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REPORT

BROKEN PROMISES:
Freedom of religion
or belief issues in
Kazakhstan and
Kyrgyzstan



NORWEGIAN HELSINKI COMMITTEE

Minaret at the wooden Dungan Mosque in Karakol, Kyrgyzstan.
Photo: Lene Wetteland.

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A Summary

There are in both Kazakhstan and Kyrgyzstan threats to freedom of religion or belief and other fundamental rights, which are ongoing and caused by the actions of the states. Kazakhstan and Kyrgyzstan are participating States in the Organisation for Security and Co-operation in Europe (OSCE), and have committed themselves to implementing OSCE commitments to strengthen freedom of religion or belief and other fundamental freedoms. Kazakhstan is currently (2010) the Chairman-in-Office of the OSCE, the first Central Asian and former Soviet country to take on this role.

Forum 18 News Service, the Norwegian Helsinki Committee, the Oslo Coalition on Freedom of Religion or Belief, the Oslo Center for Peace and Human Rights and the Norwegian Mission to the East have joined together in a project aimed at strengthening freedom of religion or belief in Kazakhstan and Kyrgyzstan, funded by the Royal Norwegian Foreign Ministry. This report is part of that project. It is compiled by Forum 18 with input from all project partners and outlines:

- The current state of freedom of religion or belief in Kazakhstan
- The current state of freedom of religion or belief in Kyrgyzstan
- What freedom of religion or belief is in international human rights law
- The most important OSCE human dimension commitments in the field of freedom of religion or belief, from 1975 to the end of 2009

In Kazakhstan there are continuing violations of human rights commitments. Serious violations include: attacks on religious freedom by officials ranging from President Nursultan Nazarbaev down to local officials; literature censorship; state-sponsored encouragement of religious intolerance; legal restrictions on freedom of religion or belief; raids, interrogations, threats and fines affecting both registered and unregistered religious communities and individuals; unfair trials; the jailing of a few particularly disfavoured religious believers; restrictions on the social and charitable work of religious communities; close police and KGB secret police surveillance of religious communities; and attempts to deprive religious communities of their property.

These violations interlock with violations of other fundamental human rights, such as freedom of expression and of association. The Administrative Code – a fundamental part of the legal system – is being revised, and the current draft continues the existing punishments for peaceful religious activity.

In Kyrgyzstan the state continues to violate its commitments to implement freedom of religion or belief for all. Limitations on this fundamental freedom and other human rights have increased – in both law and practice – under President Kurmanbek

Bakiev. A harsh new Religion Law was adopted in 2009, despite international protests, and a similarly harsh new Law on Religious Education and Educational Institutions is being drafted. There are also plans for a new Law on Traditional Religions.

State actions, including banning unregistered religious activity and raids on meetings for worship, show little sign of either a willingness to implement human rights commitments, or an understanding that genuine security depends on genuine respect for human rights. As a Baha'i put it: "Our country has so many urgent problems – poverty, the lack of medicine, AIDS, crime, corruption. Why don't officials work on these instead of making life harder for religious believers?"

State actions and policies which directly undermine the implementation of OSCE commitments both undermine the security of individual states and OSCE regional security. As workshops organised by Kyrgyz NGO Foundation for Tolerance International and the example of neighbouring Uzbekistan demonstrates, repression increases support for extremist and violent movements. In this context, it is increasingly important that both Kazakhstan and Kyrgyzstan implement their OSCE commitments as part of seeking and implementing alternatives to repressive state actions.

B Introduction

Kazakhstan and Kyrgyzstan are both countries where there is widespread concern that there are threats to freedom of religion or belief. Both are participating States in the Organisation for Security and Co-operation in Europe (OSCE), and have committed themselves to implementing OSCE commitments to strengthen freedom of religion or belief and other fundamental freedoms. Kazakhstan is currently (2010) the Chairman-in-Office of the OSCE, the first Central Asian country to take on this role. This report provides an overview of the state of freedom of religion or belief in Kazakhstan and Kyrgyzstan, and documents OSCE commitments in the field of freedom of religion or belief.

Both Kazakhstan and Kyrgyzstan have taken actions which directly undermine the implementation of their OSCE commitments, and thus both undermine their own and OSCE regional security. It appears that retaining or increasing short to medium term control by governments over independent movements within society is the primary aim of policies and actions affecting freedom of religion or belief. However, as this report argues, the tensions and frustrations generated by both countries' hostility to freedom of religion or belief will not lead to long-term stability.

Increasing repression of peaceful religious activity, attempts to control religious communities, and frustrating the rule of law inevitably increases frustration with the state and acts as a barrier to building genuine partnerships to, for example, address social questions. The mere proclamation that a state is "an oasis of religious accord", as Kazakhstan described itself at a 2007 OSCE meeting, does not produce such an oasis – and is contradicted by the states' own repressive policies. It is also open to question how far those who make and carry out policies understand that the promotion of a flourishing civil society is a viable alternative approach to dealing with the genuine problems of poverty and extremism that both countries face.

Repressive state actions – for example the use of anti-terrorist police against peaceful religious believers – frustrate proclaimed state goals of countering terrorist and extremist threats by seriously undermining the trust in state agencies and the justice system essential for successful counter-terrorism. They also divert badly-needed state resources away from addressing serious social and political challenges. As a Kyrgyz Baha'i put it to Forum 18: "Our country has so many urgent problems – poverty, the lack of medicine, AIDS, crime, corruption. Why don't officials work on these instead of making life harder for religious believers?"¹

1 Forum 18, 4 March 2008 <http://www.forum18.org/Archive.php?article_id=1096>.

A Kyrgyz NGO, the *Foundation for Tolerance International* (FTI),² has found that citizens think repressive state measures encourage the growth of extremism. Participants – from the state and civil society – in a series of workshops run across Kyrgyzstan in 2009 stated that repressing freedom of religion or belief and other fundamental freedoms boosts the credibility of radical extremist groups as an alternative to the government. The authorities' actions are thought by ordinary Kyrgyz to be motivated by a wish to stay in power against the people's will, and are said to allege threats to justify restrictions and even to obtain funding from foreign donors.

Repressive state actions against people peacefully exercising their fundamental freedoms, take place in other Central Asian states and elsewhere. As FTI workshops in Kyrgyzstan and the example of neighbouring Uzbekistan demonstrate, repression increases support for extremist and violent movements.³ It is undeniable that Kazakhstan and Kyrgyzstan face extremist challenges,⁴ but, as the ODIHR website notes: "Recent history proves the validity of the OSCE concept that a free society allowing everyone to fully participate in public life is a safeguard against conflict and instability."⁵

In this context, it is increasingly important that both Kazakhstan and Kyrgyzstan implement their OSCE commitments as part of seeking and implementing alternatives to repressive state actions.

2 Foundation for Tolerance International website <<http://fti.org.kg/>>.

3 Forum 18 religious freedom survey of Uzbekistan, August 2008 <http://www.forum18.org/Archive.php?article_id=1170>

4 See for example the International Crisis Group reports available at <<http://www.crisisgroup.org/home/index.cfm?l=1&id=1251>>

5 <<http://www.osce.org/odihr/13371.html>>

C Recommendations

In both Kazakhstan and Kyrgyzstan it is a problem that rhetoric, often directed at international audiences, of willingness to respect freedom of religion or belief is not followed-up with implementing practice.

For respect for freedom of religion or belief to become reality in Kazakhstan and Kyrgyzstan, it will be necessary *to end*:

- mandatory registration of religious groups;
- censorship of religious literature and limitations on the distribution;
- "legal" restrictions on freedom of religion or belief;
- raids, interrogations, threats and fines affecting both registered and unregistered religious communities and individuals;
- unfair trials;
- actions against foreign religious workers;
- the jailing of a few particularly disfavoured religious believers;
- restrictions on the social and charitable work of religious communities;
- close police and secret police surveillance of religious communities;
- attempts to deprive religious communities of their property or restrictions of the use of such property.

And in Kazakhstan, which chairs the OSCE in 2010 and hosts a high level conference on tolerance in Astana the same year, *to end*:

- attacks on religious freedom by officials ranging from President Nazarbaev down to local officials;
- state-sponsored encouragement of religious intolerance through state programmes and the media.

For the authorities of Kazakhstan, there is also *a need to include positive benchmarks*, the most important being:

- implementing OSCE commitments in Kazakhstani legislation on freedom of religion and belief, freedom of association and peaceful assembly;
- ensuring independence of judiciary as recommended by UN Special Rapporteur on Independence of Judges and Advocates;
- introducing effectively the principles of due process of law;
- introducing religious education curricula and teaching based on respecting fundamental human rights for all – as recommended in the OSCE/ODIHR Toledo Guiding Principles on Teaching about Religions and Beliefs;
- revise the newly introduced school book *An Introduction to Religious Studies* to bring it into line with the recommendations of the OSCE/ODIHR Toledo Guiding Principles. Such a revision should be an open and transparent process including at

every stage all interested parties, including any civil society organisations, religious and belief organisations, and independent experts who wish to take part.

Kyrgyzstan is now in the midst of a challenging period, facing enormous problems due to conflicts and widespread violence in South Kyrgyzstan. These have been fuelled by the lack of implementation of OSCE human dimension commitments - including on freedom of religion or belief - which marked the Bakiev regime. A future elected government should comply with international legislation on the topic of freedom of religion or belief and *take concrete actions to remove the limitations introduced by the Bakiev regime, including:*

- Abolish the restrictive 2009 Law on Religion or put it in line with the joint Council of Europe Venice Commission/OSCE Advisory Council on Freedom of Religion or Belief legal review of October 2008;
- Abolish mandatory registration requiring the signatures of 200 members;
- Facilitate the process of burial for non-Muslims;
- Ensure that any process to amend or introduce draft laws on religion is open and transparent, facilitating full participation from all interested stakeholders and religious communities;
- Ensure that the October 2009 draft Strategy on State Policy in the Religious Sphere from 2009 to 2015 is revised to embrace the internationally recognised principle that freedom of religion or belief is not subject to derogation even in cases invoking national security.

D OSCE human dimension commitments

The Organisation for Security and Co-operation in Europe (OSCE) is a security organisation of 56 states from Central Asia, Europe and North America. It is based on the insight that genuine security is not just a military question but consists of three elements: the “human dimension” as it is described in the OSCE,⁶ meaning human rights and democracy; politico-military factors; and economic and environmental factors. Freedom of religion or belief is a fundamental human dimension commitment, and falls within the mandate of the OSCE’s Warsaw-based Office for Democratic Institutions and Human Rights (ODIHR).⁷

Commitments on freedom of religion or belief and other fundamental freedoms are explicitly seen as being based on human rights agreements such as the International Covenant on Civil and Political Rights (ICCPR). OSCE commitments are not seen as alternatives to fulfilling obligations in international law, or as being in conflict with such obligations. As the ODIHR notes on its website, “no government can claim they have to establish political or economic security before addressing human rights and democracy”.⁸

An outline of what freedom of religion or belief is, as defined by human rights agreements such as the ICCPR, is given at the end of this report. The ICCPR entered into force for Kazakhstan on 24 April 2006, and for Kyrgyzstan it entered into force on 7 January 1995.

Flowing directly from the OSCE concept of security, civil society organisations such as non-governmental human rights groups and religious communities participate in OSCE meetings and activities – such as the annual Human Dimension Implementation Meeting (HDIM) in Warsaw. The ability of civil society organisations to participate in the OSCE’s work is a unique feature among intergovernmental security organisations, as is the explicit structural link between respect for human rights and greater security. It is also the only regional security organisation to have agreed that pluralistic democracy based on the rule of law is the only system of government that can effectively guarantee human rights, and hence national and international security.

OSCE commitments are agreed unanimously among all participating States and are politically but not legally binding.⁹ All participating States have publicly promised to implement these commitments, and they have also agreed that the implementation

6 <<http://www.osce.org/odihr/13371.html>>

7 <<http://www.osce.org/odihr/20056.html>>

8 <<http://www.osce.org/odihr/13371.html>>

9 <<http://www.osce.org/odihr/13493.html>>

of commitments is a legitimate matter of concern for all participating States and civil society. As the ODIHR website notes, “OSCE states have stressed that issues relating to human rights, fundamental freedoms, democracy and the rule of law are of international concern, as respect for these rights and freedoms constitutes one of the foundations of the international order”.¹⁰

Asking for implementation of commitments is to ask for something that the government concerned has already agreed to do, as it has also agreed that its progress in implementation – or lack of implementation – may be publicly monitored and questioned. As has been repeatedly emphasised at OSCE meetings, a particular responsibility rests on the holder of the function of Chairperson-in-Office to set a good example in implementing commitments.

Some of the most important and relevant human dimension commitments in the field of freedom of religion or belief, up to the end of 2009, are listed in an appendix in the end of this report.

¹⁰ <<http://www.osce.org/odihr/13371.html>>

E Freedom of religion issues in Kazakhstan

As Kazakhstan became 2010 Chairperson-in-Office of the Organisation for Security and Co-operation in Europe (OSCE), the country continued to violate its commitments to implement freedom of religion or belief for all.¹¹ These violations interlock with ongoing violations of linked fundamental human rights in Kazakhstan, such as freedom of expression, freedom of association, freedom of peaceful assembly, and the right to a fair trial.

Serious violations Forum 18 has documented include: attacks on religious freedom and the encouragement of intolerance against people exercising their right to religious freedom by officials ranging from President Nursultan Nazarbaev down to local officials; censorship of religious literature; state-sponsored encouragement of religious intolerance through state programmes and the media; legal restrictions on freedom of religion or belief; raids, interrogations, threats and fines affecting both registered and unregistered religious communities and individuals; unfair trials; the jailing of a few particularly disfavoured religious believers; restrictions on the social and charitable work of religious communities; close police and National Security Committee (KNB) secret police surveillance of religious communities; attempts to deprive religious communities of their property; and prosecutions of people for sharing their beliefs “illegally”.

Kazakhstan is geographically the largest country in Central Asia, and has the second largest population with nearly 16 million people. Roughly half the population are ethnic Kazakhs (regarded as being of Muslim background) and the rest are made up of ethnic Uzbeks (likewise of Muslim background), Slavs (mainly Russians and Ukrainians, many of Russian Orthodox or other Christian background) and smaller minorities of Koreans, Germans and Poles. Kazakhstan’s economy has been the strongest in the region, buoyed by its oil and gas reserves, attracting migrants from its poorer neighbours.

President Nazarbaev has ruled Kazakhstan since 1989 when it was part of the Soviet Union. At the start of his Soviet-era career he had a reputation for maintaining the party line against freedom of religion or belief; his statements as President and the actions of his government suggest a continuing hostility to this freedom. For example, he told a council meeting of his Nur Otan party in January 2008 that “it is necessary to suppress the activity of illegal religious movements in Kazakhstan.” Nazarbaev also claimed that “tens of thousands of different missionary organisations work in Kazakhstan. We don’t know their purposes and intentions, and we should not allow

¹¹ For the information outlined here and current information on freedom of thought, conscience and belief in Kazakhstan, see Forum 18 reports accessible via <<http://www.forum18.org/Archive.php?query=&religion=all&country=29>>.

such unchecked activity.” He added the comment, Kazinform stated, that “We are a secular state, religion is separate from the state, but this does not mean that Kazakhstan should become the dumping ground for religious movements of all kinds.” Nur Otan should strengthen its position on the religious question “given the growth of influence of religions, above all of Islam and Christianity, on the life of society.”

Elections in Kazakhstan have been repeatedly criticised by OSCE election observers,¹² and in the last 2005 presidential election, Nazarbaev was said to have gained over 91 per cent of the vote. His Nur Otan political party is the only party with deputies in the Majilis (lower chamber) of Parliament.

Official rhetoric routinely describes the state-backed Muslim Board and the Russian Orthodox Church as the “traditional” faiths, even though the 1992 Religion Law, revised several times but still in force, declares in Article 4 that all religious communities are equal before the law and the Constitution bans discrimination on the grounds of religious faith. Officials appear to divide other communities into those they tolerate and do not regard as threatening, such as Jews, Catholics and small communities of Buddhists, and others which they dub “sects” or worse. Such groups regarded with official suspicion include independent Muslims, Ahmadi Muslims, most Protestants, Hare Krishna devotees and Jehovah’s Witnesses.

Before Kazakhstan was confirmed as 2010 OSCE Chairperson-in-Office, then Foreign Minister Marat Tazhin claimed at the 2007 Madrid Ministerial Meeting that the country “pays priority attention to the broad scope of activities within the framework of this [human dimension] “basket”. It is commonly recognized that one of the most important achievements of Kazakhstan in the humanitarian sphere is securing the inter-ethnic and inter-religious accord. Additional emphasis on strengthening the dialogue between religions and people is the imperative demand of our time.”¹³

Tazhin also claimed that Kazakhstan’s experience in promoting “religious tolerance and freedom of religions (...) is exemplary. Kazakhstan has hosted two Congresses of the world and traditional religions, bringing together the spiritual leaders of main confessions, as well as the high level OSCE Conference on tolerance. Our country is a member of the group of friends of the ‘Alliance of Civilizations’.” In contrast to his comments in the same speech about the media, Tazhin avoided any concrete commitments as to how and when Kazakhstan would respect freedom of religion or belief.

¹² See eg. <http://www.osce.org/documents/html/pdftohtml/27638_en.pdf.html>

¹³ <<http://www.kazakhstan-osce.org/content/address-he-dr-mar-at-tazhin-minister-foreign-affairs-republic-kazakhstan-osce-ministerial-mee>>

As Tazhin indicated, Kazakhstan places great importance on its “Congresses of leaders of world and traditional religions”. One participant in the planning process described these – in a confidential conversation – as prepared “in Soviet style top-down fashion”. A secular guest from a well-known international organisation, invited to a Congress by the Kazakh government, described – in a confidential conversation – their surprise that President Nazarbaev attended most of the Congress, and what they described as their “horrified amazement” when they witnessed the religious leaders present – including prominent foreign religious leaders – ignoring fundamental human rights violations of religious communities within Kazakhstan, as well as the indissoluble links between tolerance and human rights. It appears that there is a wish to empty the language of human rights and religious tolerance of any connection with respect for the peaceful exercise of fundamental human rights.

1. Official hostility to freedom of religion or belief

State officials from the President downwards routinely claim – often, as in Tazhin’s case, in remarks aimed at a foreign audience – that Kazakhstan is known for religious tolerance. However, within Kazakhstan intolerant statements are made about certain religious communities, and people peacefully exercising their right to freedom of religion or belief are attacked.

This is part of a broader context of official hostility over several years. The “State Programme of Patriotic Education of Citizens of Kazakhstan for 2006-8”, approved by a Presidential Decree in October 2006, contains a section on how to combat what it stated was the growing interest in “non-traditional” faiths. “Topical for the state at present without a doubt are questions of the organisation of the struggle with the activation of the activity of non-traditional religious associations and extremist organisations in Kazakhstan directed above all at attracting the youth into their ranks,” the State Programme declares. It blames foreign propaganda for contributing to the spread of extremism in the past decade.

“The interest of youth in associations which are non-traditional for Kazakhstan, such as the [Hare] Krishnaites and the Jehovah’s Witnesses, as well as extremist organisations like the religious/political group Hizb-ut-Tahrir and others is connected with the psychological influence of activist members of these associations and organisations on the consciousness of young people. For this reason it is necessary to draw up a clear mechanism to regulate the burning problems which arise in the religious sphere.” Seminars, apparently as part of this programme, were held around Kazakhstan.

Similarly nationwide was the distribution of a Justice Ministry booklet called “How not to fall under the influence of religious sects”. This lamented that “very many young people” have joined “religious sects”, which it identifies as including

Jehovah's Witnesses, Baptists and Ahmadi Muslims. The booklet equates all of these with the Hizb-ut-Tahrir Islamist political movement. "Transferring to other religious faiths represents treason to one's country and faith," it added. It called for work with young people, who "can only be called illiterate on a theological level", "to return them to consciousness, and such work must be conducted by imams in mosques, academic theologians in towns and aksakals [elders] in small villages."

The education system is also used to encourage hostility to people exercising their freedom of religion or belief. In January 2010 a new textbook, "Introduction to Religious Studies", written under the leadership of Senator Garifolla Esim, was introduced for mid-teenage school pupils. The authors claim their book will enable pupils to "correctly get orientated in various life situations and distinguish true laws of religion from false slogans", and include a chapter on "Kazakhstan – the land of inter-religious consensus". However, the book devotes much space to "non-traditional religions", "non-traditional religious cults", "destructive cults", "extremist and terrorist organisations", and "contemporary religious movements" – all of which are undefined and are implied to be the same phenomenon.

The book contains numerous errors of fact, even on groups which have not attracted official hostility. For example, it claims that Jews believe that the return of a messiah is because of the immortality of the soul. The textbook also claims that the destruction of the Temple in Jerusalem by the Roman Empire took place in the year 70 BC, instead of the actual date 140 years later in AD 70.

More dangerous however, is the book's hostility to other faiths. For example, Chapter V's description of the "Specifics of new (non-traditional) religious cults" has sections describing what are claimed to be "Common characteristics of destructive cults" and advising "How to avoid ending up in destructive cults". The chapter's purported (and erroneous) descriptions of "Non-traditional religions and movements in Kazakhstan" describe the Jehovah's Witnesses and Hare Krishna devotees, and is followed by descriptions of "Extremist and terrorist organizations".

The textbook has been criticised by some officials, but it is currently being introduced in schools.

State-funded hostility to "destructive sects" also takes place at the local level. The Internal Policy Department of the capital Astana confirmed to Forum 18 that it initiated and is fully financing a centre that works with "victims of destructive sects", which opened in September 2009. However, the Department refused to name any of the "destructive sects" it was targeting.

Similarly, in February 2010 Akmola Regional Police initiated and held a seminar-consultation on ways of struggling against religious extremism and the preservation

of inter-ethnic and inter-religious accord. Alongside the police, participants in the seminar included officials from the KNB secret Police, the regional Prosecutor's Office, the regional Justice Department, the state-funded Centre for Assistance to Victims of Destructive Religious Movements, "traditional religions" [from the Central Mosque and the Russian Orthodox Church], members of the official Assembly of People of Kazakhstan (which is chaired by President Nazarbaev), as well as the President's Nur Otan political party.

Police were reported as stating that in their work preventing religious extremism, "the Evangelical Baptists are the main lawbreakers on religion". Police also claimed that "six of their leaders in the region were punished under the Administrative Code," and that "fortunately in 2009 no extremism or terrorism crimes took place in the territory of Akmola region. However, it is no reason for complacency."

Asked why Baptists were associated at the seminar with terrorism and extremism, Police Major Gulnara Pinchuk, Akmola Regional Police spokesperson, told Forum 18 on 31 March that the Baptists are not considered by the authorities as extremists. However, she stated that they "do violate the law often" as they continue religious activity without official registration. Asked why they were named at the seminar, Major Pinchuk could not explain why the Baptists were discussed. She then claimed that there is no official opposition against Baptists. Asked why the authorities bring so many cases against peaceful Baptists, she said that "administrative cases against them are brought by the prosecution agencies, not the police".

Major Pinchuk could not name any religious group which was considered at the seminar as extremist or terrorist. Asked by Forum 18 about other religious groups also targeted by the authorities, such as Jehovah's Witnesses and Hare Krishna devotees, she stated that these groups are not considered to be either extremist or terrorist. Police in Kazakhstan have previously sought to publicly link religious activity without state permission and terrorism.

Pinchuk stated that the reason Nur Otan members were invited is because they take active part in every sphere of life in Kazakhstan. Asked why members of other political parties were not invited, she said that "it is difficult for me to explain since I did not draw up the list of invitees". Major Pinchuk also could not explain why other religious communities, including the Baptists themselves, were not invited.

The authorities also attempt to encourage intolerance among state employees. In December 2008, the local Religious Affairs Department lectured all students at the Kazakh Air Force's main training establishment about what it described as "religious extremism" and "religious groups non-traditional for Kazakhstan". Officer candidates and other students were also shown a 2004 Russian film "Religious Sects – Freedom

from Conscience". At one point the film – which has been seen by Forum 18 – claims that the Hare Krishna faith incites devotees to commit murder.

Some officials indicate confidentially that they would prefer to work on the basis of the rule of law, and do not like attacking freedom of religion or belief. As one official explained to Forum 18 in April 2008, "higher authorities" were responsible for charges against the pastor of an unregistered Baptist church and banning its activity. "Often we are asked to limit religious communities by prosecuting them and by other means," the official said. "Because the law can be easily manipulated, religious communities fall victim to that." As is usually the case when officials indicate that "higher authorities" are behind prosecutions, the official declined to state who these authorities were.

2. Censorship

Hostility to freedom of religion or belief has in 2009 translated into literature censorship. In April 2009 Anti-Terrorist Police seized Russian translations of the Koran published locally by the Ahmadi Muslim community – whose charter allows them to publish literature – from a bookshop in the northern city of Kostanay. Police claimed this was to allow the books to be "checked", and the bookshop chain involved has since refused to stock the translation.

In September 2009 the Justice Ministry's Committee for Religious Affairs produced an "expert study" alleging that the Jehovah's Witness magazines 'The Watchtower' and 'Awake' "creates preconditions for the development of conflicts on inter-confessional grounds, for the aggravation of the religious and social-political situation in the society, [and] presents a potential threat for the security of the state."

Jehovah's Witnesses thought that the Committee's "expert study" might lead to the Justice Ministry denying their application to register the magazines as mass media, and to ban the magazines. However the "expert study" was withdrawn in late September, reportedly under pressure from the Foreign Ministry for fear of the international publicity this may draw.

The "expert study" ignored the fact that in international law such as the International Covenant on Civil and Political Rights – which entered into force in Kazakhstan on 24 April 2006 – "national security" is not a permissible reason to restrict freedom of religion or belief.

In March 2010, the Committee for Religious Affairs was transferred from the Justice Ministry to the Culture Ministry. No explanation was given for the change.

3. Mass media attacks

The mass media is still used to promote intolerance against religious communities the authorities dislike. In stark contrast to the state's access to the media, human rights defenders and disfavoured communities are not granted such access or a right of reply to official allegations. Yevgeni Zhovtis of the Kazakhstan International Bureau for Human Rights and Rule of Law, and Ninel Fokina of the Almaty Helsinki Committee have repeatedly noted this use by the state of the media to influence public opinion against freedom of religion or belief, and indeed the religious tolerance the state proclaims internationally. "All these articles have one source: the KNB secret police," Fokina told Forum 18. Told that journalists and editors had denied this to Forum 18, she responded: "Who's going to admit such coverage is ordered?"

Protestants such as Seventh-day Adventists, Baptists and Pentecostals have faced media attacks along with Ahmadi Muslims, the Hare Krishna community and Jehovah's Witnesses. In one of many examples, four separate newspapers published an identical article in early 2008 attacking the Jehovah's Witnesses. One of the newspapers credited the article to a named former Jehovah's Witness, one credited a different author, and two of the newspapers credited KNB secret police offices in different Kazakh regions.

On 3 March 2010 the national newspaper Liter published an article (also reproduced on the Interior Ministry website) entitled "Struggle against religious extremism must be carried out on all fronts". This outlined the Akmola Regional Police meeting, and quoted without questioning police claims associating Baptists with terrorism. One of the participants in the Akmola meeting, the state-funded Centre for Assistance to Victims of Destructive Religious Movements has previously – in association with the KNB secret police – been involved in media attacks on Baptists exercising their right to freedom of religion or belief.

An article written by Gulnara Orazbaeva, head of the Kokshetau-based Centre for Assistance to Victims of Destructive Religious Movements, was published on the front page of Esil District's official weekly newspaper, Zhana Esil, on 16 October 2009, as well as in five or six other local state newspapers. It accused Baptists of spreading the H1N1 virus, and claimed that the death of one Baptist's child was the result of his refusal to allow his wife to go to hospital in the lead-up to the birth. Baptists have vehemently denied both these allegations, pointing out that the child's death was the result of traumas sustained at birth, as noted on the death certificate. They have also expressed great concern that a child's tragic death was used to attack them.

After detailing the medical cases, Orazbaeva then attacked the Baptists for what she says is their refusal to read newspapers, watch television, "show interest in the

political and social situation” or show enthusiasm for the achievements of the country. She said their children in Aktobe regularly arrive late for school on Mondays so that they miss having to sing the national anthem.

“It is well known that one of the characteristic features of destructive cults is their isolation from society,” she claims. “What good do the Evangelical Christian Baptists do for the happiness, love and flourishing of their adherents and the state in which they live?” Her article concludes with a call for the state to take “all possible measures to overcome the negative physical, psychological and social consequences of destructive cults.”

The Zhana Esil article – seen by Forum 18 – noted at the bottom that it was based on information provided by Esil District Department of the KNB secret police. This note was omitted when the article was reproduced by other local newspapers, local Baptists told Forum 18. The head of the Esil District KNB secret police, Aset Sagydov, was not available when Forum 18 called on 30 November. However, an officer who would not give his name denied that it had contributed information for the article. “We have no connection with newspapers,” he told Forum 18. “Ask the editor.” He then put the phone down.

Marina Popova, editor of Zhana Esil, insisted to Forum 18 on 1 December that the statement that the article had been based on KNB material was published in error. “Orazbaeva wrote the article.” Asked why her paper published such a hostile article attacking members of one local religious community, she responded: “The paper says on the back that the editors do not take responsibility for what is published. I just publish what I am given.” Asked whether she had contacted Baptists to check the facts of the article or given the Baptists the opportunity to respond to the article, Popova replied: “No, why should we?” Told that the Baptists complained that the article stirred up inter-religious hatred of them, she laughed.

Orazbaeva of the Centre for Assistance to Victims of Destructive Religious Movements denied that she had worked with the KNB secret police on the article. “It was my initiative and I wrote the article with help from the health agencies, not the KNB,” she told Forum 18 on 30 November. Asked to explain why Zhana Esil noted that the article had been written with KNB help, she again denied it. “I was not ordered by the state to write it.”

Told that the Baptists complained that the article slandered them and incited inter-religious enmity, Orazbaeva defended what she had said. “Inciting inter-religious enmity was not my aim,” she claimed. “The Baptists and Grace Church [another Protestant denomination in Kazakhstan] are not my enemies – I don’t want to see them destroyed. I just point out their weaknesses.” She also told Forum 18 that she had received information about the death of the child from the chief doctor at the

local hospital. Asked who had given the chief doctor and her the right to make public private information about the tragic death of a child, she responded: "It's painful, but the death is a fact."

Told that the Baptists and the child's family insist the child's death was related to what happened at the birth, and of their distress at what they regard as the misuse of the case to promote hostility to their faith, Orazbaeva paused before responding: "Perhaps I did wrong. I feel some guilt about this."

Media intolerance was particularly prominent in late 2008, when Parliament was considering amendments to existing laws which would have seriously restricted freedom of religion or belief. Parliamentary deputies and the media aggressively campaigned for the restrictions.

Sociological research cited by the Internal Policy Department of East Kazakhstan Regional Administration, in its Strategic Plan for 2010 to 2012, revealed the impact such media campaigns of intolerance have on the population: in August and September 2008 it noted "a fall in the level of tolerance towards representatives of other faiths and ethnicities" in the Region. Though the report does not make the link, at this time politicians and the media were severely attacking allegedly "dangerous" and "extremist" religious communities in the campaign to adopt the harsh amendments.

Similar mass media attacks continue.

4. Rhetoric transformed into action

Since 2005 two major legislative initiatives have been launched to tighten state control over all religious activity and increase penalties for activity the authorities do not like. In 2005 laws affecting extremism and national security were tightened, despite strong criticism from Kazakh human rights defenders and OSCE legal opinions. These amendments also included tighter restrictions in the Religion Law and new or increased penalties for "unauthorised" or "illegal" religious activity – such as unregistered religious worship – under the Code of Administrative Offences.

The national security changes included provisions that:

- religious organisations must register with the Ministry of Justice;
- unregistered religious activity was made an administrative offence;
- the authorities were given the power to suspend the activities of or impose fines on the leaders of unregistered groups;
- a religious organisation whose charter includes religious education may be denied registration if it does not obtain approval from the Ministry of Education;
- made unregistered missionary activity illegal and force potential missionaries to register with the authorities.

