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AZERBAIJAN: Harsher punishments for religious activity "a question of national security"?

By Felix Corley, Forum 18

Minimum fines for those who conduct religious worship without state approval could rise 15-fold, if proposed amendments to the Code of Administrative Offences now awaiting consideration by Azerbaijan's full parliament are approved. "It's so that they realise the responsibility for their actions," Rabiya Aslanova, chair of parliament's Human Rights Committee, told Forum 18 News Service. "People are not fined just for praying to God. This is a question of national security." Human rights defenders and religious communities which are regularly penalised under the Code are concerned. A reader of the works of the Muslim theologian Said Nursi told Forum 18 that "we will suffer even more" if these increased fines are approved – "and so will others". Ali Huseynov, chair of parliament's Legal Policy and State Building Committee, told Forum 18 that Azerbaijan will not seek a legal review of the proposed amendments from the Council of Europe. "Why should we? We have our own experts."

A year and a half after Azerbaijan increased penalties for religious activity under the Criminal and Administrative Codes, parliamentary deputies are about to consider yet further harsher penalties in proposed amendments to the Code of Administrative Offences. Minimum fines for individuals violating the Religion Law – such as by holding unregistered religious worship – could be increased 15-fold, Forum 18 News Service has learnt. "This is connected with religious communities which have failed to gain re-registration but still function," Rabiya Aslanova, chair of parliament's Human Rights Committee, told Forum 18 from the capital Baku on 9 December. "It's so that they realise the responsibility for their actions. People are not fined just for praying to God. This is a question of national security."

"National security" is not a permissible reason to restrict freedom of thought,

conscience or belief under the International Covenant on Civil and

Political Rights, the Universal Declaration of Human Rights, or the European Convention on Human Rights and Fundamental Freedoms – all of

which Azerbaijan is party to.

Proposed increased punishments

The latest proposed amendments increase significantly the proposed punishments in the 2009 amendments to the Code, which increased penalties for existing "offences" and introduced a series of new "offences". The 2009 version remains in force today.

Article 299, which punishes those who violate the procedure for creating or running religious organisations, had two new "offences" added.

Article 299.0.4 punishes religious activity at an address other than a religious organisation's registered address.

Article 299.0.5 punishes activity by a religious organisation that is not in accordance with its statute.

The punishment for all "offences" under Article 299 – previously 10 to 15 times the minimum monthly wage for individuals and 40 to 70 times for officials – is now:

between 100 and 300 Manats (790 - 2,360 Norwegian Kroner, 90 - 260 Euros, or 125 - 375 US Dollars) for individuals;

and 200 to 500 Manats (1,580 - 3,945 Norwegian Kroner, 180 - 440 Euros, or 250 - 620 US Dollars) for officials.

Article 300, which previously punished "religious propaganda" by foreigners or people without citizenship, had three "offences" added.

Article 300.0.1 punishes producing, importing or exporting religious literature without permission from the State Committee.

Article 300.0.2 punishes circulating religious literature without such permission.

Article 300.0.3 punishes selling literature in places not approved by the State Committee for sale of religious literature. Those found guilty will have such literature confiscated.

All "offences" under Article 300 are punished by fines on individuals, whether local citizens or foreigners, of 200 to 400 Manats (1,580 - 3,155 Norwegian Kroner, 180 - 350 Euros, or 250 - 500 US Dollars).

"Offences" by officials attract a fine of 400 to 600 Manats (3,155 - 4,735 Norwegian Kroner, 350 - 525 Euros, or 500 - 745 US Dollars);

and by organisations 2,000 to 4,000 Manats (15,800 - 31,550 Norwegian Kroner, 1,800 - 3,500 Euros, or 2,500 - 5,000 US Dollars).

Foreigners involved in "religious propaganda" – as in the previous version of the Article – can also be deported.

"Merely increasing penalties"

"We are merely increasing penalties so that they are in line with penalties for other offences in the Code of Administrative Offences," Ali Huseynov, Chair of parliament's Legal Policy and State Building Committee told Forum 18 from Baku on 10 December.

Huseynov claimed that all Council of Europe countries have laws punishing illegal religious activity. Told that no other Council of Europe country punishes distributing religious books which do not have prior approval from the Government or punishes those who sell religious books at a location not given specific approval for this by the Government, he insisted that they do. He was unable to name any such country.

Jehovah's Witness Nina Gridneva, a 63-year-old pensioner, was fined 200 Manats (1,460 Norwegian Kroner, 179 Euros or 250 US Dollars) by a Baku court on 19 October under Article 300.0.2 of the Code of Administrative Offences for distributing religious literature which had not been approved for import or distribution by the government (see F18News 1 November 2010 http://www.forum18.org/Archive.php?article_id=1505). Huseynov laughed at this example of a prosecution for this offence: "Well, if she does not agree with the punishment she can appeal," he told Forum 18. (On 18 November, Judge Isa Ismailov at Baku Appeal Court had rejected Gridneva's appeal against the fine, the court website notes.)

Huseynov said that parliament would not be seeking expert assistance in reviewing the proposed amendments from the Venice Commission of the Council of Europe or the Organisation for Security and Co-operation in Europe (OSCE), as for example Armenia has done on its proposed legal amendments on religion. "Why should we?" he asked. "We have our own experts."

The proposed amendments were approved on 8 December at a joint meeting of the Milli Mejlis (parliament) Legal Policy and State Building Committee and the Human Rights Committee, the parliament website noted. The amendments are now ready to go to a plenary session, which one official of the Human Rights Committee told Forum 18 is likely to be in late December.

Officials told Forum 18 that penalties are set to be increased under Administrative Code Article 299, which punishes those who violate the procedure for creating or running religious organisations. However, Forum 18 has been unable to obtain the text of the proposed amendments and has been unable to establish whether Article 300, which punishes "illegal" distribution of religious literature as well as spreading of one's faith by foreigners, will be amended also.

Huseynov told the 8 December meeting in parliament that fines for religious offences would be increased to 1,500 – 2,000 Manats (11,259 – 15,013 Norwegian Kroner, 1,418 – 1,890 Euros or 1,879 – 2,505 US Dollars) for individuals, a 15-fold increase in the minimum fine. For officials, fines would rise to 7,000 – 8,000 Manats, a 35-fold increase in the minimum.

Concern

The proposed increases in penalties have aroused concern among human rights defenders and religious communities which are regularly penalised under the Code of Administrative Offences for religious activity – such as for holding unregistered worship or other religious meetings, or sharing their faith.

Among religious leaders expressing concern is Ilgar Ibrahimoglu, head of the Muslim rights group Devamm. "This is a serious violation of human rights, including of believers," he told Forum 18 from Baku on 10 December. He regards it as a continuation of government "repression" of religious believers seen in the 2009 Religion Law, Criminal Code and Administrative Code amendments. "All these violate Azerbaijan's international human rights commitments and its own Constitution."

Equally concerned is Pastor Rasim Hasanov, who leads the Baku-based Temple of the Lord Church, an Assemblies of God Pentecostal congregation. His church has been seeking legal status in vain for five years (see F18News 7 April 2010 http://www.forum18.org/Archive.php?article_id=1429).

"On one side they refuse us registration, then on the other they want to fine us for anything we do," Hasanov told Forum 18 from Baku on 10 December. "It's not fair and not right. With these increased punishments it will be very bad for us."

Similarly, a reader of the works of the late Turkish Muslim theologian Said Nursi says that "we will suffer even more" if these increased fines are approved in parliament – "and so will others". Asking for anonymity for fear of further state reprisals, he complained that courts already fine his people for meeting in private homes to read Nursi's works. "All sensible people are against these fines," he told Forum 18 on 10 December. He said religious observance is rising and "officials want to stop it".

Nursi readers are not only fined, but frequently given prison terms of up to 15 days under the Code of Administrative Offences. However, four readers were held for three days in May in the cellars of the National Security Ministry (NSM) secret police in Nakhichevan [Naxçıvan] city without any trial taking place (see F18News 20 May 2010 http://www.forum18.org/Archive.php?article_id=1447).

"I spoke in favour of these amendments"

Aslanova of Parliament's Human Rights Committee insisted to Forum 18 that it is right to increase penalties for those who break the Religion Law. "I spoke in favour of these amendments." She complained that those fined under the current Code for example for distributing unapproved religious literature "pay the fine and just carry on".

She rejected suggestions that those who will suffer are the many religious communities arbitrarily denied registration by the State Committee for Work with Religious Organisations or by officials – such as state notaries – who refuse to process applications to allow them to reach the State Committee. "If any community prepares documents in accordance with the law, there is no reason for them not to get registration," Aslanova claimed.

Declining to talk to Forum 18 on 10 December were officials at the State Committee. However, the local Trend news agency quoted an unnamed State Committee official on 9 December as welcoming the amendments, saying that the increase in punishments "will facilitate an even greater improvement in the religious situation in the country".

Other recent restrictions on freedom of religion or belief

Azerbaijan's repressive new Religion Law, and amendments to both the Criminal Code and the Administrative Code came into force on 31 May 2009. New "offences" - such as more severe censorship - and new punishments were introduced for religious activities and organisations the government does not like.

All registered religious organisations had to re-register by 1 January 2010, the third time re-registration had been demanded in less than twenty years. It was implied that unregistered organisations are illegal, and stated that "all religious organisations" can act only after gaining state registration. Within weeks of these amendments, further amendments to the Religion Law introduced special restrictions on who can lead prayers in mosques (see F18News 22 July 2009 http://www.forum18.org/Archive.php?article_id=1330).

Despite the 1 January 2010 deadline, the State Committee for Work with Religious Organisations had re-registered very few communities by then. The State Committee slowly re-registered some religious communities during the rest of 2010, with a further 30 communities – all Muslim – on 8 December, bringing the total to 510.

However, the State Committee also rejected many applications. The list of 510 registered communities, posted on the State Committee website, reveals the difficulty of gaining re-registration. Conspicuous by their absence are Azerbaijan's only Catholic Church, which is in Baku, as well as almost all Protestant churches, including all the Baptist and Seventh-day Adventist congregations. Among Protestant churches, only Baku's Erlösergemeinde Lutheran community, three Molokan communities in Baku, Sumgait and Hilmilli, as well as New Life Church in Baku have been re-registered. Also absent are Jehovah's Witnesses and a number of Sunni Muslim mosques closed by the authorities in recent years.

Thomas Hammarberg, the Council of Europe's Commissioner for Human Rights, condemned the re-registration requirement in June as "superfluous" and described the process as "cumbersome" (see F18News 1 September 2010 http://www.forum18.org/Archive.php?article_id=1482). (END)

For more background information see Forum 18's Azerbaijan religious freedom survey at http://www.forum18.org/Archive.php?article_id=1192.

More coverage of freedom of thought, conscience and belief in Azerbaijan is at

<http://www.forum18.org/Archive.php?query=&religion=all&country=23>.

A compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments can be found at http://www.forum18.org/Archive.php?article_id=1351.

For a personal commentary, by an Azeri Protestant, on how the international community can help establish religious freedom in Azerbaijan, see http://www.forum18.org/Archive.php?article_id=482.

A printer-friendly map of Azerbaijan is available at <http://www.nationalgeographic.com/xpeditions/atlas/index.html?Parent=asia&Rootmap=azerba>.

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