



Forum 18 News Service <http://www.forum18.org>
The right to believe, to worship and witness
The right to change one's belief or religion
The right to join together and express one's belief

WS 13 - Tolerance and non-discrimination II including discrimination on religious grounds

The Agenda underlines the importance of a 'common approach' to prevent and address manifestations of intolerance and discrimination. This follows human dimension commitments from the Helsinki Final Act onwards, Kyiv 2013 "reaffirming the commitments of participating States to respect, protect, and ensure the right of everyone to freedom of thought, conscience, religion or belief, emphasizing the link between security and full respect for the freedom of thought, conscience, religion or belief".

The OSCE is a security organisation, as human dimension commitments state. Within the OSCE region, the most systemic and consistent threats to freedom of thought, conscience, religion or belief and other fundamental freedoms underpinning our security come from participating States. Their targets do not comprise isolated categories of 'Anti-Semitism', 'Muslims', and 'Christians and Members of Other Religions', but any and all people who exercise their human rights outside state control.

Azerbaijan - as in previous years - is one of too many participating States this year demonstrating the interlinked nature of attacks on all fundamental rights. Followers of majority and minority religious communities in Azerbaijan have expressed concern to Forum 18 over a police list of "banned" books published in May. Most of the banned books include Islamic texts by theologian Said Nursi, Jehovah's Witness texts, as well as the Old Testament or Hebrew Bible used by both Christians and Jews. The list was apparently compiled by police based on "expert analyses" by the State Committee for Work with Religious Organisations, but is not so far known to have been published officially. Police have long confiscated texts named on the list, as well as other texts during raids on private homes and meetings of people exercising their right to freedom of religion or belief.

There is state censorship of all religious literature and other materials, with state licences being required to sell any religious literature. New State Committee head Mubariz Qurbanli wants to increase censorship. He is also a parliamentary deputy after elections found by OSCE election observers to have "restrictions of fundamental freedoms ... and serious violations on election day".

The "crime" of meeting with others and reading books can lead to severe punishments. Eldeniz Hajiyev, Ismayil Mammadov and Revan Farzaliyev could soon face criminal trial to punish them for meeting fellow-Muslims and reading works by Said Nursi in Hajiyev's Baku home raided in April. They face up to three years' imprisonment if tried and convicted. After five months NSM secret police detention they were on 12 September transferred to house arrest. Muslims have been beaten up by the NSM in a bid to gather "evidence" against the three.

Naming particular kinds of intolerance and discrimination against some groups - for example women - can be helpful. But as Azerbaijan shows us a belief-based split of this fundamental freedom does not grasp the reality and seriousness of violations, or the linkages with other human rights. The three-way split encourages negative stereotyping while discouraging co-operative responses and the use of the tools of legally-binding international human rights standards to address the issues. Indeed, splitting freedom of religion or belief is like having three isolated groups of election observers: for those who vote for governing parties; for those who vote for opposition parties; and for those who do not vote.

So it is encouraging that the ODIHR has now included work on freedom of religion or belief within the Human Rights Department. This organisational repositioning offers many opportunities to gain a comprehensive and realistic understanding of everyone's freedom of religion or belief within the OSCE region, and to constructively address violations along with violations of closely interrelated freedoms such as those of opinion, expression, peaceful assembly and association. In this context use can and should be made of tools as the *Guidelines for Review of Legislation Pertaining to Religion or Belief* and the recently-published *Guidelines on the Protection of Human Rights Defenders* and *OSCE/Venice Commission Joint Guidelines on the Legal Personality of Religion or Belief Communities*.

The need for a human rights-based approach is highlighted by the violence often accompanying raids on people meeting together. In one raid on a Jehovah's Witness family in Azerbaijan, 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 7 people were fined the equivalent of one year's salary. Following a similar raid a Muslim from Baku, Zeka Miragayev, is taking a case to the European Court of Human Rights. "I want my rights to be protected by our government, not violated," he told Forum 18.

Violence has also been used against 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. Before joining the Council of Europe, Azerbaijan promised to introduce genuine civilian alternative service by 2003 and to immediately free all jailed and conscripted conscientious objectors. In April 2014 a military court sentenced Shikhaliyev to one year in a disciplinary military unit for "evasion of military service".

The authorities deny their actions, including wider crackdowns on and jailings of human rights defenders. President Ilham Aliyev claimed on 16 June that "freedom of assembly is fully guaranteed in our country", and "freedom of religion is also fully provided in our country." The government thinks that repression and flagrant breaches of international law are for export, with their apologists naming this as "tolerance and non-discrimination", "the Azerbaijani model of tolerance", "secularism" and "peaceful co-existence". The government's breaches of binding international obligations and denials of reality undermine both the country's and the OSCE region's security, as Kyiv 2013 reminds us.

Many participating States - notably those in the eastern part of the OSCE region - require no encouragement to break their binding international obligations. In Turkmenistan this week for example, the government is allowing only 650 Muslims of the 4,600 possible to go on the haj to Mecca. Total control is imposed on Muslims, all religious leaders above the local level being state officials.

Torture is also used against people exercising freedoms outside state control. Jehovah's Witness Mansur Masharipov was, after his arrest during a July police raid on his home, injected with an unknown substance which caused partial paralysis, vomiting, fever and headaches. Rigged trials are normal, false charges of hooliganism being in July lodged against Jehovah's Witness husband and wife Vepa Tuvakov and Bibi Rahmanova who were beaten by police and detained with their 4-year old son. They were arrested after the MSS secret police learned they were due to collect a shipment of books and other religious materials. On 18 August Bibi Rahmanova was given a four-year prison sentence for assaulting a police officer and two railway station employees, charges she vigorously denied.

There are 9 known religious prisoners of conscience, including 6 conscientious objectors in prisons where solitary confinement, beatings, and other tortures are routine, as Forum 18 and the Prove They Are Alive! campaign among other human rights defenders have been told.

What can constructively be done? Participating States, OSCE institutions and field operations could:

- insist that human dimension commitments are implemented in full by all participating States;
- situate OSCE religious tolerance and non-discrimination work within a human rights for all perspective, prioritising respect for the freedoms of religion or belief, expression, assembly, and other human rights and fundamental freedoms including the right to be free from torture;
- mainstream work to ensure and promote freedom of religion or belief with its interlinked human rights, for example building on the work of the ODIHR Human Rights Department;
- use tools such as the *EU Guidelines on the promotion and protection of freedom of religion or belief*¹, the *OSCE/Venice Commission Joint Guidelines on the Legal Personality of Religion or Belief Communities* and the *OSCE Guidelines on the Protection of Human Rights Defenders*.

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1 http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/137585.pdf