



ADF INTERNATIONAL

ECOSOC Special Consultative Status (2010)

UNIVERSAL PERIODIC REVIEW – THIRD CYCLE

**Submission to the 30th session of the
Human Rights Council's Universal Periodic Review Working Group**

May 2018, Geneva, Switzerland

AZERBAIJAN

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Introduction

1. ADF International is a global alliance-building legal organization that advocates for religious freedom, life, and marriage and family before national and international institutions. As well as having ECOSOC consultative status with the United Nations (registered name "Alliance Defending Freedom"), ADF International has accreditation with the European Commission and Parliament, the Organization for Security and Co-operation in Europe, and the Organization of American States, and is a participant in the FRA Fundamental Rights Platform.
2. This report explains why Azerbaijan must take steps to guarantee and protect the right to freedom of religion or belief of all individuals and communities within its borders, and more broadly to protect and promote the rights to freedom of opinion, expression, and association.

(a) Freedom of Religion or Belief

3. Over 90% of residents of Azerbaijan are Muslims, the majority of whom are adherents of Shia Islam. The majority of the remainder of the population are Christians, largely from the Russian and Georgian Orthodox churches and the Armenian Apostolic Church. Despite the dominant position of Islam in the culture, however, Azeri society is secularized and nominally religious, arguably due to its former membership of the Soviet Union. Article 18 of the Constitution provides for the separation of religion and state, and Article 48 provides for the right to liberty and that individuals of all religions are able to freely choose and practise their faith.
4. This nominal protection of religious freedom, however, is not respected in practice to the fullest extent required by international law, as the right to manifest one's religion is limited by rules which prohibit the ability of any religious community to freely evangelize and proselytize, as well as by restrictions placed on certain "non-traditional" religious groups regarding registration and free operation.
5. The 1992 Law on Freedom of Religious Belief provides in article 1 that "freedom of religion can be restrained only for reasons of state and public security and in the event that it is necessary to protect rights and freedoms in accordance with the international commitments of the Republic of Azerbaijan." Article 5 also states that "the state shall not instruct religious associations to fulfil any state affair and is not to interfere with their activities." Article 12 provides for the process of state registration of religious associations with the State Committee on Work with Religious Associations (SCWRA).¹
6. A number of religious organisations have reported difficulties registering, and unregistered communities have claimed being unable to meet openly. The government has also restricted the importation, distribution, and sale of religious materials, with the SCWRA having responsibility to review and approve all religious

¹ Refworld, "Azerbaijan: Law of 1992 on Freedom of Religious Belief," 20th August 1992, available at: <http://www.refworld.org/docid/47fdedc12.html>.

literature, and illegal production, distribution, or importation of such literature can lead to a fine or imprisonment.²

7. According to Open Doors USA, in December 2012, 22 Christians in the village of Aliabad were arrested, including two Christian pastors, and threatened with fines of US\$800 each, almost four times the average monthly net salary, although ultimately only the two pastors were required to pay these fines. This was on the grounds that their religious community had not yet been granted registration, despite the fact that they had lodged an application for registration to which they had received no response.³
8. In another instance in December 2012, a large group of policemen, officials, and journalists participated in a raid on a Seventh-day Adventist congregation during a Saturday morning church service in Sumgait. No warrant had been issued for this raid. The service was halted, participants were filmed against their will, and media and literature, including personal Bibles, were confiscated.⁴
9. Each participant was extensively interrogated and asked how much they were being paid to be a member of the church, and following this the community was told that until they receive state registration, they cannot meet for worship. This is despite the fact that their registration application was in the process of being considered. The pastor and his assistance were fined several days later for conducting unregistered religious activities.⁵
10. Another Seventh-day Adventist in the capital of Baku, George Sobor, was just over a week later prohibited from returning to Azerbaijan after travelling abroad on the grounds that he was a foreigner who had been engaged in religious propaganda, and was unable to return to his wife and three children in Azerbaijan until eight weeks later in February 2013.⁶
11. Later reports in 2013 indicated the extreme level of restriction and censorship in Azerbaijan, with even religious texts like the Bible and the Qur'an with alleged exemptions being banned and confiscated at border controls. The domestic production and reproduction of religious materials require state approval, and

² Felix Corley, *Forum 18*, "Azerbaijan: Will revised Religion Law ban unregistered worship?" 6th May 2009, available at: http://www.forum18.org/archive.php?article_id=1291; Felix Corley, *Forum 18*, "Azerbaijan: Repressive new Religion Law and new punishments enter into force," 3rd June 2009, available at: http://www.forum18.org/archive.php?article_id=1305; Felix Corley, *Forum 18*, "Azerbaijan: Parliament approves latest Religion Law changes," available at: http://www.forum18.org/archive.php?article_id=1320.

³ Asia Perrin, *Open Doors USA*, "Two pastors fined, other believers released in Azerbaijan," 8th February 2017, available at: <https://www.opendoorsusa.org/take-action/pray/two-pastors-fined-believers-released-azerbaijan>.

⁴ Open Doors USA, "A story of persecution from Azerbaijan," 5th June 2013, available at: <https://www.opendoorsusa.org/christian-persecution/stories/a-story-of-persecution-from-azerbaijan>.

⁵ *Ibid.*

⁶ *Ibid.*

bookshops are frequently searched without cause by the SCWRA in hope of finding violations of censorship regulations.⁷

12. Laws also exist which prevent foreigners from leading religious worship, rituals, or ceremonies. This has infringed upon the rights of persons across confessions, including Turkish Muslim clerics and Georgian Orthodox priests.⁸
13. Forum 18 has reported that that the current legal regimes on religion in many Central Asian countries ignore recommendations by the OSCE which make clear that, in accordance with international human rights law, there should be no obligation incumbent upon religious or belief communities to register and acquire legal personality, and that making the enjoyment of the right to freedom of religion or belief dependent on this is a contravention of international law.⁹
14. It is therefore incumbent on Azerbaijan not only to expedite the registration process for those religious organisations that wish to be registered with state authorities, but also to remove the criminal prohibitions on religious associations and houses of worship that meet prior to official registration or without intent to register, or else it is in serious violation of Article 18 of the International Covenant on Civil and Political Rights.
15. The Jehovah's Witnesses have also been subject to a great deal of restrictions on their religious activities, with its adherents having collectively had imposed on them over 46,000 euros in fines during 2016. Limitations on their religious freedom led to the submission of 22 applications since 2007 to the European Court of Human Rights (ECtHR) as of September 2016, as well as four complaints to the United Nations Human Rights Committee (CCPR), for an assortment of issues, including police raids, refusal of applications for re-registration, manifestations of religious belief censorship, deportation, and conscientious objection to military service.¹⁰
16. Regarding conscientious objection to military service on religious grounds in particular, the right to do this under article 9 of the European Convention on Human Rights (ECHR) has been recognized by the ECtHR judgements of *Erçep v. Turkey*, *Buldu and Others v. Turkey*, and *Bayatyan v. Armenia*, and Azerbaijan reportedly told the CCPR on 14 July 2016 that "alternative service is an option provided by the law" in light of article 76 of its constitution.¹¹

⁷ Open Doors USA, "The 5-5-5 Challenge: what life is like as a Christian in Azerbaijan," 30th September 2013, available at: <https://www.opendoorsusa.org/christian-persecution/stories/5-5-5-challenge-life-christian-azerbaijan>.

⁸ Felix Corley, *Forum 18*, "Azerbaijan: No Christmas meetings for worship for Georgian Orthodox?" 18th December 2015, available at: http://www.forum18.org/archive.php?article_id=2135; Felix Corley, *Forum 18*, "Azerbaijan: Four mosques remain closed, Georgian Orthodox still with no priest," 26th January 2016, available at: http://www.forum18.org/archive.php?article_id=2142.

⁹ Felix Corley & John Kinahan, *Forum 18*, "Turkmenistan: Religious freedom survey, January 2017," 6th January 2017, available at: http://www.forum18.org/archive.php?article_id=2244

¹⁰ European Association of Jehovah's Christian Witnesses, *OSCE/ODIHR*, "Religious Freedom Concerns, 19-30 September," 21st September 2016, available at: <http://www.osce.org/odihr/265976?download=true>.

¹¹ *Ibid.*

17. Despite this, a number of individuals with religiously-motivated objections to military have been prosecuted and imprisoned, and more have been threatened with such. After requesting alternative service, they were informed that although the constitution provides a right to such, no legislation exists implementing it.¹²
18. The right to freedom of conscience is a fundamental human right guaranteed under Article 18 of the ICCPR, and a State which does not respect this right with regard to conscientious objection to military service is unlikely to respect it in general. Azerbaijan must therefore ensure that it fully complies with its obligations under the ICCPR and protect and promote the right to freedom of thought, conscience, and religion in all contexts.

(b) Recommendations

19. In light of the aforementioned, ADF International suggests the following recommendations be made to Azerbaijan:
 - a. Remove burdensome and oppressive registration requirements and rescind intrusive governmental practices, including monitoring and raiding, which infringe upon the right to freedom of religion or belief;
 - b. Remove criminal prohibitions on religious or belief communities operating on an unregistered basis, as international human rights law does not allow the enforcement of any such alleged obligation;
 - c. Release all prisoners of conscience who are incarcerated or arbitrarily detained on account of their faith;
 - d. Foster an environment of religious harmony and cooperation, and do not invidiously discriminate against individuals or communities on the basis of their denominational affiliation;
 - e. Cease all restrictions on the right to freedom of opinion and expression, and ensure that the right to manifest one's religion in private or in public is fully protected and realized, including in the production and reproduction of religious literature and materials without being subject to oppressive censorship regulations and controls.

¹² European Association of Jehovah's Christian Witnesses, *OSCE/ODIHR*, "Religious Freedom Concerns, 19-30 September," 21st September 2016, available at: <http://www.osce.org/odihr/265976?download=true>.



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