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AZERBAIJAN: European court fines regime for religious censorship

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

The European Court of Human Rights ordered Azerbaijan to compensate Jehovah's Witnesses over an import ban on three publications. Muslim theologian Elshad Miri lodged a case to the Court over the 2018 ban on his book on Islam. The State Committee – which implements the compulsory prior religious censorship – allowed Miri to publish only 3,000 copies of his next book. Customs destroyed a Georgian Orthodox book.

The European Court of Human Rights in Strasbourg ruled on 20 February that Azerbaijan had violated the rights of Jehovah's Witnesses by banning three of their publications from import and distribution back in 2008. Azerbaijan must pay compensation for the violation and refund court fees Jehovah's Witnesses incurred trying to challenge the bans through Azerbaijan's courts.

The Strasbourg judgment came two months after Muslim theologian Elshad Miri lodged a case to the European Court of Human Rights (ECtHR) against the February 2018 ban on theological grounds on the publication in Azerbaijan of one of his books on Islam. Like all such bans, it had been handed down by the State Committee for Work with Religious Organisations (see below).

ECtHR judgments require governments not only to pay any compensation awarded but to rectify the conditions which led to the human rights violations.

Forum 18 was unable to find out what actions the Azerbaijani government (if any) is planning in response to the finding that its religious censorship violates human rights. One official at the State Committee put the phone down when Forum 18 asked about the ECtHR judgment. Others did not answer their phones. Nor too did Chingiz Asgarov, the Azerbaijani government's Agent at the ECtHR (see below).

In December 2019, a Deputy Chair of the State Committee approved the publication of a more recent book on Islam by Miri. As usual, his approval letter specified the number of copies Miri was allowed to produce: 3,000 copies (see below).

The State Committee gives almost no information about which religious works it bans and why. Nor does it explain how it decides how many copies of a publication it might choose to allow.

Miri's case about his banned book is among five others that the European Court of Human Rights is still considering from Azerbaijan relating to its state censorship of religious literature (see below).

The State Customs Committee revealed on 20 February 2020 that it had that day destroyed items it had seized from people crossing the border. Among the destroyed items was a Georgian translation of a Russian Orthodox book (see below).

After criticism of the destruction of the Georgian Orthodox book on Georgian websites, and Forum 18's questions to the State Customs Committee, the State Customs Committee removed the photo of the destroyed book from its website (see below).

Complete religious literature censorship

All religious literature produced in, published in (including on the internet) or imported into Azerbaijan is subject to prior compulsory censorship (http://www.forum18.org/archive.php?article_id=2429). If the State Committee for Work with Religious Organisations "Religious Expert Analysis [Censorship] Department" gives permission to publish or import a work, it also specifies how many copies can be produced or imported. All religious materials sold must have a sticker (each costing 0.02 Manats) stating that they have State Committee approval.

State officials have repeatedly denied that this is censorship.

"One of the main directions of our activity is to prevent the spread of unauthorised religious literature," a Deputy Chair of the State

Committee, Siyavush Heydarov, stated in January 2017. (http://www.forum18.org/archive.php?article_id=2351)

The Old Testament, the 14-volume "Risale-i Nur" (Messages of Light) collection of writings by the late Turkish theologian Said Nursi, and several Jehovah's Witness publications were included on a 2014 police list of alleged "banned" religious literature (http://www.forum18.org/archive.php?article_id=2429), based on State Committee "expert analyses".

In May 2018 a State Committee official confirmed to Forum 18 that it does not make public lists of religious publications it has banned. (http://www.forum18.org/archive.php?article_id=2376)

Religious literature and other materials can be sold or distributed only at specialised outlets which have been approved both by the State Committee and the local administration. People who sell religious literature and materials without such permission are routinely fined, with the materials being seized.

Raids on shops selling religious literature were frequent, with several waves of raids and subsequent fines in 2017 and 2018 (http://www.forum18.org/archive.php?article_id=2411). They appear to have reduced since then.

After the most recent known raid, in July 2019 a Baku court fined Kamran Huseynzade about four months' average wages for selling religious literature without state permission (http://www.forum18.org/archive.php?article_id=2509). The 180 books seized from him in the raid earlier that month were confiscated.

Huseynzade was fined under Administrative Code Article 516.0.2. This punishes "Selling religious literature (printed or on electronic devices), audio and video materials, religious merchandise and products, or other religious informational materials, which have been authorised for sale under the Religion Law, outside specialised sale outlets established with the permission of the relevant government authority distributing religious literature, religious objects and information material without State Committee permission".

Punishments are: for individuals fines of between 2,000 and 2,500 Manats; for officials fines of between 8,000 and 9,000 Manats; for organisations fines of between 20,000 and 25,000 Manats; and for foreigners and stateless persons fines of between 2,000 and 2,500 Manats with deportation from Azerbaijan. Punishment also includes confiscation of the literature, merchandise and products or other materials concerned.

ECtHR rules censorship violated human rights

In a judgment issued on 20 February 2020 (<http://hudoc.echr.coe.int/eng?i=001-201087>), the European Court of Human Rights in Strasbourg ruled that Azerbaijan had violated the rights of Jehovah's Witnesses when it banned some of their religious literature (Religious Community of Jehovah's Witnesses v. Azerbaijan, Application No. 52884/09).

In June 2008, the State Committee rejected three books of the Jehovah's Witness community's request to import literature, "Worship the Only True God", "What Does the Bible Really Teach?" and "What Is the Purpose of Life?". It claimed these works insulted other (mainly Christian) religions and beliefs. Subsequent court challenges from the Jehovah's Witness community – culminating in a June 2009 Supreme Court decision - failed to overturn the ban.

The Jehovah's Witness community lodged its case to the ECtHR in September 2009. The Court asked the government questions (http://www.forum18.org/archive.php?article_id=2490) about the case on 23 March 2017.

The European Court ruled that the banning of their publications violated the community's rights under Article 10 ("Freedom of expression") of the European Convention on Human Rights and Fundamental Freedoms. It ordered the Azerbaijani government to pay the Jehovah's Witness community 3,000 Euros in compensation, plus 42.56 Euros (the amount the community had paid to local courts to submit challenges to the original ban).

Forum 18 was unable to find out what actions the Azerbaijani government (if any) is planning in response to the finding that its religious censorship violates human rights.

An official at the "Expertise" (Censorship) Department of the State Committee told Forum 18 on 24 February that its head, Nahid Mammadov, was not in the office. Asked about the ECtHR judgment, the official put the phone down. The phone of the State Committee's press officer, Yaqt Aliyeva, went unanswered the same day.

The telephone of Chingiz Asgarov, the Azerbaijani government's Agent at the ECtHR, went unanswered each time Forum 18 called on 24 February.

Jehovah's Witnesses note that the State Committee has not banned any of their publications since November 2015. However, all have to go through its censorship before they can be imported and all must have placed on them the State Committee sticker.

The State Committee has introduced electronic applications for such applications. While the law gives the State Committee 30 days to respond to applications, and in the past it often took much longer to respond, the electronic system means communities often receive a response within about three weeks, Baku residents told Forum 18 on 24 February.

ECtHR case over State Committee's 2018 book ban

In February 2018, the State Committee imposed the pre-publication ban on the publication and distribution in Azerbaijan of Muslim theologian Elshad Miri's book "Things Not Existing in Islam". (http://www.forum18.org/archive.php?article_id=2351) The book covers seven of what Miri regards as myths about what Islam teaches. Chapters include "There is no magic in Islam" and "There is no child marriage in Islam".

The State Committee banned Miri's book because a State Committee official disagreed with the book theologically. Replying, Miri told the State Committee that "it is not correct to ban a book I wrote in a country which does not [officially] have censorship".

Miri has been seeking to overturn the State Committee's ban on his book through the courts. On 25 June 2019, Azerbaijan's Supreme Court rejected his appeal against the state. (http://www.forum18.org/archive.php?article_id=2490)

On 20 December 2019, Miri lodged a case in the European Court of Human Rights (Miriye v. Azerbaijan, Application No. 1717/20), Court officials told Forum 18.

Outstanding ECtHR cases over state censorship of religious literature

Among the religious freedom cases against Azerbaijan (http://www.forum18.org/archive.php?article_id=2490) related to state censorship of religious literature still under consideration at the European Court of Human Rights in Strasbourg are:

1) Mammadov v. Azerbaijan (Application No. 7308/12). In July 2007, police raided a religious meeting of Muslims who read Said Nursi's works at Shukran Mammadov's home in Ujar and seized books and religious materials, handing them to the State Committee. Baku courts rejected his demand for the State Committee to return the books (http://www.forum18.org/archive.php?article_id=1522), claiming that they contained passages encouraging sectarianism and therefore not recommended for distribution. The ECtHR asked the government questions (<http://hudoc.echr.coe.int/eng?i=001-181912>) about the case on 6 March 2018.

2) Jafarov and Others v. Azerbaijan (Application No. 406/12). In December 2009, the State Committee rejected an application to import Jehovah's Witness literature, claiming it incited "religious intolerance against members of the Catholic, Protestant and Russian Orthodox churches". In 2010, the State Committee issued four further denials, claiming the literature encouraged intolerance of Christians or misrepresented the Koran. The Baku Jehovah's Witness community and ten of its members, including Adam Jafarov, failed to overturn these denials through the local courts. The ECtHR asked the government questions (<http://hudoc.echr.coe.int/eng?i=001-182157>) about the case on 12 March 2018.

3) Tagiyev and Others v. Azerbaijan (Application No. 66477/12). In October and November 2010, the State Committee rejected in full or in part the community's requests to import Jehovah's Witness literature. The State Committee rejected in full or in part five further applications between December 2010 and May 2011. The Baku Jehovah's Witness community and seven of its members, including Arif Tagiyev, failed to overturn these denials through the local courts. The ECtHR asked the government questions (<http://hudoc.echr.coe.int/eng?i=001-178976>) about the case on 31 October 2017.

4) Religious Community of Jehovah's Witnesses v. Azerbaijan (Application No. 12739/13). In March 2011, the State Committee rejected the community's request to import Jehovah's Witness literature. A Baku court held that as the community was asking for more literature than the number of its members warranted, the community wanted the literature to share their faith with others. It rejected the community's appeal against the denial. The community subsequently sought to have five further 2011 State Committee literature import denials overturned. The ECtHR asked the government questions (<http://hudoc.echr.coe.int/eng?i=001-192837>) about the case on 3 April 2019.

5) Miriye v. Azerbaijan (Application No. 1717/20). In February 2018, the State Committee banned Elshad Miri's book "Things Not Existing in Islam". He failed to overturn the ban through the local courts (see above).

Approval, but for 3,000 copies only

Despite the State Committee's February 2018 ban on his earlier work, Muslim theologian Elshad Miri applied on 3 December 2019 for permission to publish another, "Is This in Islam?". On 26 December 2019, in a letter seen by Forum 18, a State Committee deputy chair Gunduz Ismayilov granted him permission to publish the book.

However, in line with the State Committee's usual practice, Ismayilov specified the number of copies allowed to be produced. In Miri's case, this is 3,000 copies.

Ismayilov's telephone went unanswered each time Forum 18 phoned on 24 February. In written questions sent in the afternoon of 24 February, Forum 18 asked Ismayilov why the State Committee had granted permission for Miri to produce only 3,000 copies of his book and why he cannot produce as many copies as he might want. Forum 18 received no response by the end of the working day in Baku on 24 February.

The State Committee noted on its website on 23 January that during 2019, it had rejected 14 out of 239 of the applications for publishing books within Azerbaijan.

Religious book confiscated, burnt

On 20 February, the State Customs Committee noted on its website that it had that day destroyed thousands of items seized at its border posts. The items were burnt in a pit, with cameras to film the event as numerous officers and other onlookers watched.

Many of the destroyed items were Armenian-produced, such as brandy (Azerbaijanis and Armenians have been in conflict since the late 1980s over the territory of Nagorno-Karabakh), but also included other alcoholic drinks, medicines and mobile phones.

Photos of the items on the State Customs Committee website revealed that among the books destroyed was a Georgian translation of "A Guide for Preachers: 1,221 examples and sayings from the Prologue and the Patericon" by Russian Orthodox priest Fr Mark Lozinsky. (The original Russian text was first published in 1996 in Russia, 23 years after Fr Lozinsky's death.)

The orange book with a cross on the cover was clearly shown in one of the photos accompanying the announcement of the destruction. It was also visible in television pictures shown that day, including on Real TV, and linked to from the State Customs Committee Twitter feed.

The assistant (who did not give his name) to a deputy head of the State Customs Committee, Lieutenant-General Asgar Abdullayev, appeared not to be aware of the destruction of the Georgian Orthodox book. But he insisted that seizing religious literature from individuals entering or leaving Azerbaijan does not constitute censorship.

"Under our laws, all religious books need approval from the State Committee for Work with Religious Organisations," Abdullayev's assistant told Forum 18 from Baku on 24 February. He claimed that any religious books seized from individuals entering Azerbaijan are held at customs for them to collect when they leave. The assistant could not explain how the Georgian Orthodox book had ended up being destroyed.

Following criticism of the destruction of the Georgian Orthodox book on Georgian websites and social media and Forum 18's questions to Abdullayev's assistant, the photo showing the destroyed Georgian Orthodox book was removed from the 20 February article on the State Customs Committee website about the destruction of seized items.

Uncensored religious literature import ban

Article 4.4 of the General Information for Individual Travellers on the State Customs Committee website notes that religious literature (on paper and in electronic form), as well as audio and video materials, can be imported only with State Committee permission.

The State Committee noted on its website on 23 January that during 2019, it had rejected 216 out of 3,888 applications for importing books into Azerbaijan. It claimed the banned books had promoted religious intolerance, discrimination and radicalism. Such claims are impossible to verify independently as the State Committee gives no information about publications it has banned. (END)

Full reports on freedom of thought, conscience and belief in Azerbaijan
(<http://www.forum18.org/archive.php?query=&religion=all&country=23>)

For more background, see Forum 18's Azerbaijan religious freedom survey (http://www.forum18.org/archive.php?article_id=2429)

Forum 18's compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments (http://www.forum18.org/archive.php?article_id=1351)

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