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AZERBAIJAN: State to have veto on religious leader appointments?

By Felix Corley, Forum 18

The State Committee for Work with Religious Organisations would acquire a veto over non-Islamic religious communities' appointment of leaders under Religion Law amendments due for their first parliamentary reading on 23 April. It would also be involved in re-attesting Muslim Board clerics every five years. Only communities with a religious centre (headquarters) – requiring five state-registered communities in different locations – would be allowed to apply to have foreign citizens as religious leaders, establish religious educational establishments or organise visits by their adherents abroad.

Azerbaijan seems set to introduce a new requirement for the State Committee for Work with Religious Organisations to approve the appointment of all non-Islamic religious leaders. Only the Caucasian Muslim Board will be allowed to name Muslim clerics, but they will have to undergo re-attestation every five years with the involvement of State Committee officials.

These proposed requirements are included in amendments to the Religion Law which are due to begin their first reading in parliament, the Milli Majlis, on 23 April, according to the Milli Majlis website. Also due to begin their first reading the same day are amendments to the Administrative Code, which includes a small change to state that local religious organisations functioning outside their legally registered address would face punishment, not state-registered religious centres (headquarters).

The draft amendments were only published on the Milli Majlis website in the afternoon of 21 April, two days before their first reading. The first reports of the proposed amendments came only on 13 April, when Baku-based news agency APA published a summary of the provisions of the Religion Law amendments.

If adopted in their current form, the Religion Law amendments would close mosques and Islamic shrines when they do not have a Muslim Board-appointed leader. They would allow non-Islamic communities to establish and apply for state registration of a religious centre (headquarters), but only if they have at least five registered communities in at least five different towns or districts. Most non-Islamic communities would struggle to achieve this (see below).

Communities without a religious centre would not be allowed to grant religious titles or ranks to the clergy, apply for permission to have foreign citizens as religious leaders, establish religious educational establishments or organise visits by their adherents to shrines and religious locations abroad. Tighter restrictions would be imposed on mass religious events outdoors (see below).

The amendments reached parliament from the Presidential Administration. "This initiative came from our president [Ilham Aliyev]," a Milli Majlis official told Forum 18 on 21 April. The official refused to send Forum 18 the text of the amendments (they were published only later that day). "They are not a state secret – this is our procedure."

A joint meeting of two Milli Majlis Committees approved the draft amendments on 15 April and sent them for consideration by the full parliament (see below).

"As usual, all these amendments have a restrictive character," human rights defender Elshan Hasanov told Forum 18 from Baku. "The result: pilgrimages – only with permission; mass religious rituals – only with permission; religious education – only with permission; literature – only with permission."

Human rights defender Eldar Zeynalov noted that no texts of the amendments were made available for scrutiny before they reached parliament. "The problem is that with issues considered important for national security, decisions are adopted without public debates," he commented to Forum 18 (see below).

"The reported contents [of the Religion Law amendments] require reflection," a non-Muslim religious leader told Forum 18 from Baku on 13 April, before the text of the amendments was made public. "But it is already regrettable that once again laws are adopted (or amended) without advice and discussion with religious (non-Islamic) representatives."

The Council of Europe's Venice Commission told Forum 18 from Strasbourg on 20 April that it has not been asked to conduct a review of these proposed amendments. The Organisation for Security and Cooperation in Europe (OSCE) Office for Democratic Institutions and Human Rights similarly told Forum 18 that it has not been asked for a review. The Venice Commission and the OSCE Office for Democratic Institutions and Human Rights, often together, provide reviews of laws and draft laws on request.

Forum 18 was unable to reach any officials to discuss the proposed amendments. The individuals were not in their offices or telephones went unanswered on 20 and 21 April of: at the Presidential Administration, the Head of the Department of Humanitarian Policy, Diaspora, Multiculturalism and Religious Issues Farah Aliyeva, the Head of the Legal Expertise Department Shahin Aliyev, and other officials; at the State Committee, its head Mubariz Qurbanli, two of its deputy heads Gunduz Ismayilov and Seyavush Heydarov, and other officials; and at the Milli Majlis, members of the Public Associations and Religious Organisations Committee as well as several other deputies.

Amendments sent from Presidential Administration

As is often the case, the regime prepared the Religion Law and Administrative Code amendments in secrecy and with no public consultation. Although the head of the State Committee for Work with Religious Organisations, Mubariz Qurbanli, stated in February that it was preparing Religion Law amendments, he gave no indication of what was to be in them (https://www.forum18.org/archive.php?article_id=2647) and it remains unclear if the Religion Law amendments now in the Milli Majlis are the same as those apparently being prepared by the State Committee.

The Religion Law and Administrative Code amendments were handed to the Milli Majlis by the Presidential Administration, a Milli Majlis official told Forum 18 on 20 April. They were originally scheduled to be considered on 15 April only by the Legal Policy and State Building Committee. However, ahead of the hearing this was changed, so that the main Committee considering them would be the Public Associations and Religious Organisations Committee. However, members of both Committees took part in the 15 April meeting, which took place online.

Fazail Ibrahimli, chair of the Public Associations and Religious Organisations Committee, explained the proposed Religion Law amendments, Trend news agency noted the same day. He claimed that the Religion Law, first adopted in 1992, needed updating, in particular by setting out the rights, obligations and responsibilities of the state, the individual and religious communities.

Ali Huseynli, chair of the Legal Policy and State Building Committee, explained the related Administrative Code amendments. He claimed that it is important to set out the norms of the ban on promoting extremism and the use of inter-religious conflicts for political ends.

However, the one proposed amendment to the Administrative Code comes in Article 515.0.4, which punishes "Religious associations operating away from their registered legal address". The amendment specifies that local religious communities not religious centres would be subject to such punishments.

Also joining the meeting were Gunduz Ismayilov, a Deputy Chair of the State Committee for Work with Religious Organisations, and Simran Hasanov, chief of staff of the Caucasian Muslim Board.

An official of the Milli Majlis Public Associations and Religious Organisations Committee told Forum 18 on 21 April that it will depend on the parliamentary deputies as to whether the draft amendments will be approved in first reading on 23 April, or whether consideration would continue in further sessions. The official confirmed that the amendments will need approval in three readings. The official declined to discuss the content of the amendments.

"Decisions are adopted without public debates"

Eldar Zeynalov of the Human Rights Centre of Azerbaijan noted that the texts of these amendments to the Religion Law and the Administrative Code were not available for public scrutiny before consideration of them began in the Milli Majlis. "The problem is that with issues considered important for national security, decisions are adopted without public debates," he told Forum 18 from Baku.

"The obvious aim of such amendments is to prevent any foreign religious centres from possible intervention into the religious hierarchy, to monopolise the granting of religious titles, etc.," Zeynalov commented. "However, in the case of non-Muslim clergy, the idea seems absurd."

Zeynalov points out that many religious communities have no religious educational establishments in Azerbaijan, including Roman Catholics, Russian Orthodox, Georgian Orthodox and Jehovah Witnesses. "If diplomas of Russian, Georgian, or European religious educational establishments would not be accepted, congregations would be without their shepherds."

Strict state controls

The proposed new controls on the exercise of freedom of religion or belief come on top of strict controls that the regime already imposes on who is allowed to exercise the right to freedom of religion or belief (https://www.forum18.org/archive.php?article_id=2429), where and in what circumstances. Any meeting by a group of people without state permission to exist is illegal, as are meetings held in unapproved venues. Religious teaching is similarly restricted. All religious literature must undergo pre-publication censorship by the State Committee. Those who violate these state controls face punishment.

Raids on people meeting for worship and on individuals in their homes and fines were frequent in earlier years. However, the authorities appear to have launched fewer such raids since 2019, Forum 18 notes.

State permission to be required for non-Islamic clergy appointments

The Muslim Board is specifically identified in the Religion Law amendments as the only Muslim organisation allowed to appoint clerics to individual communities, as well as to shrines which do not have a resident community and which do not have state registration. The Muslim Board would have to inform the State Committee of these appointments.

The Muslim Board would have to re-attest each cleric every five years, and a State Committee official would take part in the re-attestation process.

"When a cleric appointed to a place of worship or shrine is relieved of his post," the Religion Law amendments note, "the religious community of the place of worship and the shrine shall cease its religious activities until a new cleric is appointed to that position."

The proposed amendments to the Religion Law would for the first time require non-Islamic religious communities to get permission from the State Committee to appoint individuals as religious leaders. If a non-Islamic religious community has a "religious centre" (headquarter body), it must apply for such permission. If not, the individual community must apply.

It remains unclear how this requirement might apply to the Roman Catholic Apostolic Prefecture of Azerbaijan. Under the terms of the 2011 Agreement between the Holy See and Azerbaijan, the Holy See "freely chooses" the head of the Apostolic Prefecture, the Ordinary, with no requirement to await the approval of the Azerbaijani authorities.

Article 5 of the Agreement adds: "Before publishing the appointment of such an Ordinary of the ecclesiastical circumscription the Holy See, out of courtesy and confidentially, informs the President of the Republic of Azerbaijan through the Ministry of Foreign Affairs."

Moreover, Article 6 of the Agreement appears to grant the Ordinary the right to appoint foreign priests and nuns: "Upon formal request and under the responsibility of the Ordinary of the ecclesiastical circumscription, a residence permit and a work permit intended for the exercise of pastoral ministry is issued in accordance with the present Agreement."

Several members of non-Islamic communities expressed concern as to how the State Committee might interpret its role. One noted that it might decide to ban individuals who have previously been punished for exercising freedom of religion or belief under the Criminal Code or the Administrative Code. Another linked this State Committee power – if the Religion Law amendments are adopted in their current form – to a "Sword of Damocles" hanging over each non-Islamic community.

Who can have a "religious centre"?

The Religion Law amendments would increase the distinction between "religious centres" (headquarter bodies) and local religious communities. The current Religion Law makes less of a distinction, though it appears to presume that each non-Islamic community has a religious centre outside Azerbaijan.

A religious centre would be allowed to operate throughout Azerbaijan.

The State recognises the Caucasian Muslim Board as a religious centre and the only one that can exist for communities of Muslims. It appears – as is the situation at present - that no other Islamic communities would be allowed to exist.

The Religion Law amendments would allow non-Islamic communities to establish and apply for state registration of a religious centre, but only if they have at least five registered communities in at least five different towns or districts.

It remains unclear how many non-Islamic communities would be allowed to register a religious centre. The Russian Orthodox diocese of Baku and Azerbaijan is the only registered Russian Orthodox community. It has six parishes, but they are based in only four cities (Baku, Sumgait, Ganca and Khachmaz).

The State Committee has allowed the Georgian Orthodox Church to register only three communities, all of them in Qakh Region.

The State Committee registered the Roman Catholic Apostolic Prefecture on 7 July 2011, the day after an Agreement came into force between the Holy See and Azerbaijan. "The Republic of Azerbaijan recognizes and registers the juridical personality of the Catholic Church, as well as of all its institutions established on the basis of the legislation of the Catholic Church, in conformity with the present Agreement," Article 2 of the Agreement notes.

Other religious communities – including of Jews, Baptists, Pentecostals, Lutherans and other Protestants, Baha'is, Jehovah's Witnesses and Hare Krishna devotees – seem unlikely to be able to gain the status of a religious centre. Most have been allowed to register only one or at most two local communities.

The State Committee arbitrarily denies registration to many other religious communities, including mosques not affiliated to the Caucasian Muslim Board, as well as other religious communities, particularly away from the capital Baku. The Jehovah's Witness community in the second city Ganca has been seeking registration in vain since 2010.

The State Committee gave Baku's Azeri-language congregation state registration only in November 2015. It gave the city's Russian-language church state registration only in July 2019, nearly a decade after it applied for the compulsory re-registration (https://www.forum18.org/archive.php?article_id=2557). The Baptist congregation in Aliabad first applied for state registration in 1994. A quarter of a century later, in January 2020, the State Committee said it had "no objection" to the community meeting in a home once a week for two hours (https://www.forum18.org/archive.php?article_id=2557).

What smaller religious communities won't be able to do

Under the Religion Law amendments, local religious communities would still require (as at present) 50 adult citizens as founders, but these founders would have to live in one administrative district. As in the current Religion Law, any activity by a local community outside its registered legal address would be banned.

Some religious communities currently rent premises for worship which are not their registered legal address.

Only religious centres would be allowed to grant religious titles or ranks to the clergy. This appears to be mainly targeted at Muslim preachers, teachers and imams who do not have Muslim Board approval.

Only religious centres would be allowed to apply for permission to have foreign citizens as religious leaders (see below).

As in the current Religion Law, only religious centres would be allowed to establish religious educational establishments, and would have to get permission to establish them from the State Committee. Each religious centre would be allowed to establish only one such educational establishment, and these would also require a state licence.

Only religious centres would be allowed to organise visits by their adherents to shrines and religious locations abroad, for which the state would set out procedures, according to the draft Religion Law amendments. The religious centres would have to inform the State Committee in advance of such organised visits.

Tighter state control on religious "mass events"

Only Azerbaijani citizens would be allowed to organise religious "mass events".

While both the current and proposed amended Religion Law claim that homes can be used "unimpeded" for religious rites and ceremonies, a new Article 6-1 of the Religion Law would restrict larger-scale religious ceremonies and "mass events" to places of worship or shrines. The only exceptions would be funerals, iftars, religious weddings, ceremonial meals after a funeral (ehsan) and the observance of the birthday of the Islamic prophet Muhammad (movlud).

State Committee permission would be required to hold religious "mass events" anywhere apart from at places of worship or shrines.

"This is a very dangerous provision," the lawyer Asabali Mustafayev told Forum 18 from Baku. "The Law gives no indication of how many participants there must be before a meeting is considered a mass event." He notes that this issue has arisen earlier in several cases where he was involved, where individuals were punished for holding religious meetings in homes.

In April 2012, police in Ganca raided a Muslim meeting for worship in a home after which three participants were fined and initially ordered deported (https://www.forum18.org/archive.php?article_id=1719). In September 2015, police raided a meeting to study Muslim theologian Said Nursi's works at a home in Baku, with five later given criminal convictions, many others fined and two individuals deported (https://www.forum18.org/archive.php?article_id=2106). In March 2017, police raided a home in Quba where Muslims who study Nursi's works were meeting and almost all participants were subsequently fined (https://www.forum18.org/archive.php?article_id=2294). In 2020 and 2021, the European Court of Human Rights found a violation of the individuals' rights, or accepted the regime's admissions that it had violated the individuals' rights (https://www.forum18.org/archive.php?article_id=2647) and agreement to pay compensation to the victims.

The regime has long been nervous of visible public religious manifestations. The December 2015 Religion Law amendments banned religious slogans, banners and flags on the streets (https://www.forum18.org/archive.php?article_id=2134). An unpublished rule already banned people from praying around mosques when they are full, although this has occurred at some mosques.

Increased controls on foreign citizens

The Religion Law already bans foreigners from conducting "religious propaganda" in Azerbaijan.

Since Religion Law amendments in December 2015 (https://www.forum18.org/archive.php?article_id=2134), Article 21 has banned both Azerbaijani citizens who had studied abroad and non-Azerbaijani citizens from conducting Islamic rituals.

A new Criminal Code Article 168-1 ("Violation of the procedure for religious propaganda and religious ceremonies") was also introduced at the same time (https://www.forum18.org/archive.php?article_id=2134). Part 1 punishes the conducting of Islamic rites by a citizen who has received their education abroad with one year's imprisonment, or a fine of between 2,000 and 5,000 Manats. Part 2 punishes "religious propaganda by foreigners and stateless persons" (except those invited by a registered religious headquarter organisation) with imprisonment of between one and two years.

Imam Sardar Babayev was the first and only person known to have been punished under Article 168-1. He was jailed between February 2017 and February 2020 (https://www.forum18.org/archive.php?article_id=2350). After his release, Babayev's lawyer Javad Javadov told Forum 18 that the Imam would not be resuming leading prayers and preaching in the mosque for fear of renewed criminal prosecution (https://www.forum18.org/archive.php?article_id=2557).

Under the proposed amendments to the Religion Law now in the Milli Majlis, the ban in the current Religion Law on foreign citizens leading Islamic worship would be extended to all faiths.

Only foreign citizens (or individuals without citizenship) on an official visit and foreign citizens (or individuals without citizenship) invited by state-registered religious centres would be exempt from the general ban on foreigners leading religious worship. However, they would still need the State Committee approval that all religious leaders would require.

It remains unclear what will happen in communities which have foreign religious leaders which are not able to gain permission for a religious centre.

All the clergy and nuns of the Catholic church in Baku are foreign citizens, including the head, Bishop Vladimir Fekete.

The regime prevented several Georgian Orthodox priests in succession from continuing their ministry, most recently in June 2015 (https://www.forum18.org/archive.php?article_id=2142), claiming that they had to have Azerbaijani citizenship to be able to serve the parishes in the country. In 2016, after a gap of many months, Azerbaijan finally granted citizenship to a priest from Georgia, Fr Peter Khumarashvili. He serves the three state-registered parishes in Qakh Region along the north-western border with Georgia. (END)

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

For more background, see Forum 18's Azerbaijan religious freedom survey (https://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 (https://www.forum18.org/archive.php?article_id=1351)

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