The extremism changes included provisions that ban unregistered religious activity; give the state the power to designate religious or other groups as extremist organisations and ban their activities, as well as to criminalise membership of a banned organisation.

Also very strongly criticised by a wide range of national and international human rights defenders, as well as other OSCE participating States, were the latest 2008-9 attempts to impose further legal restrictions on freedom of religion or belief. The “Law on Amendments and Additions to Several Legislative Acts on Questions of Freedom of Conscience and Religious Associations” would have amended numerous articles of the current Religion Law, the Code of Administrative Offences and several other laws.

After being passed by Parliament and sent to the President for signature, he sent it for review by the Constitutional Council. The Council ruled in February 2009 that the draft Law was unconstitutional, however the ruling was not based on the draft Law’s contradictions of international standards on freedom of religion and belief. Although the Law has currently been dropped – but its provisions may be re-introduced in 2011 – its contents provide an insight into the aspects of freedom of religion or belief officials are currently most hostile to.

Among the new restrictions, the Law would for the first time have explicitly banned unregistered religious activity. It would also have banned anyone from sharing their beliefs without both the written backing of a registered religious association and also personal state registration as a missionary. It would have required permission from both parents for children to attend any religious event.

Small “religious groups” – the lowest level of registered community – would only have been authorised to carry out religious activity with existing members and would not have been allowed to maintain places of worship “open to a wide access”. Nor would they have been allowed to conduct missionary activity. Apart from a few personal items, all religious literature imported into the country would have required approval through a “religious expert assessment”.

Penalties for holding religious services, conducting charitable work, importing, publishing or distributing religious literature or building or opening places of worship in violation of “demands established in law” would have been increased. Repeat “offences” would have led to a religious community being banned.

Kazakhstan long withheld permission for the OSCE Office for Democratic Institutions and Human Rights (ODIHR) legal review of the draft Law to be published, and claimed – falsely – that the ODIHR was responsible for this delay. In reality, the ODIHR had recommended to Kazakhstan that the Legal Opinion be

made public, as is normal practice. The OSCE/ODIHR review was eventually published in February 2009, when the proposed Law was with the President for signature.

The Law was found to be unconstitutional by Kazakhstan's Constitutional Council and not signed by the President. Yevgeni Zhovtis of the Kazakhstan International Bureau for Human Rights and Rule of Law pointed out to Forum 18 that the Constitutional Council's ruling on the draft Law implies that the current Religion Law is also unconstitutional, as the ruling cited the Constitutional ban on limitations on freedom of religion or belief.

To seek a Constitutional Council review of the current Law, it would be necessary for either 20 per cent of parliamentary deputies from both the upper and lower chambers, a judge, or a senior government member to refer the Law to the Council. Human rights defenders such as Ninel Fokina of the Almaty Helsinki Committee think it would be very difficult for this to happen.

Kazakh human rights defenders have told Forum 18 that they think that the provisions of the draft Law will be re-introduced after Kazakhstan ceases to be the OSCE Chairperson-in-Office at the end of 2010. Forum 18 understands that shortly before Parliament approved the Law, the then Foreign Minister Marat Tazhin – who is understood to be strongly in favour of it – suggested that the Law be postponed until after 2010.

The predictions of human rights defenders have been confirmed, as the new National Human Rights Action Plan has revealed the authorities' intent to introduce in 2011 a Law "on the introduction of amendments and additions to legislation on the guarantee of freedom of thought, conscience and religion".

In December 2011 Parliament plans to consider amendments to the NGO Law. The details of these are unknown as yet, but they may target religious organisations.

5. Planned new Administrative Code

Moves are underway to complete a new Code of Administrative Offences, a major piece of legislation. The government version presented to Parliament in late 2009 continues fines and bans to punish individuals and religious communities which function without legal status or conduct unapproved "missionary activity". Foreigners who conduct unapproved "missionary activity" are set to continue to face fines and deportation. A new offence of inciting "religious superiority" is included in the government draft. The proposed Code has started being considered by the Legislative and Judicial-Legal Committee of the Majilis, and assessments of the new Code are, according to the parliamentary website, to be prepared by 30 October 2010.

It is unknown whether Parliament will ask for a legal opinion on the text from the Organisation for Security and Co-operation in Europe (OSCE), to help the text comply with the international human rights standards Kazakhstan has committed itself to.

The proposed new Code includes articles which are either identical to, or slightly altered from, articles in the current Code regularly used to punish people peacefully exercising their internationally recognised right to freedom of religion or belief.

The text of the current Article 374-1 of the Code (“leadership or participation in the activity of an unregistered social or religious organisation”) remains unchanged (see below). Zhanna-Tereza Raudovich, a Baptist from Kyzylorda Region, was fined 100 times the minimum monthly wage on 20 January 2010 under this Article for hosting a Sunday service in her home. However, unlike many other such cases, the punishment was on 17 March drastically reduced by the Supreme Court from a fine to a verbal warning. No reason was given for this was given by the Supreme Court.

The text of the current Article 375 of the Code (“violation of the Religion Law”) has been slightly altered to modify some punishments but not the “offence” (see below). Another Baptist, Dmitry Leven from Akmola Region, faces deportation after being found guilty of preaching at a worship service in September 2009, when he was a German citizen. He was punished under Part 3 of this Article (“carrying out missionary activity without local registration”), which prescribes a fine and deportation for foreigners or people without citizenship found guilty under this Article.

6. Existing punishments recycled

The Government’s approved text of the proposed new Code, seen by Forum 18, leaves Article 374-1 unchanged, moving it to a new Article 451. The new Article 452 – which is set to replace Article 375 – removes several provisions of the original Article, but much of it remains in tact, including punishment for religious activity without state registration. In several places, new minimum penalties have been introduced alongside maximum penalties.

7. New offences and punishments proposed

In addition, the new Code has made a small but potentially significant change of wording to Article 404 (which would replace Article 343 in the current Code) and Article 405 (which would replace the current Article 344). This would replace the present offence and punishments for publication or distribution of materials inciting “religious hatred” or “religious strife”, with an offence and punishments for inciting “religious superiority”.

The new Article 404 would punish those who publish material in the media “directed at inciting social, racial, national, religious, class and clan superiority”, as well as war, the violent overthrow of the constitutional order and breaking up the territorial integrity of the country. Part 1 of the new Article 405 would punish those who produce, import, store or distribute media or other publications advocating such views.

What the concept of “religious superiority” means – along with the related concepts in the Article – is not defined in the proposed Code. Although a ban on advocating “war, social, racial, national, religious, class and clan superiority” is in Article 20 of Kazakhstan’s current 1995 Constitution, the current Administrative Code only punishes incitement to “religious hatred” or “religious conflict”. These concepts are also undefined.

It remains unclear – if the Majilis endorses the proposed new punishments in the new Administrative Code – whether individuals who argue that their faith is true and others are false would be subject to punishment under these Articles.

The internationally recognised right to freedom of religion or belief includes the right to criticise any or all religious or non-religious beliefs, and to share with others views on the superiority of a particular religious or non-religious belief over other religious or non-religious beliefs. As General Comment 22 on Article 18 (“The right to freedom of thought, conscience and religion”) of the International Covenant on Civil and Political Rights (ICCPR) states, this freedom: “encompasses freedom of thought on all matters, personal conviction and the commitment to religion or belief, whether manifested individually or in community with others”. The ICCPR has been signed and ratified by Kazakhstan, and entered into force for the country on 24 April 2006.

8. Criminal Code use of “superiority”

Article 164 Part 1 of the Criminal Code is extraordinarily wide-ranging and criminalises: “Deliberate actions aimed at the incitement of social, national, clan, racial, or religious enmity or antagonism, or at offence to the national honour and dignity, or religious feelings of citizens, as well as propaganda of exclusiveness, superiority, or inferiority of citizens based on their attitude towards religion, or their genetic or racial belonging, if these acts are committed publicly or with the use of the mass information media.”

The remaining parts of this Article specify punishments for this offence. No definitions are offered for the concepts criminalised by Article 164. This Article was used to convict a Protestant preacher, Sarybai Tanabaev, who was given a two-year suspended sentence in June 2009 in the southern city of Taraz. It was also used to prosecute Elizaveta Drenicheva, a Russian working as a missionary for the

Unification Church (commonly known as the Moonies) in Almaty. She was given a two-year jail term in January 2009 but was freed two months later when the term was changed into a fine.

9. Unregistered peaceful religious activity punished

The most common violations of freedom of religion or belief are prosecutions for unregistered religious activity – even though there is no clear basis for such prosecutions. The 2005 “national security” amendments to the Religion Law changed Article 6-2 to state that formal registration [or notification] is adequate. This directly contradicts Articles 4 and 9 of the Law, which state that juridical registration is compulsory. Other legal irregularities – including the intimidation of defence lawyers – have accompanied court proceedings against groups the government dislikes, such as the Hare Krishna community.

Council of Churches Baptists – who reject state registration on principle – have been particular targets of Administrative Code Articles 374-1 and 375. Their leaders have repeatedly been fined for leading unregistered religious worship and their congregations have repeatedly been banned, often for six month periods. Baptists have complained to Forum 18 of the government’s “economic war” against them simply for practising their Constitutional right to meet for worship. For example, Zhanna-Tereza Raudovich was on 20 January 2010 fined 100 times the minimum monthly wage, or 141,300 Tenge (699 Euros or 955 US Dollars), for hosting a Sunday morning worship service in her home, attended by local Baptist women and their children. The fine followed three days after a raid by police in Kyzylorda Region, who drew up an official record that “they had discovered an illegally functioning religious community”. However, unlike many other such cases, the punishment was on 17 March drastically reduced by the Supreme Court from a fine to a verbal warning. No reason was given for the reduction.

Jehovah’s Witnesses have also been subjected to punishments, with bans on their activity and heavy fines, particularly in the Caspian port town of Atyrau. In 2007, one was fined 100 times the minimum monthly wage and five others 50 times each. In 2008, one member of the same community was again fined 100 times, with seven others fined 50 times the minimum wage. The fines followed a raid and confiscation of religious literature. The community eventually gained registration in January 2009, with seven registration denials since 2001.

In addition, sentences under these two Articles can lead to further harassment. Rejecting state accusations that meeting for worship without state registration is a crime, Council of Churches Baptists refuse to pay fines imposed by the courts. This often leads courts to send bailiffs to issue restraining orders on property or to

confiscate items of value, including cars, pigs and washing machines. Courts have also ordered that the fines be deducted at source from individuals' wages.

In several cases, refusal to pay fines or to halt worship by communities which have been "banned" has led Baptist pastors to face further charges under Article 524 of the Code of Administrative Offences (failure to carry out court decisions). In February 2009 in Akmola Region, which surrounds the capital Astana, a judge fined the pastor of one such church and imposed a permanent ban on the church. This is the first time a court in Kazakhstan has banned a Baptist church permanently. Previously such bans were imposed for up to six months.

Short-term prison sentences have also been imposed. Baptist pastor Vasily Kliver, who has been fined many times for leading unregistered worship, was given a five-day prison term in June 2009 for refusing to pay the fines, the fourth Baptist leader to be given a short sentence since 2006.

Such prosecutions can also result in people losing their employment. In January 2009, a Baptist had his main source of income confiscated and been fired from his job, because he led worship without state permission. Speaking of his former employer, who fired him after being visited by court officials, Pastor Aleksandr Kerker said that "he is not to blame though – he was afraid."

10. Denials of state registration

While insisting that registration is a requirement and punishing religious communities that either do not wish to gain registration or have been denied it, officials often reject applications from communities they do not like – even though Kazakhstan has made clear OSCE commitments to allow the exercise of freedom of religion or belief without registration. This particularly affects non-Muslim communities in rural areas, especially those led by or largely made up of ethnic Kazakhs or ethnic Uzbeks.

The massive fines on Jehovah's Witnesses in Atyrau in 2007 and 2008 for unregistered religious activity came after the community had applied in vain for registration since 2001. On one occasion the application was rejected because they failed to give work telephone numbers for the founding members (several were pensioners and had no work). The government tries to ensure that all Muslim communities function within the state-backed Muslim Board and Muslim communities face great pressure to align themselves with it.

Echoing calls by local religious communities and human rights defenders for the abolition of any registration requirement was Gay McDougall, the United Nations (UN) Independent Expert on Minority Issues, who visited Kazakhstan in July 2009. "The existing law on registration of religious organisations and activities should be

brought into compliance with the Constitution of the Republic and international legal standards,” she declared at the end of the visit. “Such laws should in no way restrict the legitimate activities of individuals or religious groups. Repressive measures against religious groups and their members must stop immediately.”

11. Foreign religious workers

In addition to fines and bans handed down under Articles 374-1 and 375, foreigners have been deported for “illegal missionary activity”. Among them have been foreign Muslims, Christians and Jehovah’s Witnesses. In a January 2009 case, a Hare Krishna devotee was barred from entering the country after the authorities claimed a court had found him guilty of the “offence” of giving a private talk to devotees – even though the courts involved told Forum 18 that no such hearing had taken place.

In a May 2008 case, two foreign Jehovah’s Witnesses were detained by police and counter-terrorist police and accused of “illegal missionary activity” – without written evidence being presented – before being ordered to be deported.

The charge itself contradicted the Kazakh legal provision that missionary activity is permitted, if it is by a registered group whose registered charter permits this. Contrary to the Vienna Convention on Consular Relations, the judge in the case denied the two detainees access to their own diplomatic representatives.

12. Harsh jail sentences

Two cases have involved long jail sentences for religious believers. In February 2008, 14 out of 15 Muslims arrested in April 2007 were given prison sentences of between 14 and 19 and a half years at a closed trial in the southern city of Shymkent. The remaining prisoner received a three-year corrective labour sentence. Zhovtis of the Kazakhstan International Bureau for Human Rights and Rule of Law characterised the KNB secret police’s method of dealing with Muslims who have a different theology from the state-backed version of Islam as a “power struggle”. The secrecy of the case, pre-trial and trial methods and the severe punishment for crimes the men had not committed revealed that struggle, he maintained to Forum 18.

Zhovtis said he believed this was a show trial to scare other Muslims who may try to be independent in their theology and practice. Relatives and other local Muslims are concerned not only about the convicted men and their families, but also about the impact the trial and heavy sentences are already having in the area. “In the wake of this case, people in Shymkent and surroundings are afraid to talk to religious Muslims, especially those with an outward Islamic appearance,” one relative told Forum 18, another stating that “this has been done to discredit Islam and believers.”

The KNB secret police claim that the group was preparing to blow up its Shymkent office was, Zhovtis told Forum 18, not proven. Relatives of the men complained to Forum 18 that the KNB secret police had planted evidence and that the trial was unfair. This was strongly supported by Fokina of the Almaty Helsinki Committee. “Most of the evidence was built up on the testimony of one of the convicts, where he allegedly admitted that he knew these people were planning to cause explosions,” Fokina told Forum 18.

She was also concerned that the court decided to continue the trial behind closed doors after some of the female relatives caused disturbances in the courtroom. “You know these are women and they may be emotional about the injustice done to their husbands and brothers,” Fokina said. “That cannot serve as a basis to announce a closed trial. They could have reimposed order in the courtroom instead. There is a law on when a trial can be closed, and it was not respected,” she stated. “The question is why journalists, civil society and international organisations were not allowed in. It looks like the court just needed an excuse to kick us out of the room.”

Judge Shara Biysimbaeva, who presided over the trial, rejected these claims to Forum 18. KNB secret police and Prosecutor’s Office officials involved in the case refused to discuss it with Forum 18.

In January 2009, Elizaveta Drenicheva, a Russian working as a missionary for the Unification Church (commonly known as the Moonies), was jailed for two years for sharing her beliefs in private seminars in her flat. A member of the KNB secret police had been assigned to attend the seminars. Religious believers, who strongly disagree with her beliefs, as well as human rights defenders, were alarmed by the jail sentence. “This is a highly dangerous precedent,” one Protestant who preferred not to be identified told Forum 18. “It seems to me that any believer who preaches about sin and how to be saved from it could be convicted in the same way.” Two months later Drenicheva’s prison term was commuted to a fine, but she will still have a criminal record. Her case has been understood by religious communities and human rights defenders as an official warning that there are limits to officially tolerated activities.

13. Religious involvement with social activity restricted

The authorities have also moved against religious-inspired charitable projects. The day after a local deputy prosecutor, an officer of the KNB secret police and three ordinary police officers visited the Spiritual Centre for the Rehabilitation of Drug Addicts and Alcoholics in the village of Steklyanka in East Kazakhstan Region in January 2009, finding residents singing hymns, a court ordered the Protestant-run centre closed for six months for conducting “religious measures without state registration”. Prosecutors insisted this was “in violation of the aims and tasks of [the Centre’s] statutes” and that conducting religious activity on the premises of a social

organisation violated the Law on Social Organisations, as well as the Religion Law. Organiser of the centre Sergei Mironov, who was also fined, told Forum 18 that those who attended did so voluntarily, and could leave at any time. They were not forced to accept Christianity or participate in any religious activity if they did not wish to do so.

In February 2010 Mironov was convicted of violating Criminal Code Article 126 Part 1 ("illegal deprivation of freedom not connected to kidnapping"). In the verdict, seen by Forum 18, he was sentenced to limitation on his freedom for one year. The decision says that he may not change his permanent workplace and residence, as well as travel to other places from his home town without first getting permission from an authorised state agency. The prosecutor alleged that Mironov had illegally detained a client at the Centre, but he – supported by former residents Forum 18 has spoken to – insists the accusations were fabricated. Mironov pointed out that the prosecution came after a series of moves against the Centre, including a raid by machine-gun armed police and KNB secret police, two fines and a permanent ban on its activity. Aleksandr Artamasov, Deputy Head of East Kazakhstan Regional Administration's Internal Policy Department, refused to comment on Mironov's case. "Religious communities can do social work but only if they do it in accordance with the Religion Law," he told Forum 18 on 1 April.

Other religious-run charitable ventures are known to have faced similar pressure, but do not wish to publicly discuss this.

A Catholic priest in Pavlodar was denied access in June 2009 to a resident of a psychiatric home who had asked for a visit so that the priest could hear his confession. The priest noted that access for Catholic priests to people in closed institutions, including prisons, had become more difficult and bureaucratic.

In 2007, Jehovah's Witnesses were barred from further visits to a prison in East Kazakhstan Region they had been visiting since 1998. When inmates who had requested the visits complained to the Prosecutor's Office, the Jehovah's Witnesses discovered that the Justice Ministry had ruled that it "did not recommend" visits by Jehovah's Witnesses to prisons.

After complaints to the Human Rights Ombudsperson, the ban on visiting the East Kazakhstan prison was overturned, though visits could not resume until June 2009. Prison officials will not let visiting Jehovah's Witnesses hand over religious literature to prisoners who want it. The regional prison administration has to approve and stamp each item of literature. This censorship is arranged by the local camp administration, and cannot be expedited by the religious community itself supplying copies of literature. The administration of other prisons from which Jehovah's Witnesses were barred in 2007 have blocked the resumption of visits.

14. Surveillance and raids

All religious communities remain under surveillance by the ordinary police and KNB secret police. In August 2009 Pastor Valeri Sudorgin of Atyrau Nazarene Protestant Church was summoned to Atyrau Anti-Terror Police, who told him to bring the church's registered charter and list of church members. Once he arrived he was questioned for some 90 minutes, photographed, fingerprinted and then released, he told Forum 18.

"Officer Amantai asked questions like 'where I was born,' 'where I came from,' 'how I became a pastor,' 'who opened the church,' 'where do the church members work,' 'how much they earn,' 'how much in offerings are collected in the church,' 'where we get funds,' 'on what means I survive,' whether there are members with court convictions,' 'whether we distribute religious literature,' 'where we get the literature from,' 'whether we hold meetings for a wider public,' 'whether we compel ethnic Kazakhs to convert to Christianity,'" Sudorgin told Forum 18.

Muslims in the same region told Radio Free Europe that the same month they were summoned and questioned by the local KNB secret police and questioned as to why they practice their faith outside the structures of the state-backed Muslim Board. One said the Board's local imam provided the KNB with lists of such local Muslims. He said he was beaten and threatened during questioning. Another had his passport confiscated for no reason, and said his wife – who covers her head – was attacked by unknown men who relatives believe were acting for the KNB. Again, officials denied all the allegations.

Many communities – particularly those described by the authorities as "non-traditional" such as Ahmadi Muslims – have faced raids, which often occur when they are meeting for worship. Officers have filmed members of communities on private property against their express wishes. They have forced or tried to force those attending such services to show their identity documents, give their home addresses, and write statements about why they were present and what they were doing. The authorities show particular interest in why children are present.

During a raid on the Ahmadi Muslim community in Semey (Semipalatinsk), eastern Kazakhstan, just before Friday prayers on 6 March 2009, two officers of the police Anti-Terrorism Department forced all those present to give their personal information and write statements about when they entered the Ahmadi movement, what differences exist between Ahmadi Muslims and other Muslims, and whether or not they were forced to join the Ahmadi movement. The leader was also asked to explain in writing why those praying at the private flat did not go to the mosque and when and why they meet in the flat.

Three weeks later, on 27 March 2009, police again raided the Ahmadis at Friday prayers and ordered all present to come to a police station for questioning and to write statements, where they were each detained for between three and four hours. As the Ahmadis pointed out to Forum 18, “this was obviously a breach of the law since the beginning.”

In another example, within hours of members of the Pavlodar Grace Church arriving in the town of Uspen, police broke into the house where they were staying. Investigators pressured a local woman – who was also beaten – to sign a statement that she had been coerced into performing a religious ritual and prosecutions were opened against two of the visitors. Officials denied the allegations to Forum 18.

The Grace Church has faced repeated raids and investigations across Kazakhstan and a ban on its senior pastor – a US citizen – from entering the country. Church members have been accused of espionage, storing psychotropic (mind-altering) drugs, tax fraud and stirring up inter-religious enmity.

Pastor Vissa Kim of Taraz’s Grace Light of Love Protestant Church, in southern Kazakhstan, in 2010 faced criminal charges brought by the KNB secret police. The charges under the Criminal Code’s Article 111 (“causing severe damage to health due to negligence”) state that Pastor Kim allegedly inflicted harm to the health of a woman by praying for her, church members told Forum 18. The woman concerned attended the church from October 2007 to March 2008, and in 2008 approached Pastor Kim to ask for prayer and laying on of hands for her poor health. The KNB secret police then used a hidden camera to film Pastor Kim praying with the woman.

She subsequently stopped coming to the church and complained to the KNB that her health had deteriorated after the prayer. The KNB’s “expert opinion” on their film, provided to the court, claimed that laying of hands on persons was “hypnotising”, and that singing of psalms and hymns is “neuro-linguistic programming”. Church members strongly deny the accuracy of these claims. However, Pastor Kim was on 1 April fined 150,000 Tenge [6,075 Norwegian Kroner, 755 Euros or 1,020 US Dollars], or the equivalent of 10 times the minimum monthly wage.

One church member complained to Forum 18 that: “Now it looks like pastors will get fines for praying for the sick in churches.” The judge in the case, Azamat Tlepov, on 19 March told Forum 18 that Pastor Kim was “not guilty of a crime.” Asked why Kim was being prosecuted for having prayed for the sick, and told that it is not unusual for some Christians to pray for healing by laying on of hands, Judge Tlepov said: “You need to tell this to the agencies which began the prosecution against him.” Jambyl Regional Department of the KNB secret police declined to tell Forum 18 why they brought criminal charges against Pastor Kim. Asked whether Pastor Kim is being targeted for his faith, the KNB officer responded: “There is no persecution in Kazakhstan”.

Several religious communities have told Forum 18 that the KNB secret police often sends officers incognito to attend religious events and spy on communities, and has tried to recruit members as informers.

15. Intrusive questioning

Hostility against freedom of religion or belief also takes the form of pressure, which has been increasing for some years, on a wide range of non-Muslim religious communities to answer highly intrusive questions – including on such matters as who a religious leaders “close friends and comrades” are. These questions are known to be presented either by way of unexpected phone calls from the authorities, or in the form of detailed questionnaires. The intrusive questions – which Kazakh human rights defenders point out are unconstitutional – have been asked nationwide, but there does not appear to be a clear pattern of when questions are asked or which non-Muslim leaders are targeted.

Completing the questionnaires has often been linked by officials with the success or otherwise of registration applications, although registered communities are also targeted for questioning. The questionnaires, which come in two basic forms, contain very similar questions. Among the numerous questions are: the ethnicity of congregation members, their profession, their individual political preferences, “the most influential and authoritative people in the community,” foreign missionaries, media contacts, “facts demanding attention on the part of state bodies,” military service of congregation leaders, their foreign language knowledge, and media articles written.

The questions are presented by a number of official bodies, and it is not clear who drew them up. They appear to originate in the Justice Ministry, possibly working with the KNB secret police. Officials have variously claimed to Forum 18 that the questionnaires are “a simple formality which the religious communities need to do every now and then,” or are for “a database on religious organisations.” The questions have raised concern in some religious communities, while others regard them as nothing serious and feel obliged to answer them, even though they have no legal obligation to do so.

16. Threats to the property of religious communities

Religious communities the government dislikes can face problems retaining legal ownership of property. Most prominently, local officials have repeatedly moved to strip members of a Hare Krishna commune near Almaty of its property, both through the courts and using threats to individual community members. Although the community was registered locally in May 2002, official investigations began soon after during which officials at the Prosecutor’s Office and the police openly declared

that they would make every effort to expel the Hare Krishna community from the district.

Amid an international outcry, the authorities bulldozed 26 of the original 66 homes owned by devotees in November 2006 and June 2007. The court also stripped the commune of ownership of the separate 47.7-hectare (118 acre) farm. No compensation was ever offered for the seized farm or for the 26 bulldozed homes. Similar homes owned by non-Hare Krishna devotees on the same basis have not been touched. Since then, officials have continued to disrupt worship at the site and have threatened to seize the farmhouse, where the temple is located. In negotiations with the central government, the Hare Krishna community has been offered alternative sites, but all have been further from Almaty and unable to sustain any agriculture.

Religious communities are often reluctant to discuss official threats to their property. But other known examples include cases launched by Almaty regional Public Prosecutor's Office in 2008 against Christian and Muslim religious organisations. Among them is Agafe Protestant Church, the regional Economic Court ruling – despite numerous violations of due process – that the Church's building and land should be confiscated. Similar attempts to seize religious property continue elsewhere in Kazakhstan. Near the north-western town of Alga, New Life Protestant Church was evicted from its building. Also in Semey, Grace Protestant Church was forced to brick up windows, as the Fire Brigade insisted on this “in case there is a fire in the neighbouring property.” The Church was also prohibited from using its own building.

Council of Churches Baptists – who meet for worship in privately-owned homes – have received numerous threats that such homes will be confiscated if they continue to use them for worship. However, although some homes have been officially sealed by court executors in recent years, none has yet been seized.

17. Policy shift necessary in order to honour promises

Kazakhstan has promised that it will implement its UN and OSCE commitments, and stated on its Embassy websites that as 2010 Chairperson-in-Office it will include a specific focus on human rights, and “will enhance international laws that strengthen interreligious and ethnic tolerance in the OSCE's zone of responsibility. Foreign Minister Tazhin's 2008 commitments to cooperate with the OIC [Organization of the Islamic Conference, ed.] and OSCE also illustrate Kazakhstan's determination in strengthening interreligious and interethnic dialogue at all levels.”¹⁴

¹⁴ See eg <<http://www.kazakhembus.com/index.php?page=osce-chairmanship>>.

However, this rhetoric has not become reality. For there to be genuine “interreligious tolerance”, the state must take immediate concrete steps to ensure that its violations of freedom of religion or belief – and linked fundamental rights such as freedoms of expression, association, peaceful assembly, and the right to a fair trial. – are ended. Unless violations are ended, it will not be possible to credibly claim that Kazakhstan has implemented the OSCE human dimension commitments’ insight that genuine security depends on genuine respect for human rights.

F Freedom of religion issues in Kyrgyzstan

Kyrgyzstan, like Kazakhstan, continued to violate its commitments to implement freedom of religion or belief for all, with state controls on religious activity increasing since former President Kurmanbek Bakiev took power in 2005.¹⁵ However, the events around Bakiev's April 2010 removal from power and since have encouraged religious communities and human rights defenders to hope that the undermining of fundamental human rights might be reversed – although many caution that the course of events and the direction of future state policy remains unclear.¹⁶

Kyrgyzstan is geographically the fourth largest of the five Central Asia countries, and also has the fourth largest population with over 5 and a half million people. Almost 70 per cent of the population are ethnic Kyrgyz (regarded as being of Muslim background), the next largest group being the over 10 per cent who are ethnic Uzbeks (often seen as the most devout Muslims). The rest of the population are ethnic Slavs (mainly Russians and Ukrainians, many of Russian Orthodox or other Christian background) and other ethnicities such as Dungans and Uighurs.

1. Decline in freedom of religion or belief since 2005

When President Bakiev took power both registered and unregistered religious communities were able to function freely, despite a 1996 Presidential Decree by then President Askar Akaev requiring religious communities to register. Believers of all confessions stated that they were able to manifest their religion or belief freely, problems that occurred from time to time – for example pressure against schoolgirls wearing hijabs – being ascribed to the attitudes of local officials. The exceptions to this were the Falun Gong movement, banned under Chinese pressure in February 2005, and social pressure – including violent attacks – against non-Muslims manifesting their beliefs in southern Kyrgyzstan.

However, in January 2009 a highly restrictive new Religion Law came into force, amid strong international criticism. It broke the Constitution's guarantee that "No laws restricting freedom of speech and freedom of the press may be adopted," as well as breaking the guarantee of freedom of "thought, speech and press, as well as to unimpeded expression of those thoughts and beliefs" in Article 14 paragraph 6 of the Constitution.

¹⁵ For the information outlined here and current information on freedom of thought, conscience and belief in Kyrgyzstan, see Forum 18 reports accessible via <<http://www.forum18.org/Archive.php?query=&religion=all&country=30>>.
¹⁶ see Forum 18, 16 April 2010 <http://www.forum18.org/Archive.php?article_id=1432>.

Some of the Religion Law's restrictions – for example the wide-ranging bans on “proselytism” and the distribution of religious literature – restrict both freedom of speech and freedom of the press. A legal challenge in the Constitutional Court was dismissed on 24 July by Judge Chinara Musabekova with the claim that the “concrete constitutional rights of the applicants have not been violated.”

Many features of the Law replicate parts of a proposed Presidential Decree, with attached Regulations, which was withdrawn in early 2008. For some years, the previous 1991 Religion Law and Decree had been under threat of further restrictions from officials, although they were reluctant to say why. For example Kanat Murzakhililov, Deputy Head of the then State Agency for Religious Affairs (SARA), characterised then existing legislation as “too liberal,” adding that it did not “meet the requirements of reality.”

On 5 November 2008, as the current Law was going through Parliament, he told Forum 18 that “we are not toughening the law but are bringing some orderliness to the relations between the state and religious organisations, which is missing in the current law.” Denial of the reality of the law has been a standard feature of officials' responses to questions and criticism.

On 26 October 2009, President Bakiev decreed that the SARA was transferred from being under the authority of the government to being directly under the President and renamed the State Commission for Religious Affairs (SCRA). The President also confirmed Kanybek Osmonaliev as head of the SCRA.

2. Lack of openness

Excessive secrecy surrounded the preparation of both the withdrawn 2008 Decree and the preparation and passage of the 2009 Religion Law. Religious communities frequently complained about the secrecy surrounding the various proposed texts, and the absence of meaningful public consultation. They complained that some were not invited to roundtables, and that criticisms of the proposed Law were ignored.

This lack of openness extended to international observers. Deputy Zainiddin Kurmanov, Chair of the parliamentary Committee on Constitutional Law, State Structure, Legality and Human Rights, denied to a European Parliament delegation – contrary to statements of Kyrgyz religious communities and human rights defenders – that the full text had not been available. He also wrongly claimed that the proposed law's restrictions – such as a requirement for 200 people to register communities – would be changed before the Law passed through Parliament. Indeed, Kurmanov himself went on to vote for this provision in the Law's final parliamentary reading, in which the Law was passed unanimously.

Echoing the views of many, a Hare Krishna devotee told Forum 18 that it was “pointless” to write to the President to call for the new Law to be amended or abolished. “It would be stupid – the government machine has simply imposed this.” The numerous unclear formulations in the Law give great scope for officials to take arbitrary and severe action against organisations they dislike. This, along with the persistent lack of transparency in the drafting and legislative process, suggests that Kyrgyzstan is both uninterested in and distrustful of the views and fundamental freedoms of its citizens, and may be highly committed to the restrictions it has imposed.

This official hostility to freedom of religion or belief causes great frustration among religious believers. As a Baha’i put it to Forum 18 in March 2008: “Our country has so many urgent problems – poverty, the lack of medicine, AIDS, crime, corruption. Why don’t officials work on these instead of making life harder for religious believers?”

3. Registration – a means to ban religious communities?

The 2009 Law requires all religious communities to re-register with the then SARA (now replaced by the SCRA) by 1 January 2010; bars communities not registered by the SCRA and the Justice Ministry from receiving legal status, for which a SCRA certificate is necessary; and bars those with fewer than 200 members from registering with the SCRA. All the 200 must be adult Kyrgyz citizens. Even assuming that a community has 200 members willing to act as founders – which many do not – the 200 are to supply their full name, full date of birth, home address, place of work and job title and passport number. The application also needs to include information about the organisation’s religious faith, form of rites, history in Kyrgyzstan, attitude to marriage and the family, attitude to education, and attitude to military service. Finally, the application needs written permission from the local authorities for use of premises where it meets.

The conditions for re-registration under the Religion Law allow officials great flexibility to arbitrarily decide what activities are formally allowed, and to decide which religious communities will receive re-registration. Article 30 point 3 of the new Law specifies that “charters and other founding documents of religious organisations and missions are effective only in that part, which is not in contradiction to this Law.” Article 9 point 3 states that “there shall be no norms in the charter of a religious organisation or mission contravening Kyrgyzstan’s Constitution or Law” – even though the Religion Law itself breaks the Constitution. Officials commented to one religious community during the Law’s passage that it was hoped that these demands would not be noticed.

Kanybek Osmonaliev, Head of the SCRA, claimed to Forum 18 in October 2009 that – despite the Law’s requirements – existing religious communities would not need to re-register as the Law was, he claimed, not retroactive. However, he would not reply

when asked how this claim matches the Law's requirement that Charters of existing recognised religious communities must be "re-aligned".

Head of the SCRA Osmonaliev and his Deputy Kanatbek Murzakhhalilov have given Forum 18 contradictory information on whether religious communities registered under the old Religion Law will need to re-register. Despite Osmonaliev's October claim that there will be no re-registration, Murzakhhalilov, giving his opinion of the Religion Law, told Forum 18 in November that religious communities which need to make changes to their charters in order to bring them into harmony with the Law will need to be re-registered. Murzakhhalilov did not say whether all the registered communities will need to re-register.

Zainiddin Kurmanov, a Parliamentary Deputy who was one of the initiators of the new Religion Law, told Forum 18 on 13 November that religious communities whose charters are not in accordance with the Law "must necessarily" amend their charters, which, in its turn, "definitely" entails re-registration.

Forum 18 notes that Article 12 Part 1 of the Law on State Registration of Legal Persons and Branches (Representations), which came into force on 1 April 2009, specifies that religious organisations are among those that require re-registration if their statute is amended.

The 2009 Law also imposes unclear reasons why activity can be banned, registration may be refused or the activity of an organisation suspended. These include organisations engaging in activity which are thought to be "religious fanaticism and extremism, actions directed to opposition and aggravation of relations, rousing of religious hatred between different religious organisations"; engaging in "coercion to family fragmentation leading to family disruption"; "endangering state security"; encouraging "persecution"; and "refusal to provide medical support to persons whose life or health are in danger." The unclear formulations and reasons given break Kyrgyzstan's international human rights commitments; under the International Covenant on Civil and Political Rights (ICCPR) for example, "national security" is not a permissible reason to limit freedom of religion or belief.

Religious organisations must also provide financial information to: the State Agency for Statistics; tax authorities; the SCRA and its territorial divisions; and the Public Prosecutor's Office. If this is not completely complied with in the view of the officials concerned, the SCRA or its territorial divisions can seek a court order to close down the religious organisation.

Even when the registration requirements are clear and communities want to register, the conditions are often unreasonable and break international human rights standards. As a Baha'i observed to Forum 18: "How can we gather 200 people to

sign official papers for the [then] SARA, and then get them to go to local keneshes [local authorities] with their passports to be identified? People are usually reserved about signing official papers.”

One Protestant church in the north-west told Forum 18 that they had been unsuccessfully trying for two years to register. As they complained, “How can we collect 200 signatures if we are not allowed to function normally?” Similarly, the capital’s Hare Krishna community stated that “under this new Law, we won’t have the right to function at all as we don’t have the necessary 200 members. We’re not alone – all small religious communities will have to go underground.”

Asked by Forum 18 in August 2009 about what would happen to religious communities which have fewer than 200 members, and so cannot be registered, Kumar Dushenbaev of the then SARA (now replaced by the SCRA) replied: “Why should religious communities such as the Presbyterians try to open a branch in every corner of the country? Why can’t they come together in one place, where they would not have a problem gathering 200 people?” When Forum 18 repeated the question, he said that “we will not fight with them. There is a Law, and we will deal with them accordingly.”

4. Ban on sharing beliefs, restrictions on religious literature

The 2009 Law, like the withdrawn 2008 Decree, states that all “actions directed to proselytising of the faithful from one denomination to another (proselytism), as well as any other illegal missionary work, are prohibited”. Typically, the Law does not define what constitutes “illegal missionary work”. As the joint Council of Europe Venice Commission/OSCE Advisory Council on Freedom of Religion or Belief legal review – made public in October 2008 – noted, “numerous provisions of the Draft Law inappropriately restrict freedom of expression and rights to disseminate religious and other materials”.¹⁷

The 2009 Law requires state examination of all imported religious materials, as well as those distributed or placed in a library. It also targets distribution, banning all distribution of religious literature, print, audio-video religious materials in public places, on the streets, parks, and distribution to homes, children’s institutions, schools and higher education institutions. Such distribution is permitted only within the confines of a religious organisation’s legally owned property, or in places allocated by local authorities for this purpose.

¹⁷ The Venice Commission and OSCE/ODIHR Advisory Council on Freedom of Religion or Belief, *Joint Opinion on Freedom of Conscience and Religious Organizations in the Republic of Kyrgyzstan*, Adopted by the Venice Commission at its 76th Plenary Session, (Venice, 17-18 October 2008) on the basis of comments by Mr Hans-Heinrich VOGEL (Member, Sweden), the OSCE/ODIHR Advisory Council. The opinion is available online at: <[http://www.venice.coe.int/docs/2008/CDL-AD\(2008\)032-e.asp](http://www.venice.coe.int/docs/2008/CDL-AD(2008)032-e.asp)>

5. Religious education and religious activity of minors

Echoing provisions of the withdrawn 2008 Decree, the 2009 Religion Law requires all religious educational establishments – universities, institutes, madrassas, seminaries, Sunday schools and orphanages – to gain official registration. These establishments can only be founded by registered organisations, and must – among numerous other requirements – have local authority permission to exist. All children are also banned from being active in religious organisations, and no religious organisations are permitted in any educational institute – apart from in religious education institutions. This prevents even secondary school and university students from organising religious groups in their place of education.

Since the Religion Law was enacted, the SARA and its successor the SCRA have been drafting a new Law on Religious Education and Educational Institutions which, if adopted in its current form, would impose further restrictions on the activities of religious organisations and educational institutions. The draft seen by Forum 18 in autumn 2009 would impose sweeping controls on who could open religious educational institutions, would ban all but approved and licensed institutions, limit the numbers of students in such institutions and ban individuals from seeking religious education abroad without state approval. Explaining in August 2009 what he sees as the need for such a Religious Education Law, then SARA (now replaced by the SCRA) head Kanybek Osmonaliev complained that “too many Islamic religious educational institutions with no licence exist”.

State officials have continued the lack of openness seen in the Religion Law’s passage in their approach to the draft Religious Education Law. Some religious communities were not invited to an October roundtable to discuss the draft Law. Indeed, officials claimed to have invited some named religious communities to a roundtable discussion, but the same religious communities told Forum 18 they were unaware of any invitation. At a 29 October conference Kanatbek Murzakhalilov, Deputy Head of the SCRA, gave religious communities just one week to submit comments. Murzakhalilov refused in November to tell Forum 18 why the SCRA was refusing to allow the publication of the Legal Opinion on the draft by the OSCE requested by the SCRA (the Opinion was later published). Several directors of medreses (Muslim secondary schools) across Kyrgyzstan were afraid to comment to Forum 18 on the draft Law, for fear of reprisals from the authorities.

The joint Council of Europe Venice Commission/OSCE Advisory Council on Freedom of Religion or Belief Legal Opinion found that the draft Law imposes “undue constraints on religious activity in the country” and that “a number of the provisions are inconsistent with OSCE commitments and general international human rights standards”. Murzakhalilov of the SCRA told Forum 18 in December that some changes, which he would not specify, would be made to the draft Law after the Legal Opinion.

SCRA officials told Forum 18 in November 2009 that the Law would go to Parliament within two months. In December, Murzakhalilov of the SCRA told Forum 18 that the Law “will go to Parliament in six months to a year.” He also claimed that a new draft of the Law would be published on the SCRA official website at the end of February 2010.

6. Hostility to international contacts

The 2009 Religion Law is hostile to religious communities with foreign contacts. If a community has “administrative centres located beyond Kyrgyzstan or having foreign citizens in its administrative body” it is classified as a “mission”. This must re-register every year and does not have legal status. It can be refused registration if it poses “a threat to the state and social security, the interethnic and ecumenical concord, health and morality of the population, or in other cases anticipated by legislation”.

Similarly, foreign religious workers must register with the State Agency before they can engage in religious activities. This can be denied “if this may endanger public safety, social order, interethnic and ecumenical consensus, social health and morality.” The authorities have, in several cases known to Forum 18, compelled foreign missionaries to leave the country or have denied them permission to extend visas.

7. Use of property restricted, non-Muslim burials made exceptionally difficult

The 2009 Law states that organisations can “own only buildings, constructions, ceremonial objects, objects of production, social, and charity functions, monetary funds, and other property necessary for provision of their activities.” However, the Law does not define what is meant by “necessary” or who decides on necessity. Religious events outside a community’s own premises can, in the 2009 Law, “be performed in the procedure stipulated by the legislation of Kyrgyz Republic.” However, no such procedure is specified in the Religion Law.

In a small but crucial sentence – which will make it impossible for many non-Muslims to be buried according to their own wishes – the Law states that “Recognition of regulations of use of confessional cemeteries and regulations of cemetery exactions shall be governed by regulations of local municipalities.”

Local authorities have routinely denied non-Muslims the possibility to be buried in a non-Muslim way, which has caused deep distress to the family and friends of the dead and their communities. Attempts to discuss the issue – including a meeting at the then SARA – have not led to a solution. Asan Saipov of the Muftiate told Forum 18 in July 2008 that they had decided “not to allow the burial of non-Muslims in

Muslim cemeteries” – even though these are run by local authorities and are usually the only local cemeteries. Discussing one example of the distress caused by this, Saipov insisted that villagers – backed by the authorities – made the right decision in May 2008 in stopping the family of a deceased 14 year old Baptist from burying him with Christian rites.

8. Hostility to international human rights standards, no Religion Law changes

The 2009 Religion Law claims that: “If there exist other conditions defined within international agreements signed by the Kyrgyz Republic, different from those stated in the legislation of the Kyrgyz Republic related to freedom of religion and religious organisations, then the conditions of the international agreements shall prevail.” However, so many provisions of the Law contravene international human rights standards – as the Law’s drafters were well aware, not least following the joint Council of Europe Venice Commission/OSCE legal review – that it is difficult to accept that this claim is meant to have any force.

Since the Law came into force in January 2009, Kanatbek Murzakhalilov, Deputy Head of the then SARA, told Forum 18 in May 2009 that a high-level Commission had been set up to resolve these issues in the new Law before regulations to implement the Law were prepared. The three issues identified were: the ban on sharing beliefs, severe restrictions on distributing religious literature, and the 200 founder threshold required before religious communities can register and thus function legally. All three issues were identified in the Venice Commission/OSCE legal review.

Murzakhalilov of the then SARA avoided stating whether there would be any substantive changes. No comment was made on whether other parts of the Law which break international human rights standards would also be examined. No changes had been made by the end of 2009.

9. State actions since Religion Law came into force

Almost no religious communities have been registered by the SCRA since the Religion Law’s adoption in January 2009, despite the Law’s registration deadline of 1 January 2010. Dushenbaev of the SCRA told Forum 18 in October 2009 that “we have not been registering new communities, because the Regulations to apply the law have not been signed into force.” SCRA officials told Forum 18 in November that “the Regulations [to implement the Religion Law] have been prepared but not signed into force.” Officials claim to have made the text of the Regulations available for public discussion, although no-one who Forum 18 has spoken to – apart from officials – has seen the text.

However, Kubat Imarov, Assistant to Rahmatulla Egemberdiyev, Deputy Head of Kyrgyzstan's State-backed Muslim Board, told Forum 18 on 13 November that two new mosques – Ismet-Kagyr and Agturpak – in Batken region's Kadamjay district were registered by the SCRA two days earlier. He could not explain to Forum 18 how it was possible to register the mosques while non-Muslim communities have been told to wait until after the Regulations were enacted. Asked if the mosques had collected 200 signatures, he claimed: "This rule applies only to medreses not mosques."

Lack of registration potentially has serious consequences. The Law's Article 8 bans all unregistered activity and subjects it to prosecution. Asked what will happen to religious communities which are unable or do not want to register or re-register, Kumar Dushenbaev, the SCRA official in charge of registering religious communities, told Forum 18 in October that "we will deal with them in accordance with the Law of Kyrgyzstan." He would not specify what actions the state authorities would take.

Even if religious communities could now submit applications, groups without registration face much tougher conditions which few can meet. For instance, Jehovah's Witnesses and many Protestant churches complained to Forum 18 that they cannot gather the 200 adult citizen founding members now required before each congregation can apply for registration.

Despite the fact that the Regulations to implement the Law are not yet in place, officials of the Prosecutor's Office, Police, NSS secret police, local Executive Authorities and the SCRA have visited many non-Muslim religious communities across the country. Jehovah's Witnesses in Maili-Suu faced raids and summonses in April 2009. "The Police told our members that in the light of the new Law they have no rights to distribute or to keep any religious literature at their homes," their lawyer Mikhail Kokhanovsky told Forum 18. Police told Forum 18 they had to confiscate the literature to check if it is "legally permitted". In some regions branches of Protestant Churches, which were officially registered in Bishkek, were ordered by the local authorities in March-April 2009 to stop their worship meetings saying their "registration in Bishkek does not cover their activity" outside Bishkek. Some communities have been ordered to bring their charters into line with the new Law – which would force them to re-register.

SCRA officials have contradicted themselves on whether or not existing registered communities need to be re-registered. Religious communities have often faced difficulty in recent years in gaining state registration, with many complaining that none of their new communities have been registered in this time. Bishkek's Hare Krishna community – which has been told a "secret instruction" bans it from registering – fears it will never be able to gain legal status. Officials of the then SARA told some communities in 2009 that no further registrations could take place until

regulations implementing the new Law are promulgated. Religious organisations which are not communities also face problems registering. An example of this is the Bible Society, which is facing demands that it must register as a religious organisation. The Religion Law requires all religious organisations to have no fewer than 200 members, yet as Valentina An, Chair of the Bible Society, explained to Forum 18 “we have only 3 employees.”

Some religious communities are facing problems in registering as they cannot get a certificate from the State Agency for Architecture and Buildings. In some cases religious communities are told that, on the instructions of the SCRA, their building must be 1,000 metres away from any school building, and 10,000 metres away from any mosque. In another case, an organisation was asked to build an electricity substation to obtain a certificate. Officials have evaded answering Forum 18’s questions about these problems.

In protest at the extra-legal bureaucratic obstructions and the Law’s unreasonable requirements – including that all religious organisations must in defiance of international human rights standards be registered – many Protestant churches have decided to protest against the Law by refusing to register. As Aleksandr Shumilin of the Baptist Union told Forum 18 on 4 November: “Why should we agree with the new Law, which does not allow us to freely share the good news?” he asked. “Second of all to register our many un-registered congregations we need to give the names and personal data of 200 members as founders, which we will not do.”

10. Impact on charitable work

The bans on sharing beliefs and the Religion Law’s statement that “charitable activities shall not facilitate dissemination of doctrine or religious beliefs” may have a negative impact on charitable work, even if a religious community has no intention of using this to attract followers.

Brother Damian Wojciechowski of the Catholic parish of Blessed Mother Teresa in Jalalabad in southern Kyrgyzstan told Forum 18 in May 2009 he is not sure how the new Law will work, but the ban on sharing of faith “may effectively stop our charity work”. Asked what would happen if an individual from one faith who received help decided to accept the helper’s faith, Shailibek Orkunbaev, Secretary of the then SARA (now replaced by the SCRA), told Forum 18: “All that will be made clear in the regulations to come. The Justice Ministry is at the moment working on the regulations.” He added that the “courts would ultimately decide” whether or not an individual had been forced to convert to a religion.

11. Future state plans

In August 2009, Kyrgyzstan under President Bakiev established a state Coordinating Council on the Struggle against Religious Extremism. The execution of Council decisions will be obligatory for the different parts of the government, but officials were unclear when asked by Forum 18 what they mean by religious extremism and what the Council will do. It is led by the SCRA, the Interior Ministry and the NSS secret police, and will have members from other parts of the government, the Muslim Board, and the Russian Orthodox Church.

Civil society and religious organisations reacted with concern, Raya Kadyrova of the Foundation for Tolerance International pointing out that “unfortunately our laws give a very wide definition of religious radicalism and extremism.” She suggested that the Collective Security Treaty Organisation might be a reason for the Council. The Jehovah’s Witnesses noted that some officials have previously described them as “a destructive movement,” but “hoped” the Council would not listen to such opinions. One Protestant asked why there was a need for the Council, given the other responsible state organisations. The Hare Krishna community observed that they did not know what the position of the Council on their community would be, although “the NSS secret police has told us that we are a totalitarian sect, and are in a list with the banned terrorist organisations.”

In October 2009 the government made public a draft Strategy on State Policy in the Religious Sphere from 2009 to 2015, aimed at tackling “external and internal threats connected with religion, and the rise of radical religious movements and inter-confessional contradictions in Kyrgyzstan” and amplifying the National Security Concept approved by the President in February 2009. It said that “religious organisations and objects of religious significance (mosques, medreses, churches, houses of prayer, and religious educational organisations)” could encourage the growth in members of “banned politicised religious-extremist parties”. The Strategy gave a timetable of measures, including the Regulations to enact the Religion Law, the Religious Education Law, as well as a new Law on Traditional Religions.

The Strategy also stated that a new analysis centre is to be created in the SCRA and a list of banned religious organisations is to be prepared. Local religious affairs committees are to be introduced at the village level. Foreign missionaries will be monitored annually by the NSS secret police and other agencies and missionaries preaching “destructive faiths” will be stopped. An inter-agency commission will be created to monitor religious education establishments’ staff, curricula and buildings. Imams and teachers in Muslim educational establishments will undergo attestation each year by the SCRA, local administrations and the Muslim Board.

It remains unclear how far the plans made under ex-President Bakiev will be continued.

12. Repression boosts extremism

Governments throughout Central Asia, including Kyrgyzstan, often claim that their repression of freedom of religion or belief is because they fear for their country's national security and fear the threat of terrorism. However, a process run by a Kyrgyz NGO in partnership with the United Nations Development Programme (UNDP) and the Presidential Administration strongly supports the view that state actions increase the threat of extremism. The Foundation for Tolerance International (FTI) has been running a series of workshops across Kyrgyzstan involving government representatives, civil society organisations, businesses and religious communities.¹⁸ Called the Peace and Development Analysis process, the FTI initiative aims to create a common picture of the conflict situation and capacities for peaceful development in Kyrgyzstan. Participants made the following comments on what ordinary people think:

- Radical Islam normally emerges where the positions of Orthodox Islam are weak and freedom of conscience is restricted by the prevailing regime;
- The security apparatus in Kyrgyzstan intensifies the repression of religious communities, and oppresses political institutions thus triggering support for radical Islamist groups by ordinary citizens. Lack of trust in the government encourages the population's perception of terrorists and extremists as "victims" of violence on the part of the authorities;
- The narrowing of opportunities and possibilities for political dissidence directs the public discontent to the channel of Islamic extremism. Thus, the suppression of individual liberties by the government only enhances the popularity of extremism, and repression by the government are given as a reason for extremist response;
- The repressions and terror implemented by the government are the main causes of the expression of violence on part of certain groups and individuals. Islamic extremism is seen as an effective means of struggle against repression;
- Existing corrupt governments are scared of retribution on the part of the people and, therefore, make all efforts to retain power by all means necessary;
- The authorities use terrorism as an excuse to carry out repression, knowingly exaggerating the threat of terrorism in order to divert public discontent from the actual causes of discontent to the issues of terrorism and extremism;
- The authorities exaggerate the threat from Islamist groups like Hizb-ut-Tahrir to justify introduction of restrictions of human rights and obtain additional funding from donor nations.

Fears that the authorities are motivated by a wish to stay in power against the people's will were reinforced by the disputed July 2009 presidential election, which the OSCE noted had "instances of obstruction of opposition campaign events as well as pressure and intimidation of opposition supporters." Election day itself was

18 Foundation for Tolerance International website <<http://fti.org.kg/>>.

“marred by many problems and irregularities, including ballot box stuffing, inaccuracies in the voter lists, and multiple voting”¹⁹.

13. Need to implement existing human rights commitments

Kyrgyzstan under President Bakiev showed little sign of being willing to implement its UN or other human rights commitments in practice, and showed little sign of understanding that genuine security depends on genuine respect for human rights. Rather, the evidence of its actions against Kyrgyz religious believers and communities indicated that it had little intention of implementing its commitments to respect freedom of religion or belief, or other fundamental freedoms.

This had seriously damaging consequences as, amongst other things, the conclusions of the FTI workshops showed. It is to be hoped that the new government under Roza Otunbaeva turns its promises – “we want to establish freedom of speech and freedom of religion. We will reform the Constitution, the laws as necessary and the Religion Law”²⁰ – into reality.

Kyrgyz human rights defenders and religious communities have already described the need for this. As human rights defender Aziza Abdirasulova, of the Kylum Shamy (Candle of the Century) Centre for Human Rights Protection described the situation on 15 April, “the situation not only in terms of religious freedom but of all human rights is very bad. The laws need to be amended including the Religion Law.” Expressing the hopes of many, Tamilla Zeynalova of the Baha’is stated on 15 April that “we want the new government to restore the religious freedoms at least to the level we had before President Bakiev.”²¹

¹⁹ <<http://www.osce.org/item/39014.html>>

²⁰ see Forum 18, 16 April 2010 <http://www.forum18.org/Archive.php?article_id=1432>.

²¹ see Forum 18, 16 April 2010 <http://www.forum18.org/Archive.php?article_id=1432>.

G What is freedom of religion or belief?

Freedom of religion or belief is one of the oldest of the values now codified as fundamental human rights. Attempts to establish it in varying forms go back many centuries.²² Throughout history, attempts to suppress freedom of religion or belief have been proved to be both wrong in principle and doomed to long-term failure.²³ Freedom of religion or belief for all is an essential part of any society that is both at peace with itself internally, and which can also contribute to peaceful, just and stable international relations. Thus, the promotion of freedom of religion or belief for all is very much in the national interest of states and the interests of international organisations.

The definitions of the terms “religion” and “belief”, as of the related concepts “thought and conscience”, occupied much attention in the drafting of the *Universal Declaration of Human Rights* (UDHR) and the *International Covenant on Civil and Political Rights* (ICCPR).²⁴ Definitions of these terms are still extensively discussed, reflecting the importance and complexity of the subject. National governments may not, however, unilaterally redefine for domestic (and usually restrictive) purposes the definitions used in international human rights standards. The term “freedom of religion or belief” is to be understood broadly, following Article 18 of both the UDHR²⁵ and the ICCPR²⁶. As the UN Human Rights Committee’s *General Comment* 22²⁷ on Article 18 of the ICCPR explains:

“1. The right to freedom of thought, conscience and religion (which includes the freedom to hold beliefs) in article 18.1 is far-reaching and profound; it encompasses freedom of thought on all matters, personal conviction and the commitment to religion or belief, whether manifested individually or in community with others. The Committee draws the attention of States parties to the fact that the freedom of thought and the freedom of conscience are protected equally with the freedom of religion and belief. The fundamental character of these freedoms is also reflected in the fact that this provision cannot be derogated from, even in time of public emergency, as stated in article 4.2 of the Covenant.

22 Chapters 1 and 2 of *Religious Liberty and International Law in Europe*, Malcolm Evans (1997), describe various attempts from the 6th century BC to 1921.

23 A small sample of an extensive literature includes: *Persecution and Toleration in Protestant England, 1558–1689*, John Coffey (2000); *Dissident Identities in the Early Modern Low Countries*, Alistair Duke (2009); *God’s Secret Agents: Queen Elizabeth’s Forbidden Priests and the Hatching of the Gunpowder Plot*, Alice Hogge (2006); *Calvinism and Religious Toleration in the Dutch Golden Age*, R. Po-chia Hsia and Henk van Nierop (2002); *Divided by Faith: Religious Conflict and the Practice of Toleration in Early Modern Europe*, Benjamin Kaplan (2007); *Toleration and the Reformation*, Joseph Lecler (Two volumes, 1960); *The Lustre of Our Country: The American Experience of Religious Freedom*, John T. Noonan (1998); and *A state without stakes: Polish religious toleration in the sixteenth and seventeenth centuries*, Janusz Tazbir (1973).

24 M. Evans, *op. cit.*, chapters 7 and 8.

25 <<http://www.unhchr.ch/udhr/lang/eng.htm>>

26 <<http://www2.ohchr.org/english/law/ccpr.htm>>

27 <[http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/9a30112c27d1167cc12563ed004d8f15?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/9a30112c27d1167cc12563ed004d8f15?Opendocument)>

2. Article 18 protects theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief. The terms “belief” and “religion” are to be broadly construed. Article 18 is not limited in its application to traditional religions or to religions and beliefs with institutional characteristics or practices analogous to those of traditional religions. The Committee therefore views with concern any tendency to discriminate against any religion or belief for any reason, including the fact that they are newly established, or represent religious minorities that may be the subject of hostility on the part of a predominant religious community.”

For example, as “religion or belief” is to be construed broadly, the right to refuse to perform military service or conscientious objection is understood as being encompassed within the right to freedom of religion or belief.²⁸

The right to freedom of religion or belief is an individual right of every person, not a right limited to groups of people joined together as religious communities – but it includes the right to join together in common activities. It is also not limited to those belonging to groups that a state recognises or registers in some form. As Article 18 of the UDHR puts it:

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his [sic] religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his [sic] religion or belief in teaching, practice, worship and observance.

The UDHR and ICCPR, along with other UN texts such as *General Comment 22* and the *Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief* are available from the website of the UN Human Rights Committee.²⁹ Legal issues relating to freedom of religion or belief in these and other international instruments are discussed in *Religious Liberty and International Law in Europe*, Malcolm Evans (Cambridge University Press, 1997).

1. Freedom of religion or belief intertwined with preventing and resolving conflict

Freedom of religion or belief is inextricably intertwined with the rule of law and other fundamental freedoms such as freedom of speech and association, freedom of the media, freedom of expression and freedom of movement. Violating freedom of religion or belief always causes and encourages tensions, creating insecurity and conflict.

²⁸ See General Comment 22, paragraph 11.

²⁹ <<http://www2.ohchr.org/english/bodies/hrc/index.htm>>

Uzbekistan, for example, imposes total control of the public face of the majority Muslim religious community, and engages in torture, arbitrary arrests, bans on meeting for worship, arbitrary jailing, police raids, the overt incitement of religious hatred of minorities on state-run mass media and other violations against members of both the majority community and minority religious communities of Baha'is, Christians, Jews, Jehovah's Witnesses and Hare Krishna devotees.³⁰ This, along with widespread poverty, has fuelled the appeal of extremist and terrorist groups and increased the prospect of violent instability.

Discrimination and persecution on the grounds of religious or belief is extremely widespread across the world, affecting many disparate places and people. As Asma Jahangir, UN Special Rapporteur on Freedom of Religion or Belief, remarked on the occasion of the 25th anniversary of the 1981 UN *Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief*:³¹ "When I am asked which community is persecuted against most, I always reply 'human beings'".³²

Worldwide, ending discrimination and persecution on the grounds of religion or belief is an essential step in preventing and resolving many conflicts. To put it another way, upholding freedom of religion or belief defuses tensions, and strongly supports both national and international security.

2. What is needed for people to be able to have freedom of religion or belief?

The right to freedom of religion or belief covers an extremely wide range of activity. The *forum internum* or inner freedom to have a religion or belief is absolute and may not be restricted in any way, for example by attempts to limit the right to change a religion or belief. This also includes the right not to be forced to disclose one's religion or belief, for example on identity cards.

The right to externally manifest a religion or belief must be understood broadly. Article 18 of the UDHR and Article 18 (1) of the ICCPR using identical language to state that this covers "(...) freedom, either alone or in community with others and in public or private, to manifest his [sic] religion or belief in teaching, practice, worship and observance." Paragraph 4 of *General Comment 22* on the ICCPR states that this:

"(...) encompasses a broad range of acts. The concept of worship extends to ritual and ceremonial acts giving direct expression to belief, as well as various practices integral to such acts, including the building of places of worship, the use of ritual formulae, and objects, the display of symbols, and the observance of

30 Forum 18 religious freedom survey of Uzbekistan, August 2008 <http://www.forum18.org/Archive.php?article_id=1170>

31 <http://www.unhchr.ch/html/menu3/b/d_intole.htm>

32 Informal public remark at 2006 Prague commemoration <<http://www.tolerance95.cz/1981declaration/index.php>>

holidays and days of rest. The observance and practice of religion or belief may include not only ceremonial acts but also such customs as the observance of dietary regulations, the wearing of distinctive clothing or head coverings, participation in rituals associated with certain stages of life, and the use of a particular language, customarily spoken by a group. In addition, the practice and teaching of religion or belief includes acts integral to the conduct by religious groups of their basic affairs, such as freedom to choose their religious leaders, priests and teachers, the freedom to establish seminaries or religious schools and the freedom to prepare and distribute religious texts or publications.”

General Comment 22 is not an exhaustive list, but an indication of some manifestations. Any list of permissible manifestations is likely to contain important omissions, or fail to fully describe a possible manifestation. For example, one possible manifestation by some people of their religion or belief was advocating for and drafting the Universal Declaration of Human Rights itself.

Freedom of religion or belief should be understood as being inseparably bound up with other fundamental rights and freedoms. All fundamental human rights are complimentary to each other; they are not in competition. This has been demonstrated by the bitter experience of those who suffer persecution for their religion or belief. Given the complimentary nature of human rights, no right may be used to destroy another right. As Article 30 of the UDHR states:

“Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.”

3. OSCE human dimension commitments and other related issues

All OSCE participating States are committed to implementing freedom of religion or belief. The human dimension commitments have repeatedly emphasised that commitments on freedom of religion or belief and other fundamental freedoms are based on human rights agreements such as the ICCPR. As the Ministerial Declaration on the Occasion of the 60th Anniversary of the Universal Declaration of Human Rights (Helsinki 2008) *[see above]* put it:

On the occasion of the 60th anniversary of the adoption of the Universal Declaration, we recommit ourselves to act in conformity with the purposes and principles of the Charter of the United Nations and with the Universal Declaration of Human Rights.

In the spirit of the Helsinki Final Act, we underline the principles guiding relations between participating States enshrined therein, in particular the respect for human rights and fundamental freedoms.

We stress that all human rights are universal.

We remain committed to respecting the inherent dignity of the human being, as recognized in the Universal Declaration and relevant OSCE documents to which we have agreed.

We declare that the rights contained in the Universal Declaration remain relevant.

We reaffirm to ensure the full implementation of the OSCE human dimension commitments. All OSCE commitments without exception apply equally to each participating State.

We reaffirm the inseparable connection between ensuring respect for human rights and maintaining peace, justice, well-being for peoples and stability, as recognized by the OSCE concept of common and comprehensive security.

OSCE commitments are not seen as alternatives to fulfilling commitments in international law, or as being in conflict with such commitments. Instead, the human dimension commitments compliment human rights standards such as the ICCPR. Even in states where the rule of law does not apply and freedom of religion or belief is not respected in practice, however much it may seemingly be respected on paper, this does not absolve states from their obligation to implement human rights commitments. In such states, attention should be given to those official actions – including but not limited to the passage of laws – which breach international obligations.

Freedom of religion or belief is primarily an individual right, not a right of particular groups as such (eg. ethnic or religious groups, women, children, etc.). But one should also note that the freedom to associate with others in common activities is a vital part of that individual right. For issues that affect individuals within vulnerable groups, as well as individuals in association with others, it is important not to neglect the individual right to freedom of religion or belief.

For example, some states have state-favoured religious groups, which may be offered by state officials – supported by the leaders of the community in question – to attempt to prove the alleged tolerance and respect for freedom of religion or belief of the state in question. In such states, focussing on the right to freedom of religion or belief of all individual persons – including those within groups vulnerable to state or societal hostility – will yield a more accurate picture of the state of freedom of religion or belief in the state in question. This approach also both acknowledges and defends the diversity of approaches and views commonly found within groups.

Freedom of religion or belief is sometimes seen as a freedom of separate groups – for example in the OSCE context separate categories of ‘Anti-Semitism’, ‘Muslims’, and ‘Christians and Members of Other Religions’. Naming particular kinds of

intolerance and discrimination – for example against women – can indeed be helpful. But it is a profound mistake to isolate freedom of religion or belief violations against followers of a particular belief from other victims of this kind of human rights violation. The UDHR, ICCPR and OSCE commitments such as the Helsinki Final Act firmly state that this is a right of all religious and non-religious persons, without exception. These repeatedly insist that fundamental freedoms “derive from the inherent dignity of the human person” – all human persons.

On the same principle, political rights – such as to take part in free and fair elections – are for everyone, not just for those who support the government party of an OSCE participating State. To suggest that political rights for government supporters can be considered in isolation from supporters of other parties would clearly be absurd and damaging, as political rights – just like all other human rights – are for everyone without exception. Freedom of religion or belief is also for everyone without exception.

It should also be noted that many religious and philosophical traditions insist that the dignity of all human persons, and not just their own followers, should be defended. This approach has a strong foundation in principle, and also helps avoid human rights being instrumentalised to serve narrow partisan views. It also helps in understanding reality. Governments, which are worldwide the worst violators of human rights, invariably target followers of any religion or belief which they see as outside their control – not just the followers of one religion or belief. Not to recognise this is to deceive oneself about the reality of the world and human rights violations.

Quasi-psychological phobia language has been used by some, such as “Islamophobia” and “Christianophobia”. This is highly damaging, as it emphasises feelings rather than actions, whether or not a human right has actually been violated. Phobia language can in this way provide a superficially plausible excuse for restricting freedom of religion or belief. It also sets up an impossible goal, as no-one can or should guarantee that feelings will not be hurt. It is therefore important to ensure that freedom of religion or belief itself, not phobias, remains the primary focus.

The term “defamation of religion” has also been used by some. As Julian Rivers pointed out in the November 2007 issue of the journal *Religion and Human Rights*,³³ this quasi-legal phrase is also damaging. It does not identify what states are obliged to do under their human rights obligations – in this case protect the right to freedom of religion or belief – and has been used to suggest that disagreement about and criticism of religion or belief is unacceptable. As the right to disagree about and

33 <<http://brill.publisher.ingentaconnect.com/content/mnp/rhrs>>

criticise religion or belief is part of the right to freedom of religion or belief, use of the phrase “defamation of religion” should be resisted.

Numerous other issues are bound up with the manifestation of religion or belief. Two issues have received the particular attention of the OSCE. The first concerns legislation affecting the registration and legal status of religious organisations. The OSCE Guidelines set out generally applicable principles to be followed when evaluating such legislation.³⁴ A second issue concerns religion and public education, which is considered in the downloadable OSCE *Toledo Guiding Principles on Teaching about Religions and Beliefs in Public Schools*.³⁵ The Council of Europe has devoted attention to the issue of Religious Symbols and international human rights, and published a manual on this in November 2008.³⁶

4. Limitations on freedom of religion or belief

Unlike manifestations of freedom of religion or belief, which are to be construed broadly, limitations are to be construed narrowly. Article 18 (3) of the ICCPR states that: “Freedom to manifest one’s religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others”.

General Comment 22’s paragraph 8 reinforces this strict approach, stating that limitations:

“(...) must be established by law and must not be applied in a manner that would vitiate the rights guaranteed in article 18 [of the ICCPR]. The Committee observes that paragraph 3 of article 18 is to be strictly interpreted: restrictions are not allowed on grounds not specified there, even if they would be allowed as restrictions to other rights protected in the Covenant, such as national security. Limitations may be applied only for those purposes for which they were prescribed and must be directly related and proportionate to the specific need on which they are predicated. Restrictions may not be imposed for discriminatory purposes or applied in a discriminatory manner. The Committee observes that the concept of morals derives from many social, philosophical and religious traditions; consequently, limitations on the freedom to manifest a religion or belief for the purpose of protecting morals must be based on principles not deriving exclusively from a single tradition. Persons already subject to certain legitimate constraints, such as prisoners, continue to enjoy their rights to manifest their religion or belief to the fullest extent compatible with the specific nature of the constraint. (...)”

34 <http://www.osce.org/odihr/item_11_13600.html>

35 <http://www.osce.org/odihr/item_11_28314.html>

36 <http://www.coe.int/t/DC/Files/Source/FS_religsymbols_en.doc>

It is worth noting that the limitation grounds expressed in English as “to protect public safety, order, health” are expressed in French as “la protection de la sécurité, de l’ordre et de la santé publique”³⁷. The use of the key phrase “l’ordre public” within this makes it abundantly plain that the public safety and order limitations can only be proportionally and in a non-discriminatory way invoked by legally authorised public authority where there is an actually existing significant threat to public peace, such as a riot, and that it cannot be invoked for something merely thought to be a public nuisance. Underlining this and *General Comment 22*’s absolute prohibition on “national security” as a possible reason for a limitation of freedom of thought, conscience and religion, *General Comment 22*’s first paragraph states that: “The fundamental character of these freedoms is also reflected in the fact that this provision cannot be derogated from, even in time of public emergency, as stated in article 4.2 [of the ICCPR].” In other words, even in a time of national emergency the state has a duty to ensure that freedom of religion or belief can be exercised by all. And as the OSCE human dimension commitments underscore, the protection of human rights, including freedom of religion or belief, is a powerful tool in protecting national and international security.

Similar statements to that in the ICCPR are made by other instruments, such as the *European Convention for the Protection of Human Rights and Fundamental Freedoms*³⁸ and in the related jurisprudence of the European Court of Human Rights. For example in the case of *Barenkevich v. Russia (Application no. 10519/03)*³⁹, the European Court stated that the manifestation of freedom of religion or belief must be protected by the state, even if others violently oppose this. “Democracy does not simply mean that the views of the majority must always prevail,” it noted in its 26 July 2007 verdict. “The mere fact that the Evangelical Christian religion was practised by a minority of the town residents was not capable of justifying an interference with the rights of followers of that religion.” The verdict goes on to state that “it would be incompatible with the underlying values of the Convention, if the exercise of Convention rights by a minority group were made conditional on its being accepted by the majority. Were it so a minority group’s rights to freedom of religion, expression and assembly would become merely theoretical rather than practical and effective as required by the Convention.”

Although the European Convention does not cover Central Asia, it is legally binding for 47 of the OSCE’s 56 participating States making it an important influence on the politically binding human dimension commitments. This has been clearly recognised by the *OSCE Guidelines* having been adopted by the Venice Commission of the Council of Europe.⁴⁰ Article 9 (2) of the Convention states:

37 <<http://www2.ohchr.org/french/law/ccpr.htm>>

38 <<http://conventions.coe.int/Treaty/en/Treaties/Html/005.htm>>

39 <<http://cmiskp.echr.coe.int/tkp197/viewhbk.asp?action=open&table=F69A27FD8FB86142BF01C1166DEA398649&key=22278&sessionId=52234238&skin=hudoc-en&attachment=true>>

40 <http://www.osce.org/odihr/item_11_13600.html>

“Freedom to manifest one’s religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.”

The narrowing of the field for limitations to those that must be “necessary in a democratic society” is important for the entire OSCE region, as all participating States have repeatedly recognised that, as the Ministerial Declaration on the Occasion of the 60th Anniversary of the Universal Declaration of Human Rights (Helsinki 2008) put it, “human rights are best respected in democratic societies”. Whilst the European Court of Human Rights has not closely defined what is meant by the concept of “democratic society”, it has seen that limitations must be judged on a case by case basis, taking into account factors such as the proportionality of the limitation in relation to the reason for it, and the nature of the public interest requiring the limitation and its need for protection.⁴¹ It is also worth noting that “necessity” (as against eg. “desirable”) is a high threshold for a limitation.⁴²

The OSCE *Guidelines* discuss other possible limitations, along with issues relating to them.⁴³

41 M. Evans, *op. cit.*, pp 320-322

42 Carolyn Evans, *The ‘Islamic Scarf’ in the European Court of Human Rights*, Melbourne Journal of International Law (2007) 7(1) <http://www.austlii.edu.au/au/journals/MelbJIL/2006/4.html#_Ref132397760>

43 <http://www.osce.org/odihr/item_11_13600.html>

H OSCE commitments on freedom of religion or belief

Final Act of the Conference on Security and Co-operation in Europe (Helsinki 1975)⁴⁴

(Questions Relating to Security in Europe: 1.(a) Declaration on Principles Guiding Relations between Participating States)

(...)

(VII. Respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief)

The participating States will respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion.

They will promote and encourage the effective exercise of civil, political, economic, social, cultural and other rights and freedoms all of which derive from the inherent dignity of the human person and are essential for his [sic] free and full development.

Within this framework the participating States will recognize and respect the freedom of the individual to profess and practice, alone or in community with others, religion or belief acting in accordance with the dictates of his [sic] own conscience.

(...)

The participating States recognize the universal significance of human rights and fundamental freedoms, respect for which is an essential factor for the peace, justice and well-being necessary to ensure the development of friendly relations and co-operation among themselves as among all States.

They will constantly respect these rights and freedoms in their mutual relations and will endeavour jointly and separately, including in co-operation with the United Nations, to promote universal and effective respect for them.

They confirm the right of the individual to know and act upon his [sic] rights and duties in this field.

⁴⁴ <<http://www.osce.org/item/4046.html?html=1>>

In the field of human rights and fundamental freedoms, the participating States will act in conformity with the purposes and principles of the Charter of the United Nations and with the Universal Declaration of Human Rights. They will also fulfil their obligations as set forth in the international declarations and agreements in this field, including inter alia the International Covenants on Human Rights, by which they may be bound.

(...)

(Co-operation in Humanitarian and Other Fields)

[The participating States] confirm that religious faiths, institutions and organizations, practising within the constitutional framework of the participating States, and their representatives can, in the field of their activities, have contacts and meetings among themselves and exchange information.

Madrid 1983

(Questions Relating to Security in Europe: Principles)⁴⁵

The participating States (...) furthermore agree to take the action necessary to ensure the freedom of the individual to profess and practise, alone or in community with others, religion or belief acting in accordance with the dictates of his [sic] own conscience. In this context, they will consult, whenever necessary, the religious faiths, institutions and organizations, which act within the constitutional framework of their respective countries. They will favourably consider applications by religious communities of believers practising or prepared to practise their faith within the constitutional framework of their States, to be granted the status provided for in their respective countries for religious faiths, institutions and organizations.

Concluding Document of the Vienna Meeting of Representatives of the Participating States of the Conference on Security and Co-operation in Europe (Vienna 1989)⁴⁶

(Questions Relating to Security in Europe: Principles)

(11) [The participating States] confirm that they will respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion. They also confirm the universal significance of human rights and fundamental freedoms, respect for which is an essential factor for the peace, justice and security necessary to ensure the development of friendly relations and co-operation among themselves, as among all States.

45 <<http://www.osce.org/item/4208.html>>

46 <<http://www.osce.org/item/16059.html>>

(13.7) [The participating States will] ensure human rights and fundamental freedoms to everyone within their territory and subject to their jurisdiction, without distinction of any kind such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status;

(16) In order to ensure the freedom of the individual to profess and practise religion or belief, the participating States will, inter alia,

(16.1) – take effective measures to prevent and eliminate discrimination against individuals or communities on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all fields of civil, political, economic, social and cultural life, and to ensure the effective equality between believers and non-believers;

(16.2) – foster a climate of mutual tolerance and respect between believers of different communities as well as between believers and non-believers;

(16.3) – grant upon their request to communities of believers, practising or prepared to practise their faith within the constitutional framework of their States, recognition of the status provided for them in their respective countries;

(16.4) – respect the right of these religious communities to

- establish and maintain freely accessible places of worship or assembly,
- organize themselves according to their own hierarchical and institutional structure,
- select, appoint and replace their personnel in accordance with their respective requirements and standards as well as with any freely accepted arrangement between them and their State,
- solicit and receive voluntary financial and other contributions;

(16.5) – engage in consultations with religious faiths, institutions and organizations in order to achieve a better understanding of the requirements of religious freedom;

(16.6) – respect the right of everyone to give and receive religious education in the language of his [sic] choice, whether individually or in association with others;

(16.7) – in this context respect, inter alia, the liberty of parents to ensure the religious and moral education of their children in conformity with their own convictions;

(16.8) – allow the training of religious personnel in appropriate institutions;

(16.9) – respect the right of individual believers and communities of believers to acquire, possess, and use sacred books, religious publications in the language of their choice and other articles and materials related to the practice of religion or belief,

(16.10) – allow religious faiths, institutions and organizations to produce, import and disseminate religious publications and materials;

(16.11) – favourably consider the interest of religious communities to participate in public dialogue, including through the mass media.

(17) The participating States recognize that the exercise of the above-mentioned rights relating to the freedom of religion or belief may be subject only to such limitations as are provided by law and consistent with their obligations under international law and with their international commitments. They will ensure in their laws and regulations and in their application the full and effective exercise of the freedom of thought, conscience, religion or belief.

(19) [The participating States] will protect and create conditions for the promotion of the ethnic, cultural, linguistic and religious identity of national minorities on their territory. They will respect the free exercise of rights by persons belonging to such minorities and ensure their full equality with others.

(21) The participating States will ensure that the exercise of the above-mentioned rights will not be subject to any restrictions except those which are provided by law and are consistent with their obligations under international law, in particular the International Covenant on Civil and Political Rights, and with their international commitments, in particular the Universal Declaration of Human Rights. These restrictions have the character of exceptions. The participating States will ensure that these restrictions are not abused and are not applied in an arbitrary manner, but in such a way that the effective exercise of these rights is ensured.

(32) They will allow believers, religious faiths and their representatives, in groups or on an individual basis, to establish and maintain direct personal contacts and communication with each other, in their own and other countries, inter alia through travel, pilgrimages and participation in assemblies and other religious events. In this context and commensurate with such contacts and events, those concerned will be allowed to acquire, receive and carry with them religious publications and objects related to the practice of their religion or belief.

