

7 November 2018

AZERBAIJAN: Religious freedom survey, November 2018

By Felix Corley, Forum 18, and John Kinahan, Forum 18

Azerbaijan restricts freedom of religion and belief, with interlinked freedoms of expression, association, and assembly. Forum 18's survey analyses violations including prisoners of conscience jailed and tortured for exercising freedom of religion and belief, strict state literature censorship, and regime claims of its "tolerance".

Forum 18's survey analysis documents Azerbaijan's violations of freedom of religion and belief, with interlinked freedoms of expression, association, and assembly. Serious violations include but are not limited to:

- a complex labyrinth of "legal" restrictions to prevent the exercise of freedom of religion and belief and other fundamental freedoms;
- total state control of the Islamic community;
- a ban on all exercise of freedom of religion and belief by groups of people without state permission;
- raids on people exercising freedom of religion and belief without state permission;
- forcible closure of places of worship, especially Sunni mosques;
- a ban on praying outside mosques;
- jailing prisoners of conscience for exercising human rights, including freedom of religion and belief;
- torture of people who exercise freedom of religion and belief;
- prosecutions and punishments of conscientious objectors to the compulsory military service;
- a highly restrictive censorship regime, including pre-publication, bookshop, photocopy shop and postal censorship;
- and severe denials of human rights in the Nakhichevan exclave.

Context

Azerbaijan is the largest country in the South Caucasus region and with almost 10 million people has the largest population. It includes the exclave of Nakhichevan [Naxcivan], which borders Iran, Armenia and Turkey, where the human rights situation is worse than in other parts of the country. A bitter territorial dispute continues about the currently Armenian-controlled entity of Nagorno-Karabakh, which led to open war between 1988 and 1994.

Over 90 per cent of Azerbaijan's population is ethnic Azeris (regarded as being of mostly Shia Muslim background), with around two per cent 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 groups.

President Ilham Aliyev has ruled the country since 2003, after the death of his father Heydar Aliyev who ruled for most of the years since 1969. Under both Aliyevs, local and international human rights defenders have documented cases of electoral fraud, torture, and other violations of human rights and the rule of law. Despite massive oil wealth, much of the population remains in poverty. Transparency International describes corruption in the country as "rampant", and has uncovered large-scale bribery of foreign politicians and others to deny the regime's serious human rights violations.

"Tolerance", "dialogue", "multiculturalism"?

The regime, foreign apologists, and religious leaders coerced or co-opted by the regime use claims of what the regime calls "tolerance", "dialogue", "multiculturalism" and similar terms to deny the reality of the regime's serious human rights violations. For example, delegations of religious leaders are used for propaganda when the regime seeks international trade agreements. The regime and its foreign apologists even claim that other countries should promote "the Azerbaijani model of tolerance". It appears to people within Azerbaijan that the regime, with the collaboration of some foreigners, wants to empty such language of any connection with the regime's binding international legal obligations to ensure that everyone can exercise their freedom of religion and belief, freedom of expression, and other human rights and fundamental freedoms.

The rule of law?

Officials behave as if the rule of law, including published laws, places no limitations on their actions – for example in torturing people (see below). 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 legally or politically binding international human rights standards to which Azerbaijan is a 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 Organisation for Security and Co-operation in Europe (OSCE) human dimension commitments.

Inter-governmental organisations have repeatedly criticised Azerbaijan's restrictions on freedom of religion and belief. Both the Council of Europe's Venice Commission and the OSCE have drawn extensively on their highly critical October 2012 Joint Opinion on the Religion Law in the OSCE/Venice Commission Joint Guidelines on the Legal Personality of Religion or Belief Communities (<http://www.osce.org/odihr/139046>).

The regime denied that the Venice Commission criticised the Law, claiming 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 told Forum 18: "The Venice Commission adopted its Opinion fully aware of the Azerbaijani government's comments and therefore maintains its conclusions." Denials of reality are a routine tactic of the regime and its apologists.

In addition to the restrictions contained in published laws, many belief communities have found that there are also unwritten restrictions. Without indications of approval from senior regime figures, groups of people are unlikely to be allowed to exercise freedom of religion and belief. This in practice prevents communities from legally existing and carrying out activities such as opening places of worship, recovering property confiscated in Soviet times, holding public events and publishing religious literature.

Officials take full advantage of the unclear or undefined wording of laws and often ignore other laws and legal procedures. For example, raids on people exercising freedom of religion and belief without state permission often happen without the legally-required search warrant or court order, and illegally officials do not properly identify themselves and insult and verbally threaten those present.

Fines and prison terms are possible under Criminal Code Article 167 for obstructing others from conducting religious rituals. But no cases are known where state officials who have prevented people exercising their freedom of religion and belief have been charged or punished.

"Legal" human rights violations

Azerbaijan has constructed a complex labyrinth of "legal" restrictions on and punishments for exercising freedom of religion and belief and other freedoms, normally prepared in secret with no public consultation and rushed through parliament. The aim appears to be to impose state control of society, including any independent civil society activity, and to make all exercise of human rights dependent on state permission. Every significant change to the Religion Law, the Criminal Code, and the Administrative Code has imposed tighter restrictions on freedom of religion and belief and other freedoms.

Finding a defence lawyer willing to represent individuals accused under these laws is difficult and can be prohibitively expensive, especially in rural areas. Fines imposed on people are often difficult to pay, especially for people without access to higher-paid work in the capital Baku.

Many aspects of the laws used against the exercise of freedom of religion and belief and other human rights are highly problematic as the OSCE and Venice Commission noted. [A full analysis of the last major changes to the Religion Law in 2009 with subsequent 2011 changes is in Forum 18's April 2012 Azerbaijan religious freedom survey http://www.forum18.org/archive.php?article_id=1690.]

The main other legal justifications as of November 2018 used to justify violations of freedom of religion and belief violations are outlined below.

Post-Nardaran December 2015 restrictions

After the regime's November 2015 assault on the village of Nardaran near Baku and the Muslim Unity Movement (see below), hastily passed legal changes were signed into law by President Aliyev in December 2015.

Religion Law changes expanded Article 21 to introduce restrictions not only on religious rites and rituals, but also "attributes" or "symbols" (the term officials use for flags, slogans, etc.). Symbols such as slogans or religious signs (apart from on a person) were banned from being used outside places of worship, while religious flags can only be placed inside places of worship. Officials have long complained of Islamic wall-posters and flags on the streets of Nardaran, and they were removed after the assault on the village (see below). Article 21 was also changed to ban both Azerbaijani citizens who had studied abroad and non-Azerbaijani citizens from conducting Islamic rituals.

A new Criminal Code Article 168-1 ("Violation of the procedure for religious propaganda and religious ceremonies") was introduced. Part 1 punishes the conducting of Islamic rites by a citizen who has received their education abroad with one year's imprisonment, or a fine of between 2,000 and 5,000 Manats. Part 2 punishes "religious propaganda by foreigners and stateless persons" (except those invited by a registered religious headquarter organisation) with imprisonment of between one and two years. Either of these "crimes" committed repeatedly or by prior agreement among a group of people is punishable by between two and five years' imprisonment. Officials have not explained why those who conduct Islamic rituals are singled out for especially harsh punishment.

A new wide-ranging "Religious Extremism" Law was introduced, containing many unclear definitions, and allowing officials broad powers when dealing with what they claim is allegedly "extremist" activity. Such room for arbitrary official actions is common in legislation on exercising freedom of religion or belief. Similarly broadly-framed changes to Article 18 of the Citizenship Law allow citizenship to be removed from participants in religious groups the authorities claim to be "extremist".

Administrative Code changes introduced punishments for parents who fail to send their children to school. Officials have alleged that the inhabitants of Nardaran often failed to send children to state schools.

2016 Administrative Code

In March 2016 a new Administrative Code entered into force. Article 515 ("Violation of the procedure for creating or running religious organisations") and Article 516 ("Violation of legislation on freedom of religion") are the articles most frequently used against people exercising the right to freedom of religion and belief.

- Administrative Code Article 515 ("Violation of the procedure for creating or running religious organisations")

Article 515.0.1 punishes "religious leaders who fail to register their communities with the state";

Article 515.0.2 punishes "violating legislation on holding religious meetings, marches, and other religious ceremonies";

Article 515.0.3 punishes "clergy and members of religious associations holding special meetings for children and young people, as well as the organising or holding by religious bodies of organised labour, literary, or other clubs and groups unassociated with holding religious ceremonies";

Article 515.0.4 punishes "religious associations operating away from their registered legal address";

Article 515.0.5 punishes "activity by a religious association that is not in accordance with its statute". [A community's statute must be approved by the government for state registration and so for permission to exist to be given.];

Fines under Article 515 are: for individuals between 1,500 and 2,000 Manats; and for officials between 7,000 and 8,000 Manats.

A fine of 2,000 Manats (in November 2018 about 9,850 Norwegian Kroner, 1,015 Euros or 1,175 US Dollars) represents about four months' average wages for those with a formal job. However, for those in rural areas, those without a formal job, or pensioners, such fines represent a far heavier financial burden.

- Administrative Code Article 516, Criminal Code Article 167-2

Article 300 of the old Code was shortened in the new Article 516 by some parts being made "crimes" in Criminal Code Article 167-2. Article 516 adds a new punishment of deportation when these "offences" are by those who are not citizens.

Criminal Code Article 167-2 – adopted originally in December 2011 – punishes: "Production, sale and distribution of religious literature (on paper and electronic devices), audio and video materials, religious items and other informational materials of religious nature with the aim of import, sale and distribution without appropriate authorisation".

Punishments for first time offenders acting alone are a fine of between 5,000 and 7,000 Manats or up to two years' imprisonment. Such a "crime" 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.

- Administrative Code Article 516 ("Violation of legislation on freedom of religion")

Article 516.0.1 punishes "sending citizens abroad to study religion or exchanging religious figures without the permission of the relevant government authority [the State Committee for Work with Religious Organisations]";

Article 516.0.2 punishes "selling religious literature (printed or on electronic devices), audio and video materials, religious merchandise and products, or other religious informational materials, which have been authorised for sale under the Religion Law, outside specialised sale outlets established with the permission of the relevant government authority distributing religious literature, religious objects and information material without State Committee permission";

Punishments under Article 516 are: for individuals fines of between 2,000 and 2,500 Manats; for officials fines of between 8,000 and 9,000 Manats; for organisations fines of between 20,000 and 25,000 Manats; and for foreigners and stateless persons fines of between 2,000 and 2,500 Manats with deportation from Azerbaijan.

A fine of 2,000 Manats represents in November 2018 about four months' average wages for those with a formal job. However, for those in rural areas, those without a formal job, or pensioners, such fines represent a far heavier financial burden.

Those found guilty under Article 516 also have their religious literature, merchandise and products or other materials confiscated. Foreigners or stateless persons involved in undefined "religious propaganda" face deportation. This term includes selling religious books and materials which have not passed the compulsory State Committee for Work with Religious Organisations censorship or selling them in venues not approved by the State Committee (see below).

Total state control of Islamic community

All mosques must belong to the state-controlled Caucasian Muslim Board, which appoints all imams. The Board also collaborates in the state's forcible closures of Sunni Muslim mosques and imposition of Shia imams on their congregations (see below).

State control is highly intrusive, including enforcing a Shia Muslim calendar on all Muslims. Muslims, particularly Sunnis, have objected to the state-imposed Shia-oriented calendar which dictates when they are allowed to pray and celebrate Muslim festivals. "This is a serious issue for us," one Sunni Muslim told Forum 18. "If we pray according to the calendar we believe is correct, they'll arrest us." The Muslim noted that the state does not impose compulsory calendars on Christians, Jews or members of other faiths.

The state-imposed Muslim calendar can impose a difference of up to an hour on Islamic five-times a day prayers. The official calendar also forces Sunnis to observe festivals – such as Ramadan - one or two days apart from the date they think they should be observed. One Muslim insisted that praying at the correct time is essential. "If we pray at a different time, God won't accept our prayers."

The Sunni Muslim regarded the imposition of a Shia-oriented calendar as discrimination against Sunnis. "They take all our freedom from us," the Muslim complained. "You have to believe like us – that's their message. I've got nothing against them praying their way, but they should let us pray in ours." Another Sunni Muslim supported the idea of a unified Muslim calendar, but only if it was based on what they regard as "the norms of Islam". "But the one they have drawn up is distorted and does not set the correct times," the Muslim told Forum 18. "It will lead to dissatisfaction."

Forum 18 has been told that if Muslims do not follow the state-imposed calendar, spies in the mosque would soon notify the institutions that they report to: the State Security Service (SSS) secret police, the State Committee, the local Administration or the state-controlled Muslim Board. Arrest and punishment could follow, the Muslim noted.

Compulsory state permission to exist

Under the Religion Law, backed by Administrative Code Article 515 ("Violation of the procedure for creating or running religious organisations"), all exercise of freedom of religion and belief by a group of people is illegal unless it has obtained state registration, and so permission to exist. To apply for permission to exist, a group must have at least 50 adult founding members, which bans all small religious communities. Many people are afraid to sign such registration applications, for fear of harassment and reprisals by the regime.

Four state bodies are particularly concerned with forcing belief communities to seek state permission to exist: the State Committee, the SSS secret police, the ordinary police, and local Religious Affairs Commissions. All four bodies have made joint raids on people exercising freedom of religion and belief without state permission.

One of the tasks of the Commissions is to detect unregistered but active religious communities. They are supposedly advisory bodies and work closely with local State Committee officials. Typically Commissions have about 15 members, are led by a deputy head of a city or district administration, and include police officers and Muslim clerics from the state-controlled Caucasian Muslim Board. The presence of clerics from the Muslim Board means that one religious community is allowed to help decide whether other religious communities - whether non-Muslim, or Muslims independent of the Caucasian Muslim Board – are allowed to exist.

Registration applications need prior approval from local authorities before they even reach the State Committee, which itself has often rejected applications for unspecified "violations". The Religion Law itself also gives much scope for officials to arbitrarily stop communities registering, for example 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". One Baptist Church in Aliabad has been unsuccessfully repeatedly applying for registration since 1994. This makes it the religious community denied registration for the longest period known to Forum 18.

Even if a community gains permission to exist, there are severe restrictions. These include restrictions on what religious education can be offered to children and adults, and bans on religious activity happening anywhere apart from within the registered address of the community. The Religion Law also gives officials many possibilities to arbitrarily close registered religious communities.

Existence without state permission banned

Without state registration religious communities – and even informal groups of people meeting together – cannot legally exist or exercise freedom of religion and belief. Police and the SSS secret police have raided many religious communities that have chosen not to register, or have tried to register but have been refused. Requiring state permission to exercise freedom of religion and belief and other human rights is against Azerbaijan's legally binding international human rights obligations.

The registration process has almost ground to a halt, leaving many re-registration applications made after the 2009 Religion Law unanswered. Only 34 mosques were registered in 2017 and only 13 in 2018. No non-Muslims were registered in 2017 and only three (Seventh-day Adventist in Gyanja, New Apostolic Church in Baku, and Vineyard Church in Baku) in 2018.

Some religious communities have found that compulsory re-registration means 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 eventually three by 2009. But after compulsory re-registration in 2009 only one congregation in Baku in 2015 was re-registered. All the other congregations which lodged applications – which they have repeatedly done – have received rejections.

Many religious communities have not legally challenged State Committee decisions as they think they cannot win. One stated that this is because of the "corrupt nature of this country's courts", while others cited fear of antagonising the State Committee.

Raids, prosecutions, torture

Raids on those exercising freedom of religion and belief without state permission in their homes continue. In a typical example, on 1 January 2017 a group of 15 police officers raided Tunzala Mamishova's home in Barda as 18 Jehovah's Witnesses met for worship and study. Officers, who refused to identify themselves, illegally forced their way into her home, filmed everyone present against their wishes and shouted insults. Police also confiscated religious literature.

Officers took everyone present to Barda District Police Station, including one man who was not allowed to put on his coat or shoes before being taken. One police officer, Vuqar Mammadov, hit a female Jehovah's Witness, pulled her hair and threatened her with a sexual assault. Such torture has often happened during raids (see below). Police also forced those present in the home to give statements. Tunzala Mamishova was on 29 March 2017 fined 1,500 Manats under Administrative Code Article 515.0.2 ("Violating legislation on holding religious meetings, marches, and other religious ceremonies").

In another example, on 17 September 2018 regional officials of the State Committee, the SSS secret police and other state agencies raided the home of Vuqar Mammadov in the small central town of Agsu. Officials claimed to be responding to alleged reports of a religious meeting without state permission, and found Mammadov and two guests, Agsu resident Rauf Majidov and Qanbar Zeynalov from the nearby village of Bozavand, meeting for religious purposes. All three Muslims were fined on 21 September under Administrative Code Article 515.0.2 ("Violating legislation on holding religious meetings, marches, and other religious ceremonies"). The fine for individuals for this "offence" is between 1,500 and 2,000 Manats, equivalent to between three and four months' average wages for those in formal work. Zeynalov was fined the maximum 2,000 Manats, and the other two men were fined 1,700 and 1,500 Manats.

The Judge's assistant told Forum 18 that "what faith they were is not important. They were dealt with simply in accordance with what the law specifies". He refused to explain why people should be punished for holding religious meetings without state permission.

Closing places of worship

As well as preventing groups of people from meeting for worship without state permission, the regime also closes buildings used as places of worship. These have mainly been mosques, but also Muslim prayer rooms in private organisations' buildings. Most of the mosques closed or demolished by the authorities have been Sunni.

In forcibly closing and taking over Sunni Muslim mosques, the government has used excuses such as an alleged need for "repairs". For example, all Baku's Sunni mosques such as the Lezgin Mosque, the Abu Bekr Mosque, and the Martyrs' Mosque (also known as the Turkish Mosque) have been closed. A Sunni Mosque in Qobustan near Baku was forced to give up its Sunni identity. The State Committee warned its leaders that if they did not liquidate the community, hand back documents for the Mosque, and allow the Mosque leadership to be replaced, the State Committee would go to court to enforce its liquidation. The Mosque leadership reluctantly complied with the state demand, and complied with the forced January 2015 state imposition of a Shia Caucasian Muslim Board imam. The regime insists that all mosques must be subject to the state-controlled Caucasian Muslim Board, which also must name all mosque prayer leaders.

The targeting of mosques for forcible closure continues. In April 2018, the SSS secret police, the ordinary police, and the State Committee launched a joint raid on a mosque in a home in Baku's Qaradag District. The mosque appears to be linked to a Sunni Naqshbandi Sufi community, a Muslim told Forum 18. Officials stated that young people "were involved in religious ceremonies" at the unregistered "non-traditional" mosque and confiscated a large quantity of religious literature which was claimed to "incite discord". Officials then ordered the mosque to close. No official was willing to answer Forum 18's questions about why they targeted the mosque.

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. It is still in force. 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. Police have stopped large numbers of Muslims from gathering near mosques.

Bans can also extend to activity inside mosques, such as on iftar meals in some mosques at the end of the Ramadan fast.

Prisoners of conscience on grounds of freedom of religion and belief

There were in September 2018 over 100 prisoners of conscience, including lawyers, journalists, human rights defenders and opposition politicians, according to the work of Rasul Jafarov, Intigam Aliyev and other local human rights defenders. Among current prisoners of conscience are about 30 Muslims associated with the Muslim Unity Movement, and one Imam for having foreign religious education and leading Friday prayers despite having permission from the state-controlled Caucasian Muslim Board.

The largest group of prisoners known to be currently jailed for freedom of religion and belief-related reasons are Muslims associated with the Muslim Unity Movement. These prisoners of conscience were jailed after having for some years opposed the regime, including but not limited to its violations of freedom of religion and belief. As well as politically opposing the regime, Imam Taleh Bagirov and other Muslims had opposed the Caucasian Muslim Board's attempt to impose an imam on Mastaga's Hazrat Abulfaz Aga Mosque.

Among other topics in Bagirov's sermons, he strongly opposed the authorities' attempts to impose total control of Muslims exercising the right to freedom of religion or belief. Bagirov compared the regime to the Egyptian pharaohs. "You have stolen people's land, you have stolen the oil, and you still sit there with no one to say anything to you", the Institute for War and Peace Reporting quoted Bagirov as saying. "Now you want to rule in the mosque too? No matter how influential an official is, he cannot rule inside the mosque."

While Bagirov was in jail for the second time as a prisoner of conscience, in January 2015 a group of Shia Muslims founded the Muslim Unity Movement and chose Bagirov as leader. He was freed in July 2015. The authorities quickly began to try to suppress the new Movement, which has both religious and political goals and aims to unify the Islamic and secular opposition to the regime.

On 3 November 2015 police detained and tortured Imam Bagirov when he began to pray in a police station. Two days later, police elsewhere in Baku imprisoned his deputy Elchin Qasimov (also known as Qasimli), imam of Mastaga's Hazrat Abbas Mosque, and a colleague. Eight Muslims who demonstrated outside the Baku police station where Qasimov was initially held were also arrested. A total of 10 prisoners of conscience, including Qasimov, were given prison terms of up to one month. The torture of Imam Bagirov was just a week before the UN Committee Against Torture considered Azerbaijan's record (see below).

On 26 November 2015 the authorities assaulted the village of Nardaran while Muslims were praying. During the raid, at least seven people were killed - five men in the village and two police officers – with others in the village being wounded.

Officers detained more than 12 Muslim Unity Movement members – including leader, former prisoner of conscience and

then-recently tortured Imam Bagirov. Others were also detained later elsewhere in Azerbaijan. Immediately after the raid, Etibar Najafov, Chief Adviser on Multiculturalism, Ethnic and Religious Affairs in the Presidential Administration, told Forum 18 that "they've done wrong things – they violated established rules". But he struggled to explain what rules they had broken. Asked if the Muslim Unity Movement had killed anyone or advocated killing anyone, he replied "No".

"These people didn't commit any violence", journalist and former prisoner of conscience Khadija Ismayilova told Forum 18. "The government sees them as a threat because they are popular and they are not controlled by the government."

Nardaran has a population of about 8,000 and is located on the northern shore of the Absheron peninsula 25 kms (15 miles) north of Baku. It is known as a stronghold of Shia Islam, and villagers have for example publicly protested at repressive Religion Law changes targeting Muslims.

Nardaran mosques forcibly closed and taken over

After the raid the authorities obstructed the holding of religious events in Nardaran, denied access to Muslim places of worship and forcibly closed mosques, claiming they cannot function without the compulsory state registration. State employees also removed religious flags and banners, and painted over religious slogans on walls.

On 5 December 2015, 10 days after the Nardaran raid, President Aliyev signed into law rushed legal changes to the Religion Law, the Criminal Code, the Administrative Code and the Citizenship Law, as well as a new "Religious Extremism" Law (see above).

Following the closure of at least four of Nardaran's mosques, officials repeatedly claimed that as they did not have state registration it was illegal for them to host prayers. Two of Nardaran's Imams - Nuhbala Rahimov of the Rahima Hanum Mosque, and Atamali Nur, prayer leader of the Juma (Friday) Mosque – were imprisoned in early December 2015, Rahimov being arrested at the mosque on 7 December. Nur was jailed for 30 days. Rahimov was given an 18-month prison term on 27 May 2016, apparently without a trial.

Officials said some mosques could reopen, but only after they have submitted to the state-controlled Caucasian Muslim Board and gained the compulsory state registration. Officials from the State Committee insisted that the leaders of the closed mosques had no official status in mosques as they had not been approved by the Caucasian Muslim Board, to which the state grants a monopoly over all Muslim activity in the country (except for Muslim institutions that it controls directly itself).

In a state-organised process after the arrest of former imam Rahimov, a new "community" was formed for the Rahima Hanum Mosque which drew up a registration application and sent it for approval to the Muslim Board. It approved the application and sent it to the State Committee, which approved it in September 2016.

Rahima Hanum Mosque became the only registered place of worship in the village - and thus the only legal place for people to meet for worship.

State Committee chair Mubariz Qurbanli stated in December 2015 that Nardaran's Juma (Friday) Mosque had not received re-registration during 2009 compulsory re-registration, and the other mosques never had registration. He stated that to be allowed to function, mosques must have official communities and apply for registration via the Muslim Board. The Muslim Board then sends the approved application to the State Committee for its decision. The State Committee has refused to answer Forum 18's questions about why Nardaran's Muslims cannot meet for worship as they choose, led by the leaders they choose.

Jailing prisoners of conscience

- Muslim Unity Movement

In January 2017 the Serious Crimes Court in Baku sentenced 18 Muslim men arrested during and after the Nardaran raid to prison terms of between 10 and 20 years on a range of serious charges, including terrorism, an attempt to seize power violently, illegal firearms possession, and murder. All denied any guilt. The Court gave Imam Bagirov and his deputy Imam Huseynov the harshest terms: 20 years' imprisonment each, with the first seven years to be served in Qobustan strict regime prison along the coast to the south-west of Baku. There have been well-authenticated reports of torture of prisoners in this and other prisons (see below).

In February 2018 Bagirov had five months added to his jail term for having in his prison cell micro-data cards with the text and audio recordings of the Koran and commentaries on it, religious music, and news reports on prosecutions of opposition political activists. Bagirov called the new sentence "biased and politically motivated".

The latest group of Muslims associated with the Muslim Unity Movement to be jailed were a group of 12, imprisoned in December 2017 for between 12 and 17 years.

- Jailed for leading Islamic prayers with foreign education

In July 2017 Azerbaijan for the first time jailed a man who led Friday prayers with Caucasian Muslim Board permission, allegedly because he had foreign religious education – even though that is also true of much of the leadership of the Caucasian Muslim Board. Oktay Gulaliyev of Azerbaijan Without Political Prisoners told Caucasian Knot that Imam Babayev had been jailed "because of his popularity among believers". He described the Imam as "an educated theologian" whose sermons "aroused great interest". "The authorities see a threat in the activity of believers", he explained.

Sardar Akif oglu Babayev (born 12 March 1974) is married with three children. He completed theological studies at Al Mustafa University in the Iranian city of Qom in 2000. He also studied Islam in Baku. At the invitation of the state-controlled Caucasian Muslim Board, Imam Babayev led the namaz (Friday prayers) at Masalli's Juma (Friday) Mosque from 2009. He was specifically charged with having led Friday prayers on 4 November, 18 November, and 9 December 2016. In late 2016, the head of Masalli District administration, Rafil Huseynov, wrote a complaint about Imam Babayev to police and in the subsequent court case he was jailed for three years.

Imam Babayev had been under arrest since February 2017, and had been denied access to a Koran and a prayer mat. "Sardar Babayev said that no religious education existed in Azerbaijan for decades, and most of the current religious leaders of the middle and older generations studied abroad," his lawyer Javad Javadov stated, summarising Imam Babayev's final statement to the court. "He said he was completely innocent." "All I have done is carry out the worship of Allah", Babayev told the court.

He was jailed under the post-Nardaran introduced Criminal Code 168-1.3.1 ("Violation of the procedure for religious propaganda and religious ceremonies") (see above).

The European Court of Human Rights (ECtHR) in Strasbourg has asked the regime to respond to three cases of unjust pre-trial detention. In the case of the jailing of Imam Babayev (Application No. 34015/17), the ECtHR asked the regime whether it violated his right to freedom of thought conscience and religion under Article 9 of the European Convention of Human Rights and Fundamental Freedoms, as well as the related rights to a fair trial (Article 6), freedom of expression (Article 10), freedom of assembly and association (Article 11), and prohibition of discrimination (Article 14). The ECtHR also asked on what grounds Babayev was held for months in pre-trial detention (Article 5 - "Right to liberty and security") and whether being held in a metal cage in the courtroom broke the Convention's prohibition of torture, inhuman or degrading treatment (Article 3) (see <http://hudoc.echr.coe.int/eng?i=001-186531>).

The ECtHR told Forum 18 that the regime has until 1 February 2019 to reply.

On 26 May 2016 the United Nations Working Group on Arbitrary Detention condemned "the severe limitations placed on the work of human rights defenders, journalists, political opponents and religious leaders" which it observed during its visit to Azerbaijan that month. "The Working Group holds the view that human rights defenders, journalists, political and religious leaders continue to be detained under criminal or administrative charges as a way to impair the exercise of their basic human rights and fundamental freedoms and to silence them," it stated in its preliminary findings of the visit. "These practices constitute an abuse of authority and violate .. the rule of law that Azerbaijan has agreed to comply with."

The UN Working Group's preliminary findings also strongly criticised the authorities' for arresting and punishing individuals on lesser administrative charges, and then bringing far more serious criminal charges (as happened to Rahimov, Qasimov and many others).

Prison conditions

As well as torture (see below), prison conditions can be harsh. Two female Jehovah's Witness former prisoners of conscience, Irina Zakharchenko and Valida Jabrayilova, were imprisoned from February until December 2015 in a "confinement room, a 'cage', rather than a cell, in that there was no privacy and everything was exposed to the sight of others", Jehovah's Witnesses told Forum 18. "The smell of sewage in this 'cage' was suffocating."

Prison officials constantly demanded money. Prisoners who shared the cell stated that they had been asked to pay bribes of 30,000 Manats (then about 166,430 Norwegian Kroner, 17,230 Euros, or 18,800 US Dollars) to get out.

(Zakharchenko and Jabrayilova had been arrested in February 2015 for offering one religious book publicly without the compulsory state permission. They finally received compensation for their maltreatment in October 2018 following a long battle through local courts, including the Supreme Court.)

Muslim prisoners of conscience have been denied Korans, and the Jehovah's Witness women were not allowed a Bible or other religious literature.

Torture

The United Nations (UN) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which Azerbaijan acceded to on 16 August 1996, defines torture as: "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity".

Under Article 6 of the Convention Azerbaijan is obliged to arrest any person suspected on good grounds of having committed torture. Under Article 4 Azerbaijan is obliged to try them under Criminal law which makes "these offences punishable by appropriate penalties which take into account their grave nature".

Yet torture of those arrested and imprisoned continues to be very frequent, and officials torture with impunity from arrest, trial, and punishment. For example, 17 of the 18 Muslims jailed in January 2017 for their alleged involvement with the Muslim Unity Movement (see above) testified in court that they were tortured by the Interior Ministry's Main Directorate for the Struggle with Organised Crime in Baku, and by police. Among the testimonies of torture, Imam Bagirov (who experienced torture during previous terms as a prisoner of conscience) stated: "It is one thing to beat or put an electric current through a person, but we are speaking here of horrific tortures."

No officials were arrested or tried for torturing the prisoners of conscience when they testified to being tortured. Instead, officials denied that torture happened. An officer of the Main Directorate for the Struggle with Organised Crime in Baku claimed to Forum 18 that "there was no torture here, none at all". The officer – who would not give his name as it is "secret" – insisted that "our officers did everything in accordance with the law".

As noted above, torture also happens during raids on anyone exercising freedom of religion and belief. For example in a September 2013 raid on a Jehovah's Witness family, 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, during detention, she had an epileptic fit. 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.

On 28 January 2009 Azerbaijan acceded to the Optional Protocol to the UN Convention against Torture and Other cruel, Inhuman or Degrading Treatment or Punishment, whose purpose is to "establish a system of regular visits undertaken by independent international and national bodies". On 17 September 2014 the UN Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment suspended its visit as it "was prevented from visiting several places where people are detained and was barred from completing its work at other sites, despite repeated attempts to do so and assurances of unrestricted access to all places of deprivation of liberty by Azerbaijani authorities".

In its Concluding Observations on Azerbaijan adopted on 26 November 2015 (CAT/C/AZE/CO/4), the United Nations Committee Against Torture (CAT) expressed concern about "numerous and persistent allegations that torture and ill-treatment are routinely used by law enforcement and investigative officials, or with their instigation or consent". The CAT added that it was "particularly concerned that, according to the State party's report, during the period 2010-2015 not a single individual was prosecuted despite the 334 complaints against officials of the prison system for torture or ill-treatment investigated by the Prison Service between 2009 and 2013", as well as numerous complaints of torture by police and other agencies. The CAT noted that Azerbaijan's failure to prosecute anyone for torture is "a strong indication that investigations into allegations of torture are not conducted in a prompt, efficient and impartial manner".

In July 2018 the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published reports on six visits between 2004 and 2017. It stated that: "The CPT's overall impression of the situation in Azerbaijan is that torture and other forms of physical ill-treatment by the police and other law enforcement agencies, corruption in the whole law enforcement system and impunity remain systemic and endemic". The CPT also stated that "the findings during the 2017 ad hoc visit suggest the existence of a generalised culture of violence among the staff of various law enforcement agencies".

Conscientious objection

Ahead of its accession to the Council of Europe 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".

Azerbaijan has never done this, and conscientious objectors to military service have been repeatedly prosecuted and even jailed under Criminal Code Article 321.1. This states: "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]".

In November 2016 Concluding Observations (CCPR/C/AZE/CO/4), the UN Human Rights Committee stated that Azerbaijan "should adopt without delay the legislation necessary to give effect in practice to the constitutionally recognized right to conscientious objection to military service, without limitation on the category of conscientiously held beliefs. Moreover, it should provide for alternative service of a civilian nature for conscientious objectors and repeal all sanctions against them."

In July 2018, 18-year-old Jehovah's Witness Emil Mehdiyev, who has repeatedly expressed willingness to perform a civilian alternative to compulsory military service, was given a criminal conviction, a one-year suspended prison term, and put under probation for one year. In September 2018 another Jehovah's Witness conscientious objector, Vahid Abilov, received the same sentence.

Other similar criminal cases against other young male conscientious objectors were lodged with Prosecutor's Offices in 2018.

The ECtHR in Strasbourg is expected to in late 2018 deliver decisions over five Jehovah's Witness conscientious objectors convicted in Azerbaijan between 2007 and 2013. Four of these were jailed.

Censorship

A harsh censorship regime backed by the Criminal Code, the Religion Law, and Administrative Code Article 516 ("Violation of legislation on freedom of religion") (see above) is in force. All religious literature printed in and imported into the country must gain specific approval from the State Committee. It 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 "Expert Analysis" Department – which is responsible for the list – has not made public, despite numerous requests.

Despite the country's Constitution banning censorship, Article 9.2 of the July 2001 Statute specifying the State Committee's duties states it must: "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". This duty was later transferred to Article 7.9-6.

In a 6 February 2013 Decree, President Aliyev changed the Statute's 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".

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 with a number and letter).

July 2012 legal changes state that medicines, books and recordings, and "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 Article 22 of the Religion Law was changed 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.

"Expert Analysis Department";

The State Committee "Expert Analysis Department"'s main task is censorship of religious literature which individuals or religious communities want to publish or import into Azerbaijan. If it approves them it also specifies the number that it approves. Such numbers are often far below the number sought.

Censorship, including pre-publication censorship, is strictly enforced. In February 2018 the State Committee banned a so-far unpublished book on Islam by prominent Muslim theologian Elshad Miri. The State Committee was given the book for censoring by Miri's publisher. The book, called "Things Not Existing in Islam", covers seven ideas about what Islam teaches. Chapters include "There is no magic in Islam", and "There is no child marriage in Islam".

The State Committee "expert analysis" by Chief Specialist Namiq Jiriyev objects on exclusively theological grounds to "ideas in the book that could have a negative influence on religious stability in the country. The book is, therefore, deemed unsuitable for publication". Miri pointed out to Forum 18 that the ban on his book was based on "subjective considerations", and condemned the system of state censorship of religious literature. "It is not right to forbid anyone to think freely".

Miri lost his challenge to the ban in the lower court, and intends to appeal to the city court.

Even if the compulsory State Committee "expert analyses" are favourable, there can be further arbitrary restrictions. There is also a strict censorship regime on literature sent by post, due to which many religious communities have stopped using the post to receive literature. 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.

Religious literature is also often confiscated from those crossing into Azerbaijan, and is occasionally confiscated also from those leaving the country. State Customs Committee advice for people crossing the border states: "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".

"The most radical and dangerous banned books"

On 5 May 2014 a list of what Baku's 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.

Police may be acting on the basis of this or a similar list in confiscations of what they have described as "the banned book the Old Testament". This confiscated text is the "Muqeddes Kitab", a modern Azeri-language translation in Latin script used by Jehovah's Witnesses, Protestants, and Jews.

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). 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. "Judging by the titles of others they are Shiite and relate to its religious ideology and history," a 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 antisemitic text".

Zeka Miragayev, a Muslim from Baku, asked the State Committee whether works by Islamic theologian Said Nursi – particularly the Risale-i Nur collection – have been banned and, if so, when, why and by whom. In May 2014 the State Committee told him that the Risale-i Nur is "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)".

A friend of Miragayev noted to Forum 18 that "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 2016 Nahid Mammadov, head of the State Committee's "Expert Analysis" Department stated that all works by Turkish imam Fethullah Gulen (who now lives in the United States) have been banned for import into Azerbaijan, after the State Committee secretly decided in 2008 that his works were "inappropriate" for import. He claimed that religious literature is not "banned" for import, but the State Committee decided on texts' "appropriateness" or "inappropriateness" for import.

De facto discrimination against small or vulnerable religious groups

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. Small or vulnerable religious groups 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." Small and vulnerable religious groups expressed frustration not only about denials of permission, a frequent occurrence, but at the way the State Committee often does not reply to requests for permission.

Small or vulnerable religious groups have also told Forum 18 that some photocopy shops refuse to copy their literature, in many cases because the shop is afraid of state reprisals.

Bookshop censorship

State permission is needed to sell any religious literature, objects, or information materials, as noted above. However, 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. Local people state that this leaves them vulnerable to officials seeking bribes to ignore evasions of the law. Arbitrary refusals and long delays in processing licences to sell religious literature, as well as approvals of the titles and quantities to be sold, appear common.

Raids and fines against people who sell or distribute religious texts or objects without state permission continue. In summer 2018, Samad Alikhanov had sold religious books in the northern city of Sheki without state permission and was on 6 August fined about four months' average wages. Similarly, Zahir Mirzayev, was in February fined about five months' average wages for the same "offence".

Both were fined under Administrative Code Article 516.0.2 ("Selling religious literature (printed or on electronic devices), audio and video materials, religious merchandise and products, or other religious informational materials, which have been authorised for sale under the Religion Law, outside specialised sale outlets established with the permission of the relevant government authority distributing religious literature, religious objects and information material without State Committee permission").

On 16 February 2018, State Committee official Ilqar Valiyev found Adil Zinkiyev selling 19 religious and historical books and 16 pamphlets at a mosque in the northern Zaqatala District. None had undergone the compulsory state censorship.

Zinkiyev was – unusually for "offences" involving religious texts – fined under Administrative Code Article 451 ("Storing with the intention of sale or distribution, taking outside the place of production, or selling or distributing in any other way goods, products and informational material that should bear a control mark but do not have such a mark"). Such items include alcohol, tobacco and religious literature, and there are fines of 50 Manats per item for individuals (to a maximum of 5,000 Manats), 100 Manats per item for officials (to a maximum of 10,000 Manats), and 150 Manats per item for legal entities (to a maximum of 50,000 Manats). In addition, items without the stickers authorising sale are to be confiscated.

Zinkiyev was fined 1,750 Manats, more than three and a half months' average wages for those with a formal job, or 50 Manats for each of the 35 confiscated publications. State Committee official Valiyev refused to answer Forum 18's questions about the case.

Nakhichevan

The situation in the Nakhichevan exclave is worse than in the rest of the country. 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 rulers and unfree parliament. The autonomous territory's restrictions on people's ability to exercise human rights, including freedom of religion and 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 and 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. There is long-standing tight government surveillance of mosques, the only places of worship permitted, and many have been closed. Many people are afraid to attend mosques.

Future prospects

The regime systematically violates intertwined fundamental rights – such as the freedoms of religion or belief, of expression, and of assembly – it has solemnly undertaken to respect and defend, while loudly claiming the regime's alleged "religious tolerance", "dialogue" and similar assertions. Yet without genuine independently verifiable implementation of the state's binding international human rights obligations, Azerbaijan is likely to remain a place where fundamental human rights are violated with impunity. (END)

More coverage of freedom of thought, conscience and belief in Azerbaijan is at <http://www.forum18.org/Archive.php?query=&religion=all&country=23>.

Previous Forum 18 Azerbaijan religious freedom surveys can be found at <http://www.forum18.org/analyses.php?region=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.

Twitter @Forum_18

Follow us on Facebook @Forum18NewsService

All Forum 18 News Service material may be referred to, quoted from, or republished in full, if Forum 18 is credited as the source.

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

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY