

30 January 2013

BELARUS: Religious freedom survey, January 2013

By Geraldine Fagan, Forum 18 (<https://www.forum18.org/>)

Belarus continues to keep religious communities within an invisible ghetto of regulation, Forum 18 News Service has found. The state closely controls people meeting together to exercise their religious freedom, forcing many religious communities to keep out of sight. Officials are hostile towards followers of faiths they see as a threat, particularly the Protestantism of many of the regime's political opponents. However, Forum 18 also notes that Belarus has been more reluctant to crack down on freedom of religion and belief in recent years, for fear that this might increase political opposition. Other issues include: strict controls on foreign citizens, including Catholic priests, who conduct religious activity; a Soviet-era network of KGB secret police and religious affairs officials; lack of provision for conscientious objection to military service; and obstruction of the religious freedom of prisoners, including prisoners of conscience and death-row prisoners.

Belarus continues to keep religious communities within an invisible ghetto of regulation, Forum 18 News Service has found. People meeting together to exercise their religious freedom are subject to close state control. Officials are hostile towards followers of faiths they see as a political threat, particularly Protestantism. Forum 18 observes, however, that in recent years the regime has been less inclined to obstruct people exercising their religious freedom.

Background

The recent rarity of dramatic conflict between Belarusian officials and believers – such as arrests of religious leaders - may suggest an absence of restriction. In fact, the state continues to keep religious communities contained within an invisible ghetto of regulation. As one young Pentecostal commented to Forum 18 in the capital, Minsk, in late 2010: "If we have to get permission to hold a service in our own church, this cannot be evidence of religious freedom."

Central to the government's web of restrictions is the 2002 Religion Law. The most repressive such law in Europe, its restrictions include compulsory state registration of all religious communities and geographical limits upon where religious activity may take place. Religious gatherings in private homes must not be either regular or large scale. Houses of worship are designated by the state. All public exercise of freedom of religion or belief must have state permission. For disfavoured religious communities – usually Protestant – such regulations combine to make nothing possible, as they find state permission unobtainable in practice.

Yet Belarus has become more reluctant to target the exercise of freedom of religion or belief in recent years. The regime is apparently concerned that this might push the mass of believers who are still politically neutral into opposition. Since coming to power in 1994, President Aleksandr Lukashenko has crushed independent political, business, media and social organisations. In turn, faith-based political opposition to his regime by Protestant, Catholic and Orthodox Christians has grown (see below).

Lukashenko apparently fears the potential of the largest remaining independent organisations – churches – and is unlikely to act against them while his own position is less than secure. His hardest strikes at freedom of religion or belief have been the adoption of the 2002 Religion Law and a crackdown in 2006-7. These took place when the regime felt most confident, after disputed elections that returned Lukashenko to the presidency in September 2001 and March 2006.

Minsk battleground

The state of religious freedom continues to be encapsulated by the situation of New Life Church, a 1,000-strong charismatic Pentecostal congregation in Minsk.

New Life is famous for its fight since 2002 to keep control of its private church property. This is a renovated cow barn on the edge of the city, which the authorities claim cannot have its use changed into a church. Worship by a Belarusian Orthodox Church (Moscow Patriarchate) parish in a converted railway carriage 500 metres (yards) away has not faced similar obstruction.

Minsk officials – backed by the national government - have blocked New Life's every effort to use its building in line with Belarusian law, thereby stripping the church's rights to the property. A hunger strike by New Life members, visits by foreign diplomats, and messages of support from around the world deterred the state from seizing the building in October 2006.

Formally, New Life has not owned its land since 2005, nor its building since 2009. Yet the authorities have largely left the church alone since mid-2009. They took no action after New Life refused to pay a heavy February 2010 fine for alleged oil pollution; the church categorically rejects this charge.

Visiting in late December 2010, Forum 18 found members able to organise Christmas festivities with the aid of portable generators (the authorities cut off the church's electricity in 2004). New Life's high-profile civil disobedience campaign appeared to push the authorities back from confrontation. A local Pentecostal pastor has characterised the church to Forum 18 as "the only territory in the country where Belarusian laws don't operate".

On 27 November 2012, however, New Life received a fresh eviction order amid a wider crackdown against political opposition: following the mid-November appointment of new KGB secret police chief Valery Vakulchyk, prominent human rights organisation Vesna (Spring) was evicted from its Minsk premises on 26 November. Yet the authorities once again stepped back from conflict with the congregation; within days, the local district authority cancelled its eviction order.

Political opposition activism

Belarusian Christians, including Protestants, have little historical record of confrontation with the state. But as religious freedom restrictions reduce their ability to act on their beliefs in public, opposition to Lukashenko's regime is growing within many churches. Uniquely in the former USSR, some Christians have adopted tactics of organised resistance in their pursuit of freedom of religion or belief that are more usually associated with secular political activism. In 2007, for example, Catholics, Orthodox and Protestants gathered 50,000 signatures in a petition calling for the Religion Law to be changed to comply with international human rights standards. Mainstream political activists are in turn drawing upon religious ideas, and a number of key opposition figures are committed Christians.

The regime continues to target churches and individual Christians associated with opposition activism:

In February 2012 riot police raided a meeting to discuss historical and cultural issues held at the Minsk home of Pentecostal Pastor Antoni Bokun, whose congregation includes several prominent Christian opposition political activists.

In December 2011 Fr Vyacheslav Barok, a Catholic parish priest in Vitebsk [Vitsyebsk] Region, was investigated on suspicion of evading tax on earnings from pilgrimages he helped organise to religious sites in Belarus, other European countries and Israel – allegations which he strongly denies. Fr Vyacheslav's brother Yuri Barok, also a Catholic priest, participated in the revival of the Belarusian Christian Democracy movement. Although not wishing to leave Belarus, he was transferred by his bishop to Israel in 2010.

In September 2010 "Forbidden Christ", a film documenting Soviet persecution of Protestant churches in Belarus, was removed from a Catholic film festival in Vitebsk Region by order of the country's top religious affairs official, Plenipotentiary for Religious and Ethnic Affairs Leonid Gulyako. The film's director, Aleksei Shein, is a leader of the opposition Belarusian Christian Democracy Party.

In January 2010 organisers were forced to cancel a concert at Minsk's Catholic Church of Saints Simon and Helena (known locally due to its brickwork as the Red Church) after the city authorities threatened "problems" if it went ahead. The concert was to launch a CD compilation of contemporary Christian music, including by members of the Belarusian Christian Democracy Party.

Political prisoners

In violation of both Belarusian and international law, prisoners of conscience whose motivation for political opposition is their Christian faith have been denied pastoral visits, communal worship and religious literature while in detention. Ordinary prisoners may be similarly denied freedom of religion or belief (see below).

Andrzej Poczobut, a journalist charged with libelling President Lukashenko, was denied access to a Catholic priest while detained in Grodno [Hrodna] for three months in 2011.

Numerous Christian opposition activists were arrested in connection with a major demonstration on the night of President Lukashenko's most recent re-election, 19 December 2010. These included:

Pavel Severinets, charged for his political activities as a leader of the Belarusian Christian Democracy Party. He was denied a meeting with an Orthodox priest for almost five months while in the KGB secret police detention centre in Minsk in early 2011.

Oleg Korban, a leader of the opposition Young Democrats' Movement, who was detained with Severinets until 7 January 2011. He was similarly denied access to an Orthodox priest.

Severinets was also not allowed to receive a Bible passed from his mother. Detained in the same KGB detention centre for two months, Anastasiya Polozhanko, a Protestant and leader of the Belarusian Youth Front, was not allowed to keep a Bible she was carrying when arrested. Both she and Severinets had to order Bibles from the prison; these were available only in Russian.

Belarusian Christian Democracy Party presidential candidate Vitaly Rymashevsky, held at the same KGB detention centre for two weeks after the December 2010 election, was denied access to religious literature, including the Bible.

Orthodox atheism

According to official statistics presented by top state religious affairs official Gulyako in early 2012, nearly two-thirds of Belarusian citizens are Orthodox Christians, while just 12 per cent are Catholic. Gulyako did not give statistics for other beliefs. Such polling is rare, but a 2000 Belarusian sociological survey found approximately six per cent adhering to other faiths, the majority likely to be Protestant.

A total of 3,210 local communities had state registration in early 2012. Of these, 1,567 were Orthodox as well as 33 Old Believer, 972 were Protestant, 494 were Catholic, 53 were Jewish, 27 were Jehovah's Witness, 23 were Muslim, and 41 were from a variety of other faiths of which 6 were Hare Krishna and 5 were Baha'i.

In view of the nominal Orthodox majority, government representatives sometimes use pro-Orthodox rhetoric common in neighbouring Russia. In 2010 Gulyako maintained, for example, that "the role of traditional confessions is continuing to grow in Belarus" when announcing the introduction into state schools that September of an optional course on Orthodox Culture, pioneered in Russia.

Despite many cultural similarities between the two nations, however, Forum 18 has found Belarus to be far less inclined than Russia to enact religious policy favouring the Belarusian Orthodox Church (Moscow Patriarchate). No individuals or communities of other confessions have complained to Forum 18 that co-operation between the state and the Orthodox Church has led to religious freedom violations in state institutions.

The Soviet atheist legacy is also far stronger in Belarus, as indicated by its retention of government religious affairs structures (see below) and broad popular identification with atheism, typified by Lukashenko's notorious self-definition as an "Orthodox atheist".

The Belarusian state's lean towards atheism comes despite a significantly higher level of popular religious observance than in Russia. Polled in 2006, around 25 per cent of Belarusians said they attend church at least once a month; the equivalent Russian figure was only 11 per cent.

Close to their Russian counterparts, however, is Belarusian officials' characteristic hostility towards faiths they consider a threat, particularly Protestantism. Accounting for an October 2009 police visit to the Minsk home of a Protestant family, for example, a deputy police chief remarked to Forum 18: "We have Orthodox, Catholics and Muslims – these are the religions. All the others are sects."

Jehovah's Witnesses have reported state obstruction to their exercise of freedom of religion or belief in recent years almost unknown before 2009 (see below).

Controls on foreigners

In line with this hostility, Belarus strictly controls foreign citizens who conduct religious activity. According to a January 2008 Council of Ministers Decree, amended in July 2010, foreigners may work only within houses of worship belonging to, or premises continually rented by, the religious organisation that invited them. This must be a state-registered religious association consisting of 10 or more communities, at least one of which must have functioned in Belarus for 20 years. The transfer of a foreign religious worker from one religious organisation to another - such as between parishes of the same denomination - requires permission from a state official dealing with religious affairs, even to conduct a single worship service.

Under a 2008 decree, Belarus' top religious affairs official, Plenipotentiary for Religious and Ethnic Affairs Gulyako, has sole discretion in deciding whether religious work by a foreign citizen is "necessary". He may refuse a foreign religious worker's visit without giving any reason. Foreign citizens must also demonstrate knowledge of Belarus' state languages (Belarusian and Russian) in order to perform religious work.

In May 2009 religious affairs officials warned New Testament Pentecostal Church in Minsk it could be closed down after Ukrainian citizen Pastor Boris Grisenko, visiting from his Messianic Jewish congregation in the Ukrainian capital Kiev, preached at an evening service. Grisenko was fined 105,000 Belarusian Roubles (then 230 Norwegian Kroner, 30 Euros or 40 US Dollars) for religious activity without state permission (Code of Administrative Offences, Article 23.55, Part 1, Point 1).

More than two-thirds of the 33 foreign citizens known to have been barred from conducting religious work in Belarus since 2004 are

Catholic (most of the rest are Protestant). Priests and nuns tackling social issues, such as alcoholism, very publicly appear to be particular targets.

Fear of expulsion is acute for the Catholic Church in Belarus, about 40 per cent of whose approximately 430 priests are foreign citizens. Between the end of 2006 and the end of 2008, 12 Polish Catholic priests and eight nuns were forced to leave the country. Far fewer cases were reported before 2006, and the number again fell from June 2009 to January 2013. In late 2009 two village priests from Poland, Fr Jan Bonkowski and Fr Edward Smaga, were refused state permission to continue religious work in Belarus; Fr Bonkowski had been with his parish for 20 years.

Subsequent softer treatment of the Catholic Church appears due to growing state recognition of Catholic influence among the Belarusian population. According to religious affairs official Gulyako's 2012 statistics, a quarter of a million Catholics attended Christmas services in 2011, only 14,000 fewer than Orthodox.

Lukashenko appears keen to keep the Catholic Church at least neutral towards his regime. In April 2009 he and his young son Kolya delivered an open invitation to Pope Benedict XVI to visit Belarus. In July 2009 Gulyako announced that his office and the Foreign Ministry had completed the draft of a Concordat with the Holy See; he repeated this in November 2011, stressing that the Holy See's response was awaited.

The same month Lukashenko declared: "We expect more of the Catholic Church and Pope Benedict XVI in defending our interests, especially in the West."

The Holy See has yet to approve either a papal visit or the Concordat, but Catholic representatives have also declined to criticise the Lukashenko regime. On the contrary, the Holy See's Secretary of State [=Foreign Minister], Cardinal Tarcisio Bertone, conveyed the thanks of Pope Benedict XVI "for the religious liberty that Belarus enjoys" during a June 2008 visit to Minsk. During the same visit, Bertone also told a press conference that the repressive Religion Law was "a good law reflecting the necessary protection and respect for the rights of the five main confessions traditional to Belarus".

Despite such Catholic Church concessions, it is unlikely that a Concordat would halt Belarus' continuing violations of the right to freedom of religion or belief – both against Catholics and others.

Soviet nostalgia

Belarus retains a Soviet-era network of religious affairs officials charged with the close monitoring of religious communities. In addition to the Minsk office of the most senior, Plenipotentiary for Religious and Ethnic Affairs Gulyako, each of the country's six regions plus Minsk city employs one or two religious affairs officials, with further officials dealing with religious affairs in every district (approximately 20 per region). Local Ideology Departments were revived in 2003; their officials are frequently instrumental in moves to restrict freedom of religion or belief.

The KGB secret police are also often involved. Pointedly retaining its Soviet title, the Belarusian KGB has made no attempt to distance itself from its recent past, instead proudly tracing its history back to the first Soviet secret police, the Cheka. According to the official KGB website, in the 1920s the Cheka fought transport disruption, a typhoid epidemic, and to save starving orphans. The website also suggests that the secret police suffered rather than performed Stalin's purges in the 1930s, with about 20,000 officials as victims.

Defence of this record has led the KGB to discourage commemoration of Christians killed for their faith in Soviet times. KGB officers tried to have icons of them removed from Grodno's Orthodox cathedral in 2006, and continue to monitor visitors to mass graves of Stalinist repression victims at Kuropaty (Kurapaty) outside Minsk. An Orthodox chapel planned for the site has never been built.

Worship meeting restrictions

Under the Religion Law, religious activity can only take place "unobstructed" in state-approved houses of worship (Article 25). Yet the state obstructs acquisition of such houses of worship by disfavoured religious communities, as the case of New Life Church illustrates. Officials then use various legal tools to limit such communities.

Restrictions begin from the moment a community forms. Under the Religion Law, all religious organisations must be registered with the state (Article 14). The Law is silent on those with fewer than 20 members – the minimum for registration. This creates a Catch-22 situation for a new community: it cannot publicise its existence before it has 20 committed members, but must do so in order to attract such a membership.

Fledgling communities of disfavoured faiths thus meet under threat of state reprisals, even in private homes. In January 2012 state officials warned the pastors of two such Pentecostal groups for conducting unregistered worship in villages in Brest Region. In late 2011 police raided a Jehovah's Witness house group in Mogilev [Mahilyow] Region.

The state formally learns such communities exist when they attempt to register. In late 2011 police raided two Jehovah's Witness communities repeatedly denied state registration in Brest and Gomel Regions. In October 2009 police and an ideology official raided a village home in Mogilev Region, where about 20 members of a Full Gospel charismatic congregation were singing hymns. Its registration application had earlier been rejected; the KGB secret police questioned those who signed it and claimed to find some less than totally familiar with the church's beliefs.

State registration being compulsory, the Religion Law makes no provision for those who do not wish to register. This primarily concerns the Council of Churches Baptists, who believe registration leads to state interference. (They broke away from the Soviet Union's main Baptist Union in the 1960s over moves to limit evangelism and youth work.) In a leaked 2005 report, Brest Region's top religious affairs official described the frequency of these Baptists' services due to the inaction of junior officials as a "depressing situation".

The Council of Churches Baptists reported 12 fines for unregistered religious activity during 2005-6, on several occasions at least half the average monthly wage. The 11 fines they reported for 2007-8 were at least as high, and on several occasions significantly higher. Forum 18 learnt of only five such fines from June 2009 to January 2013; some were still substantial, however.

Administrative "offence"

Unregistered religious activity is typically treated as an administrative "offence" under the Administrative Code: "creation or leadership of a religious organisation without state registration or activity by a religious organisation not in accordance with its registered statute" (Article 9.9, Part 1). The only punishment here is a fine of between four and 10 base units. The base unit is used to calculate state benefits and wages, and was raised on 1 April 2012 to 100,000 Belarusian Roubles (then 60 Norwegian Kroner, 9 Euros, or 12 US Dollars).

Eight fines under Article 9.9, Part 1 were reported from June 2009 to January 2013:

A Council of Churches Baptist community was raided by an ideology official and police officer during August 2009 evening prayer at a private home in Brest. The host, Yelena Oktyusyuk, was later fined 175,000 Belarusian Roubles (then 360 Norwegian Kroner, 40 Euros or 60 US Dollars).

Also in August 2009, Yevgeny Bakun, a pensioner, was fined 140,000 Belarusian Roubles (then 280 Norwegian Kroner, 30 Euros or 50 US Dollars). A month earlier, police, ideology and religious affairs officials raided worship by an unregistered Pentecostal congregation in a hut in the yard of his Grodno home. According to the court verdict against Bakun, he gathered up to 30 people "into a stable group of fellow-believers by use of agitation".

In December 2009 Sergei Yevstafyev, Aleksei Ilnitsky and Ivan Mustetsanu of an unregistered Jehovah's Witness community in Mogilev Region were each fined 140,000 Belarusian Roubles. That July about 20 local officials, police and KGB secret police forced their way into Ilnitsky's village home where - according to the court verdicts against them - "a meeting of citizens was underway, of about 30 people, in the course of which those present prayed and studied the Bible."

In April 2009 raids on home worship to mark the Memorial of Christ's death, the most important Jehovah's Witness commemoration of the year, led to fines of 140,000 Belarusian Roubles for Andrei Varaksa in Mogilev Region, and 175,000 Belarusian Roubles for Andrei Kuzin in Minsk Region.

Positively, restrictions on unregistered religious activity were relaxed from 23 February 2010, when an amendment came into force removing this as an "offence" from Article 9.9, Part 1. The following month, charges of leading unregistered worship were consequently dropped against Jehovah's Witness Maksim Pyrochkin in Mogilev Region.

Following the change, however, Pastor Yuri Petrevich of an Embassy of God Protestant congregation in Grodno was fined 140,000 Belarusian Roubles in March 2010 after police and KGB secret police raided worship at his home. Forum 18 is not aware of the use of Article 9.9, Part 1 to target unregistered religious activity subsequently.

The remaining part of this Article - punishing "activity by a religious organisation not in accordance with its registered statute" - is rarely used. New Generation Full Gospel Church, in Brest Region, was fined 350,000 Belarusian Roubles (then 790 Norwegian Kroner, 90 Euros or 120 US Dollars) in July 2009 for holding a Sunday worship service that was allegedly not in keeping with its statute. It remains unclear how the service did not comply.

Harsher alternative provision

Pastor Yuri Petrevich from Grodno (see above) was additionally punished under another, harsher provision of the Administrative Code that allows prosecution of unapproved religious activity. Article 23.34, Part 2 punishes organisers who violate regulations for holding demonstrations or other mass public events with fines ranging from 20 to 40 base units; Petrevich was fined 700,000

Belarusian Roubles (then 1,400 Norwegian Kroner, 175 Euros, or 230 US Dollars). He estimated this to be about one month's average wages in Grodno.

Positively, Article 23.34 was amended in November 2011 to remove "other public events" from the list of "gathering, meeting, street procession, demonstration, picket" - types of public event requiring advance state approval. Despite this, however, two Jehovah's Witnesses faced prosecution for home worship in November 2011 and April 2012 under Article 23.34, Part 2. Forum 18 is not aware of attempts to use this provision subsequently to prosecute unapproved religious activity.

The Article was earlier used repeatedly:

In September 2011 Pastor Aleksei Abramovich of a Council of Churches Baptist congregation in Minsk Region was fined 700,000 Belarusian Roubles (then 690 Norwegian Kroner, 90 Euros or 120 US Dollars), for leading unregistered worship following a raid by police and an ideology official. Fellow Council of Churches Baptist Pastor Nikolai Varushin was fined 1,050,000 Belarusian Roubles (1,040 Norwegian Kroner, 235 Euros, or 335 US Dollars) after police similarly raided a Sunday worship meeting in February 2011.

In June 2010 Pentecostal Pastor Viktor Novik was fined a combined total of 2,100,000 Roubles (then 4,300 Norwegian Kroner, 540 Euros or 700 US Dollars) for singing and distributing Christian leaflets on three occasions in a village in Brest Region. He noted that when six church members were detained for spreading their faith in similar circumstances in 2009 they were merely warned verbally.

In September 2009 Pentecostal Yevgeny Bakun was also fined 700,000 Belarusian Roubles (then 1,400 Norwegian Kroner, 175 Euros or 230 US Dollars) under Article 23.34, Part 2, in addition to his fine under Article 9.9, Part 1 (see above). Both Bakun's fines (together worth two and a half times his monthly pension) were automatically deducted from his pension in instalments, as he did not pay them within one month.

In July 2009 approximately 10 police and state officials climbed over a fence and forced entry to a private Gomel home where several dozen Jehovah's Witnesses were meeting. One of the Witnesses, Yuri Reshetnikov, was later found to have violated Article 23.34, Part 2 and fined 1,050,000 Belarusian Roubles (then 2,150 Norwegian Kroner, 260 Euros or 385 US Dollars).

While reports of fines are not common, fear of punishment forces many religious communities to keep out of sight: in principle, they could face criminal prosecution. Introduced in the run-up to the December 2005 presidential elections, Article 193-1 of the Criminal Code punishes "organisation of or participation in activity by an unregistered political party, foundation, civil or religious organisation" with a fine or imprisonment for up to two years.

So far, however, Forum 18 has learnt of only four threats to use Article 193-1 against religious communities. These were:

- in February 2011 by police detaining members of a Council of Churches Baptist congregation, who met for worship without state permission in Kostyukovichy, Mogilev [Mahilyow] Region;
- in April 2011 by Gomel [Homyel] Railway District Prosecutor's Office threatening a Council of Churches Baptist, Nikolai Varushin, with prosecution if he continued to lead meetings for worship without state permission;
- in November 2011 by a Prosecutor's Office in issuing an official written warning to a leader of a religious community (who did not wish to be identified for fear of state reprisals);
- and in May and June 2012 by Mozyr District Public Prosecutor's Office, Gomel Region, warning various Pentecostal members of the Suzko family for meetings for worship without state permission. The Suzkos did not get the warnings rescinded, but their church went on to obtain registration in November 2012.

Religious property

Under President Lukashenko, Protestant communities have generally found it impossible to get property redesignated so that it can be used for worship in line with the law. If a building is not a designated house of worship, advance state permission is needed for religious activity, and anti-Protestant officials typically refuse to grant it. Orthodox and Catholic communities are rarely affected, partly due to the state's more positive attitude towards them, but also because they are more likely to occupy historically preserved, designated worship buildings.

Reflecting New Life's experience in Minsk, Stepan Lugovsky, the Jehovah's Witness homeowner in the July 2009 Gomel raid (see above), was fined 700,000 Belarusian Roubles (then 1,400 Norwegian Kroner, 170 Euros or 260 US Dollars) for "using living premises not for their purpose" (Administrative Code, Article 21.16, Part 1).

In July 2009 Stepan Paripa and Nikolai Pestak, two Council of Churches Baptists, were each fined 700,000 Belarusian Roubles

under the same provision because their unregistered congregation in Baranovichi (Brest Region) meets in a private home.

Another element of New Life's situation is a similar penalty involving "misuse" of land for religious worship. In June 2010 two Pentecostal village churches in Minsk Region were each fined 700,000 Belarusian Roubles for using private homes remodelled for worship, thereby allegedly violating the procedure for using a land plot (Administrative Code, Article 15.10, Part 3).

In October 2009 a village Baptist church in Vitebsk Region was fined 700,000 Belarusian Roubles under the same provision.

No right to appeal

Under the Religion Law, a religious organisation found to have violated Belarusian law must correct the alleged violation within six months and not repeat it in the course of a year. If it fails to do so, the authorities may seek to shut the organisation down (Article 37). No legal provision exists to challenge such warnings.

On 5 April 2007 the Constitutional Court highlighted the Religion Law's failure to give religious organisations the right to challenge warnings in court (Decision R-199). Yet Jehovah's Witness congregations given official warnings since that decision have repeatedly tried, but failed, to establish the legal right to challenge them.

The Jehovah's Witness community in Gomel was warned in September 2009 for offering literature on the street, but Gomel Regional Court and the Supreme Court rejected its attempt to challenge this warning. The Jehovah's Witness community in Mogilev was similarly warned in February 2010, when one of its members offered literature on the street without advance state permission. Again Mogilev Regional Court and the Supreme Court rejected the Jehovah's Witnesses' complaint on the grounds that Belarusian law does not envisage the possibility of challenging such warnings. In October 2010 Belarus' Deputy General Prosecutor rejected their appeal against the courts' refusals, on the same grounds.

Jehovah's Witnesses have also tried but failed to challenge a ban on importing religious literature – a time-consuming and burdensome procedure even when import is permitted. While approving the import from Germany of other Jehovah's Witness texts - including issues of the same magazine - the "Expert Council" attached to Minsk's Office of the Plenipotentiary for Religious and Ethnic Affairs rejected the 1 May 2012 issue of "The Watchtower" for containing allegedly "religious/political" material.

In September 2012 the Jehovah's Witnesses requested a copy of the Council's "expert analysis" from Plenipotentiary Gulyako, pointing out that by law such analyses must be provided to the relevant religious community within 10 days. They also asked how such a decision might be challenged.

In his 22 December 2012 response to the Jehovah's Witnesses, Deputy Plenipotentiary Vladimir Lameko relayed the reasoning behind the Expert Council's rejection. This was that the material "examines issues of the political socialisation of the personality" and "argues for a position of refusing participation in political events on the basis that Satan and 'evil spiritual forces' govern the world". However, continued Lameko, the Religion Law states that religious organisations are formed "to fulfil religious, and not political, needs". He dismissed the possibility of challenging this conclusion: "There is no basis for changing the decision on the given question."

No other individuals or communities have complained to Forum 18 about government censorship of religious literature.

In May 2007 the secretary of a Lutheran Union from Vitebsk identified only as V.S. lodged an appeal to the United Nations Human Rights Committee under the International Covenant on Civil and Political Rights (ICCPR). The Lutheran complained that various Belarusian courts – including the Supreme Court and the Higher Economic Court - had repeatedly rejected suits challenging official warnings from the Plenipotentiary, again citing the Religion Law's failure to set out a procedure for protesting against such decisions.

Although the original warning to the Lutheran community was about their seal and headed paper, the Lutheran noted that it had serious consequences. Once the Plenipotentiary had issued the warning, his Office refused to process any further requests from the community. Thus, it would not consider a request to allow Lutherans from the United States to visit the community in Belarus.

The UN Committee's 30 October 2011 finding noted that the question was repeatedly passed back to the Plenipotentiary whenever the Lutheran appealed to various state agencies to incorporate a procedure for challenging official warnings into the Religion Law. However, while the Committee also recognised that restrictions on a religious community affect individuals, it rejected the Lutheran's complaint because it had been lodged individually, not from the community itself (CCPR/C/103/D/1749/2008).

Conscientious objectors

In defiance of Belarus' international human rights obligations to respect religious freedom, no mechanism exists for conscientious objectors to compulsory military service to perform a genuinely civilian alternative service.

(Other Organisation for Security and Co-operation in Europe (OSCE) participating States without a civilian alternative service possibility for conscientious objectors and where objectors are imprisoned are Armenia, Azerbaijan, Turkey and Turkmenistan. The unrecognised breakaway entity of Nagorno-Karabakh also imprisons conscientious objectors.)

With a few exceptions, or deferments due to health problems or family circumstances, all Belarusian men aged between 18 and 27 are required to do 12 or 18 months' military service.

This is also despite Belarus' own 1994 Constitution (Article 57), and a requirement for call-up commissions to offer alternative service in the 1992 Law on Military Obligation and Military Service (Article 36). A 2000 Constitutional Court ruling called for "urgent" amendment of the 1992 Law or adoption of an Alternative Service Law.

"On Alternative Service" is among 34 draft laws to be considered in 2013 in line with a 3 January 2013 presidential decree. According to the decree's timetable, completion of the draft law is envisaged in July 2013 and its presentation to the Palace of Representatives (lower house of parliament) in October 2013. According to Vera Chaushnik of the government's National Centre for Legislation and Legal Research, the earliest it could be adopted would be 2014.

Earlier similar proposals have stalled. Draft alternative service laws were rejected by parliament in 2004, and removed from the 2010 legislative programme at the last minute. After President Lukashenko ordered the drafting of such a law in February 2010, a government working group was set up, but it did not meet the September 2012 target for submitting a draft to the Council of Ministers.

Under the Criminal Code, conscientious objectors may be fined or imprisoned for up to two years for "refusal of call-up to military service" (Article 435, Part 1). Those who refuse military service on grounds of conscience are sometimes allowed to serve in the Railway Troops without taking the military oath. But this is not acceptable for some, notably Jehovah's Witnesses.

In the first prosecution since 2000 under Article 435, Part 1, Jehovah's Witness Dmitry Smyk was fined 3,500,000 Belarusian Roubles (then 7,230 Norwegian Kroner, 860 Euros or 1,290 US Dollars) in November 2009, and banned both from leaving Belarus and travelling within the country without notifying the authorities. However, he was eventually acquitted in May 2010.

Messianic Jew Ivan Mikhailov was sentenced to three months in prison under the same article in February 2010; he served almost all of this term before acquittal.

In 2010 pacifist Yevhen Yakovenko received a one-year sentence of restricted freedom under the same article, but automatically fell under an amnesty to mark the 65th anniversary of the end of the Second World War.

More recent cases failed to reach court. In late 2011 Jehovah's Witness Aleksandr Belous was threatened with criminal prosecution, but the charges were dropped in April 2012. Pacifist Andrei Chernousov was forcibly confined to a psychiatric hospital for five days in May 2012 in order to establish if his convictions leading him to refuse call-up accorded with "norms of psychiatric health".

Young men may also be denied their right to freedom of religion or belief while conscripted. Currently conscripted Youth Front activist Pavel Sergej – whose opposition to both the regime and military service is motivated by his Christian faith – has been prevented from attending church.

Prisoners' religious freedom

Convicts in ordinary prisons have fewer problems gaining access to religious representatives, worship services and religious literature than inmates of pre-trial detention centres and maximum-security prisons, which usually share a building or complex.

However, this often depends on the prisoner's religious affiliation and the prison's location. The state's concordat-style 2003 Co-operation Agreement with the Belarusian Orthodox Church recognises provision of Orthodox pastoral care to prisoners and detainees among its priorities, and Orthodox priests have access to every prison for visits and religious services. Catholic priests have access to prisons in majority Catholic areas.

Protestant pastors report difficulties in accessing prisons, particularly since 2006. The deputy chief of Minsk's Punishment Implementation Department – which controls pastoral visits – told Forum 18 that it is "very strict at not admitting any random person into prisons. Sometimes they disguise themselves as other religions and have a negative influence over the inmates. For this reason access is only possible for Orthodox and Catholic priests, which means registered religions." He gave no examples of the "negative influence" he alleged.

Imams are never allowed to visit Muslim prisoners. Many convicts and clergy of different religions are unaware that the possibility for such visits exists. Also, "inmates are afraid of exercising their religious freedom rights, as they fear that the prison staff's attitude will be tougher", Protestant Pastor Boris Chernoglaz told Forum 18 in July 2011.

In Belarus' two maximum-security prisons, non-Orthodox Christian inmates are permitted one visit by a cleric each year as long as the prison administration approves it, according to Minsk-based lawyer Vlasta Oleksuk. In Zhodino's maximum-security prison, an Orthodox priest can visit inmates regularly.

Death-row prisoners

The problem of pastoral visits is acute in the case of death-row prisoners. Belarus is the only country in Europe that carries out the death penalty.

The Criminal Enforcement Code guarantees death-row prisoners the right "to have meetings with a priest" (Article 174). However, prisoners sentenced to death - which sentence is almost never commuted to life imprisonment - may not be granted visits they request.

Prison sources say that death-row prisoners are informed of their executions only minutes beforehand. In 2011 Andrei Burdyka - executed sometime between 13 and 19 July - had arranged for a visit by an Orthodox priest on 20 July. No opportunity was given for this visit to be brought forward.

Andrei Zhuk - convicted of murder and executed on 18 March 2010 - was one of a small number of prisoners known to have been executed in Belarus since 2008. Zhuk's mother told Forum 18 that his lawyer had asked if he wanted a visit from a priest but that he had declined, as he did not expect the death sentence immediately.

The bodies of executed prisoners are not given to their families, the date and place of burial is kept secret, and no opportunity is given for a religious burial service.

The mother and sister of Vladislav Kovalev complained to the UN Human Rights Committee that their right to freedom of thought, conscience and religion (among other rights) was violated by his state execution on 15 March 2012. In refusing to give Kovalev's family his body for an Orthodox burial, the women argued, the state violated their right to religious freedom.

Kovalev was convicted of aiding another defendant in carrying out the April 2011 terrorist attack on the Minsk metro. He, his family and human rights defenders rejected the charges.

On 29 October 2012 the UN Committee concluded that the state's refusal to hand over death-row prisoners' bodies for burial and to disclose the place of burial "have the effect of intimidating or punishing the family by intentionally leaving it in a state of uncertainty and mental distress". Viewing this as amounting to inhuman treatment in violation of the ICCPR (Article 7 - Freedom from torture and cruel, inhuman or degrading treatment or punishment), the Committee did not examine the women's claim that the ICCPR's Article 18 on freedom of religion or belief had also been violated (Communication No. 2120/2011). (END)

Previous Forum 18 Belarus religious freedom surveys can be found at <http://www.forum18.org/Analyses.php?region=16>.

For a personal commentary by Antoni Bokun, Pastor of a Pentecostal Church in Minsk, on Belarusian citizens' struggle to reclaim their history as a land of religious freedom, see F18News 22 May 2008 http://www.forum18.org/Archive.php?article_id=1131.

Full reports on freedom of thought, conscience and belief in Belarus can be found at <http://www.forum18.org/Archive.php?query=&religion=all&country=16>.

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.

Follow us on Twitter @Forum_18 (http://twitter.com/forum_18)

Follow us on Facebook @Forum18NewsService (<http://www.facebook.com/Forum18NewsService>)

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

All photographs that are not Forum 18's copyright are attributed to the copyright owner. If you reuse any photographs from Forum 18's website, you must seek permission for any reuse from the copyright owner or abide by the copyright terms the copyright owner has chosen.

© Forum 18 News Service. All rights reserved. ISSN 1504-2855.

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

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY