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# REPORT

AZERBAIJAN:  
Behind the tolerance facade  
Freedom of religion or belief  
restricted



NORWEGIAN HELSINKI COMMITTEE

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# Preface

The Norwegian Helsinki Committee (NHC) is a non-governmental organisation which promotes full respect for internationally recognised human rights both in law and in practice. NHC monitors and reports about human rights violations, conducts education projects, and cooperates with other organisations on monitoring and education.

The NHC's geographical focus remains North America, Europe and Central Asia, encompassing all participating States of the Organisation for Security and Cooperation in Europe (OSCE). However, in reporting on thematic issues NHC may also include events outside this region.

The NHC has, since it was established in 1977, reported on a wide range of human rights issues in former Soviet countries, several of which are now members of the Commonwealth of Independent States (CIS).<sup>1</sup> The reporting has focused on issues pertaining to the freedoms of expression, assembly, religion or belief, and of movement. The NHC has also reported on violations of the rights not to be tortured, killed, disappeared, or imprisoned for political beliefs.

The NHC has documented human rights developments in Azerbaijan since early 2000s, with a particular focus on democratic elections, freedom of expression, freedom of assembly and the situation of political prisoners. On many occasions, the NHC expressed concern about failure to respect human rights and criticised the government for repressive policies towards persons opposing President Ilham Aliyev and his government.

In 2014, NHC gave its Sakharov Freedom Award to political prisoners in Azerbaijan.

The NHC is currently running monitoring projects on freedom of religion or belief in two Central Asian states, Kazakhstan and Kyrgyzstan, and in Turkey. It is active on freedom of belief issues in several other countries, including Hungary, Norway, and Russia.

The NHC sees respect for everyone's right to freedom of religion or belief as an integral part of a state's overall respect for fundamental freedoms. Freedom of religion or belief is inseparable from the associated freedoms of expression, association, and assembly among other rights. Governments' respect for human rights and protection of individuals - alone or in community with others - exercising these fundamental human rights against discrimination, harassment and even violence is a basic requirement of democratic rule.

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<sup>1</sup> The Commonwealth of Independent States (CIS) is a regional organisation whose member countries are former Soviet Republics, formed during the breakup of the Soviet Union in December 1991. Members are Armenia, Azerbaijan, Belarus, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, and Uzbekistan.

In monitoring freedom of religion or belief issues, NHC has often witnessed governments dividing beliefs into what they claim are traditional and non-traditional creeds. States which make such claims often use them to disguise their failure to implement their solemn international obligations to defend the freedom of religion or belief of everyone, with no exceptions. Such claims are also used to disguise the single most important factor driving freedom of religion or belief and other linked human rights violations: the wish of some states to control all of society.

The wish to impose state control is in many countries seen in state registration procedures whose aim is to restrict the organisation and activity of people exercising freedom of religion or belief in association. The basic idea is to make the exercise of human rights dependent on state permission. In many countries, including Azerbaijan, without state registration individual religious communities cannot legally exist or exercise freedom of religion or belief. This is a clear violation of governments' binding international obligations in relation to freedom of religion or belief.

Overly complex legislation, censorship of religious literature, and denial of parents' control of religious education of their children are other frequently occurring human rights issues.

The NHC has often criticised the inclusion of "extremism" and "terrorism" provisions in laws affecting freedom of religion or belief. Criminalising such activities should be left to the criminal code and not confused with a state's overall legislation and policies on this human right. Moreover, definitions of these crimes are often so vague and all-encompassing that the peaceful and normal exercise of freedom of religion or belief is labelled as "extremism" or "terrorism".

In this report, the NHC highlights some of the main issues in this realm in Azerbaijan, a country in the South Caucasus with substantial economic ties to Norway and to the EU due to its extensive extractive industries (oil and gas).

The report has been researched and drafted with Forum 18 News Service, an online news service specialising in freedom of religion or belief issues in former Soviet states in Europe and Central Asia, as well as in Turkey. Forum 18 is a close co-operating partner of the NHC.

Quotations and references in this report with no indication of sources are based on articles published on the website of Forum 18: <http://www.forum18.org/>

The report was edited by Gunnar M. Ekeløve-Slydal, Deputy Secretary General. Berit Lindeman, head of information and in charge of NHC Azerbaijan activities, gave valuable comments.

# Recommendations

Azerbaijan's authorities have the primary responsibility to initiate reforms that address the violations in legislation and practice of freedom of religion or belief in the country. Azerbaijan should:

- Initiate legal reviews and reforms in order to ensure that the Religion Law and relevant provisions in other laws do not infringe international human rights norms on freedom of religion or belief;
- Implement in full the recommendations of the European Commission against Racism and Intolerance (ECRI) and the Venice Commission;
- Abolish the compulsory state registration system which makes all exercise of freedom of religion or belief – including the legal right to exist – dependent on state permission;
- Stop raiding, prosecuting and punishing groups of people exercising the right to freedom of religion or belief;
- Abolish the highly restrictive censorship regime, including pre-publication, bookshop, photocopy shop and postal censorship;
- Abolish the ban on praying outside mosques, and stop closure of places of worship;
- Abolish the requirement for all mosques to belong to and be controlled by the Caucasian Muslim Board;
- Stop jailing prisoners of conscience exercising the right to freedom of religion or belief, including the right to conscientious objection to military service;
- Stop arbitrary deportations of foreign citizens exercising the right to freedom of religion or belief;
- Stop repeatedly imposing ever more restrictive “legal” controls on people’s exercise of their right to freedom of religion or belief.

To the Council of Europe, the OSCE, the UN and the EU:

- Address these issues in relevant forums and meetings, and in particular:
  - Urge Azerbaijan’s authorities to implement in full their international human rights obligations;

- Link Azerbaijan implementing its human rights obligations, including on freedom of religion or belief, with the implementation of co-operation and trade agreements;
- Insist that implementing freedom of religion or belief obligations is a non-negotiable foundation for all inter-religious dialogue and co-operation with states.

# Introduction

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.<sup>2</sup>

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 run the country since 2003, taking over on the death of his father Heidar Aliyev who had run the country for the majority of years from 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.

Elections are systematically manipulated and media outlets as well as voters are under pressure to refrain from supporting opposition candidates. In the 9 October 2013 Presidential elections, President Aliyev received 84.5 % of the vote while Jamil Hasanli came second with only 5.5 %. According to OSCE observers, the fairness of the vote “was undermined by limitations on the freedoms of expression, assembly, and association that did not guarantee a level playing field for candidates.” The head of mission stated that their “observers received allegations of intimidation, witnessed even physical attacks on journalists in the lead up to an election day, which we found seriously flawed.”<sup>3</sup>

The Government of Azerbaijan also targets persons representing what it describes as a radical Islamic threat, but does not implement the OSCE security concept it is formally committed to. According to this concept, respect for human rights defends national and international security. There are some radical elements in society, but the threats they pose seem exaggerated by the Government. The authorities have principally targeted less radical elements who have been critical of the regime.

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2 For more information, see the separate section in this report, and the Norwegian Helsinki Committee 2010 report, Azerbaijan's Dark Island: Human Rights Violations in Nakhchivan, <http://nhc.no/no/publikasjoner/rapporter/Azerbaijan%27s+Dark+Island%3A+Human+Rights+Violations+in+Nakhchivan.9UFRvI45.ips>

3 OSCE Parliamentary Assembly and OSCE Office for Democratic Institutions and Human Rights (ODIHR), International Election Observation Mission Republic of Azerbaijan – Presidential Election, 9 October 2013. <http://www.osce.org/odihr/elections/106901>



Limited tolerance of criticism of the regime has led to imprisonments on related religious grounds. In 2007 Said Dadashbeyli,<sup>4</sup> a teacher of Islam and founder of a moderate Islamic group called Nima, was sentenced to 14 years in prison for alleged efforts to violently seize power among other accusations. 14 of his followers received long prison sentences in the same case.

In 2011, Movsum Samedov, Chairman of the Islamic Party of Azerbaijan,<sup>5</sup> and six members were sentenced to several years in prison in flawed trials for an alleged attempted coup. The trials took place shortly after Samedov had sharply criticised the Government and called in broad terms for all Muslims to overthrow it.

According to Amnesty International's strict criteria, in October 2013 there were 14 prisoners of conscience in the country. "These people are currently behind bars solely for expressing their views or taking peaceful action."<sup>6</sup>

Some local human rights organisations have developed more extensive lists of political prisoners. The Baku-based NGO Human Rights Club developed a list using the criteria set out by a Parliamentary Assembly of the Council of Europe (PACE) resolution.<sup>7</sup> The list was published on the eve of the presidential elections in October 2013, and included 142 prisoners,<sup>8</sup> largely echoing the report on political prisoners presented to PACE by its Rapporteur on Political Prisoners in Azerbaijan, Christoph Strässer, in January 2013.<sup>9</sup> His report was however not adopted by PACE.

In August 2014 this list was updated by Leyla Yunus, Rasul Jafarov and several others. Their list included 98 prisoners.<sup>10</sup> Yunus, Jafarov and some of the others who took part in updating the list were themselves subsequently jailed as prisoners of conscience.

Twelve prisoners of conscience were in January 2015 in jail for their exercise of freedom of religion or belief. There is also 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).

In this report, freedom of religion or belief and interlinked human rights issues in Azerbaijan are dealt with in some detail. Among the most important issues are:

- State attempts to counter discussion of violations with claims of inter-religious harmony and religious tolerance;

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4 See: [http://www.forum18.org/archive.php?article\\_id=1134](http://www.forum18.org/archive.php?article_id=1134)

5 See: <http://www.refworld.org/country,,,aze,,4e4a2929c,0.html>

6 Amnesty International, Azerbaijan in downward spiral of oppression ahead of presidential elections, London 8 October 2013. <http://www.amnesty.org/en/news/azerbaijan-downward-spiral-oppression-ahead-presidential-elections-2013-10-08>

7 Resolution 1900 of 3 October 2012, <http://assembly.coe.int/ASP/XRef/X2H-DW-XSL.asp?fileid=19150&lang=EN>.

8 See: <http://www.civicsolidarity.org/article/800/azerbaijan-updated-list-political-prisoners>.

9 See: <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=19217&lang=en>.

10 See: [http://www.nhc.no/nyheter/List+of+political+prisoners+in+Azerbaijan+published+today.b7C\\_wlnM3o.ips](http://www.nhc.no/nyheter/List+of+political+prisoners+in+Azerbaijan+published+today.b7C_wlnM3o.ips)

- Officials behaving as if the rule of law places no limitations on their actions;
- Unfair trials lacking due legal process;
- Steadily increasing “legal” restrictions on and punishments for exercising freedom of religion or belief, often prepared in secret, forming a labyrinth of restrictive state controls;
- “Legal” denials of international human rights standards Azerbaijan has agreed to implement;
- 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 – including the legal right to exist – dependent on state permission;
- Enforced closures of places people meet for worship;
- A ban on praying outside mosques;
- Jailing prisoners of conscience exercising the right to freedom of religion or belief, including the right to conscientious objection to military service;
- Arbitrary deportations of foreign citizens exercising the right to freedom of religion or belief; and
- Severe denials of human rights in the Nakhichevan exclave.



# AZERBAIJAN

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# Inter-religious harmony?

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 inter-religious harmony and religious tolerance. State-favoured religious communities echo such claims.

President Ilham Aliyev in April 2011, speaking at the official opening in the capital Baku of a government-initiated World Forum on Intercultural Dialogue, claimed that “it is already a fact that there is a high level of ethnic and religious tolerance in Azerbaijan, and it is the source of our strength”. “Freedom of religion, freedom of conscience have been fully established in Azerbaijan,” the presidential website quoted him as adding. The event was supported by among others the Council of Europe, UNESCO, and the UN Alliance of Civilisations.

As President Aliyev spoke, Sunni Muslim and Protestant Christian religious communities in the second city Gyanja [Gäncä] were banned from meeting for worship, in one case riot police being deployed to ensure that a congregation could not meet in their church. Babek Sadykov of Gyanja Police denied this, claiming that “no one is being prevented from worshipping”. Local people, who wished to remain anonymous for fear of state reprisals, told that one of the communities was warned that “if they met for worship on the following Sunday or at any future date they will all be arrested”.

Apologists for government policy never explain how it is possible to promote and practice 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 *Joint Opinion* on the Law in both the July 2014 *Compilation of the Venice Commission opinions and reports concerning Freedom of Religion and Belief*<sup>11</sup> and the June 2014 *OSCE/Venice Commission Joint Guidelines on the Legal Personality of Religion or Belief Communities*.<sup>12</sup> The government’s response to the *Joint Opinion* was to deny that the Venice Commission criticised the Law (see ‘Rushed and secret preparation of legal restrictions’ section below). Such denials of reality are a routine tactic of the government and its apologists.

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11 [http://www.legislationline.org/download/action/download/id/5741/file/Venice\\_Commission\\_Compilation\\_opinions\\_reports\\_concerning\\_FoR\\_revised\\_07.2014\\_en.pdf](http://www.legislationline.org/download/action/download/id/5741/file/Venice_Commission_Compilation_opinions_reports_concerning_FoR_revised_07.2014_en.pdf)

12 [http://www.legislationline.org/download/action/download/id/5719/file/VC\\_ODIHR\\_Guidelines\\_Legal\\_personality\\_religious\\_communities\\_2014\\_en.pdf](http://www.legislationline.org/download/action/download/id/5719/file/VC_ODIHR_Guidelines_Legal_personality_religious_communities_2014_en.pdf)

Thomas Hammarberg, the then Council of Europe Commissioner for Human Rights, strongly criticised the country's state registration procedures and practices, in a June 2010 report after his visit earlier that year. He noted that "the obligation for all religious communities to re-register – if they wish to continue to legally exist – appears to be quite superfluous". Exercising freedom of religion without state registration is illegal in Azerbaijan, against international human rights standards.

Similarly, the European Commission against Racism and Intolerance (ECRI), after a country visit, in its most recent May 2011 report described the country's restrictions as "incompatible" with European Court of Human Rights (ECtHR) case law. It made a recommendation for "priority implementation" that Azerbaijan should "swiftly complete the registration of religious communities and clarify the legal situation of communities still awaiting the final outcome in their cases".

In its response to the Council of Europe Commissioner for Human Rights, the government ignored criticism. "The religious policy of the Government is based on international norms and principles, international conventions to which Azerbaijan has acceded as well as the Constitution and other legal acts of the Republic of Azerbaijan," it claimed in a reply published on the Council of Europe website in September 2011. "The Government supports all efforts to protect religious freedoms in the country and all over the world."

Denials of reality continue, President Aliyev claiming for example on 16 June 2014 that "freedom of assembly is fully guaranteed in our country", and "freedom of religion is also fully provided in our country." 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" and "peaceful co-existence".

Despite such claims, senior state officials can be quite open about their wish to violate freedom of religion or belief. In July 2014 Mubariz Qurbanli was appointed to head the State Committee for Work with Religious Organisations. He is also a long-term ruling party official and parliamentary deputy.

Meeting imams from Baku's Yasamal District on 17 September 2014, Qurbanli described attempts by local Muslim communities to run their own mosques without state registration as a "violation". "If any illegally-functioning entity exists and someone who has proclaimed themselves its religious leader wants to carry out illegal activity, we will use all legal measures against him and will counter this," he declared. He insisted that only registered imams with permission can lead prayers. He likened those who did so without state permission to unqualified people masquerading as doctors, or fake police officers, APA news agency noted.

While claiming that the state does not wish to close down mosques, Qurbanli insisted to the Yasamal District imams that the Ilahiyat mosque in the District is functioning illegally. He

insisted that under the agreement between the State Committee and the Muslim Board, “we envisage creating a community in this mosque. By means of this community, we will impose discipline and order in the mosque.”

The State Committee has already used this tactic by removing recognition from the Sunni community of the mosque in Mushfiqabad near Baku in spring 2014 to transfer it to new, Shia control. Unnamed officials of the State Committee said in March that the old community which ran the mosque had “dissolved itself”. Muslims close to the community denied this to Forum 18.

In an interview with Trend news agency, Qurbanli complained of “minor groups” among Muslims who, he argued, were dangerous and should not be allowed. Among these he identified “Nursis”, describing them and other groups as “the ideological base of terrorist groups”. He did not identify any alleged terrorist activity for which Muslims who read the works of Turkish theologian Said Nursi (1877-1960) have been convicted.

In an interview with APA news agency on 31 October, Qurbanli defended state censorship of religious literature and controls on where it can be sold, stating:

“Literature and other similar products related to this can only be sold in places where we give permission. Naturally, the sale of undesirable literature that causes religious strife is stopped. There are countries, for example, where books promoting fascism cannot be sold. Nor is this permitted in Azerbaijan. The sale of any literature that causes religious or ethnic strife is prohibited”.

# Rule of law issues

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, the European Convention for the Protection of Human Rights and Fundamental Freedoms, and the human dimension commitments of the Organisation for Security and Co-operation in Europe (OSCE).

In addition to the restrictions contained in published laws, many communities have also found that there are also unwritten restrictions. Without indications of approval from senior figures in authority, religious communities are unlikely to be either registered or allowed to carry out publicly-visible activity. This in practice prevents them from buying, building or opening places of worship, recovering religious property confiscated during the Soviet era, holding large-scale events, running media operations, publishing religious literature or maintaining religious bookshops.

Officials take full advantage of the unclear or undefined wording of laws. Police and other officials have routinely insisted during raids that unregistered religious activity and religious meetings within private homes are illegal – even before the 2009 Religion Law made this so.

Officials also often ignore other laws and legal procedures. For example in June 2011, police and local officials of the State Committee for Work with Religious Organisations raided a Baptist Sunday morning worship service in Sumgait [Sumqayit] near Baku. When congregation members asked to see a warrant for the raid and search, the religious affairs official responded: “I’m the permission and the warrant.”

There is also 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 then invited Najafova and Bakirov to a police station, describing their activity as “suspicious”, but Bakirov 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?”

The following day Bakirov was fined 200 Manats<sup>13</sup> under Administrative Code Article 310.1 (“Wilful refusal to obey the lawful demand of a law-enforcement officer”). “The Court relied

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13 At that time equivalent to about half a month’s minimum salary or 1,600 Norwegian Kroner, 190 Euros, or 255 US Dollars

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.”

Forum 18 is not aware of any instance in which an official who prevented people from exercising their right to freedom of religion or belief has been punished.

Zeka Miragayev – whose 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 seized – is seeking through the Baku courts to have the raids declared illegal. Local police chief Lieutenant-Colonel Hakani Mammadov denied in January 2013 that any literature had been taken in the raid. The NSM secret police denied to the court that it had been involved at all. Miragayev lost his court challenge at Baku’s Administrative Economic Court No. 2 on 25 January 2013. “Courts in Azerbaijan are on the side of the government and are not independent,” said Miragayev. “This was an unjust decision. And they are not intending to return our confiscated books.”

In March 2013, Miragayev lodged a further appeal against the police and NSM secret police. After much delay, Judge Elmira Nagiyeva of Baku Appeal Court finally heard the appeal on 11 June 2013 – only to reject it at a half-hour hearing. Miragayev’s confiscated books have also not been returned, despite his efforts through the courts to obtain their return.

Gyanja-based Rashad Niftaliyev – 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 European Court of Human Rights over such raids. Four other groups of Jehovah’s Witness victims have lodged raid-related cases to the Strasbourg court since 2007, though as of December 2014 no admissibility decisions have been made.<sup>14</sup>

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<sup>14</sup> The ECtHR cases are: Religious Community of Jehovah’s Witnesses & Others v. Azerbaijan (No. 52682/07), filed on 16 November 2007; Mursalov and Others v. Azerbaijan (No. 4668/10), filed on 12 January 2010; Mukhtarov and Others v. Azerbaijan (No. 6013/10), filed on 18 January 2010; and Valiyev and Others v. Azerbaijan (No. 42651/11), filed on 11 July 2011. No admissibility decisions had been taken as of December 2014.



# Rushed and secret preparation of legal restrictions

Azerbaijan has constructed a complex labyrinth of steadily increasing “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 the July 2011 changes. 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 Code of Administrative Offences (see below) – were prepared in secret, with no public consultation, and were rushed through Parliament, the unicameral *Milli Mejlis*.

The Parliament is dominated by President Aliyev’s *New Azerbaijan Party*, which after the 2010 election has 72 out of 125 seats. Ambassador Audrey Glover, head of the OSCE election observation mission, condemned “restrictions of fundamental freedoms, media bias, the dominance of public life by one party, and serious violations on election day”.

Bans on unregistered religious activity and other components of freedom of religion or belief were introduced in two packages of legislation passed by the Parliament, in mid-2009. The first legislative package in May was aimed at everyone; the second in July was aimed specifically at Muslims.

The May 2009 amendments – changing the Religion Law, the Criminal Code and the Administrative Code – were prepared in the Presidential Administration amid great secrecy. President Aliyev sent the amendments on 4 March to the Parliament, which approved them four days later in a single vote. President Aliyev signed the amendments on 29 May and they came into force on official publication on 31 May.

No mention of plans to introduce a second July 2009 package aimed at Muslims – introducing two more changes to the Religion Law – was given during the passage of the May amendments. On 19 June the Parliament began considering the second package at an extraordinary session and approved them on 30 June. President Aliyev signed them into law on 20 July.

Shahin Aliyev, the head of the Department of Legislation and Legal Expertise at the Presidential Administration, confirmed in May 2009 that his department had participated in drawing up the amendments, but declined to answer any questions on them.

Forum 18 sent written questions in May 2009 to Azer Gasimov, spokesperson for President Aliyev, asking:

- Why the President believed that the Religion Law needs to be changed yet again;
- Why the President proposed changes to the Religion Law that violate Azerbaijan's international human rights obligations (such as by making registration of religious communities compulsory and restricting the locations where religious literature can be sold);
- What help, if any, Azerbaijan sought from international organisations like the OSCE and the Council of Europe's Venice Commission to ensure that the revisions to the law are in line with Azerbaijan's international human rights obligations;
- If no such help was sought, why not;
- Why registered religious communities would yet again be required to undergo re-registration, given that each time this has happened it was very difficult and expensive for religious communities to regain registration and many of them were unable to do so; and
- What would authorities do with religious communities that continued to meet for worship and other religious activities without state registration?

No response has been received from the Presidential spokesperson.

Human rights defenders and religious communities condemned the legislative packages. Muslim rights activist Ilgar Ibrahimoglu Allahverdiev and Ilya Zenchenko of the Baptist Union were among religious leaders who spoke in June 2009 of their surprise that they only learned of the draft amendments when their existence was reported in the press just days before they were finally adopted in the Parliament. "There should have been public debates, and independent experts should have been able to check that the drafts were in accordance with Azerbaijan's Constitution and international human rights norms," Ibrahimoglu said.

Eldar Zeynalov, head of the Baku-based Human Rights Centre of Azerbaijan, underlined that the draft of these amendments should have been opened up to public discussion before being considered in the Parliament.

Fazil Gazanfaroglu Mustafaev, a parliamentary deputy and chair of the *Great Formation Party*, was one of only eight deputies to vote against them (while about 100 voted in favour). "The new Religion Law will limit people's rights to freedom of conscience – that is clear," he concluded. He particularly condemned the re-registration requirement. "Re-registration each time the Law is amended is not right – once an organisation has registration it should continue. Each juridical entity should require registration only once." He also maintained that

the responsibility for registering religious communities should be taken away from the State Committee – which has had it since 2001 – and handed back to the Justice Ministry.

Gazanfaroglu also said that not enough time had been given to consider the draft Law properly. “The process was not normal,” he maintained. He said he thinks the Law should have been drafted to conform with international human rights standards, and said this would have been more likely to have been achieved had expert legal advice from international organisations like the OSCE or the Council of Europe been sought.

On 24 June 2009 the Monitoring Committee of the Council of Europe’s Parliamentary Assembly expressed concern about the May 2009 Religion Law amendments, as well as over proposed amendments to the NGO Law and other laws. “We fear that the strengthening of state control over religion might give rise to restrictions on the exercise of the freedom of religion which are not in line with Article 9 of the European Convention of Human Rights and regret that the expertise of the Council of Europe has once again not been sought in advance.”

The Monitoring Committee urged all these legal changes to be submitted for review by the Council of Europe’s Venice Commission “in line with the spirit of co-operation with the Venice Commission set forth in the decree of the President of Azerbaijan of 3 April 2009”.

Deputy Rabiyyat Aslanova, of the ruling New Azerbaijan Party and head of the Parliament Human Rights Committee, dismissed such suggestions. “These amendments could be sent to the Venice Commission, but why do they think we’re doing wrong?” she declared in June 2009. “Why should we check our every step with the Council of Europe?”

However, the government was eventually persuaded to send the 2009 Religion Law (see below) for review by the Venice Commission with the OSCE. Their Joint Opinion – formally adopted on 12 October 2012 – pointed out that: “The Law on Freedom of religious belief as amended in 2011 sets a legal framework which is in several aspects contrary to international standards and would benefit from additional revisions in order to meet these standards”.<sup>15</sup>

The government’s response was to blame alleged “translation errors” for the Opinion’s judgment, denying that the text of the Law states what it does. Ali Hasanov, head of the Presidential Administration’s Social and Political Department, claimed on 17 October 2012 that “the Venice Commission has already accepted this explanation from the Azerbaijani authorities”.

Trend news agency also quoted Hasanov as saying 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 stated on 22 October 2012

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<sup>15</sup> See the OSCE/Venice Commission Joint Opinion on the Law on Freedom of Religious Belief of the Republic of Azerbaijan <http://www.legislationline.org/documents/id/17635>

that: “The Venice Commission adopted its opinion fully aware of the Azerbaijani government’s comments and therefore maintains its conclusions”.

It remains unclear why Azerbaijan repeatedly amends its laws and increases fines – usually with little notice or public discussion and secrecy surrounding texts – to restrict the exercise of the right to freedom of religion or belief and other human rights. “Insanity is only increasing,” one member of a religious community who asked not to be identified said in November 2011. Another – who also asked not to be identified – agreed: “I don’t understand what they are trying to do.”

Zeynalov of the Human Rights Centre of Azerbaijan thought that the government may be motivated to increase fines by a fear of Islamic radicalism. “This danger is in some ways real, but I believe it should be tackled in a different way,” he stated in January 2011. “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.<sup>16</sup> This would represent the entire value of the family’s assets, including their home.”<sup>17</sup>

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<sup>16</sup> At that time this was about 73,000 Norwegian Kroner, 9,700 Euros or 12,700 US Dollars.

<sup>17</sup> The minimum monthly wage rose to 105 Manats (in December 2014 about 960 Norwegian Kroner, 110 Euros, or 130 US Dollars) per month from 31 August 2013.

# Legal restrictions in violation of international standards

Many aspects of the Religion Law are highly problematic, as the OSCE and Venice Commission noted. Some of the most serious problems are outlined below.

*Implementation of international agreements?* The Religion Law Preamble proclaims that it “provides for the implementation of Freedom of Religion (...) according to the Constitution of the Republic of Azerbaijan and international agreements”. Article 2 also states that “legislation on freedom of religion consists of the Constitution, international agreements agreed by Azerbaijan, this Law and other relevant legislation of Azerbaijan.” However the Law contradicts international standards on freedom of religion or belief which Azerbaijan has agreed to implement.

For example, Article 1 contains no statement of the right to change religion or belief. It also uses vague and undefined language – leaving much scope for arbitrary official interpretations – to ban “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 dissemination and propagation of religions (religious sects) that degrade human dignity or contradict the principles of humanism is banned”.

In similarly sharp contrast to international human rights standards, Article 1 also states that “freedom of religion” may be restricted. International human rights law only allows manifestations of freedom of religion or belief – not the right itself – to be restricted within carefully prescribed grounds.

*Contradictory provisions.* The Law also contradicts itself in other places. For example the Law’s requirement that all mosques must belong to the Caucasian Muslim Board (see below) and other interferences in the exercise of freedom of religion or belief by Muslims and others are contradicted by Article 5. This states in part: “Religion and religious organisations are separate from the state in the Republic of Azerbaijan. The state does not require religious organisations to fulfil state duties and does not intervene in their activities. All religions and religious entities are equal before the law. No religion (religious sects) or religious organisation may enjoy preferential treatment, nor may they be subject to any limitations not imposed on others.”

*Ban on conscientious objection?* Article 4 of the Religion Law includes a ban on “refusing or declining to fulfil obligations determined by the law for his/her religious beliefs”. It also states, in unclear wording, that “substituting the fulfilment of one responsibility by another may only be allowed in cases provided for by the legislation of the Republic of Azerbaijan”. There is no legislation on conscientious objection to military service or alternative civilian service. This

Article may therefore be aimed at barring objection to military service on grounds of religious belief, and similar objections based on conscience (see below).

*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 now 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).

From July 2011, a new Article 6.5 adds a requirement that religious organisations must have permission from their headquarters to run religious education for young people.

Article 6, stating that "the state educational system is separate from religion", goes on to state that "religious studies, religious knowledge, religion and philosophy courses, and an overview of the teachings contained in religious texts may be included in the curricula of state educational institutions". However, there is no provision for an opt-out from such teaching if it should be against the beliefs of the child, young person, or their parents or guardians, in contradiction to Article 1's statement that they "have the right to educate their children in accordance with their religion or their attitude towards religion".

Article 6 (since July 2011) also specifies requirements for conducting religious education. "If their statutes allow this, religious organisations may carry out educational and training activities in a specified form for the education of young people and adults, by establishing educational institutions, as specified in legislation."

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

*Children's freedom of religion and education seen by authorities as a potential crime.* Article 167-1 of the Criminal Code, added in May 2009, 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 the Administrative Code Article 299 changes discussed below. In December 2011 fines under this article were dramatically increased (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 May 2009 Presidential Decree implementing amendments to the Religion Law and the Criminal and Administrative Codes identified the State Committee as the “appropriate state body”.

*Unregistered freedom of religion or belief banned.* The May 2009 Religion Law amendments devote much space to restricting legal status, Article 12 stating: “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.

As religious communities without 50 adult founding members are no longer eligible to apply for state registration, this effectively bans all small religious communities from legal communal activity.

*Doctrinal and other intrusive tests for registration.* 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.

From July 2011, Article 12 was amended to require 50 adults “or their authorised representatives”, not 10 adults as previously, to submit a registration application. This particular provision appears to be applied retrospectively to communities whose applications were submitted before the end of 2009 but have not been processed.

*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. From May 2009 a new Article 196.0.3-1 punishes those who build or reconstruct religious buildings without permission from the State Committee.

*Who can lead religious activity?* Article 4-1 of the Religion Law, added in July 2011, defines “Professional religious activity and religious persons”. “Professional religious activity is activity directed to religious education, religious training, satisfying the religious needs of believers, spreading religion, performing religious ceremonies, giving sermons (preaching) and administering religious structures. A religious person engaged in religious activity is a person with higher or secondary specialised religious education.”



The definition of “religious person” does not specify that only “professional” religious workers can conduct activities such as religious education or leading worship. But officials often interpret such definitions as banning people from doing anything they are not in published law specifically authorised to do. Particular restrictions also apply over who can lead Islamic activity (see below).

*Restrictions targeting Muslims exercising religious freedom.* Muslims are subject to specific extra restrictions which do not apply to other faiths. All mosques must belong to the Caucasian Muslim Board.

Article 7 of the Religion Law (since July 2011) requires all Islamic communities to “present a report on their activity” to the Muslim Board. The Article does not state how often such reports must be presented.

Article 8 (since July 2011) specifically states: “Islamic religious communities shall be created in mosques by citizens of Azerbaijan.” It remains unclear if this bans Islamic communities which wish to exist outside the framework of a mosque or whether it is targeted at mosques created by foreign citizens.

Article 8 (since July 2009) 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 (since July 2009) 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.”

As originally proposed in 2009, the State Committee would have appointed Islamic “religious functionaries” in the proposed Article 8. However after protests – not least from the state-backed Caucasian Muslim Board which all Islamic communities are compelled to belong to – President Aliyev changed the relevant body from the State Committee to the Muslim Board. However, the Presidential Decree approving the amendments indicated that the State Committee is the “relevant organ of executive power” which must be informed of the appointment of Muslim leaders. He also added the words “and ceremonies” to the wording of the new provision in Article 21.

Deputy Gazanfaroglu of the Great Formation Party pointed out in July 2009 that unilaterally amending of the text after parliamentary approval is illegal. “The President doesn’t have the right to do this. (...) If he wanted changes he should have returned the text to the Parliament.” He also objected to the continuing legal requirement for all Muslim communities to belong to the Caucasian Muslim Board.

Deputy Aslanova, of the ruling New Azerbaijan Party and head of the Parliament Human Rights Committee, defended the ban on those who have gained their Islamic education abroad from leading mosques. She insisted that, unlike in the Soviet period, enough Islamic educational institutions now exist in Azerbaijan. “It is difficult for graduates of these institutions to get jobs now in competition with those who have studied abroad,” she said in June 2009. Asked whether this was the motivation for including this ban, she said it was not, but failed to say what the motivation was.

Asked whether the ban would extend to those like Sheikh-ul-Islam Allahshukur Pashazade, the current head of the Caucasian Muslim Board who gained his Islamic education during the Soviet period in Uzbekistan, she said it would not. “The new provision of the Law would not have retroactive force,” she said.

Haji Salman Musaev, one of the Deputy Chairs of the Caucasian Muslim Board, expressed in June 2009 his personal opposition to the then proposed new changes to the Religion Law. He said the proposers of the changes – which only targeted Muslims – “should explain why they are necessary”. Musaev saw no reason to ban those who have gained their Islamic education abroad from leading prayers. He maintained that if the authorities have reason to believe someone who has studied abroad is connected with “a certain group”, then that individual should be checked by “certain organs”, rather than by imposing a blanket ban on everyone who has studied Islam abroad.

The Caucasian Muslim Board Deputy Chair – who stressed that he was giving his personal views – stated that the authorities did not discuss the proposed amendments with the Muslim Board.

*December 2011 amendments.* In December 2011 Criminal Code Article 168.1 came into force. The provision punishes:

“Creation of a group carrying out activity under the pretext of spreading a religious faith and carrying out religious activity and by this illegally harming social order, or harming the health of citizens or violating the rights of citizens irrespective of the form of infringement, as well as distracting citizens from performance of duties established by law, as well as leadership of such a group or participation in it.”

Fines under this Article were increased to between 7,000 and 9,000 Manats.<sup>18</sup> The maximum prison term under this Article remained two years.

Also increased at least ten-fold were fines under Article 167 for obstructing others from conducting religious rituals. Other penalties of corrective labour remain unchanged. However, during research for this report no cases were found where state officials who have broken up religious services or banned them have been brought to court under this Article.

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<sup>18</sup> 1,000 Manats was in December 2014 equivalent to about 9,160 Norwegian Kroner, 1,030 Euros, or 1,280 US Dollars.

Fines under Article 167-1 for those who force others to conduct religious rituals were increased dramatically. Fines were raised to between 3,000 and 5,000 Manats. For offences against a young person or by an organised group or an official, fines rose to between 7,000 and 9,000 Manats. Terms of imprisonment remained unchanged. The Article was introduced into the Criminal Code in May 2009 (see above).

*Changes to Articles 299 and 300 of the Code of Administrative Offences.* Included in the May 2009 package were changes to 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, widening their scope and increasing penalties, as well as other articles of the Criminal and Administrative Codes. In December 2010 fines under Article 299 were increased. In December 2011 fines under Article 300 were increased.

These are the articles most frequently used against people peacefully exercising the right to freedom of religion or belief.

- 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.)

The December 2010 fines for all “offences” under Article 299 were raised from those set in 2009 up to 16 times:

- For individuals to between 1,500 and 2,000 Manats; and
- For officials to between 7,000 and 8,000 Manats.

Unregistered communities facing possible punishment for exercising freedom of religion or belief without state permission include:

- All Muslim communities outside the control of the state-backed Caucasian Muslim Board;

- All communities which were not registered in 2009 including most Protestant communities (including Baptist, Pentecostal and Seventh-day Adventist); and
- Jehovah's Witness communities (see below).

Officials insist that those who had registration before the 2009 Religion Law, and whose re-registration applications have not been decided upon, will not face action unless the State Committee goes to court to liquidate them. But, as in Gyanja (see below), some such communities have nevertheless been forced to stop meeting.

*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 "producing, importing or exporting religious literature, religious objects, and other information material without permission from the State Committee for Work with Religious Organisations";
- 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.

The increased December 2011 fines for Article 300 "offences" are up to 20 times more than the previous penalties:

- for individuals, whether Azeri citizens or foreigners, to between 2,000 and 2,500 Manats;
- for officials to between 8,000 and 9,000 Manats; and
- for organisations to between 20,000 and 25,000 Manats.

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

*Deportations.* Religion Law Article 1 and Administrative Code Article 300 break international human rights agreements by banning undefined "religious propaganda by foreigners and

stateless persons”. Among those deported for exercising their freedom of religion or belief in recent years – which include Muslims, Protestants and Jehovah’s Witnesses – have been a number of long-term residents who like many in the former Soviet states hold foreign passports. For example, Baptist Javid Shingarov (who holds a Russian passport) was cut off from his wife, father and children in his native village near Yalama in northern Azerbaijan when he was deported to Russia in September 2009.

## “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 under the 2009 changes 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.<sup>19</sup>

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 lost the legal right to exist and any activity they undertake becomes punishable. Prominent among religious communities which have failed to gain legal status under the 2009 legal changes are 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 denominations (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 based on its failing to regain the compulsory re-registration started in December 2011, with the case reaching court in March 2012.

Greater Grace Church registered with the Justice Ministry in April 1993. Church members insisted it has “fully complied with the laws of Azerbaijan”, and stated that “State Committee employees have visited our services on many occasions and, eventually, we have established friendly relations.” They rejected the State Committee’s claim that the Church ignored repeated reminders that it must re-register. “Never once, since the Committee’s very inception, has our organisation received a single warning letter.” They also stated that the State Committee never told the Church that its Statute did not comply with the 2009 Religion Law. Church members noted numerous procedural violations in the conduct of the case. But Judge Nigar Rasulbeyova of the Supreme Court rejected the Church’s appeal on 9 January 2013, in an eight minute long hearing.

In August 2012 the State Committee through a court sought to liquidate the legal status of the only registered Muslim community in Hirdalan, a town in Absheron District near Baku with

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19 See the OSCE/Venice Commission Joint Guidelines on the Legal Personality of Religion or Belief Communities [http://www.legislationline.org/download/action/download/id/5719/file/VC\\_ODIHR\\_Guidelines\\_Legal\\_personality\\_religious\\_communities\\_2014\\_en.pdf](http://www.legislationline.org/download/action/download/id/5719/file/VC_ODIHR_Guidelines_Legal_personality_religious_communities_2014_en.pdf)

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 were unwilling to explain how this was legally possible.

The State Committee's September 2012 court action took place without the Muslim community being present. A court official said in January 2013 that the community had failed to lodge an appeal against the liquidation within the legally specified 10 day appeal period. The court decision therefore entered into legal force a month after it was issued. The court official said he did not know why the State Committee only made the liquidation public in January. "That's their problem. But in any case, we have no requirement to make decisions public." The State Committee's action means that Hirdalan now has no legal place of worship for any faith.

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 early 2014 the State Committee moved to annul the state registration of the community. On 25 February Baku Administrative Economic Court No. 2 upheld the State Committee's suit. Community members challenged the stripping of registration in Baku Appeal Court, but on 4 June Judge Ulvi Mayilov rejected their appeal. On 12 November, Judge Sevda Huseynova at the Supreme Court rejected the mosque community's final appeal against enforced liquidation. "They justified the decision by saying the mosque is to be demolished as an illegal structure," the community's lawyer Aslan Ismayilov told Forum 18 on 27 November 2014. Like Greater Grace Church, community members are unable to appeal further within Azerbaijan.

About 2,000 religious communities are thought to currently function in some form, of which 406 had registration with the Ministry of Justice before the State Committee was set up in 2001. Since May 2012, the number of registered communities has remained static. As of December 2014, 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.

It appears the re-registration process has ground to a halt, leaving many re-registration applications unanswered. In 2011 the State Committee only registered a further 60 of the religious communities which lodged registration or re-registration applications in 2009. In

2012, only 6 further religious communities (five mosques and one Protestant church) were registered or re-registered. No communities were recorded in December 2014 as having been registered or re-registered since 2012.

The State Committee insisted in April 2012 that “All re-registration applications from religious communities have been attended to. A small proportion of them have not yet undergone re-registration because their documents contain several defects, of which they have been informed.”

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 received rejections.

On 16 October 2014 State Committee Deputy Chair Siyavush Heydarov summoned the leaders of the Baptist and Seventh-day Adventist Churches to tell them that “he wanted to help and said we would finally get registration in November”, Baptist leader Pastor Zenchenko told Forum 18 in December 2014. “But when we brought our documents again they said we would have to liquidate ourselves as an existing community, form a new community and apply anew”. He noted that the State Committee have put none of their requests in writing. An Adventist – who asked not to be identified – expressed concern about State Committee officials’ insistence that if the Adventists and Baptists fail to liquidate themselves, form new communities and lodge new applications by the end of 2014, the State Committee will go to court to liquidate them.

State Committee Deputy Chair Heydarov, who worked for the NSM secret police in the 1990s and was appointed to the State Committee in May 2014, refused to discuss the latest demands made on the Baptists and Adventists and the many problems religious communities have faced related to legal status, as did Sabina Allahverdiyeva, a lawyer who worked in the State Committee’s Legal and Registration Department in 2009 and now heads it.

Two religious communities who applied for registration in 2009 – Jehovah’s Witnesses and the Baku-based Cathedral of Praise 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 European Court of Human Rights (ECtHR).<sup>20</sup>

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20 Application No. 49264/12. No admissibility decision taken as of December 2014.



By contrast, after nearly two years, Cathedral of Praise (Word of Life) on 20 February 2012 finally won its case in the Supreme Court. It instructed the Appeal Court to instruct the State Committee to register the community. The State Committee finally re-registered the church in May 2012.

Other religious communities have said they are afraid to challenge the State Committee in court as they believe they cannot win. They state that this is because of the “corrupt nature of this country’s courts”, and their fear of antagonising the State Committee still further.

## Raids, prosecutions, violence

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. They face up to three years’ imprisonment if convicted. Sabzaliyev was among nine other attendees who were each fined 1,500 Manats<sup>21</sup> at Yasamal District Court on 14 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 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 European Court of Human Rights in Strasbourg alleging illegal detention<sup>22</sup>.

The permitted investigation period in the criminal case ran out in mid-October 2014. NSM officials refused to discuss the case with Forum 18. Their criminal trial, due to have begun in Baku on 4 December, finally began with a preliminary hearing on 10 December.

Violence is often a part of raids. In Gyanja in April 2012, police raided a private home where the hosts and three visiting Turkish students were praying the *namaz*; a Muslim prayer. Two family members and the students were questioned for eight hours at the police station. The Muslims say police officers beat one person several times on his head and in the stomach until he fell to his knees. The three students were given heavy administrative fines, but the orders to deport them were overturned on appeal. “They were praying where they weren’t allowed,” the local police chief (who took part in the raid) stated. He denied anyone was beaten.

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21 1,000 Manats was in December 2014 equivalent to about 9,160 Norwegian Kroner, 1,030 Euros, or 1,280 US Dollars.

22 Hajiyev Application No. 74567/14, Mammadov Application No. 71584/14, Sabzaliyev Application No. 73334/14.

In a September 2013 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 seven 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 stated.

### **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, the 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.

Two Aliabad Baptist congregations finally managed to get approval from the new State Notary and the local authorities in early 2011 and submitted their applications to the State Committee. However, the State Committee rejected them as containing unspecified violations. Church members continued to try to seek state registration in 2014.

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.

Most controversial are the territorial restrictions imposed via the model statute, which reinforce provisions in the Religion Law. Article 1.1 of the model statute states that the community is founded for religious activity “on its own property”, while Article 1.11 includes the statement: “The territory of activity: The community can only function on the territory of its own legal address.”

One religious community representative said in December 2009 that when they asked why such territorial restrictions are being imposed, State Committee officials refused to say. “They told us they are not here to give explanations and that only the Constitutional Court has the right to interpret laws.”

Although the Religion Law requires permission from the State Committee for religious communities to import or produce religious literature or other religious items, religious communities question the need for the statute to specify that they will seek such permission. Likewise, the model statute specifies that the community will inform the State Committee when it gives religious education to its young people and adults.

The model statute also imposes rules on how religious communities make internal decisions, Article 3.1 specifying that the ruling body of a community is a general meeting of the 10 founders required by the Religion Law. This must take place at least once a month.

Also imposed is an unclear formulation specifying that “the community formulates its relations with other religious confessions on the basis of religious toleration (tolerance), respect and the avoidance of conflict” and that the community cannot use violence or the threat of violence in promoting its faith.

Several Protestant Churches complained that State Committee officials objected to provisions in their proposed charters over inviting foreign fellow-believers to visit communities for religious purposes and over including children in religious activity. “Officials refused to allow us to include these, but we are going to try to fight for them”, one said.

Not all non-Muslim communities were given the model statute. State Committee officials told the Catholic Church in Baku that its statute had to conform to the new Religion Law, but did not impose the model statute. Although the Church lodged its application in December 2009, legal status was not granted until after an agreement between Azerbaijan and the Holy See came into force in July 2011. The agreement specifies that the Catholic Church in Azerbaijan remains subject to local laws. This meant that it had to gain registration of its statutes from the State Committee like other religious communities. Foreign priests and nuns still require visas and work permits.

Jehovah’s Witnesses – who have failed to gain re-registration for their Baku community – said in December 2009 that State Committee officials merely gave them the amendments to the

Religion Law and told them to ensure that their new statute conformed to them. “What we put in our statute is up to us.”

# 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 such organisations denied registration by the Justice Ministry. By contrast, Idrak, a Baku-based organisation which notes on its website its closeness to the State Committee and has published a book on religion in Azerbaijan by former State Committee Chair Hidayat Orujev, was registered with the Justice Ministry shortly after its establishment in September 2006.

Following June 2009 changes to the NGO Law, March 2011 procedures for local branches in Azerbaijan of foreign NGOs ban their registration with the Justice Ministry if, among other things, they engage in “political or religious propaganda”. The new ban came in Article 3.2.4 of the Rules for Implementing the NGO Law. These were approved by a Cabinet of Ministers Decree of 16 March 2011, signed by Prime Minister Artur Rasizade.

Local and international human rights groups protested about the new rules, as they violate the right to freedom of association. They pointed out that many of the terms – including “political or religious propaganda” – are not defined.

Leila Agaeva of the Registration Department of the Justice Ministry claimed that organisations that promote religious freedom for all can apply for registration with her Ministry, as their work “is abstract and doesn’t represent promotion of one faith”. But she added: “Any organisation that has a direct relation to one faith has to be registered by the State Committee for Work with Religious Organisations.”

She was unable to say why the local branch of the International Religious Liberty Association (IRLA) has for years failed to obtain registration from the Justice Ministry. The Azerbaijani branch was founded in 2002, but its repeated applications for registration have been left unanswered. “Maybe it’s because of this rule, maybe because it has the word ‘religious’ in its title, maybe there was something wrong with its registration application,” Agaeva commented.

## Foreign grants and donations need state permission

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 non-governmental organisations, to have grant agreements which are available for official scrutiny before they can accept foreign donations.

Related changes to the Administrative Code were also signed by the President on 11 March 2013. Article 223-1 was changed to increase punishments for “illegal” receipt of grants. Article 223-1.3 was added specifically including religious organisations among non-governmental organisations which can be punished for failing to obtain and make available to officials their 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.<sup>23</sup>

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23 1,000 Manats was in December 2014 equivalent to about 9,160 Norwegian Kroner, 1,030 Euros, or 1,280 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. State officials have denied that the religious affiliation of the mosques was the reason for their closure or demolition.

Among those which remain closed, which local Muslims still hope will be allowed to resume their activity, are the Albanian Mosque in Gyanja, the Martyrs' (Shehidler) Mosque near the Parliament in Baku and Baku's Abu Bekr Mosque.<sup>24</sup> The Abu-Bekr Mosque was hit by a grenade attack on 17 August 2008 that killed three people, also injuring the imam Gamet Suleymanov. He has insisted that it should be reopened for worship as soon as possible. Police officers of both the 8th and the 9th Police Stations in Baku's Sabail District forcibly shaved off the beards of 20 men in his congregation, Imam Suleymanov said on 26 August 2008. Forum 18 has independently heard complaints about the forced shaving, which the police refused to explain.

The state has refused to re-open the mosque and a court ruling in 2009 that the Mosque should be allowed to reopen was overturned. After this, Suleymanov said, the community lodged a complaint to the United Nations Human Rights Committee. The Committee has sought and received further documentation backing up the complaint, but has not yet issued a ruling. A case against the Azerbaijani government was lodged at the European Court of Human Rights over its failure to recognise anyone as victims of the 2008 attack.<sup>25</sup> The Court registered the case on 13 March 2009, but no admissibility decision has yet been taken.

Members of the only Sunni mosque in Gyanja, known as the Albanian Mosque, in the city's Shahsevenler district, have seen "no movement" in their campaign to achieve its reopening, community member Vidadi Abbasov said in April 2012. "The only hope we have is what God gives." The Mosque – which opened in 1995 – was suddenly closed by the authorities in 2009 without explanation. Abbasov said that the Mosque building – which the community had restored over many years – was turned into a library.

Mosque members are now forced to pray in groups of no more than five people in private homes, often under close police surveillance. Police forced one group of former mosque members to sign statements in summer 2011 that they would stop meeting for joint prayers. Another group – which met in Abbasov's home – was raided by police in November 2011. All twelve present for Friday prayers were taken to the police station and forced to sign similar statements. A court handed Abbasov an official warning.

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<sup>24</sup> The Martyrs' Mosque was built in the 1990s by Turkey's Diyanet, like Nakhichevan's Juma Mosque, see below.

<sup>25</sup> Application No. 16599/09. No admissibility decision taken as of December 2014.

Rufat Nuriev, head of the Cultural Heritage Department at the Culture Ministry in Baku, defended the confiscation of the mosque. “The building was used illegally for religious purposes in the 1990s,” he insisted in April 2011. “We don’t know who these people were and the community didn’t have registration.” He said the building is in the hands of the city Administration.

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 from meeting for worship.

Targeting of Sunni mosques for closure continues, sometimes using spurious excuses. Samir Nuriyev, director of Baku’s Icherisheher (Old City) State Historical-Architectural Reserve, summoned the leader of the Lezgin Mosque community in mid-July 2014 and told him verbally that it must voluntarily leave the building in advance of full renovation. Mosque community leader Faiq Mustafa fears this might be an attempt to oust the community, in line with earlier moves against other Sunni communities. State Historical-Architectural Reserve spokesperson Narmin Azadgil has not responded to Forum 18’s questions on why no document on the proposed renovation has been given to the community and whether the community will be able to resume use of its Mosque once any renovation is complete.

Despite the consistent closures of specifically Sunni mosques, Sarkhan Halilov of the State Committee for Work with Religious Organisations insisted in August 2014 that the government “has nothing against Sunni mosques”. But he admitted that Baku’s (Sunni) Martyrs’ Mosque – closed by the state in 2009 – 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. At Friday prayers on 29 August 2008, several days before the start of the Muslim fasting month of Ramadan, police prevented worshippers from praying outside several Baku mosques, including the Martyrs’ (Shedler) Mosque (commonly known as the Turkish Mosque) near the Parliament building, and the Lezgin Mosque (also known as the Ashur Mosque) in Baku’s Old City. Only afterwards was the fact of the ban communicated through the media. It remains unclear how long the ban will last. “With the rise in the number of Muslims performing the *namaz* [Islamic prayers] the numbers who cannot fit inside mosques and have to pray outside has been rising in Baku,” a Muslim who preferred not to be identified told.

Zeynalov of the Human Rights Centre of Azerbaijan said in April 2012 that the ban on praying outside mosques appears still to be in force. “You no longer see the crowds around mosques at Friday prayers.” He points out that officials try to avoid issuing such bans in their own name, preferring to have the Muslim Board issue them instead.



Baku's Lezgin Mosque was under a police blockade during Friday prayers each week for several months from early May 2014, restricting the number of worshippers who could enter. This also prevented worshippers unable to fit into the small Mosque for Friday prayers from praying in the surrounding streets. Police Colonel Kamal Velishov also tried to order the mosque to close at 8 pm each evening, preventing it from holding the last two prayers at 9 pm and 11 pm. Colonel Velishov refused to discuss his actions, including threats to close the mosque. "Talk to the Interior Ministry," he stated before putting the phone down.

Bans can also extend to activity inside mosques. An official in Azerbaijan's second city Gyanja admitted that only one of the city's six permitted mosques was allowed by the state to hold iftar meals at the end of each day's 2012 Ramadan fast. Ruslan Kardashov, whose role included overseeing religious communities, also repeatedly refused to discuss local Muslims' complaints about a ban on the mosques holding Ahya night prayers. "We told people to go to the ceremonial hall, or organise the *iftar* in their homes," Kardashov said. Officials of the central State Committee for Work with Religious Organisations in Baku said on 2 August 2012 that it had "thoroughly investigated" reports in the local media of the bans, and found that such complaints "have nothing to do with reality".

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. Numerous press reports at Ashura in early December 2011 noted police intervention at mosques to prevent large numbers of Muslims from gathering. These took place at mosques including the Fatima Zahra mosque in Baku, mosques in villages around Baku and in Yevlakh in western Azerbaijan.

"Today in many parts of Azerbaijan, including in [the southern town of] Lenkoran, violence continues to be used against clergy who wish to hold mourning rites for Ashura," complained a letter to Sheikh Pashazade, head of the state-backed Caucasian Muslim Board which all Islamic communities are required to be part of, from ethnic Talysh imams in southern Azerbaijan. They noted that mourning processions "are banned or obstructed".

The letter, extracts from which were published by the opposition *Yeni Musavat* newspaper and other media on 13 December 2011, deplored what the authors regarded as Pashazade's failure to take up the issue. The authors called for the Muslim Board to be replaced. "You remained silent when mosques were destroyed, as well as over problems connected with the hijab [headscarf]."

## **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. “But our services need at least an hour and a half,” Bishop Sergi Chekurishvili of Nekrisi, whose diocese in eastern Georgia then included the churches and often visited the Region, said in January 2009. He fears that many Georgian Orthodox are deprived of the sacraments, and can die without access to communion. As of December 2014, two Georgian Orthodox communities have state registration.

Other religious communities are also seeking the return of their 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 in the city centre. The authorities have refused, claiming the lack of a restitution law as a reason.

In another example, in late 2012 a historic building built in 1880 for the city’s Baha’i community was demolished as part of redevelopment plans. In many such ‘redevelopment’ cases buildings have been demolished and their occupants evicted with little notice and no compensation. “We want it because it is the only building in the world named after Abdul Baba, the son of our prophet,” a Baha’i community member said in 2005, as the campaign to regain the building from the government began.

The house was being used as a kindergarten when the community began seeking its return. “We applied to all government agencies, but got no results,” a Baha’i from Baku said in January 2013. “When we several times during the last 10 years applied to the government regarding regaining this property, we were told that there is no law to regulate these issues and so there is no way to restore it and give it back.”

## **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. In January 2012 a group of Muslims who used a room for prayers in a building in Baku’s Yasamal District owned by the Society for the Deaf, a non-governmental organisation, had to close the prayer room. The State Committee accused the Society of allowing the Huseiniya prayer room to function without state registration, State Committee officials told the local media.

An official of the Society said those who rented the building told those using the prayer room that they had to stop using it until they gain registration. “It’s not a bad thing if people pray – indeed it’s good. But they need registration. The government doesn’t like it otherwise,” he said.

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 claim to have seized 500 items of religious literature and 210 discs, according to the Interior Ministry website. It did not identify the seized literature or discs. Shikhaliyev's brother Samir insisted to Caucasian Knot news agency that the police planted the weapons.

Police then took the nine men by car to the town police station. The nine were "subjected to insults and humiliation" from officers before being freed that evening, Samir Shikhaliyev said. Zaur Mehdiyev similarly recounted abuse. An invalid from the Karabakh war of the early 1990s, he told the local Turan news agency that "they beat me on my back and head". He said he and several others later had to seek medical treatment.

Another Karabakh war invalid among those detained, Vidadi Maherramli, told Turan that police beat him in the kidneys and in the places where he had suffered war wounds. Mehdiyev told Caucasian Knot that the men had been told to report back to the police the following day after shaving off their beards. He said they had refused to remove their beards or return to the police station. Those detained fear that administrative or criminal punishments might be imposed on them also.

Zohrab Shikhaliyev himself was arrested at about noon the same day in his car elsewhere in Sumgait. His car has not been seen since, Samir Shikhaliyev noted. Officers assigned a lawyer to him, a former police officer named Alesker. However, after Zohrab Shikhaliyev was transferred to police custody in Baku, the lawyer seems to have abandoned him, telling relatives that "another lawyer had been given to him".

On 15 November 2014, Baku's Narimanov District Court ordered Shikhaliyev's detention for two months in pre-trial custody as criminal charges are being investigated, the court confirmed to Forum 18.

Head of the State Committee Qurbanli told the local APA news agency on 14 November 2014 that the raid and arrests were "completely legal and necessary". "These people in fact created a structure similar to a terrorist cell," he claimed. He insisted that police elsewhere will continue with further such operations, and the State Committee would continue to counter "radical religious ideologies".

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

Criticism of the Board by Muslim leaders outside its structures can attract strong reactions from the authorities. Imam Taleh Bagirov (also known as Bagirzade) – who led prayers and preached at a Shia mosque near Baku in defiance of the authorities’ pressure – 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, and called Muslims out into the streets, independent Baku journalist Idrak Abbasov wrote in a 5 April 2013 article for the Institute for War and Peace Reporting. “No matter how many evil-doers there are in this world, how many men in black masks and guns, Allah is with us,” Abbasov quoted Bagirov as saying in one sermon. “You have stolen people’s land, you have stolen the oil, and you still sit there with no one to say anything to you. Now you want to rule in the mosque too? No matter how influential an official is, he cannot rule inside the mosque.”

In late May 2013, Bagirov’s lawyer said his client had been beaten in the Investigation Isolation Prison in Kurdakhani north of Baku, threatened with a gun and placed in the punishment cell. Both Bagirov and his driver Melikov were placed in pre-trial detention from their arrest.

After Bagirov and his driver were arrested, Police claimed they had found just over a gram of heroin when they searched Bagirov, and a pistol, bullets and a knife when they searched Melikov. Community members insist these accusations are fabricated.

When the authorities sought to imprison Baptist Pastor Hamid Shabanov in 2008 for leading an unregistered religious community in his home village of Aliabad, they chose to lodge criminal charges of owning an illegal gun. He and his church members insist the Russian gun – dating back to 1895 – on which the case was based was planted by police.

The investigator leading the criminal case against Imam Bagirov and Melikov, Vusal Salehov from the police Department for the Fight Against Organised Crime, refused to discuss the cases with Forum 18.

Bagirov was given a two-year strict regime prison sentence on 1 November 2013, being found guilty of possessing just over one gram of heroin, a fabricated accusation his supporters insist. 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” lawyer Javad Javadov said.

On 17 August 2013 Bagirov's driver, Anar Melikov, was given a 19-month labour camp term for allegedly having a gun and four bullets, which he denied. A household knife had been found in the boot of the car, but officers claimed it had been in his pocket. 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. He "categorically denied" in court the charge of possessing an illegal mobile phone in his cell, his lawyer Javad Javadov said. He insists that the phone was planted, noting that Bagirov "is under intense scrutiny in prison and couldn't have a mobile phone". He said Bagirov had no need of a mobile phone anyway, as there is a phone in prison which he has access to twice a week. Judge Suleyman Agayev claimed that Bagirov had "half admitted" the accusation.

The largest number 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.

Ten men arrested in connection with the October 2012 protest are still in prison. 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"). Some were also convicted under other Criminal Code Articles. Those still imprisoned are: Tarlan Agadadashov (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), Anar Gasimli (5 years, 6 months, Prison No. 14), Aydin Mammadov (2 years, 3 months, Prison No. 17), Elshad Rzayev (6 years, Prison No. 16), Telman Shiraliyev (6 years, Prison No. 16), and Ramil Valiyev (6 years, 6 months, Prison No. 5).

Others who were jailed at the same time included: Vahid Lalakishiyev (2 years), Elchin Mammadov (1 year, 9 months), Ramil Mehdiyev (2 years), Ruhid Abbasov (2 years), Khudaverdi Abdullayev (2 years), Arif Fataliyev (2 years) and Bayramali Valishov (2 years). These were all freed in 2014, Eldar Zeynalov of the Human Rights Centre of Azerbaijan said on 18 November 2014. Three more – Nahid Gahramanov (4 years), Jeyhun Guliyev (5 years), Muraday Guluyev (5 years) - were freed following a 29 December 2014 presidential pardon.

The October 2012 anti-hijab ban protest outside the Education Ministry ended in violence. Independent observers insisted that the violence did not come from the protestors, but from provocateurs among the crowd possibly controlled by the police or other security agencies.

The August 2014 report on political prisoners, compiled by Leyla Yunus, Rasul Jafarov and others, concurs. "Observation of the protest and analysis of photos and videos from the protest show that the action was peaceful and protesters refrained from confronting the police and employees of other law-enforcement agencies," it notes. "But after the use of force by police,

some of the protesters attempted to defend themselves. The photos and videos clearly showed that provocateurs were used.”

There is also currently (January 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).

# 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. Orhan Ali, the State Committee spokesperson, told Forum 18 on 30 April 2013 it was still not possible to supply the list. “Work in this direction is currently in progress. This will be announced in the near future.” Since Iskenderov’s announcement that the list is finally to be published, members of religious communities have also asked the State Committee for a copy, so far in vain. As of December 2014 it remains unpublished.

On 5 May 2014 a list of what Baku-based 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.

It appears that police may be acting on the basis of this or a similar list, as on 19 May 2014 police in the northern town of Gakh detained Gulara Huseynova and another Jehovah’s Witness, accusing them of spreading their faith illegally. “A copy of the banned book the Old Testament was confiscated from them”, police told APA. The text confiscated was “Muqeddes Kitab”, a modern Azeri-language translation in Latin script of the Old Testament which was not produced by Jehovah’s Witnesses. “The police informed Gulara the ‘Old Testament’ was forbidden when they confiscated it”, Jehovah’s Witnesses told Forum 18. Neither the police, nor Mehman Ismayilov, the north-western regional representative of the State Committee, was willing discuss the detentions and religious literature seizure.

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).

Of the 28 works on the “banned” list, most are given with titles only, though some also have a named author. No publication details are given for any of them. 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, including Nursi’s *Risale-i Nur*. “Judging by the titles of others they are Shiite and relate to its religious ideology and history”, one 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 anti-Semitic text.”

The Baku Muslim expressed surprise and concern at the inclusion of the Old Testament. Christians from a variety of churches – including Pastor Ilya Zenchenko of the Baptist Union – have also expressed concern and outrage over the inclusion of the Azeri-language translation of the Old Testament in the “banned” list.

One Christian pointed out to Forum 18 that some local Jews also use this Azeri language Old Testament as the Azeri translation of their Bible.

Baku-based Muslim Zeka Miragayev 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. He put the questions in a 27 May 2014 enquiry to the State Committee, whose spokesperson Orhan Ali responded by email on the same day. “In reply to your question, we inform you that since 2009 the State Committee has considered literature which is part of the complete works of *Risale-i Nur* and is used to spread the sect (*Nurculuq*) 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).”

“As you can see, the State Committee has not based its response on any official document,” a friend of Miragayev noted. “They didn’t use the term ‘forbidden’ or ‘banned’, but the term ‘inappropriate’. This is incomprehensible in terms of legislation, isn’t it?”

In August 2008 Aliheidar Zulfikarov of the State Committee’s Expertise Department vigorously rejected suggestions that the compulsory prior approval required from the Committee for all religious literature was censorship. Asked how he would describe it, he stated that the Committee “merely checks” to see which books were “not appropriate” for distribution.

Told that many religious communities – including Muslim readers of the works of Turkish theologian Said Nursi, Baptists and Jehovah’s Witnesses – have religious literature confiscated from them in police raids on the alleged grounds that such literature is illegal, Zulfikarov insisted that the concept of *illegal* religious literature does exist in law. However, he refused to explain on what exact basis such literature is illegal.



Zulfikarov's colleague, Jeyhun Mamedov, told in May 2008 that "If we allowed publications freely there'd be anarchy. Books have influence".

## **Censorship unconstitutional and legal?**

Then President Heidar Aliyev claimed in 1998 that the country had abolished censorship, a claim which Azeri diplomats have also been heard to make more recently. 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.

On the initiative of the Presidential Administration, 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 clearly spells out its censorship tasks: "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 decree of 6 February 2013, President Aliyev amended parts of the State Committee's Statute, changing the 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". All are subject to State Committee censorship.

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 more changes to the Religion Law tightening controls over the sale of religious materials – including literature – entered into force. The amendments were signed into law by President Aliyev on 10 April, and revised Article 22 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. The day the changes were published, then State Committee Chair Elshad Iskenderov stated that “soon books of religious content will bear holograms”.

## **The organisation of censorship**

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. Not only does the State Committee give or deny approval for specific publications and even their titles, if it approves them it also specifies the number that it approves. Such numbers are often far below the number sought.

Mamedov claimed in May 2008 that the requirement for permission not only for each title but for specific quantities to be produced or imported had been abolished “a year ago”. However, in researching this report there were complaints from many religious minorities that in 2014 such a requirement still exists in practice.

Even if the compulsory State Committee “expert analyses” are favourable, that is no guarantee against further arbitrary censorship. Two September 2011 “expert analyses” on imported Jehovah’s Witness literature concluded: “During the investigation of the literature, thoughts that can have a negative influence on the religious stability in the country were not discovered; permission can be given for its import.” Yet the numbers permitted to be imported were arbitrarily reduced by the State Committee, which also arbitrarily imposed a requirement that the literature was only for use “within the community”.

Azerbaijan’s legal system defends such censorship. In April 2012 Baku’s Administrative Economic Court No. 2, in a verdict on the Jehovah’s Witnesses appeal against this censorship, claimed that:

“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.”

Azerbaijan is the only Council of Europe member state to impose such compulsory censorship – against its human rights obligations – in both law and practice.

Baku’s Administrative Economic Court No. 2 also held that the reduction in permitted quantities of religious literature was part of the “discretionary power” of the State Committee in implementing “oversight” of religious literature. It 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 religious minorities**

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.

Religious minorities 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.”

Religious minorities 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 – owing to which many religious communities have stopped using the postal system as a way 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.

If the State Committee has granted permission, the intended recipient will at last receive the literature they have been sent. 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.

The customs advice for individuals crossing the border back into Azerbaijan – available on the State Customs Committee website – 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. (...)”

Religious books – Muslim, Christian, Jehovah's Witness, Hare Krishna or of other faiths – are frequently seized by the State Customs Committee from travellers entering Azerbaijan through land or sea borders. Seizures also sometimes occur at Baku airport. 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.

In February 2009 a Baku Customs official openly admitted that religious literature is treated differently from any other literature. “Of course you don't need permission to import works by, say, Tolstoy or Dostoevsky,” the official said.

Asked to identify the law that specifically authorised the censorship of religious literature, the Customs official agreed that Azerbaijan's laws on customs controls include nothing on the subject. But he pointed to Presidential Decree 609 of 24 June 1997 and Cabinet of Ministers Decree 105 of 31 May 2000. These Decrees both list items that are subject to special controls (such as ammunition or drugs), but there is no mention of religious literature in either. The Customs official also referred to the Religion Law, which does specify the State Committee's role in carrying out the official censorship.

The Baku Customs official explained that people wishing to import religious literature need to write to the State Committee asking for permission to import a specified number of copies of a named title. Customs needs a letter from the State Committee “telling us that there is nothing objectionable” in each book to be imported. The letter also specifies the number of copies authorised for import.

Some religious communities, such as the Georgian Orthodox Church, have had limited success in appealing directly to the State Committee to allow small quantities of religious literature into the country. Georgian Orthodox Bishop Sergi Chekurishvili of Nekrisi, whose diocese in eastern Georgia then included the Kakh [Qax] District of Azerbaijan which has a Georgian Orthodox minority, said that small quantities of literature can be brought in from Georgia.

Bishop Sergi said in January 2009 that he had met Hidayat Orujev, then Chair of the State Committee, who had asked the Georgian Orthodox not to bring in “too much” literature. “So we don’t. On the border Azerbaijani Customs won’t allow in large quantities even of Bibles or baptismal crosses. All we are doing is providing pastoral care to our flock.”

Among the many religious communities facing such State Committee obstruction is Azerbaijan’s Baptist Union. Its head, Pastor Ilya Zenchenko, wrote a letter of protest to then State Committee chair Elshad Iskenderov in March 2013 after the State Committee rejected his application to import 3,500 copies of the Bible in Azeri. They would authorise only 1,000 copies, Zenchenko complained.

Zenchenko insisted to the State Committee that Azerbaijan’s Constitution guarantees freedom of religion and freedom of speech, but he says they merely repeated their insistence on allowing only 1,000 copies. He also complained that he filed his request with the State Committee in late 2012 and had to wait three months for a response.

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. For example, on 20 February 2013, the Supreme Court in Baku rejected their appeal against an earlier decision by Baku Appeal Court, upholding the initial rejection of their suit against the State Committee by Baku’s Administrative Economic Court No. 1.

## **Bookshop and photocopy shop censorship**

After the May 2009 changes to Administrative Code Article 300 and to 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. For example various sources said in August 2008 that the NSM secret police was particularly vigilant about literature sold in an

Iranian-run Muslim bookshop in central Baku. They said secret police officers and staff of the State Committee were often observed checking the content of books on the shelves.

Staff at the Chirag bookshop in Baku, which sells some Christian books among its English- and Azeri-language material, complained in August 2008 that each Christian title they sell requires specific permission from the State Committee. “Each title and the quantity we want to import needs to be approved. This also applies for locally-produced religious books. Legally they should respond within one month, but in practice this is often between four and six months.”

Justifying the restrictions on where religious literature could be sold, State Committee Expertise Department head Mamedov claimed in 2009 that sometimes religious literature was being sold in shops selling alcoholic drinks, tobacco, food, clothes, building material and in underground passageways.

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. However, some local people claimed that this leaves them vulnerable to officials seeking bribes to ignore evasions of the law. 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.

Ibrahimoglu also complained about the procedure for obtaining such licences, which he says is “highly bureaucratic and non-transparent. Only very few can get such licences, while fines for selling religious books without a licence hang over traders like a sword of Damocles”.

Religious minorities have also informed 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.”

# Conscientious objection

Azerbaijan marked the 2011 tenth anniversary of its accession to the Council of Europe by rejecting a prisoner of conscience's appeal against his conviction. Ahead of its accession 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."

On 25 January 2011 the Supreme Court rejected Jehovah's Witness conscientious objector Farid Mammedov's appeal against his nine month jail term, which he completed in June 2011. He lodged a case at the European Court of Human Rights the following month.<sup>26</sup> Less than a month beforehand, the Supreme Court also rejected the final appeal against a fine imposed for conscientious objection from fellow Jehovah's Witness Mushfiq Mammedov (no relation of Farid). He and a former Jehovah's Witness prisoner of conscience, conscientious objector Samir Huseynov, lodged a joint application on 7 March 2008 to the ECtHR.<sup>27</sup>

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 the June 2009 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".

Then-imprisoned Jehovah's Witness conscientious objector Fakhraddin Mirzayev in November 2012 lost his appeal against a one year jail sentence imposed in July 2012. "Like the lower court, the [Gyanja] appeal court did not mention any international laws in its analysis, despite them being argued extensively in Mirzayev's appeal," Jehovah's Witnesses complained. Mirzayev's appeal to the Supreme Court was rejected on 4 June 2103, and he himself was amnestied in May of that year as part of a large prisoner amnesty. Under the terms of the same amnesty the other then-imprisoned conscientious objector, Jehovah's Witness Kamran Mirzayev, was released on 20 June having been jailed on 12 March by Goychay Court. He had been sentenced to nine months in jail, a decision upheld at his appeal in May 2013.

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

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<sup>26</sup> Application No. 45823/11. No admissibility decision taken as of December 2014.

<sup>27</sup> Application No. 14604/08. No admissibility decision taken as of December 2014.

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”. 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.



# Nakhichevan

The situation in the Nakhichevan exclave is worse than in the rest of the country.<sup>28</sup> 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 Nakhichevan-based Democracy and NGO Development Resource Centre, told Forum 18 from Baku on 26 November. In 2010 the authorities warned employees of state enterprises and students not to attend mosques during Ashura. At the same time many Muslims were detained, but it is not clear if this was because they participated in Ashura commemorations or to prevent potential opposition.

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

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28 See also the Norwegian Helsinki Committee 2010 report, Azerbaijan's Dark Island: Human Rights Violations in Nakhchivan, <http://nhc.no/no/publikasjoner/rappporter/Azerbaijan%27s+Dark+Island%3A+Human+Rights+Violations+in+Nakhchivan.9UFRvI45.ips>

on all the mosques' doors had been broken and new locks installed," he quoted the released detainee as declaring.

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 Baku-based Muslim 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. About 50 Muslims were thought in early December 2014 to be still held. Some of them appear to have been tried in court, but most are held without any due process.

In the past, Sunni Muslims who study Nursi's works have 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.

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

As documented by this report, Azerbaijan systematically violates intertwined fundamental rights – such as freedom of religion or belief, of expression and of assembly – it has solemnly undertaken to respect and defend, while loudly proclaiming the government’s alleged “religious tolerance”.

Contrary to promises made upon becoming a member of the Council of Europe in 2001, in recent years legislation has been repeatedly changed to increase penalties for peacefully exercising the right to freedom of religion or belief. These repeated changes, often with little notice or chance for public discussion, make it likely that the government intends to continue introducing and implementing legislation which violates human rights. Azerbaijan seems likely to remain a place where fundamental human rights are violated with impunity. In effect, the state makes exercising human rights conditional upon state permission.

In order to address the situation, European and international human rights institutions need to engage with the government on the issues dealt with in this report. At the same time, religious communities would benefit from knowing their human rights and developing joint and principled approaches to defending them. Non-governmental groups and religious and belief communities, both local and international, have important roles to play in supporting those under pressure for exercising their right to freedom of religion or belief. It is particularly important for international actors to take a principled approach, unequivocally defending everyone’s freedom of religion or belief with no exceptions.

But it is the authorities in Azerbaijan who have the primary responsibility to make changes that concretely address the serious shortcomings in legislation and practice. That would benefit the religious and belief communities. It would also benefit the Azerbaijani state and its reputation.

A principled approach to respecting everyone’s freedom of religion or belief could give reality to the state’s proclamation of its “religious tolerance”.





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