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AZERBAIJAN: Up to five years' imprisonment for uncensored religious literature?

By Felix Corley, Forum 18

Prison terms of up to five years or maximum fines equivalent to nearly nine years' official minimum wage are set to be adopted by Parliament in mid-November for groups of people who produce or distribute religious literature without going through Azerbaijan's compulsory prior state censorship of all religious literature. Also due are new punishments for those who lead Muslim worship if they have gained their religious education abroad, Forum 18 News Service has learnt. The punishments are included in proposed amendments to the Criminal and Administrative Codes prepared by the powerful Presidential Administration, and approved by two parliamentary committees on 28 October. Parliamentary officials told Forum 18 they are set to be adopted in one reading, probably on 15 November. "Insanity is only increasing," one member of a religious community who asked not to be identified told Forum 18.

Groups of people who produce or distribute religious literature without going through Azerbaijan's compulsory prior state censorship of all religious literature could soon face prison terms of two to five years, or maximum fines equivalent to nearly nine years' official minimum wage per person, Forum 18 News Service has learnt. This is one of several new punishments or harsher existing punishments for a range of religious activities included in proposed amendments to both the Criminal Code and the Code of Administrative Offences. Parliament, the Milli Mejlis, is likely to approve the amendments in mid-November, parliamentary sources told Forum 18. Also due to be introduced are punishments for those leading Muslim prayers who have received their religious education abroad.

"Insanity is only increasing"

"Insanity is only increasing," one member of a religious community who asked not to be identified told Forum 18. Another – who also asked not to be identified – agreed: "I don't understand what they are trying to do." Azerbaijan has repeatedly amended its laws – 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. For example the Religion Law has been amended 13 times, most recently in June (see F18News 13 June 2011 http://www.forum18.org/Archive.php?article_id=1579).

The amendments were approved in a joint session of the Parliament's Human Rights Committee and the Legal Policy and State Building Committee on 28 October, Mushfiq Jafarov of the Human Rights Committee staff told Forum 18 from the capital Baku on 31 October. They were then sent for consideration by the full Milli Mejlis.

The telephone of Rabiyyat Aslanova, a deputy of the ruling Yeni Azerbaijan (New Azerbaijan) Party who chairs Parliament's Human Rights Committee, was engaged or went unanswered each time Forum 18 called on 31 October and 1 November.

Latif Huseynov of Parliament's Constitutional Law Department told Forum 18 that he expects the two laws to be approved in mid-November in one reading. Another parliamentary source specified 15 November as the likely date for approval.

The amendments seem set to be approved, as Parliament is dominated by Yeni Azerbaijan Party deputies. Like previous amendments increasing fines, the latest amendments appear to be designed to increase fines for exercising the right to freedom of religion or belief to a level far beyond the ability of many people in Azerbaijan to pay them (see F18News 7 January 2011 http://www.forum18.org/Archive.php?article_id=1527).

Presidential Administration initiates amendments

The two laws amending the Criminal Code and the Code of Administrative Offences were prepared by the Department for Coordination of Law Enforcement Agencies in the powerful Presidential Administration, an official of the Department told Forum 18 from Baku on 1 November. The Department is headed by Fuad Aleskerov.

The Department official declined to answer any questions about the amendments by telephone, asking for them to be submitted in writing. Forum 18 asked in writing why further punishments are being introduced for religious activity which violate Azerbaijan's

Constitution and its international human rights commitments, and why the Department for Coordination of Law Enforcement Agencies considers such new punishments for religious activity necessary. No response had been received by the end of the working day in Baku on 1 November.

"It is not right for the government to impose such controls"

Fazil Gazanfaroglu Mustafaev, a parliamentary deputy and chair of the Great Formation Party, who is a member of the Milli Mejlis Human Rights Committee, told Forum 18 he was the only deputy to speak up against these proposed new laws on 28 October.

Mustafaev particularly criticised the state's religious censorship and the new proposed penalties for publishing or distributing unapproved religious literature. He also criticised the ban on and punishments for those who conduct Muslim rituals who have studied their faith abroad. "People should be able to conduct rituals freely and read whatever they like," he told Forum 18 on 31 October. "It is not right for the government to impose such controls."

Mustafaev also noted that the Islamic community is singled out for particular control over who can conduct rituals. "This doesn't affect other faiths, and so is also a violation of the equality of religious communities."

The ban on leading Islamic rituals by those who have studied their faith abroad was introduced into Article 21 of the Religion Law in amendments which came into force in July 2009 (see F18News 25 June 2009 http://www.forum18.org/Archive.php?article_id=1318).

This provision was introduced despite Article 18 of Azerbaijan's Constitution, which includes the commitment: "All religions are equal before the law".

New Criminal Code punishments

According to the draft text of the proposed Criminal Code amendments seen by Forum 18, several new "crimes" are to be introduced to the Criminal Code, which was first adopted in 2000 but which has been amended many times since. Such "crimes" – such as distributing uncensored religious literature – had previously only been punished under the Administrative Code. Criminal Code penalties for other existing "crimes" are set to be increased.

– Increased censorship

The proposed Criminal Code amendments would introduce a new Article 167-2. Article 167-2.1 would punish: "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".

Punishments for first time offenders acting alone would be a fine of 5,000 to 7,000 Manats or up to two years' imprisonment. Under Article 167-2.2, 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.

Fines of up to 9,000 Manats represent massive sums for most people in Azerbaijan (1,000 Manats is equivalent to 7,220 Norwegian Kroner, 930 Euros or 1,270 US Dollars). The presidentially-decreed official minimum wage has been 85 Manats (605 Norwegian Kroner, 80 Euros or 110 US Dollars) per month since 1 September 2010.

Azerbaijan has been particularly keen on increasing censorship, for example of booksellers, in recent years (see eg. F18News 12 April 2011 http://www.forum18.org/Archive.php?article_id=1561).

– Increased fines to increase controls

Article 168.1 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 (currently between 100 and 500 Manats) are set to increase massively to between 7,000 and 9,000 Manats. The maximum prison term under this Article remains two years. Fines under this Article had already been increased in June 2008.

Also set to increase at least ten-fold are fines under Article 167 for obstructing others from conducting religious rituals. Other penalties of corrective labour remain unchanged. Fines under this Article had already been increased in June 2008. 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 are set to increase dramatically. Fines (currently between 500 and 1,000 Manats) will rise to between 3,000 and 5,000 Manats. For offences against a young person or by an organised group or an official, fines (currently 1,000 to 2,000 Manats) will rise to 7,000 to 9,000 Manats. Terms of imprisonment remain unchanged. The Article was introduced into the Criminal Code in May 2009 (see F18News 3 June 2009 http://www.forum18.org/Archive.php?article_id=1305).

As with previous increased restrictions, the vague and wide ranging language used appears to be designed to allow officials the maximum number of possibilities to repress people exercising the right to freedom of religion or belief (see eg. F18News 3 June 2009 http://www.forum18.org/Archive.php?article_id=1305).

– Increased restrictions on foreigners?

Local press reports on 28 October also spoke of new criminal penalties for foreign citizens and those without citizenship who conduct "religious propaganda". This is already an "offence" under the Administrative Code which can lead to fines and deportation. However, in the text of the Criminal Code amendments seen by Forum 18, no such new criminal "offence" was included.

New or increased Administrative Code punishments

Forum 18 has been unable to acquire the text of the proposed amendments to the Administrative Code.

– Increased punishments for Islamic education abroad

However, according to local press reports, Administrative Code Article 300 is to be amended to include new or increased punishments for: sending individuals abroad for religious education without approval from the State Committee; the exchange of religious personnel; and conducting of Muslim rituals by citizens who have gained their religious education abroad. This reinforces restrictions imposed in 2009 on those who have studied Islam outside Azerbaijan (see F18News 25 June 2009 http://www.forum18.org/Archive.php?article_id=1318).

Article 300 already punishes: "religious propaganda" by foreigners or stateless persons; selling religious books and materials which have not been subjected to the compulsory State Committee censorship; and selling religious books and materials in venues not approved by the State Committee. Massively increased fines for these "offences" were signed into law in December 2010 (see F18News 7 January 2011 http://www.forum18.org/Archive.php?article_id=1527).

It appears that Administrative Code Article 299 is not due to be amended. This Article, which is frequently used, punishes "violation of the procedure for creating or running religious organisations", which includes a wide range of "offences", including meeting for worship without state permission.

Repeated harshening of Administrative Code

Like the Criminal Code, the Administrative Code has also been amended many times since its adoption in 2000.

Fines under Article 299 were increased in June 2008, while in May 2009 further "offences" were introduced and fines increased. In December 2010 the Article was amended once more to increase fines further (see F18News 7 January 2011 http://www.forum18.org/Archive.php?article_id=1527).

Similarly, fines under Article 300 were increased in June 2008, while in May 2009 further "offences" were introduced and fines increased. In December 2010 the Article was amended once more to increase fines further (see F18News 7 January 2011 http://www.forum18.org/Archive.php?article_id=1527).

Communities still wait for registration

The latest proposed punishments are part of ever-tightening state control on all religious activity. The Religion Law, first adopted in 1992, has been amended 13 times, the state legal website notes. The most recent amendments came into force in July 2011 (see F18News 6 June 2011 http://www.forum18.org/Archive.php?article_id=1576).

Hundreds of religious communities are still waiting for registration or re-registration with the State Committee for Work with Religious Organisations. Re-registration was mandated by the 2009 Religion Law amendments and should have been completed by the end of 2009.

State Committee officials told the Azeri Press Agency (APA) on 7 October that 570 religious communities had received registration or re-registration. However, as of the end of the working day on 1 November, only 543 were listed on the State Committee website. State Committee spokesperson Saleh Aslanov claimed to Forum 18 that day that details of the latest re-registered communities were

about to be posted to the website. He refused to identify the communities which the State Committee claims have been newly registered or why the re-registration process has been so slow.

Officials also claimed to APA on 7 October that of the 30 communities denied registration because of alleged faults with their documentation, two had subsequently gained registration. They also admitted that applications from 191 Muslim communities had been returned to the Caucasian Muslim Board "for it to bring them into line with the law".

Aslanov told Forum 18 that these communities had only ten founders, while the 2011 Religion Law amendments now require 50 adult founders. Religious communities told Forum 18 at the time that they feared this would be used retroactively to reject applications submitted back in 2009 but not yet approved (see F18News 6 June 2011 http://www.forum18.org/Archive.php?article_id=1576).

State Committee spokesperson Aslanov refused to discuss with Forum 18 whether it was right to apply the law retroactively, given that at least some of these communities had submitted their applications in 2009 when the requirement was ten founders. "How do you know when these communities submitted their applications?" He then refused to answer any further questions by telephone.

Legal challenges fail to secure re-registration

Two religious communities – Cathedral of Praise Protestant Church and Baku's Jehovah's Witness community – are known to have challenged the State Committee's failure to re-register them through the courts.

On 12 September, Judge Azad Imanov of Baku Appeal Court rejected the Jehovah's Witness community's latest suit against the State Committee, the court website noted. Jehovah's Witnesses told Forum 18 on 1 November that they will challenge the rejection once again to the Supreme Court. "Drawn-out legal proceedings and contradictory judicial decisions have left Jehovah's Witnesses in Azerbaijan in a state of uncertainty," they complained.

In July 2010 the Jehovah's Witness community first challenged the denial of registration at Sabail District Court – the local Baku court for the State Committee where such suits are initially heard. This was unsuccessful and the community's first appeal to Baku Appeal Court was rejected in January 2011. Jehovah's Witnesses lodged a further appeal, and in May the Supreme Court overturned the lower court decision, sending the case back to Baku Appeal Court. Judge Imanov began hearing the appeal on 11 July (see F18News 27 July 2011 http://www.forum18.org/Archive.php?article_id=1598).

By contrast, Cathedral of Praise finally won its suit against the State Committee in Baku Appeal Court on 27 July. The judge ordered the State Committee to register the community (see F18News 27 July 2011 http://www.forum18.org/Archive.php?article_id=1598).

However, church members told Forum 18 on 1 November that the State Committee has not re-registered the community.

Still can't meet for worship

At least two religious communities banned from meeting in Azerbaijan's second city Gyanja [Gäncä] in March still cannot meet for worship, community members told Forum 18 separately on 1 November.

In mid-March, State Committee local representative Firdovski Kerimov warned the Star of the East Pentecostal Church and a Baptist congregation, as well as the New Apostolic Church not to meet for worship as they do not have state registration. Ordinary police and riot police raided Star of the East Church on 20 March to reinforce the warning and prevent Sunday worship from going ahead. A Sunni Muslim mosque in the city has also been closed down (see F18News 8 April 2011 http://www.forum18.org/Archive.php?article_id=1560).

Bookshop censorship

During the 28 October Milli Mejlis consideration of the proposed Criminal and Administrative Code amendments, Aslanova of the Human Rights Committee also claimed that 52 specialised shops selling approved religious literature would soon be opened, APA noted that day. APA did not say who would be opening these shops.

State licences to sell religious literature were made mandatory in the 2009 Religion Law amendments. Shops selling religious books are often raided and have unapproved books confiscated. Booksellers are often given official warnings, as happened to a man selling books in the courtyard of one of Gyanja's mosques (see F18News 12 April 2011 http://www.forum18.org/Archive.php?article_id=1561).

Aslanova also claimed to the Milli Mejlis committees that Chiraq bookshop in central Baku – which sells English-language books, including some Christian titles – "operates without any kind of permission". Some of the books "propagate Christianity", she complained, according to APA. Aslanova had visited the shop in late September and told staff that the shop should not be allowed to exist.

However, like all other shops, Chiraq can only sell religious books which the State Committee has approved for publication or import. (END)

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 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.

A printer-friendly map of Azerbaijan is available at <http://education.nationalgeographic.com/education/mapping/outline-map/?map=Azerbaijan>.

If you need to contact F18News, please email us at:
f18news @ editor.forum18.org

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY