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## BELARUS: Religious freedom survey, September 2014

By Olga Glace, Forum 18

*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. Yet people fear that without change to the legal framework and the attitudes of officials harsh actions could resume. 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.*

Before the April 2015 United Nations Human Rights Council Universal Periodic Review (UPR) of Belarus, Forum 18 News Service has observed the government's continuing desire to keep religious communities within an invisible ghetto of regulation, even though in recent years the regime has been less inclined to obstruct people exercising their religious freedom. However, people meeting together to exercise their religious freedom are still subject to state control. Officials are hostile towards followers of faiths they see as a political threat, particularly Protestantism.

While harsh actions against individuals and communities exercising their right to freedom of religion or belief have reduced in the last few years, people fear that without change to the legal framework and the attitudes of officials harsh actions could resume more widely.

### Regulation

Compared with some other post-Soviet states, the relative rarity of high-profile violations of freedom of religion or belief – such as arrests of leaders of religious communities - may suggest an absence of restrictions. 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, whose restrictions include compulsory state registration of all religious communities and geographical limits upon where religious activity may take place. Foreign religious personnel invited by local religious communities require compulsory state permission for carrying out religious activity, which prevents them from carrying out any religious activity away from the one venue for which they have approval. This prevents, for example, a foreign Catholic priest saying Mass even in a neighbouring parish.

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 Protestants – such regulations combine to make nothing legally possible, as they find state permission unobtainable in practice. Some communities fail to apply for state permission for public religious events they wish to hold because of the extent of detail the authorities demand.

However, the regime is apparently concerned that these controls might push the mass of believers who are still politically neutral into opposition. This concern on the regime's part may be heightened by the fact that many of the leaders of the political opposition make no secret of the fact that they are committed Protestant or Orthodox religious believers, and that their faith is central to their opposition to the dictatorship.

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 fraudulent elections that returned Lukashenko to the presidency in September 2001 and March 2006.

But since the December 2010 presidential election, which included the arrest of seven presidential candidates, the regime's priority for repression seems to have been opposition political activity. The authorities appear to be cautious about provoking a conflict with religious believers in the run-up to the next presidential election, due by November 2015.

### 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 2006.

The authorities cut off the church's electricity in 2004. 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 December 2010, Forum 18 found members able to organise Christmas festivities with the aid of portable generators. 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".

In November 2012, however, New Life received a fresh eviction order amid a wider crackdown against political opposition. Yet the authorities once again stepped back from conflict with the congregation; within days, the local district authority cancelled its eviction order. In June 2013 New Life again received an eviction order, which was the same month as rapidly suspended – but not cancelled. Since then, no new eviction orders have been issued.

New Life Church asked the authorities in August 2014 to resolve the Church's status. The two sides agreed to a visit by state officials which church members hoped would launch a dialogue to resolve the problems. Not least, they hope the city authorities will finally allow the church to be reconnected to the electricity supply after ten years.

### 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.

Following the fraudulent December 2010 presidential elections, the regime targeted churches and individual Christians associated with opposition activism.

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 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.

However, such government moves appeared to stop from 2013.

### 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).

The most high-profile imprisonment was that of Fr Vladislav Lazar, priest of the Descent of the Holy Spirit Catholic parish in Borisov [Barysaw] in Minsk Region, on espionage charges on 31 May 2013. He was held almost incommunicado at the KGB secret police investigation prison in Minsk. His bishop, Archbishop Tadeusz Kondrusiewicz of the Minsk-Mogilev diocese, was interrogated by the KGB as a witness in the case. Not until six months later, on 3 December 2013, was Fr Lazar transferred to house arrest. The investigation appeared to have been dropped in June 2014 through lack of evidence, although no official announcement has been made.

During his imprisonment, Fr Lazar was not allowed to have a Bible, prayer book and rosary, nor to receive family visits. Only one visit from his fellow Catholic clergy was eventually allowed – by Apostolic Nuncio to Belarus Archbishop Claudio Gugerotti.

The KGB released almost no information about Fr Lazar's case, while the Catholic Church seemed afraid to provide many details of the accusations. Individual Catholics and the opposition Christian Democratic Party were more vocal, with the latter starting a petition for Fr Lazar's freedom. It described his arrest as "an attempt to blackmail the Catholic Church and intimidate the Belarusian public".

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 political 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.

Pentecostal Christian Zmiter Dashkevich, a Youth Front leader serving a two-year term for alleged "hooliganism" in Glubokoye Prison in Vitebsk Region, and Yevgeny Vaskovich, a Catholic and an activist of the opposition Christian Democratic Party, were denied clergy visits in 2012.

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 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.

In August 2014 news emerged that opposition activist Vasily Parfenkov, serving a one-year sentence in Gorky-9 Prison for violating the "preventive supervision" he was under, was sent to the prison punishment cell for ten days for refusing to remove icons during an inspection. The prison administration claimed he had thereby violated hygienic requirements.

#### 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 3,448 religious organisations had state registration on 1 January 2014, of which 3,280 were local communities. Of the figures for 2012 (the last for which details are available), 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, 6 were Hare Krishna, 5 were Baha'i, and 30 were from a variety of other faiths.

In view of the nominal Orthodox majority, government officials sometimes use pro-Orthodox rhetoric common in neighbouring Russia. Summarising the religious situation in Belarus over 2013, Gulyako maintained that "the Belarusian Orthodox Church takes the leading position in the religious life of the country". He stressed the government's support to the Orthodox (and to a lesser extent to the Catholics) to reconstruct churches and build educational establishments.

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."

However, on a local level representatives of some less favoured communities – such as Jehovah's Witnesses – told Forum 18 they have been able to build friendly relationships with local administrations that help to prevent raids.

#### Controls on foreigners

In line with state hostility to faiths it considers a threat, 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 the 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 under Code of Administrative Offences, Article 23.55, Part 1 (which punishes foreigners who break the rules governing their stay in Belarus).

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 very publicly tackling social issues, such as alcoholism, appear to be particular targets.

Fear of expulsion is acute for the Catholic Church in Belarus, about 40 per cent of whose approximately 407 priests are foreign citizens. The government has expressly set out its goal of reducing the number of foreign Catholic priests.

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. However, in 2014 Polish priest Fr Roman Schulz – who had worked in a Mogilev [Mahilyow] parish for seven years – and an unnamed priest from the Franciscan Order who was going to serve in Ivanets, Minsk Region, were refused state permission to conduct religious work. After protests by parishioners, Fr Schulz' permission was extended until 20 December 2014.

Lukashenko appears keen to keep the Catholic Church at least neutral towards his regime. In 2009 he invited then-Pope Benedict XVI to visit Belarus. In 2013 Lukashenko renewed the invitation to current Pope Francis. 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 Holy See has yet to approve either a papal visit or the Concordat.

However, 2013-4 saw several moves against the Catholic Church (including the imprisonment of Fr Lazar and the denial of permission for several foreign priests to conduct religious activity) which contradicted Gulyako's claim to the June 2014 European Orthodox-Catholic Forum "Religion and Cultural Pluralism: Challenges for the Churches in Europe" that Belarus pursues a policy of tolerance.

The easing of government controls allowed Danish Diamond Way Buddhist lama, Ole Nydahl, to visit Minsk in January 2014 and hold seminars. This is despite the fact that the community abandoned its attempts to gain state registration in early 2000 and has no legal status.

#### 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). Officials of local Ideology Departments have also been 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 past, instead proudly tracing its history back to the first Soviet secret police, the Cheka.

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.

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 [Homyel] Regions.

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.) A network of Pentecostal churches maintains the same approach, based on Soviet-era persecution.

The Council of Churches Baptists reported 12 fines for unregistered religious activity from June 2009 to January 2014 (see below). Some were substantial.

However, some religious communities of differing backgrounds say the authorities are turning a blind eye to groups that meet for worship without having compulsory state registration.

#### Administrative "offence"

Many raids before 2009 on unregistered meetings for worship led to frequent fines under Administrative Code Article 9.9, Part 1. However, a February 2010 amendment removed unregistered religious activity as an "offence" from this Article. 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.

Administrative Code 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 were fined for home worship in November 2011 and April 2012 under Article 23.34, Part 2.

Three raids took place on congregations in Gomel of the Council of Churches Baptists in 2013. Following separate raids on worship services at both of their congregations in the city in February and April 2013, three local leaders were fined under Article 23.34. Pastor Nikolai Varushin was fined about one month's average local wages, and two other church members were fined much smaller amounts. In May 2013, after the April raid, church deacon Andrei Tupalsky (and owner of the property where the church meets) was summoned to the City Executive Committee, where he was warned that next time he would face criminal prosecution.

Following the police raid during the congregation's meeting for Sunday worship on 22 December 2013, four of the Gomel Baptists were fined at the city's Soviet District Court in January 2014. One was punished under Article 23.34, Part 2, and two more under Article 23.34, Part 1. The fourth was fined for improper use of residential property under Article 21.16, Part 1. All four had their appeals rejected the following month.

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. 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. Human rights defenders have long campaigned for this provision to be abolished. However, following the May 2010 UPR, Belarus rejected recommendations from several other governments to do so, insisting that the Article is "intended to suppress the activities of extremist groups and organizations in the country".

Forum 18 has learnt of seven threats to use Article 193-1 against religious believers and communities since 2010. 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 Region;
- in April 2011 by Gomel's 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 Gomel's Central District Prosecutor's Office in issuing an official written warning to Andrei Nekrasov, leader of a local unregistered Buddhist community;
- 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;
- in February and April 2013 by police investigating the charitable activity of Catholic layman Aleksei Shchedrov. He had organised a shelter for homeless people and prayed with them in his home in the village of Aleksandrovka, Grodno Region. The House of Mary shelter was forced to close after being stripped of its legal status in February 2014.

#### 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.

Of the 61 applications for land for religious buildings submitted in 2012, the Plenipotentiary's Office approved only 35. The main reasons for the refusals were the number of half-finished religious buildings and the alleged failure of some of the applications to comply with the law, Gulyako noted. In 2013, only 22 of 49 applications were approved, he noted a year later, citing similar grounds.

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 Baranovichy (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.

One of the Council of Churches Baptists fined in Gomel in 2014 was punished for allegedly using his home "improperly" (see above).

Especially in villages, some religious communities – including Jehovah's Witnesses and independent Pentecostals – find it difficult to get the authorities to agree the use of a building as a legal address necessary to lodge a registration application. Using a private home as a legal address is against the law. "This is a chicken and egg situation," Vladimir Bernadsky of the Jehovah's Witnesses' congregation in the town of Lida in Gomel Region complained to Forum 18 in October 2011. "You can't get registration without a legal address and you can't obtain a legal address without registration." His congregation has been seeking registration in vain since 2000.

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 Mogilev was warned in February 2010 when one of its members offered literature on the street without advance state permission. 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.

Courts have begun to ban some books and websites as "extremist". Although many of those banned are xenophobic and racist, some religious books that do not call for the violation of human rights have been banned. A court in Minsk banned "The way to the Koran" by Azerbaijani Muslim theologian Elmira Kuliyeva in March 2014. Authors and publishers appear unable to challenge such decisions, which courts hand down without informing them.

In May 2007 the secretary of a Lutheran Union from Vitebsk identified only as V.S. lodged an appeal to the UN 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 Azerbaijan, Turkey and Turkmenistan.)

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. 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.

This lack of a civilian alternative service is also despite Belarus' 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.

A draft Alternative Service Law was among 34 draft laws to be considered in 2013. However, almost as soon as a draft was sent to Parliament in December 2013 it was recalled, allegedly for "technical" corrections. The draft Law returned to parliament on 6 February 2014. If adopted in current form, it would allow only religious-based objections to military service, and alternative civilian service would be two-thirds longer than military service.

Elena Tonkacheva of the Lawtrend Legal Transformation Centre told Forum 18 in February 2014 that the proposed Law will disappear, as "even in this current form, the authorities see it as a threat". She claimed in September 2014 that parliament "was only pretending to be working on it" and was not optimistic that it would be adopted soon.

Earlier similar proposals 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).

In the first Article 435, Part 1 prosecution since 2000, 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. Youth Front activist Pavel Sergei – whose opposition to both the regime and military service is motivated by his Christian faith – was forcibly conscripted in November 2012. He was prevented from attending church during his service.

## 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. Imams are never allowed to visit Muslim



prisoners. 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.

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.

The mother of Andrei Zhuk - convicted of murder and executed on 18 March 2010 - 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.

Some death-row prisoners – all of whom are held at Minsk Investigation Prison No. 1 - adopt religious beliefs. However, if they are not Orthodox, arranging a clergy visit is all-but impossible. Convicted murderer Pavel Selyun – executed in April 2014 – was allowed to conduct a correspondence course with a Protestant Bible study centre. However, he was not allowed a visit from a pastor.

Andrei Paluda, co-ordinator of the campaign Human Rights Defenders against the Death Penalty, told Forum 18 in June 2014 that Orthodox priests generally can have access to death-row prisoners. Occasionally an exception is made for Catholic priests, but never for leaders of other religious communities.

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, thought and conscience (among other rights) was violated by his state execution in 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).

Pavel Selyun's mother Tamara is similarly battling to try to recover his body. "I want to read the last rites over my son's body and bury him as a Christian," she told Forum 18. "But I was told that the body could not be handed over." In a May 2014 letter seen by Forum 18, prison head Colonel Vikenty Varikash told her: "Bodies are not handed over for burial and the place of burial is not communicated." Both she and Lyubov Kovaleva separately insisted to Forum 18 that they are not going to give up. (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](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](http://www.forum18.org/Archive.php?article_id=1351).

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