

20 December 2010

TURKMENISTAN: Will government respond to OSCE call for Religion Law changes?

By Felix Corley, Forum 18

Nearly three years after Turkmenistan's government declared "reform" to the Religion Law to be a "priority", the Organisation for Security and Co-operation in Europe (OSCE) has published a legal review of the current Law criticising many of its provisions for violating international human rights standards. The Review calls for many changes, including an end to the ban on unregistered religious activity and on the private teaching of religion. Officials in the capital Ashgabat refused to discuss whether they will amend the Law in line with the OSCE recommendations. Pirnazar Hudainazarov, Chair of the Mejlis (Parliament) Committee on the Protection of Human Rights and Freedoms, refused absolutely to discuss the OSCE review. He referred Forum 18 News Service to the Foreign Ministry, but no-one there was prepared to discuss this. Turkmen citizens have told Forum 18 that they remain sceptical that legal changes will end continuing state violations of freedom of religion or belief. They comment that the actions of officials directly attacking people exercising the internationally recognised right to freedom of religion or belief, and other fundamental human rights, are more important than Turkmenistan's published laws.

Government officials in Turkmenistan's capital Ashgabat [Ashgabat] have refused to say what action they are taking – if any – in response to severe criticisms of many provisions of the current Religion Law in a legal review by the Organisation for Security and Co-operation in Europe (OSCE). (The Law is misleadingly called the Law on the Freedom of Religious Confession and Religious Organisations). Among many changes the Review calls for are an end to the ban on unregistered religious activity and the private teaching of religion. The Review was conducted by the OSCE's Warsaw-based Office for Democratic Institutions and Human Rights (ODIHR), and was prepared in consultation with the Council of Europe's Venice Commission.

Pirnazar Hudainazarov, Chair of the Mejlis (Parliament) Committee on the Protection of Human Rights and Freedoms, refused absolutely to discuss the OSCE Review. "You must talk to our Foreign Ministry," he repeatedly told Forum 18 News Service on 20 December and put the phone down. Other Mejlis officials also declined to discuss anything with Forum 18.

Equally unwilling to discuss the OSCE Review were officials of the Foreign Ministry. They told Forum 18 that only Begench Karaev, head of the International Information Department, could discuss this. However, he was in a meeting each time Forum 18 called on 20 December.

The telephone of Gurbanberdy Nursakhatov, the new Deputy Chair of the government's Gengeshi (Committee) for Religious Affairs, went unanswered each time Forum 18 called on 20 December. Nursakhatov took over as Deputy Chair – said by local people to be the most important figure in the Gengeshi – after his predecessor Nurmukhamed Gurbanov was removed from office in November. No reason was given for his removal, sources in Ashgabat told Forum 18.

Similarly, the telephones at the government's National Institute for Democracy and Human Rights in Ashgabat of its Director Yazdursun Gurbannazarova went unanswered on 20 December. Other officials said she was out at a meeting, but only she could answer any questions.

The OSCE Review

Turkmenistan's current restrictive Religion Law was adopted in October 2003, with significant amendments in March 2004 and further minor amendments in April 2009 and July 2009. The Review was requested by the OSCE Centre in Ashgabat in July 2009, completed in June 2010, and made public on the OSCE Legislationline website on 6 December 2010 (<http://www.legislationline.org/documents/id/16060>).

The OSCE Review echoes many of the complaints expressed to Forum 18 by local religious communities, who along with the Review note that the Religion Law itself breaks Turkmenistan's international human rights obligations. However, local communities have commented that the actions of officials directly attacking people exercising the internationally recognised right to freedom of religion or belief, and other fundamental human rights, are more important than Turkmenistan's published laws.

Many actions by officials break Turkmenistan's own laws, as well as international human rights standards. These actions – which indicate that the rule of law does not apply in the country – include but are not limited to: raids on religious meetings, threats against and imprisonment of religious believers, confiscation of literature, bans on known active religious believers travelling abroad, public vilification of religious believers, sacking of religious minority members from public employment and bans on opening places of worship freely (see Forum 18's Turkmenistan religious freedom survey at http://www.forum18.org/Archive.php?article_id=1512).

UN Special Rapporteur recommendations

The OSCE Review also echoes many of the January 2009 recommendations on changing the Religion Law and the registration system by the then United Nations Special Rapporteur on Freedom of Religion or Belief, Asma Jahangir (A/HRC/10/8/Add.4). These recommendations followed her September 2008 visit to Turkmenistan.

A new Religion Law?

The Turkmen government has long claimed to be working on further amendments to the Religion Law, with officials highlighting it as among "priority" laws marked for "reform" in January 2008. However, officials indicated to Forum 18 in early 2010 that work had not even begun on any revisions to it. Turkmen citizens have told Forum 18 that they remain sceptical that any legal changes will end the government's continuing violations of freedom of religion or belief (see F18News 12 February 2010 http://www.forum18.org/Archive.php?article_id=1408).

Recommendations of the OSCE Review

The Review notes that its comments "do not constitute a full and comprehensive review of the entire body of legislation governing the issue of freedom of religion or belief and/or of religious associations in Turkmenistan". But for the current Religion Law alone it makes seven Key Recommendations and 16 Additional Recommendations to bring the Law into line with international human rights law and the international obligations to which Turkmenistan is a signatory and formally committed (<http://www.legislationline.org/documents/id/16060>). Some but not all of these Recommendations are outlined below.

– End "blanket prohibition" on unregistered religious activity

Crucially, the OSCE Review calls for the abolition of the "blanket prohibition" in Article 11 on unregistered religious activity and the removal of punishments for it. "Religious groups have the right to engage in religious activity, whether or not they have acquired legal entity status," the Review declares. It points out that "imposing sanctions for the manifestation of non-registered religions interferes with freedom of religion and belief, and cannot be justified under international human rights standards".

The OSCE Review also calls for registration procedures in Article 11 for communities which want legal status to be simplified and streamlined, and for the removal from Article 12 of any possibility for state officials to evaluate the legitimacy of religious communities' beliefs and use any such evaluation as a reason to deny them legal status.

Many religious communities the government does not like find it impossible to get state registration. Among them is Path of Faith church in Dashoguz, an independent Turkmen-speaking Baptist congregation, which filed its application in 2005. The Armenian Apostolic Church was also unable to get registration, while many Shia Muslim communities have also been refused (see Turkmenistan religious freedom survey, November 2010, http://www.forum18.org/Archive.php?article_id=1512).

– End ban on private religious teaching

The OSCE Review also calls for major changes in Article 6, which covers religious teaching, to allow religious teaching of children not only in mosques but in all religious communities. "All religious groups and organizations should be free to arrange religious education for their children in contexts and using methods and personnel that they deem fitting in accordance with their religious beliefs."

It thus goes on to call for an end to the requirement in Article 6 for permission from the state Gengeshi for individuals to provide religious teaching within religious communities, as well as an end to the ban on providing religious teaching privately. "With respect to privately arranged religious education, it should be up to the religious community and not the state to determine what the qualifications of those providing instruction should be, as different religious traditions may have different expectations as to the nature and formality of religious instruction."

Religious education remains under tight government control. The only higher-level religious education allowed within the country is Muslim, and this must take place within the Magtymguly Turkmen State University. No women are allowed, and only ten male students are allowed to join the five-year course each year. All the foreign teachers who used to teach religion there have long been removed (see F18News 24 September 2010 http://www.forum18.org/Archive.php?article_id=1492).

Apart from some small-scale classes for children in some mosques and Russian Orthodox children, religious education is difficult

for religious communities to arrange.

– Allow religious clothing and private ceremonies, foreign contacts, and foreign religious literature

The OSCE Review calls for an end to the requirement in Article 8 for permission from the Gengeshi for religious communities to maintain foreign contacts, including for arranging pilgrimages; for an end in Article 8 to any state involvement in who religious communities choose to lead them; for an end to the "blanket prohibition" in Article 19 on wearing religious clothes in public; for an end to restrictions in Article 19 on what religious ceremonies are allowed to be held in private homes; and for an end to restrictions in Article 20 over the import and distribution of religious literature published abroad.

– Allow conscientious objection

The OSCE Review also calls expressly for conscientious objection to compulsory military service to be included in Article 4.

Turkmenistan currently has no alternative service, and those who cannot perform military service on grounds of conscience are prosecuted under Article 219 of the Criminal Code. This punishes refusal to serve in the armed forces in peacetime with a maximum penalty of two years' imprisonment. Eleven Jehovah's Witnesses are currently serving sentences of between 18 months and two years under this Article, eight of them in labour camp and three serving non-custodial terms (see F18News 4 October 2010 http://www.forum18.org/Archive.php?article_id=1495).

– End "excessive or overly intrusive and/or disruptive" state control

The Review also questions the "control" exercised over religious communities by the Gengeshi under Article 7, arguing that this should be clearly and narrowly defined. "Control which is excessive or overly intrusive and/or disruptive may amount to an interference with the freedom of religion or belief, and in such a case it should be circumscribed by rules which would ensure that it is carried out in accordance with a procedure detailed in the law, in pursuit of a legitimate aim, and proportionately to the aim sought to be achieved."

The OSCE Review does not explicitly state that, of the Gengeshi staff drawn from religious communities, all are from the state-backed Muslim Administration or the Russian Orthodox Church. But the Review points out that: "It would be inappropriate to give representatives of one group decision-making power in determining whether other groups will be granted legal entity status. It is therefore recommended for the Law to clarify the selection process, composition, representation and tenure of the said Council."

The Review calls for transparency and restraint in the way the Gengeshi operates: "One of the primary challenges with any body such as the Council on Religious Affairs is to assure that it remains neutral, that its primary aim is to facilitate rather than control religious activity, and that it does not intrude unduly into the autonomy of religious organizations."

Senior Muslim leaders, from the government-appointed Chief Mufti down to the regional Chief Muftis, have a dual role as Muslim leaders and state religious affairs officials, taking decisions on what non-Muslim communities are allowed or not allowed to do. Regional Chief Muftis often take part in police raids on non-Muslim communities (see F18News 13 October 2009 http://www.forum18.org/Archive.php?article_id=1361).

Sources in Ashgabad – who asked not to be identified – told Forum 18 that while Gurbanov was often of no help to both Muslim and non-Muslim religious communities, the new Deputy Chair Nursakhatov is particularly unhelpful to non-Muslim communities. (END)

For a personal commentary by a Protestant within Turkmenistan, on the fiction - despite government claims - of religious freedom in the country, and how religious communities and the international community should respond to this, see http://www.forum18.org/Archive.php?article_id=728.

For a personal commentary by another Turkmen Protestant, arguing that "without freedom to meet for worship it is impossible to claim that we have freedom of religion or belief," see http://www.forum18.org/Archive.php?article_id=1128.

More reports on freedom of thought, conscience and belief in Turkmenistan can be found at <http://www.forum18.org/Archive.php?query=&religion=all&country=32>.

For more background information see Forum 18's religious freedom survey of Turkmenistan at http://www.forum18.org/Archive.php?article_id=1512.

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.

A printer-friendly map of Turkmenistan is available at

[http://www.nationalgeographic.com/xpeditions/atlas/index.html?Parent=asia&Rootmap=turkme.](http://www.nationalgeographic.com/xpeditions/atlas/index.html?Parent=asia&Rootmap=turkme)

If you need to contact F18News, please email us at:
f18news @ editor.forum18.org

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY