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## AZERBAIJAN: Religious freedom survey, July 2015

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*As increasing numbers of prisoners of conscience are jailed by Azerbaijan, Forum 18 News Service notes that freedom of religion or belief and related human rights such as the freedoms of expression and of assembly remain highly restricted. Among the regime's current prisoners of conscience are 14 Muslims and two Jehovah's Witnesses jailed for exercising freedom of religion or belief. There is also one Jehovah's Witness conscientious objector to compulsory military service in a disciplinary military unit. Other freedom of religion or belief issues documented by Forum 18 are: attempts to counter discussion of human rights violations with outright denials and claims of "inter-religious harmony", "religious tolerance" and similar assertions; officials behaving as if the rule of law places no limitations on their actions; unfair trials lacking due legal process; "legal" restrictions on and punishments for exercising freedom of religion or belief; arbitrary official actions denying fundamental rights to citizens and foreigners; a highly restrictive censorship regime, including pre-publication, bookshop, photocopy shop and postal censorship; an arbitrary compulsory state registration system, designed to make all exercise of freedom of religion or belief dependent on state permission; enforced closures of places people meet for worship, especially Sunni mosques; a ban on praying outside mosques; and severe denials of human rights in the Nakhichevan exclave.*

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 two per cent of the population being Lezgins (who are regarded as being of Sunni Muslim background). Less than two 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 Aliyev has ruled the country since 2003, after the death of his father Heydar Aliyev who ruled for the majority of years since 1969. Under both Aliyevs, 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.

There are 80 prisoners of conscience, including lawyers, journalists, human rights defenders, opposition politicians, and 14 Muslims and two Jehovah's Witnesses jailed for exercising freedom of religion or belief. There is also one Jehovah's Witness conscientious objector to compulsory military service in a disciplinary military unit for "evasion of military service" (see below). An updated May 2015 list of Azerbaijan's prisoners of conscience published by the Norwegian Helsinki Committee was originally compiled by Leyla Yunus, Rasul Jafarov and other local human rights defenders. Many of the authors are now themselves prisoners of conscience.

Among other freedom of religion or belief issues are: attempts to counter discussion of human rights violations with outright denials and claims of "inter-religious harmony", "religious tolerance" and similar assertions; officials behaving as if the rule of law places no limitations on their actions; unfair trials lacking due legal process; "legal" restrictions on and punishments for exercising freedom of religion or belief; arbitrary official actions denying fundamental rights to citizens and foreigners; a highly restrictive censorship regime, including pre-publication, bookshop, photocopy shop and postal censorship; an arbitrary compulsory state registration system, designed to make all exercise of freedom of religion or belief dependent on state permission; enforced closures of places people meet for worship, especially Sunni mosques; a ban on praying outside mosques; and severe denials of human rights in the Nakhichevan exclave.

### Denials of reality

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 an alleged "inter-religious harmony", "religious tolerance" and similar assertions. State-favoured religious communities echo such claims. President Aliyev claimed, for example, on 26 December 2014 that "all the freedoms, freedom of the press, freedom of speech, freedom of assembly, freedom of conscience, are guaranteed in Azerbaijan. All religious freedoms are

fully provided in Azerbaijan".

The government even claims its repression and flagrant breaches of international law should be praised by other countries, promoting this with their apologists outside the country with terms such as "tolerance and non-discrimination", "the Azerbaijani model of tolerance", "secularism", "multiculturalism" and "peaceful co-existence". Apologists for government policy never explain how it is possible to promote tolerance and dialogue while directly attacking the rule of law and fundamental human rights such as freedom of religion or belief.

Azerbaijan's restrictions on freedom of religion or belief have been repeatedly criticised by inter-governmental organisations of which the country is a member or participant. Indeed, the Religion Law is such a flagrant example of violating human rights obligations that both the Council of Europe's Venice Commission and the Organisation for Security and Co-operation in Europe (OSCE) have drawn extensively on their October 2012 Joint Opinion on the Law in both the July 2014 Compilation of the Venice Commission opinions and reports concerning Freedom of Religion and Belief and the June 2014 OSCE/Venice Commission Joint Guidelines on the Legal Personality of Religion or Belief Communities.

The government's response to the Joint Opinion was to deny that the Venice Commission criticised the Law, claiming on 17 October 2012 that: "the Venice Commission now considers that the Law on Freedom of Religious Belief adopted in Azerbaijan completely reflects European standards." However, the Venice Commission told Forum 18 on 22 October 2012 that: "The Venice Commission adopted its opinion fully aware of the Azerbaijani government's comments and therefore maintains its conclusions". Denials of reality are a routine tactic of the government and its apologists.

The rule of law?

Officials behave as if the rule of law, including published laws, places no limitations on their actions. Trials for alleged offences 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, European Convention for the Protection of Human Rights and Fundamental Freedoms, and OSCE human dimension commitments.

In addition to the restrictions contained in published laws, many belief communities have also found that there are also unwritten restrictions. Without indications of approval from senior government figures, groups of people are unlikely to be allowed to exercise freedom of religion or belief. This in practice prevents communities from legally existing and activities such as opening places of worship, recovering property confiscated in Soviet times, holding public events and publishing religious literature.

Officials take full advantage of the unclear or undefined wording of laws and often ignore other laws and legal procedures. For example, during a June 2011 raid by police and officials of the State Committee for Work with Religious Organisations on a Baptist Sunday meeting for worship in Sumgait [Sumqayıt], a State Committee official replied to requests to see a warrant for the raid and search with the words: "I'm the permission and the warrant."

There is impunity for extra-legal official actions. For example, on 19 July 2014 police in the central town of Mingeçaur [Mingäcevir] detained two local Jehovah's Witnesses – Sakina Najafova and Elchin Bakirov – for talking about their faith with other people. Officers "invited" Najafova and Bakirov to a police station, but he refused. He was detained and then prosecuted. "If Elchin was truly 'invited' to the police station, as the officers testified, would he not then have had the right to decline their 'invitation'?" Jehovah's Witnesses pointed out. "If so, what lawful request did he disobey?"

Bakirov was fined 200 Manats (then about half a month's minimum salary or 1,600 Norwegian Kroner, 190 Euros, or 255 US Dollars) under the Code of Administrative Offences' Article 310.1 ("Wilful refusal to obey the lawful demand of a law-enforcement officer"). "The Court relied on testimony from two police officers who stated they approached Elchin and his companion and, after introducing themselves, asked them not to disturb the inhabitants of the apartment building", Jehovah's Witnesses stated. "Yet there was no evidence of any disturbance or complaints from anyone."

Zeka Miragayev – whose Baku home was raided by police and National Security Ministry (NSM) secret police without a warrant in May 2012 during which Korans and other religious books were confiscated – has sought through the courts to have the raids declared illegal. Police denied that any literature had been taken in the raid and the NSM secret police denied it had been involved at all. Miragayev lost his court challenges, has not had his books returned, and has appealed to the European Court of Human Rights (ECtHR) in Strasbourg (Application No. 29550/14). No admissibility decision had been made as of July 2015. "I want my rights to be protected by our government, not violated," he stated.

Rashad Niftaliyev from Gyanja – who has been fined four times in three years (most recently in October 2014) after police raids on unregistered meetings for worship – is among Jehovah's Witness from Azerbaijan to lodge a case (Application No. 561/12) to the ECtHR over such raids. Four other groups of Jehovah's Witness victims have lodged raid-related cases to the ECtHR since 2007 (Applications No. 52682/07 filed on 16 November 2007, 4668/10 filed on 12 January 2010, 6013/10 filed on 18 January 2010 and 42651/11 filed on 11 July 2011). No admissibility decisions had been taken as of July 2015.

There are fines and prison terms possible under Criminal Code Article 167 for obstructing others from conducting religious rituals, but there are no known cases where state officials who have prevented people exercising their right to freedom of religion or belief have been charged or punished.

#### "Legal" human rights violations

Azerbaijan has constructed a complex labyrinth of "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 July 2011. Every significant change has imposed tighter restrictions on freedom of religion or belief. Many of these amendments – like changes to the Criminal Code and the Administrative Code (see below) – were prepared in secret, with no public consultation, and were rushed through Parliament, the unicameral Milli Mejlis dominated by President Aliyev's New Azerbaijan Party. Eldar Zeynalov, head of the Human Rights Centre of Azerbaijan in Baku, responded to claims that restrictions are fuelled by a fear of Islamic radicalism by noting in January 2011 that "it should be tackled in a different way. Using administrative punishments has not worked in Central Asia and is not going to work here."

Finding a defence lawyer willing to represent individuals accused under these laws 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. "If for example, five members of one rural family were each fined 2,000 Manats; that would make a total of 10,000 Manats [in July 2015 about 77,350 Norwegian Kroner, 8,600 Euros, or 9,500 US Dollars]. This would represent the entire value of the family's assets, including their home." The minimum monthly wage was 105 Manats (in July 2015 about 810 Norwegian Kroner, 90 Euros, or 100 US Dollars) from 31 August 2013.

#### Legal restrictions in violation of international standards

Many aspects of the Religion Law – the last major changes to which were in 2009, with minor changes since then - are highly problematic, as the OSCE and Venice Commission noted. Some of the currently (July 2015) most commonly arising serious problems with the Law are outlined below. (The 2009 and 2011 changes are discussed in full in Forum 18's April 2012 Azerbaijan religious freedom survey [http://www.forum18.org/archive.php?article\\_id=1690](http://www.forum18.org/archive.php?article_id=1690).)

##### - 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 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).

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

Article 167-1 of the Criminal Code 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 Administrative Code Article 299 (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.

The Law also states that "[t]he 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".

##### - Collective exercise of freedom of religion or belief without state permission banned

Article 12 states: "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.

Under Article 12 religious communities without 50 adult founding members are not eligible to apply for state registration, banning all small religious communities.

Criminal Code 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 are between 7,000 and 9,000 Manats (1,000 Manats was in July 2015 equivalent to about 7,735 Norwegian Kroner, 860 Euros, or 950 US Dollars), with the maximum prison term being two years.

- Doctrinal and other intrusive tests for registration

Religion Law Article 12 demands: "[I]nformation 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.

- 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".

No independent appeal process against official decisions exists. Article 12 merely states: "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, other than "within the period established in law". 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 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: "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. Article 196.0.3-1 punishes those who build or reconstruct religious buildings without permission from the State Committee.

- Restrictions on Muslims' freedom of religion or belief

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

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."

Most frequently used Administrative Code articles

Articles 299 ("Violation of the procedure for creating or running religious organisations") and 300 ("Violation of legislation on freedom of religion") of the Administrative Code are the articles most frequently used against people peacefully exercising the right to freedom of religion or belief.

- Article 299

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.)

Fines under Article 299 are: for individuals between 1,500 and 2,000 Manats; and for officials between 7,000 and 8,000 Manats.

- 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 "Sending citizens abroad to study religion or exchanging religious figures without the permission of the relevant executive authority [State Committee]";

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.

Fines under Article 300 are: for individuals between 2,000 and 2,500 Manats; for officials between 8,000 and 9,000 Manats; and for organisations between 20,000 and 25,000 Manats.

Those found guilty under Article 300 have their religious literature confiscated. Foreigners or stateless persons involved in undefined "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).

"Without registration you can't pray"

Without state registration religious communities – and even informal groups of people meeting together – cannot legally exist or exercise freedom of religion or belief. Police and the 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 state permission

to exercise freedom of religion or belief and other human rights is against its legally binding international human rights obligations. As a State Committee official told Forum 18 in December 2011 after a raid on Neftechala's unregistered Baptist Church, "without registration you can't pray. We close any place of worship that isn't registered, including mosques".

About 2,000 religious communities are thought to currently (July 2015) 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 July 2015, 576 were listed as registered on the State Committee website (none of them in Nakhichevan, which has its own system of control – see below). Of these, 555 are Muslim (all from the Caucasian Muslim Board), 21 are of other faiths. Of the non-Muslim registered communities, six are Jewish (Mountain, Georgian and Ashkenazi), three are Molokan (an earlier Russian Protestant-style Christian group), two are Udi Christian (a community revived with state backing), two are Georgian Orthodox, two are Baha'i, one is Russian Orthodox (the Baku diocese with six parishes), one Catholic, one Lutheran, one New Life Pentecostal, one Word of Life Pentecostal and one Hare Krishna community.

The re-registration process has almost ground to a halt, leaving many re-registration applications unanswered. 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, as all seven congregations which lodged applications – which they have repeatedly done – have received rejections.

### Liquidations

The State Committee – like other state institutions – has the right to seek the liquidation in court of an entity's legal status. For religious communities, such court-ordered liquidations mean they lose the legal right to exist and any activity they undertake becomes punishable. Religious communities which have failed to gain legal status include 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 churches (including Baptists, Seventh-day Adventists and Pentecostals), as well as Jehovah's Witnesses.

The first community whose legal status was liquidated since compulsory re-registration was imposed by the 2009 Religion Law was Greater Grace Church in Baku. Moves to close down the Church started in December 2011, with the case reaching court in March 2012. Church members noted numerous legal violations in the case's conduct. But Judge Nigar Rasulbeyova of the Supreme Court took eight minutes to hear and reject the Church's appeal on 9 January 2013.

In August 2012 the State Committee sought to liquidate the legal status of the only registered Muslim community in Hirdalan, a town in Absheron District near Baku with more than 40,000 residents. Hirdalan's Muslim community was legally registered by the Justice Ministry in July 2004 but the court action was brought by the State Committee. Officials would not explain how this was legally possible. The court action took place without the Muslim community being present, a court official stating that the community had failed to lodge an appeal against the liquidation within the legally specified 10 day appeal period and so the liquidation entered into legal force a month after it was issued. Officials would not explain why they only made the liquidation public in January 2013.

In another example, the Fatima Zahra Mosque community in Baku gained state registration in 1992 and sought to build a mosque in Surakhani District. After state pressure on the community and threats to bulldoze the building, the state-favoured Caucasian Muslim Board took it over in 2010 and promised to complete it with state backing. However, the Board failed to complete the mosque building and the community continued to meet for worship in the half-finished building. In November 2014 the Supreme Court rejected the community's final appeal against liquidation as "the mosque is to be demolished as an illegal structure".

Two religious communities who applied for registration in 2009 – Jehovah's Witnesses and Baku's Cathedral of Praise (Word of Life) Pentecostal Church – lodged suits in court, challenging what they regard as unjust and arbitrary registration denials. After nearly two years of legal hearings, on 1 February 2012 Jehovah's Witnesses finally lost their case in the Supreme Court. On 1 October 2012 the community lodged a case with the ECtHR (Application No. 49264/12). No admissibility decision had been taken as of July 2015. Cathedral of Praise won its Supreme Court case, possibly due to certain officials' intervention. The State Committee re-registered the Church in May 2012.

Other religious communities have not challenged the State Committee in court as they think they cannot win. One stated that this is because of the "corrupt nature of this country's courts", and others fear antagonising the State Committee.

### Raids, prosecutions, torture

Raids on those exercising freedom of religion or belief without state permission in their homes continue. For example, Eldeniz Hajiyev, Ismayil Mammadov, Zakariyya Mammadov, Revan Sabzaliyev and Shahin Hasanov were in December 2014 on criminal trial to punish them for attending a religious meeting in Hajiyev's Baku home raided in April 2014. The "crime" of the five Muslim men was to meet to discuss the theologian Said Nursi's books and their faith without state permission. Sabzaliyev was among nine

other attendees who were each fined 1,500 Manats (then about 11,400 Norwegian Kroner, 1,400 Euros or 1,900 US Dollars) in April 2014. In a bid to extract "evidence" against the men, on 1 May Dashqin Vahabli was summoned to the NSM secret police where he was tortured by being beaten. Officers tried to force him to incriminate Eldeniz Hajiyev and Ismayil Mammadov for teaching religion "illegally".

Three of the five – Hajiyev, Mammadov and Sabzaliyev - spent up to five months in the NSM secret police's Baku investigation prison. A Baku court ordered the three men's release on 12 September 2014 and transfer to house arrest. Following their release, the three lodged cases against Azerbaijan to the ECtHR claiming illegal detention. (Applications No. 74567/14, 71584/14, and 73334/14.). A criminal trial against the five still continues in July 2015.

Torture is often a part of raids. For example in a September 2013 raid on a Jehovah's Witness family, police forced their way into their home and confiscated books including personal Bibles, money, and medical and financial documents. Against the law, police gave the family no record of their confiscations. One of the women present was injured by police and needed hospitalisation when she had an epileptic fit during detention. Police detained those present at a police station for 12 hours, claiming they were terrorists, repeatedly threatening detainees with sexual violence and loss of employment. Police also pressured detainees to give up their faith, and seven people were fined the equivalent of one year's salary.

The United Nations (UN) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which Azerbaijan acceded to on 16 August 1996, defines torture as: "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity".

Under Article 6 of the Convention Azerbaijan is obliged to arrest any person suspected on good grounds of having committed torture. Under Article 4 Azerbaijan is obliged to try them under criminal law which makes "these offences punishable by appropriate penalties which take into account their grave nature".

Appeals for justice after raids seldom succeed. After a June 2015 raid by between 10 and 15 police officers on Sabuhi Mammadov's home in Gadabay in western Azerbaijan, where about 25 Muslims were meeting to study Nursi's works, Mammadov was fined the maximum of 1,500 Manats (then about 11,485 Norwegian Kroner, 1,290 Euros, or 1,430 US Dollars) under Administrative Code Article 299.0.2 ("Violating legislation on holding religious meetings, marches, and other religious ceremonies") and 13 other Muslims were fined 50 Manats (about 380 Norwegian Kroner, 40 Euros, or 50 US Dollars) under Administrative Code Article 296 ("Hooliganism"). Friends complained bitterly about the conduct of appeal hearings. Judge Elshad Bayramov "began the hearing, wouldn't listen to Emin, left the room, then returned with the decision rejecting the appeal", Forum 18 was told. Police denied they had confiscated books they had taken.

#### Arbitrary official decisions

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 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 known period. Church members are continuing to try to seek state registration.

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 said 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."

#### Arbitrary statute restrictions

Many religious communities have complained that, when they try to register, the State Committee has imposed on them a model statute. The text of the model statute reinforces restrictions included in the Religion Law, as well as using unclear formulations giving scope for arbitrary official actions. It also states that the community can only operate on its own property, restricts the involvement of children and young people, bans invitations to foreign co-believers, and restricts how internal decisions are made. Officials have refused to explain to religious communities why the restrictions are imposed.

Not all non-Muslim communities were given the model statute. The Catholic Church in Baku lodged its application in December 2009 and legal status was granted after an agreement between Azerbaijan and the Holy See came into force in July 2011. The agreement specifies that the Catholic Church remains subject to local laws, which meant that its statute had to be registered by the

State Committee like other religious communities. Foreign priests and nuns still require visas and work permits.

#### Selective denials of legal status for NGOs

Selective denial of legal status also affects non-governmental organisations (NGOs) whose activity is linked to religion of belief in some way. For example, the International Religious Liberty Association (IRLA) and Devamm are among organisations denied registration by the Justice Ministry. Article 3.2.4 of the Rules for Implementing the NGO Law bans local branches in Azerbaijan of foreign NGOs from being registered if, among other things, they engage in "political or religious propaganda". Officials have refused to explain their selective treatment of NGOs.

#### Foreign grants and donations

On 12 March 2013, President Aliyev signed into law changes to the Religion Law's Article 18 banning religious communities from offering or giving blessings or material benefits in exchange for donations. And on 11 March, the President signed into law changes to the Law on Grants and to the Religion Law, requiring religious communities, as well as all NGOs, to have grant agreements available for official scrutiny before they can accept foreign donations.

Related changes to the Administrative Code were made at the same time. Article 223-1 was changed to increase punishments for "illegal" receipt of grants. Article 223-1.3 specifically includes religious organisations among NGOs which can be punished for failing to obtain and make available to officials agreements to receive foreign grants. As well as confiscation of the grants, fines on officials of organisations are from 2,500 to 5,000 Manats, while organisations are subject to fines of between 8,000 and 15,000 Manats (1,000 Manats was in July 2015 equivalent to about 7,735 Norwegian Kroner, 860 Euros, or 950 US Dollars).

#### Closing 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.

Among those which remain closed, which local Muslims still hope will be allowed to resume their activity, are the Albanian Mosque in Gyanja, and in Baku the Martyrs' (Shehidler) Mosque and 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. Police officers then forcibly shaved off the beards of 20 men in the congregation, which the police refused to explain. The Mosque community lodged a complaint to the United Nations (UN) Human Rights Committee, which has sought and received further documentation, but has not yet issued a ruling. A case was lodged in March 2009 at the ECtHR over state failure to recognise anyone as victims of the 2008 attack (Application No. 16599/09). The ECtHR declared the case inadmissible in December 2012.

Gyanja's only Sunni mosque, known as the Albanian Mosque, was opened in 1995 but closed by the authorities in 2009 without explanation. It is now a library and mosque members are now forced to pray in groups of no more than five people in private homes, often under close police surveillance. 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 – including with the use of riot police - from meeting for worship.

Targeting of Sunni mosques for closure continues. Baku's small Lezgin Mosque has been under a police blockade restricting the number of worshippers from early May 2014. Police also ordered the mosque to close at 8 pm each evening, preventing it from holding the last two prayers at 9 pm and 11 pm, and have refused to discuss their instructions. Spurious excuses can be used for closures, Baku's Icherisheher (Old City) State Historical-Architectural Reserve ordering the Lezgin Mosque community to "voluntarily" leave the building before full renovation. Officials have refused to say whether the community will be able to resume use of its Mosque after renovation. After April 2015 threats that the Mosque had to close before the June European Games, officials told the community it can operate until after the Games when the Mosque will be forcibly closed for repairs - which community members insist are unnecessary. Officials have not put any of their demands in writing.

The Mosque's Imam, Mubariz Qarayev, and four others were arrested in late February 2015 and are now (July 2015) prisoners of conscience in Baku's NSM secret police Investigation Prison (see below).

In January 2015 the State Committee warned the leaders of a Sunni Mosque in Qobustan in Baku that if the leadership did not liquidate itself, hand back documents for the Mosque and allow the Mosque leadership to be replaced, the State Committee would go to court to enforce its liquidation. The Mosque leadership complied reluctantly and a new Shia-led leadership was installed. Police also raided the Mosque and confiscated religious literature after the enforced transfer.

Despite the consistent closures of specifically Sunni mosques, Sarkhan Halilov of the State Committee for Work with Religious Organisations insisted to Forum 18 in August 2014 that the government "has nothing against Sunni mosques". But he admitted that Baku's (Sunni) Martyrs' Mosque will never be reopened.

#### Bans on Islamic activities inside and 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. It is still in force.

Bans can also extend to activity inside mosques, only one of Gyanja's six permitted mosques being allowed by the state to hold iftar meals at the end of each day's 2012 Ramadan fast. During the Muslim commemoration of Ashura, marked by Shia Muslims (the largest religious community in Azerbaijan) as a day of mourning, the authorities are particularly nervous about processions through the streets and large-scale gatherings in mosques. Police have stopped large numbers of Muslims from gathering near mosques.

#### 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 – even though Georgian Orthodox state their services last "at least an hour and a half". As of July 2015, only two Georgian Orthodox communities have state registration and their priest (a Georgian citizen) was denied re-entry to Azerbaijan to serve these communities.

Other religious communities are also seeking the return of historic places of worship confiscated in Soviet times. Baptists in Baku – some of whom still remember praying in the church before its enforced closure by the Soviet authorities – want the return of their place of worship, now a puppet theatre. Similarly, Baku's Baha'i community repeatedly applied from 2005 for the return of their 1880-built building - "the only building in the world named after Abdul Baba, the son of our prophet" a Baha'i community member said. In late 2012 the authorities demolished it. In many "redevelopment" cases buildings have been demolished and their occupants evicted with little notice and no compensation.

#### Closures even of non-public places of worship

Such closures of places where people meet for worship continue, and extend even to places without much public visibility, such as a January 2012 closure of a Muslim prayer room in Baku's Yasamal District owned by the Society for the Deaf, an NGO.

The state's systematic campaign to close Sunni mosques (see above) forces Sunni Muslims to find alternative venues to meet and pray together. Zohrab Shikhaliyev opened a prayer room in his home in Sumgait as there is no Sunni mosque. However, plain clothes police officers arrested nine Muslims – among them Shikhaliyev – as they arrived for prayers at his home at about 12 noon on 13 November 2014. In what seems to be a routine police claim in such cases, police claimed to have discovered a Walther pistol and three bullets, 48 other bullets of various calibres, three grenades, six detonators and two memory cards from security cameras. They also confiscated religious literature and 210 discs. Shikhaliyev's brother Samir insisted to Caucasian Knot news agency that the police planted the weapons.

Police at the town police station subjected the nine Muslims to "insults and humiliation" and physical torture, beating a Nagorno-Karabakh war invalid "on my back and head", another in the kidneys and causing several others to need medical treatment. The State Committee claimed the raid and arrests were "completely legal and necessary". "These people in fact created a structure similar to a terrorist cell," its Head Mubariz Qurbanli claimed. He insisted that police elsewhere will continue with further such operations, and the State Committee would continue to counter "radical religious ideologies".

Zohrab Shikhaliyev himself was arrested at about noon the same day in his car elsewhere in Sumgait. His car has not been seen since. In February 2015, he was found guilty of keeping illegal weapons and ammunition in his home under Criminal Code Article 228.1 and given a six-month jail term. He was freed on 13 May at the end of his sentence, six months to the day since his arrest.

#### Prisoners of conscience on grounds of freedom of religion or belief

There are currently (July 2015) 18 prisoners of conscience - 14 Muslims and two Jehovah's Witnesses - jailed for exercising freedom of religion or belief. In addition, there is one Jehovah's Witness conscientious objector to compulsory military service in a military disciplinary unit (see below).

#### Largest group of prisoners of conscience

The largest group of prisoners of conscience jailed on grounds of freedom of religion or belief is a group of men arrested for protesting against a 2010 Education Ministry ban on girls wearing a headscarf (hijab) in schools. Street protests in Baku were held in December 2010, May 2011 and – a much larger protest – in October 2012.

Seven men arrested in connection with the October 2012 protest are still in prison as of July 2015. All but one were convicted under Criminal Code Article 233 ("Organisation of actions promoting infringement of a social order or active participation in such actions"). They are: Tarlan Agadashov (5 years, 6 months, Prison No. 16), Rovshan Allahverdiyev (5 years, 6 months, Prison No.

16), Nasimi Hasanov (4 years, Prison No. 16), Ilham Hatamov (5 years, 6 months, Prison No. 14), David Karimov (6 years, Prison No. 16), Elshad Rzayev (6 years, Prison No. 16), and Telman Shiraliyev (6 years, Prison No. 16). Thirteen others jailed at the same time had been freed by July 2015.

An updated May 2015 report on Azerbaijan's prisoners of conscience, published by the Norwegian Helsinki Committee, originally compiled in 2014, noted on the October 2012 anti-hijab ban protest outside the Education Ministry: "The action was peaceful and protesters refrained from confronting the police and employees of other law-enforcement agencies". "Provocateurs were used", the report continues. "These provocateurs threw wooden sticks bearing protest slogans and imitated resistance to police. This was done to fuel claims that the action was not peaceful. None of the provocateurs, who are clearly seen in the photos and videos, have been detained".

#### Jailed Shia imam prisoner of conscience

Imam Taleh Bagirov (also known as Bagirzade) led prayers and preached at a Shia mosque near Baku in defiance of the authorities' pressure and was arrested on 31 March 2013, together with his driver Anar Melikov. In sermons shared on social media, Bagirov compared the government to the Egyptian pharaohs. "You have stolen people's land, you have stolen the oil, and you still sit there with no one to say anything to you," the Institute for War and Peace Reporting quoted Bagirov as saying. "Now you want to rule in the mosque too? No matter how influential an official is, he cannot rule inside the mosque."

Imam Bagirov was tortured by being beaten up after his arrest and police claimed they had found just over a gram of heroin on him and a pistol, bullets and a knife when they searched Melikov. Community members insist these accusations are fabricated. Bagirov was given a two-year strict regime prison sentence on 1 November 2013. The authorities attempted to use a sermon to prosecute him, but even the State Committee's analysis – completed in mid-September and shared with Bagirov's lawyers – found no basis for any criminal charges. "They realised they would have made themselves a laughing stock if they had pursued these charges", his lawyer Javad Javadov said. Bagirov's driver Melikov was given a 19-month labour camp term for allegedly having a gun and four bullets. His lawyer Anar Kasimov denounced this "tragicomedy and mockery of justice".

In August 2014 Bagirov was given an extra four months' imprisonment at a new trial in Baku for allegedly possessing an illegal mobile phone in his cell. His lawyer Javad Javadov insists that the phone was planted as Bagirov "is under intense scrutiny in prison and couldn't have a mobile phone". Judge Suleyman Agayev claimed that Bagirov had "half admitted" the accusation. Bagirov is still trying to challenge a transfer to the harsher Qobustan [Gobustan] Prison from December 2014, which illegally took place despite an appeal pending.

#### NSM secret police Investigation Prison prisoners of conscience

The NSM secret police Investigation Prison currently (July 2015) contains eight known prisoners of conscience held for exercising their freedom of religion or belief. Four of the eight – all Sunni Muslims associated with the Lezgin Mosque – have been jailed with the fifth Lezgin Mosque prisoner of conscience on trial (see below). Two more prisoners of conscience – both female Jehovah's Witnesses who have been held since February – have had their pre-trial detention extended by two months. The remaining prisoner of conscience held for exercising his freedom of religion or belief in the NSM prison is a Shia Muslim.

The five imprisoned Sunni Muslims – Imam Mubariz Qarayev, Habibullah Omarov, Salim Qasimov, Eyvaz Mammadov and Azad Qafarov - are accused of distributing religious literature which has not undergone the compulsory state censorship. The five men had run several shops selling books and other religious items in Baku's Narimanov District. They were arrested in late February. All five were ordered held in pre-trial detention for three months while the investigation was conducted. The Lezgin Mosque in Baku's Old City, which all five are associated with and where Qarayev was imam until his arrest, is one of many Sunni Muslim mosques the government seeks to close (see above).

Criminal cases against the five were completed in late April and handed over to Baku's Narimanov District Court in early May. Qafarov was given a 15-month jail term on 6 July, Omarov a one-year jail term on 7 July and Qasimov a six-month jail term on 2 July. On 10 July Imam Qarayev was given a one-year jail term. Omarov was transferred to Baku's Omarov was transferred to Baku's Investigation Prison No. 1 where the other may also be sent. Mammadov's criminal trial continues.

The two female Jehovah's Witness prisoners of conscience Valida Jabrayilova (who is 37) and Irina Zakharchenko (who is 54), whose pre-trial detention was extended, were arrested in February 2015 and are being investigated on criminal charges of being an "organised group" distributing religious literature which has not undergone the compulsory state censorship. In separate hearings on 7 May, Judge Elshad Shamayev of Baku's Sabail District Court extended until 17 July their pre-trial detention.

Judge Shamayev has been instrumental in facilitating the government's pre-trial detention in 2014 and 2015 of Muslim and Jehovah's Witness prisoners of conscience on grounds of religion or belief. He has refused to answer questions about his repeated role in such imprisonments.

The NSM secret police Investigation Prison also holds Shia Muslim theologian and translator Jeyhun Jafarov. He is 43 and was

arrested on 10 March on treason charges, which carry a maximum lifetime prison term. "Jeyhun didn't commit any offence", family members insisted to Forum 18. "There is no proof and he rejects the accusations. The charges have been brought because of his religious activity – there is no other explanation." Jafarov has led haj pilgrimage groups to Mecca, conducted a series of television programmes on Space TV on religion entitled "Night Conversations" and has translated two books entitled "Ethics in Islam" by the late Iranian Ayatollah Mohammadreza Mahdavi Kani. He also led the Evolution Translation Centre.

There is also currently (July 2015) one conscientious objector to compulsory military service who was in April 2014 sentenced by a military court to one year in a disciplinary military unit, for "evasion of military service" (see below).

#### Prison conditions

Imam Bagirov's wife and their two children are unable to visit him in prison, his lawyer being the only person allowed to visit. "Taleh is kept in isolation. Every time he leaves his cell he is put in handcuffs", Javadov stated. "This is allowed only for extremely dangerous prisoners." Similarly, no relatives, friends or fellow-believers have been allowed to visit the eight NSM secret police Investigation Prison prisoners of conscience. Only their lawyers are allowed to visit, families have told Forum 18.

Fellow Jehovah's Witnesses remain highly concerned about Jabrayilova and Zakharchenko. "We think that physically they are well, but are worried about their emotional state", Jehovah's Witnesses told Forum 18. Relatives brought a Bible for each of them, but prison officials refused to accept them. The women are allowed no Jehovah's Witness literature. Their lawyers said they were unable to help resolve this.

Neither Imam Bagirov nor the eight NSM Investigation Prison prisoners of conscience have been allowed religious literature, apart from Jafarov being allowed an Azeri-language translation of the Koran. Family members sent Jafarov a copy of the Koran in Arabic, but prison officials refused to give it to him. "They told us he had no need of it", family members told Forum 18. In Islam the Koran is only permitted to be recited during worship in Arabic, making the refusal to give Jafarov an Arabic-text Koran very harsh. Jafarov is also not allowed to have a watch with him to be able to know when it is time for prayer, his lawyer Javad Javadov told Forum 18.

After a 2008 visit the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) stated that prisoners in Qobustan Prison were subjected to "deliberate physical ill-treatment and excessive use of force by prison officers. The forms of ill-treatment alleged consisted mainly of punches, kicks and blows with truncheons, as well as sexual abuse using a truncheon. The ill-treatment had reportedly been inflicted in the establishment's 'club' (i.e. association room), disciplinary unit and the exercise yards adjacent to it. In addition, a number of prisoners complained that certain prison officers had subjected them to verbal abuse."

The CPT also noted that "the delegation witnessed an attempt by a prison officer to threaten a prisoner for having spoken to the delegation. It also became apparent during the visit that certain prisoners detained at Gobustan Prison had been warned against making complaints to the delegation".

On 28 January 2009 Azerbaijan acceded to the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, whose purpose is to "establish a system of regular visits undertaken by independent international and national bodies". The NSM Investigation Prison was one of a number of prisons the UN Subcommittee on Prevention of Torture (SPT) visited in late April 2015, after a September 2014 visit it was forced to suspend after encountering "obstructions" from the authorities.

Aisha Shujune Muhammad, head of the SPT delegation, noted on 24 April 2015 at the end of the visit that Azerbaijan "has yet to guarantee all fundamental legal and procedural safeguards to persons deprived of their liberty, including access to a lawyer, a medical doctor, and to contact his or her family".

Azerbaijan has refused to allow publication of either the SPT's report on the April visit, or a December 2012 report by the CPT.

#### Conscientious objection

Ahead of its accession to the Council of Europe 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."

Yet conscientious objectors to military service have been repeatedly prosecuted and jailed. Some of the Jehovah's Witness former conscientious objector prisoners of conscience have appealed to the ECtHR: Farid Mammedov in July 2011 (Application No. 45823/11), Mushfiq Mammedov (no relation of Farid) and Samir Huseynov in March 2008 (Application No. 14604/08). No admissibility decisions have yet been taken as of July 2015.

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 defined by 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".

The only known current conscientious objector prisoner is Jehovah's Witness conscientious objector Kamran Shikhaliyev, who was forcibly conscripted in October 2013 and transferred to a military unit. He has been subjected to "physical abuse, verbal humiliation, and psychological pressure" but refuses to wear a military uniform, perform military duties, or take the military oath. In April 2014 a military court sentenced Shikhaliyev to one year in a disciplinary military unit for "evasion of military service". However, he was transferred to a disciplinary military unit in Salyan only in December 2014, and his sentence was reportedly deemed to start from that point, even though he had already been held for 14 months.

## Censorship

Azerbaijan runs a highly restrictive censorship regime, breaking the international human rights standards it has formally obliged 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 – has not made public, despite numerous requests.

However, the then State Committee Chair Elshad Iskenderov claimed on 12 April 2013 that it was preparing to publish "soon" a list of religious publications it has banned. This list had not been published as of July 2015, despite requests from members of various religious communities.

On 5 May 2014 a list of what Baku's APA news agency described as "some of the most radical and dangerous banned religious books" was published by them. The list – apparently compiled by police based on State Committee "expert analyses" – is not so far known to have been published by any state agency. When contacted by religious communities, the State Committee claimed it was "false" and did not come from them – but they refused to put this in writing. However, police may be acting on the basis of this or a similar list, for example in May 2014 confiscating from Jehovah's Witnesses in the northern town of Gakh what they described as "the banned book the Old Testament". The text confiscated was "Muqeddes Kitab", a modern Azeri-language translation in Latin script used by Jehovah's Witnesses, Protestants and Jews.

The list of 28 works includes "Holy Book – Old Testament", and as with other items on the list gives no details of the edition or language concerned, apart from in some cases a named author. It also includes the 14-volume Risale-i Nur (Messages of Light) collection of writings by the Islamic theologian Said Nursi, as well as two Jehovah's Witness publications, including their magazine "Watchtower" (which appears twice). The list does not appear to include all texts confiscated by police, and may not be the only such list in existence. Most texts on the list are Muslim. "Judging by the titles of others they are Shiite and relate to its religious ideology and history", a Muslim told Forum 18 from Baku. "Some of them express hatred of Wahhabism/Salafism. One – entitled 'The consequences of Jewish evil' – appears to be an antisemitic text."

Zeka Miragayev, a Muslim from Baku, has been trying to find out from the State Committee whether works by Nursi – particularly the Risale-i Nur collection – have been banned and, if so, when, why and by whom. In May 2014 the State Committee replied that Risale-i Nur is "inappropriate for import in large quantities or publication, and has not objected to it being brought into the country only in special cases when there is no intention of propaganda (and on condition of no more than one copy)." A friend of Miragayev noted to Forum 18 that "They didn't use the term 'forbidden' or 'banned', but the term 'inappropriate'. This is incomprehensible in terms of legislation, isn't it?"

## Censorship unconstitutional and legal?

Censorship violates the Constitution, Article 50 of which states: "Freedom of information. I. Everyone is free to look for, acquire, transfer, prepare and distribute information. II. Freedom of mass media is guaranteed. State censorship in mass media, including press, is prohibited."

Yet despite this, censorship of religious literature – which existed during the Soviet period – was continued in the 1992 Religion Law and its subsequent amended versions up to and including the 2011 revision. The 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, other legal entities and individuals to distribute religious literature and other religious-related articles only at venues approved by the authorities and with markings showing they have been approved.

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 been punished only 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 Statute specifying the duties of the State Committee states it must: "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."

In a 6 February 2013 Decree, President Aliyev changed the Statute's two references to "religious literature, articles, and other information materials of religious content" in Article 7.8 and Article 7.9-6 to "religious literature (paper and electronic media), audio and video materials, goods and products, and other informational materials of religious content".

Religious literature published openly in Azerbaijan usually contains a sentence on the copyright page "Publication approved by the State Committee for Work with Religious Organisations", together with the code of the approval (DK for State Committee and a number and letter).

Legal amendments approved in July 2012 specify that not only medicines, books and recordings, but "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" require a state-issued "verification mark" before they can be sold. Those selling religious materials without such marks risk fines and confiscation of the materials.

In April 2013 Article 22 of the Religion Law was changed to require all religious materials, such as books, video and audiotapes, and discs to be specially marked to show they are allowed for sale in the country. It also requires that religious materials be sold only in specially designated shops.

#### Expertise Department

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. If it approves them it also specifies the number that it approves. Such numbers are often far below the number sought.

Even if the compulsory State Committee "expert analyses" are favourable, there can be further arbitrary restrictions. As an April 2012 Baku Administrative Economic Court No. 2 verdict on a Jehovah's Witnesses appeal against censorship stated: "Because it is not only this Community that imports religious literature into the country, it is impossible to provide them with additional privileges, or it would be contradicting the law. At the same time, in order to create an environment of freedom of conscience, putting limitations upon the import of a sufficient amount of literature is normal for all communities." The Court also argued that as the extra literature for which permission had been denied was to be used to give to others, the rights of the plaintiffs had not been violated and therefore no claim for damages was applicable.

#### De facto discrimination against small or vulnerable religious groups

Despite official controls, many Muslims state 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.

Small or vulnerable religious groups 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 said. "No printing house will print anything without this approval."

Small and vulnerable religious groups expressed frustration 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 (excerpts from the Bible for reading at Mass each day) by e-mail from outside Azerbaijan, rather than importing this information in printed form.

#### Postal censorship

Azerbaijan also imposes a strict censorship regime on literature sent by post, due to which many religious communities have stopped using the post 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.

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.

#### 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 Statute 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. Yet the State Customs Committee advice for individuals crossing the border notes in Point 4: "The following goods can be brought by physical persons through the customs border of the Azerbaijani Republic with the permission of the competent agency: weapons designed for official or private use, as well as ammunition for them can be carried only with the special permission of the Interior Ministry; literature, objects, as well as other media of religious significance can be carried only with the permission of the State Committee for Work with Religious Organisations."

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 and the Baptist Union, 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. As noted above, 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

Under Administrative Code Article 300 and the Religion Law's Article 22, state permission is needed to sell any religious literature, objects, or information materials. Controls on bookshops also existed pre-2009 and are applied against all religious literature.

The compulsory licensing before religious books and objects 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. Local people state that this leaves them vulnerable to officials seeking bribes to ignore evasions of the law. Arbitrary refusals and long delays in processing licences to sell religious literature, as well as approvals of the titles and quantities to be sold, appear common.

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. "Fines for selling religious books without a licence hang over traders like a sword of Damocles".

This can lead to prosecutions. In summer 2014, 244 Muslim books were confiscated from Kamran Abdiyev, who lives in Qaradag District of south-western Baku. "He was acting as a bookseller illegally," an official of the State Committee's "Expertise" Department told Forum 18 on 25 May 2015. "He had no licence from the State Committee, no permission to sell religious literature – indeed, he hadn't made himself known to us. He was selling such literature clandestinely." Abdiyev was on 9 September 2014 fined 6,000 Manats (now about 44,240 Norwegian Kroner, 5,250 Euros, or 5,710 US Dollars), or about 18 months' average salary.

Small or vulnerable religious groups 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 said February 2009. "Please don't do it here – it's dangerous, they say."

#### Nakhichevan

The situation in the Nakhichevan exclave is worse than in the rest of the country. An autonomous territory of Azerbaijan on the Arax River wedged between Armenia, Turkey and Iran, the exclave has a population of more than 400,000 and its own government and parliament. The autonomous territory's restrictions on people's ability to exercise human rights, including freedom of religion or belief and other political and social freedoms are far tighter than in the rest of Azerbaijan. These include a de facto ban on people exercising freedom of religion or belief who are Shia Muslims outside state control, Sunni Muslims meeting as communities, and non-Muslims such as Baha'is, Seventh-day Adventists, Hare Krishna devotees, or Russian Orthodox.

Restrictions are particularly tight during the Shia Muslim commemoration of Ashura, which in 2014 fell on 4 November. "This is constantly the case," Yafez Akramoglu of Radio Free Europe said. "People themselves know not to go to mosque." He pointed to his

home village where up to 400 people would attend Ashura commemorations a decade ago. "This year there were between 10 and 15 people."

As in the past, in 2014 police stood outside mosques at Ashura and once again prevented young people, especially school children and students, from entering, Malahat Nasibova, Head of the exclave's Democracy and NGO Development Resource Centre, told Forum 18 from Baku. Outside Ashura such freedom of religion or belief violations also continue to the present day. There is long-standing tight government surveillance of mosques, the only places of worship permitted. Many state employees in Nakhichevan – and even employees of many private companies, some of which have ties to state officials – are "too afraid" to attend mosques, Akramoglu of Radio Free Europe and Nasibova of the Democracy and NGO Development Resource Centre both separately told Forum 18. Employees fear possible dismissal if they are known to attend mosque.

Perhaps up to 50 mosques across Nakhichevan – especially those the government thinks are oriented towards Iran – appear to have been forcibly closed by the state following the mid-November 2014 arrests, according to Akramoglu. "When we came out we saw that the locks on all the mosques' doors had been broken and new locks installed," he quoted the released detainee as declaring. Most of the mosques have reopened, but under new leadership "closer to the authorities" Akramoglu stated. The new imams were imposed on the mosques by the new Multiculturalism and Religious Affairs Committee.

Nakhichevan city's Turkish-built Sunni Juma Mosque was closed in February 2011 after the enforced departure of its Turkish imam. The Mosque was closed for about a year and when it reopened in early 2012 it was under the control of an officially-backed Shia imam, according to Nasibova and Akramoglu.

Nakhichevan's police and NSM secret police raided many homes in mid-November 2014, detaining about 200 Muslims, Akramoglu of Radio Free Europe and a Muslim from Baku who did not wish to be identified for fear of state reprisals both told Forum 18. Within up to 48 hours, up to about half of those detained were reportedly freed. About 60 were freed when the authorities established that they are Sunni Muslims who study the works of Said Nursi, one of their friends told Forum 18 from Baku on 26 November 2014. An unknown number appear to be still in detention and under investigation on treason charges.

Sunni Muslims who study Nursi's works have also been the authorities' targets. One man who requested not to be identified for fear of state retaliation told Akramoglu that when he was freed, he and others were told that if they attended mosque in future they would be arrested again. Sunni Muslims were in 2010 told not to attend a Sunni mosque and since 2011 the only permitted mosques have been Shia.

Three Muslims who read Nursi's works were freed from prison on 11 February 2015. Two were seized in Nakhichevan in January and the third in Baku and transferred to the exclave. All three were held without any court approval. They were tortured by being beaten to force them to "confess" to a "crime" (distributing anti-government leaflets) one of their friends insisted to Forum 18 they had nothing to do with. Police have confiscated passports from all three to prevent them leaving the exclave. A fourth fled to Turkey to evade possible arrest, though Azerbaijani police tried to kidnap him there. The Head of Nakhichevan's Department for Work with Religious Organisations Vuqar Babayev declined to discuss the cases with Forum 18.

In Nakhichevan some extra formal restrictions on freedom of religion or belief have also been introduced. In a 29 November 2014 interview with Nakhichevan's official newspaper "Sharq qapisi" (Eastern Gate), the Head of Nakhichevan's Department for Work with Religious Organisations Vuqar Babayev outlined the state's formal controls over exercising freedom of religion or belief. He noted the requirement that – as in the rest of Azerbaijan – mosques and their imams must have state permission to operate. Also, all religious literature imported into Nakhichevan (wherever it is from) must be censored in advance by his Department, he stated.

Babayev also stated that all imams must wear a prescribed uniform. He said two sets of such a uniform and pairs of shoes had been issued to each state-appointed imam. No such uniform is required for imams in the rest of Azerbaijan. Also unlike in the rest of Azerbaijan, in Nakhichevan policy on freedom of religion or belief is enacted by the Department for Work with Religious Organisations. This is under the Nakhichevan authorities, not the central State Committee for Work with Religious Organisations in Azerbaijan's capital Baku. Babayev was appointed head of Nakhichevan's Department on 1 July 2013 by a decree from Vasif Talibov, the Chair of Nakhichevan's Supreme Council since 1995 and the exclave's de facto ruler.

Under a 20 August 2014 Decree, a new Multiculturalism and Religious Affairs Committee was established with branches in each District of Nakhichevan. Promoting religion "in the right direction", controlling public rituals, especially funerals, and countering "religious sects" (presumably within the Muslim community) appear to be key tasks, according to a 20 September interview in "Sharq qapisi" with Committee Head Mirhashim Seyidov. He claimed that Nakhichevan has 209 mosques and 638 registered imams.

#### Future prospects

Azerbaijan systematically violates intertwined fundamental rights – such as the freedoms of religion or belief, of expression and of assembly – it has solemnly undertaken to respect and defend, while loudly claiming the government's alleged commitment to "religious tolerance", "dialogue" and similar assertions. The country's laws and official actions repeatedly seriously violate freedom of religion or belief and related fundamental freedoms. This makes it likely that the government intends to continue to deliberately

and systemically violate human rights.

Azerbaijan seems likely to remain a state where officials violate fundamental human rights with impunity and the state makes exercising human rights conditional upon state permission. (END)

(Printer-friendly and PDF versions of this survey, as well as social media sharing, are at [http://www.forum18.org/archive.php?article\\_id=2081](http://www.forum18.org/archive.php?article_id=2081).)

See also the Norwegian Helsinki Committee/Forum 18 February 2015 report on freedom of religion or belief in Azerbaijan [http://www.nhc.no/content/uploads/2018/07/Rapport2\\_15\\_Aserbajdsjan\\_web.pdf](http://www.nhc.no/content/uploads/2018/07/Rapport2_15_Aserbajdsjan_web.pdf)

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

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](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](http://www.forum18.org/Archive.php?article_id=482).

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