency quoted an unnamed Muslim Board official on 16 July as saying that the President had changed the wording from "agree" to "inform", as the wording approved by Parliament would have represented state interference in religious affairs.

Adopting a more ambiguous attitude has been Sheikh-ul-Islam Allahshukur Pashazade, who was elected head of the Muslim Board for life in 1980. Initially defending the amendments publicly, he has repeatedly claimed that the ban on those who have studied Islam outside Azerbaijan (like himself) will not have retroactive effect. He also claimed – though this is nowhere present in the text of the amendments – that it will not apply to those sent abroad now by the Muslim Board to supplement their Islamic education.

In a written interview with the opposition Yeni Musavat newspaper, published on 21 July, Sheikh-ul-Islam Pashazade put the number of students the Muslim Board has currently sent abroad at 500.

Crackdown on Jehovah's Witnesses and Muslim Nursi followers

Police and the NSM secret police raided a house in the Gakh [Kakh] District on 15 July, where they found Jehovah's Witness literature, the website of Azerbaijan's Interior Ministry noted on 17 July. It said two brothers Elkia and Givi Khutsishvili, both Georgian citizens, were living in the house. The Ministry said three video-cassettes and 1,428 Jehovah's Witness journals and brochures were confiscated. The announcement did not say whether any further action will be taken against the Khutsishvili brothers.

Gakh District borders Georgia and has a large ethnic Georgian population. In addition to nationwide harassment of and raids on minorities such as the Jehovah's Witnesses (see F18News 26 June 2009 http://www.forum18.org/Archive.php?article_id=1319), Georgian Orthodox churches in Gakh have been forcibly kept closed against the wishes of their congregations (see F18News 29 January 2009 http://www.forum18.org/Archive.php?article_id=1246).

Also in Gakh District, three visitors from the city of Mingeçaur were detained for "propaganda for religious extremism", the local Azeri Press Agency reported on 21 July, citing the Gakh District Police. It said as a result of a police operation, Elnur Ibrahimov, Mais Abdullaev and Shukur Babashov were detained for illegally preaching and distributing "religious extremist" literature. Confiscated from them, it said, were ten books and four discs "propagating Nursism", an apparent reference to the late Turkism Muslim theologian Said Nursi.

The agency said the three were punished by the Gakh District Court under the Code of Administrative Offences and expelled from the District, though it does not make clear if they were expelled on court orders or unilaterally by the police. The agency added that local religious organisations were warned to be "vigilant".

The man who answered the telephone on 22 July of the head of Gakh District Police – who would not give his name and who identified himself as a sergeant – refused to discuss the moves against the Jehovah's Witnesses and Nursi followers. "You ask 'Why this?' and 'Why that?'," he told Forum 18. "Are you the Prosecutor's Office? Who are you to ask such ignorant questions?" He said the police chief was not present and put the phone down.

Parliamentary deputy Gazanfaroglu condemned the harassment of the Jehovah's Witnesses and Nursi followers. He particularly complained of the deportation of the Nursi followers from Gakh District. "It is not legal to kick citizens out of one district of the country," he told Forum 18.

Muslims who follow Nursi's approach to Islam have been attracting increasing state hostility in the former Soviet Union. Increasing numbers of Muslims following his approach have been jailed in Uzbekistan (see eg. F18News 4 June 2009 http://www.forum18.org/Archive.php?article_id=1306). Translations of many of his writings are banned in Russia, and those thought to possess them have been raided (see F18News 16 July 2009 http://www.forum18.org/Archive.php?article_id=1328).

The Collective Security Treaty Organisation (CSTO), consisting of Russia, Uzbekistan and five other ex-Soviet republics, added "Nurdzhular" – as it calls followers of Said Nursi – to its list of terrorist and extremist organisations this May (see F18News 15 May 2009 http://www.forum18.org/Archive.php?article_id=1297). However, Azerbaijan is not a CSTO member and up to now is not known to have taken action against Nursi followers. (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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