(68) [The participating States] will ensure that persons belonging to national minorities or regional cultures on their territories can give and receive instruction on their own culture, including instruction through parental transmission of language, religion and cultural identity to their children.

Document of the Copenhagen Meeting of Representatives of the Participating States of the Conference on the Human Dimension of the Conference on Security and Co-operation in Europe (Copenhagen 1990)⁴⁷

The participating States reaffirm that

(9.4) – everyone will have the right to freedom of thought, conscience and religion. This right includes freedom to change one's religion or belief and freedom to manifest one's religion or belief, either alone or in community with others, in public or in private, through worship, teaching, practice and observance. The exercise of these rights may be subject only to such restrictions as are prescribed by law and are consistent with international standards;

(18) The participating States

(18.1) – note that the United Nations Commission on Human Rights has recognized the right of everyone to have conscientious objections to military service;

(18.2) – note recent measures taken by a number of participating States to permit exemption from compulsory military service on the basis of conscientious objections;

(18.3) – note the activities of several non-governmental organizations on the question of conscientious objections to compulsory military service;

(18.4) – agree to consider introducing, where this has not yet been done, various forms of alternative service, which are compatible with the reasons for conscientious objection, such forms of alternative service being in principle of a non-combatant or civilian nature, in the public interest and of a non-punitive nature;

(18.5) – will make available to the public information on this issue;

(18.6) – will keep under consideration, within the framework of the Conference on the Human Dimension, the relevant questions related to the exemption from compulsory military service, where it exists, of individuals on the basis of conscientious objections to armed service, and will exchange information on these questions.

47 <<http://www.osce.org/item/13992.html>>

(24) The participating States will ensure that the exercise of all the human rights and fundamental freedoms set out above will not be subject to any restrictions except those which are provided by law and are consistent with their obligations under international law, in particular the International Covenant on Civil and Political Rights, and with their international commitments, in particular the Universal Declaration of Human Rights. These restrictions have the character of exceptions. The participating States will ensure that these restrictions are not abused and are not applied in an arbitrary manner, but in such a way that the effective exercise of these rights is ensured. Any restriction on rights and freedoms must, in a democratic society, relate to one of the objectives of the applicable law and be strictly proportionate to the aim of that law.

(25) The participating States confirm that any derogations from obligations relating to human rights and fundamental freedoms during a state of public emergency must remain strictly within the limits provided for by international law, in particular the relevant international instruments by which they are bound, especially with respect to rights from which there can be no derogation. They also reaffirm that

(25.1) – measures derogating from such obligations must be taken in strict conformity with the procedural requirements laid down in those instruments;

(25.2) – the imposition of a state of public emergency must be proclaimed officially, publicly, and in accordance with the provisions laid down by law;

(25.3) – measures derogating from obligations will be limited to the extent strictly required by the exigencies of the situation;

(25.4) – such measures will not discriminate solely on the grounds of race, colour, sex, language, religion, social origin or of belonging to a minority.

(30) The participating States recognize that the questions relating to national minorities can only be satisfactorily resolved in a democratic political framework based on the rule of law, with a functioning independent judiciary. This framework guarantees full respect for human rights and fundamental freedoms, equal rights and status for all citizens, the free expression of all their legitimate interests and aspirations, political pluralism, social tolerance and the implementation of legal rules that place effective restraints on the abuse of governmental power.

They also recognize the important role of non-governmental organizations, including political parties, trade unions, human rights organizations and religious groups, in the promotion of tolerance, cultural diversity and the resolution of questions relating to national minorities. They further reaffirm that respect for the rights of persons

belonging to national minorities as part of universally recognized human rights is an essential factor for peace, justice, stability and democracy in the participating States.

(32) (...) Persons belonging to national minorities have the right freely to express, preserve and develop their ethnic, cultural, linguistic or religious identity and to maintain and develop their culture in all its aspects, free of any attempts at assimilation against their will. In particular, they have the right

(...)

(32.2) – to establish and maintain their own educational, cultural and religious institutions, organizations or associations, which can seek voluntary financial and other contributions as well as public assistance, in conformity with national legislation;

(32.3) – to profess and practise their religion, including the acquisition, possession and use of religious materials, and to conduct religious educational activities in their mother tongue;

(...)

(32.4) – to establish and maintain unimpeded contacts among themselves within their country as well as contacts across frontiers with citizens of other States with whom they share a common ethnic or national origin, cultural heritage or religious beliefs;

(...)

(32.6) – to establish and maintain organizations or associations within their country and to participate in international non-governmental organizations. Persons belonging to national minorities can exercise and enjoy their rights individually as well as in community with other members of their group. No disadvantage may arise for a person belonging to a national minority on account of the exercise or non-exercise of any such rights. Persons belonging to national minorities can exercise and enjoy their rights individually as well as in community with other members of their group. No disadvantage may arise for a person belonging to a national minority on account of the exercise or non-exercise of any such rights.

(33) The participating States will protect the ethnic, cultural, linguistic and religious identity of national minorities on their territory and create conditions for the promotion of that identity. They will take the necessary measures to that effect after due consultations, including contacts with organizations or associations of such minorities, in accordance with the decision-making procedures of each State. Any such measures will be in conformity with the principles of equality and non-discrimination with respect to the other citizens of the participating State concerned.

(35) The participating States will respect the right of persons belonging to national minorities to effective participation in public affairs, including participation in the affairs relating to the protection and promotion of the identity of such minorities. The participating States note the efforts undertaken to protect and create conditions for the promotion of the ethnic, cultural, linguistic and religious identity of certain national minorities by establishing, as one of the possible means to achieve these aims, appropriate local or autonomous administrations corresponding to the specific historical and territorial circumstances of such minorities and in accordance with the policies of the State concerned.

(36) The participating States recognize the particular importance of increasing constructive co-operation among themselves on questions relating to national minorities. Such co-operation seeks to promote mutual understanding and confidence, friendly and good-neighbourly relations, international peace, security and justice. Every participating State will promote a climate of mutual respect, understanding, co-operation and solidarity among all persons living on its territory, without distinction as to ethnic or national origin or religion, and will encourage the solution of problems through dialogue based on the principles of the rule of law.

(40) The participating States clearly and unequivocally condemn totalitarianism, racial and ethnic hatred, anti-semitism, xenophobia and discrimination against anyone as well as persecution on religious and ideological grounds. In this context, they also recognize the particular problems of Roma (gypsies). They declare their firm intention to intensify the efforts to combat these phenomena in all their forms and therefore will

(40.1) – take effective measures, including the adoption, in conformity with their constitutional systems and their international obligations, of such laws as may be necessary, to provide protection against any acts that constitute incitement to violence against persons or groups based on national, racial, ethnic or religious discrimination, hostility or hatred, including anti-semitism;

(40.2) – commit themselves to take appropriate and proportionate measures to protect persons or groups who may be subject to threats or acts of discrimination, hostility or violence as a result of their racial, ethnic, cultural, linguistic or religious identity, and to protect their property;

(40.3) – take effective measures, in conformity with their constitutional systems, at the national, regional and local levels to promote understanding and tolerance, particularly in the fields of education, culture and information;

(40.4) – endeavour to ensure that the objectives of education include special attention to the problem of racial prejudice and hatred and to the development of respect for different civilizations and cultures;

(40.5) – recognize the right of the individual to effective remedies and endeavour to recognize, in conformity with national legislation, the right of interested persons and groups to initiate and support complaints against acts of discrimination, including racist and xenophobic acts;

(40.6) – consider adhering, if they have not yet done so, to the international instruments which address the problem of discrimination and ensure full compliance with the obligations therein, including those relating to the submission of periodic reports;

(40.7) – consider, also, accepting those international mechanisms which allow States and individuals to bring communications relating to discrimination before international bodies.

Charter of Paris for a New Europe (Paris 1990)⁴⁸

We, the Heads of State or Government of the States participating in the Conference on Security and Co-operation in Europe, have assembled in Paris at a time of profound change and historic expectations. The era of confrontation and division of Europe has ended. We declare that henceforth our relations will be founded on respect and co-operation.

Europe is liberating itself from the legacy of the past. The courage of men and women, the strength of the will of the peoples and the power of the ideas of the Helsinki Final Act have opened a new era of democracy, peace and unity in Europe.

Ours is a time for fulfilling the hopes and expectations our peoples have cherished for decades: steadfast commitment to democracy based on human rights and fundamental freedoms; prosperity through economic liberty and social justice; and equal security for all our countries.

The Ten Principles of the Final Act will guide us towards this ambitious future, just as they have lighted our way towards better relations for the past fifteen years. Full implementation of all CSCE commitments must form the basis for the initiatives we are now taking to enable our nations to live in accordance with their aspirations.

Human Rights, Democracy and Rule of Law

48 <<http://www.osce.org/item/4047.html>>

We undertake to build, consolidate and strengthen democracy as the only system of government of our nations. In this endeavour, we will abide by the following:

Human rights and fundamental freedoms are the birthright of all human beings, are inalienable and are guaranteed by law. Their protection and promotion is the first responsibility of government. Respect for them is an essential safeguard against an over-mighty State. Their observance and full exercise are the foundation of freedom, justice and peace.

Democratic government is based on the will of the people, expressed regularly through free and fair elections. Democracy has as its foundation respect for the human person and the rule of law. Democracy is the best safeguard of freedom of expression, tolerance of all groups of society, and equality of opportunity for each person.

Democracy, with its representative and pluralist character, entails accountability to the electorate, the obligation of public authorities to comply with the law and justice administered impartially. No one will be above the law.

We affirm that, without discrimination,

- every individual has the right to freedom of thought, conscience and religion or belief,
- freedom of expression,
- freedom of association and peaceful assembly,
- freedom of movement;

no one will be:

- subject to arbitrary arrest or detention,
- subject to torture or other cruel, inhuman or degrading treatment or punishment;

everyone also has the right:

- to know and act upon his [sic] rights,
- to participate in free and fair elections,
- to fair and public trial if charged with an offence,
- to own property alone or in association and to exercise individual enterprise,
- to enjoy his [sic] economic, social and cultural rights.

We affirm that the ethnic, cultural, linguistic and religious identity of national minorities will be protected and that persons belonging to national minorities have the right freely to express, preserve and develop that identity without any discrimination and in full equality before the law.

We will ensure that everyone will enjoy recourse to effective remedies, national or international, against any violation of his [sic] rights.

Full respect for these precepts is the bedrock on which we will seek to construct the new Europe.

Our States will co-operate and support each other with the aim of making democratic gains irreversible.

(...)

Human Dimension

We declare our respect for human rights and fundamental freedoms to be irrevocable. We will fully implement and build upon the provisions relating to the human dimension of the CSCE.

(...)

We express our determination to combat all forms of racial and ethnic hatred, antisemitism, xenophobia and discrimination against anyone as well as persecution on religious and ideological grounds.

Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE (Moscow 1991)⁴⁹

The participating States emphasize that issues relating to human rights, fundamental freedoms, democracy and the rule of law are of international concern, as respect for these rights and freedoms constitutes one of the foundations of the international order. They categorically and irrevocably declare that the commitments undertaken in the field of the human dimension of the CSCE are matters of direct and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the State concerned. They express their determination to fulfil all of their human dimension commitments and to resolve by peaceful means any related issue, individually and collectively, on the basis of mutual respect and co-operation. In this context they recognize that the active involvement of persons, groups, organizations and institutions is essential to ensure continuing progress in this direction

Budapest 1994⁵⁰

(Decisions: VIII. The Human Dimension)

49 <<http://www.osce.org/item/13995.html>>

50 <<http://www.osce.org/item/4050.html>>

(27.) [The participating States] Reaffirming their commitment to ensure freedom of conscience and religion and to foster a climate of mutual tolerance and respect between believers of different communities as well as between believers and non-believers, they expressed their concern about the exploitation of religion for aggressive nationalist ends.

(Decisions: IV. Code of Conduct on Politico-Military Aspects of Security)

(28.) The participating States will reflect in their laws or other relevant documents the rights and duties of armed forces personnel. They will consider introducing exemptions from or alternatives to military service.

(37.) The participating States will not use armed forces to limit the peaceful and lawful exercise of their human and civil rights by persons as individuals or as representatives of groups nor to deprive them of their national, religious, cultural, linguistic or ethnic identity

The Charter for European Security (Istanbul 1999)⁵¹

At the dawn of the twenty-first century we, the Heads of State or Government of the OSCE participating States, declare our firm commitment to a free, democratic and more integrated OSCE area where participating States are at peace with each other, and individuals and communities live in freedom, prosperity and security.

(III Our Common Response) (The Human Dimension)

(19.) We reaffirm that respect for human rights and fundamental freedoms, democracy and the rule of law is at the core of the OSCE's comprehensive concept of security. We commit ourselves to counter such threats to security as violations of human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief and manifestations of intolerance, aggressive nationalism, racism, chauvinism, xenophobia and anti-semitism.

OSCE Charter on Preventing and Combating Terrorism (Porto 2002)⁵²

The OSCE participating States, firmly committed to the joint fight against terrorism

(...)

(20) Are convinced of the need to address conditions that may foster and sustain terrorism, in particular by fully respecting democracy and the rule of law, by allowing all citizens to participate fully in political life, by preventing discrimination

51 <<http://www.osce.org/item/4051.html>>

52 <<http://www.osce.org/item/1654.html>>

and encouraging intercultural and inter-religious dialogue in their societies, by engaging civil society in finding common political settlement for conflicts, by promoting human rights and tolerance and by combating poverty;

(21) Acknowledge the positive role the media can play in promoting tolerance and understanding among religions, beliefs, cultures and peoples, as well as for raising awareness of the threat of terrorism;

(22) Commit themselves to combat hate speech and to take the necessary measures to prevent the abuse of the media and information technology for terrorist purposes, ensuring that such measures are consistent with domestic and international law and OSCE commitments;

(Decisions: Decision No. 6/02 on Tolerance and Non-discrimination)⁵³

The Ministerial Council,

Recalling the principles of human rights and the inherent dignity of the human being, freedom of thought, conscience, religion or belief that underpin the general provisions of the OSCE human dimension commitments,

(...)

Reiterating that democracy and protection of human rights and fundamental freedoms are essential safeguards of tolerance and non-discrimination and constitute important factors for stability, security, co-operation and peaceful development throughout the entire OSCE region, and that conversely tolerance and non-discrimination are important elements in the promotion of human rights,

Reaffirming the internationally recognized prohibition of discrimination, without adverse distinction of any kind, such as race, colour, sex, language, religion or belief, political or other opinion, national or social origin, property, birth or other status,

(4) Commits to take appropriate measures, in conformity with respective constitutional systems, at national, regional and local levels to promote tolerance and non-discrimination as well as to counter prejudices and misrepresentation, particularly in the field of education, culture and information;

(5) Condemns, in particular, discrimination on religious grounds and undertakes to endeavour to prevent and protect against attacks directed at any religious group, whether on persons or on places of worship or religious objects;

⁵³ <<http://www.osce.org/item/4162.html>>

(8) Decides to take strong public positions against hate speech and other manifestations of aggressive nationalism, racism, chauvinism, xenophobia, anti-Semitism and violent extremism, as well as occurrences of discrimination based on religion or belief;

(9) Calls on relevant authorities of participating States to investigate promptly and impartially acts of violence, especially where there are reasonable grounds to suspect that they were motivated by aggressive nationalism, racism, chauvinism, xenophobia, anti-Semitism and violent extremism, as well as attacks motivated by hatred against a particular religion or belief, and to prosecute those responsible in accordance with domestic law and consistent with relevant international standards of human rights;

Maastricht 2003⁵⁴

(Decisions: Decision No. 4/03 on Tolerance and Non-discrimination)

The Ministerial Council,

Recognizing that respect for human rights and fundamental freedoms, democracy and the rule of law are at the core of the OSCE's comprehensive concept of security,

(9) Affirms the importance of freedom of thought, conscience, religion or belief, and condemns all discrimination and violence, including against any religious group or individual believer. Commits to ensure and facilitate the freedom of the individual to profess and practice a religion or belief, alone or in community with others, where necessary through transparent and non-discriminatory laws, regulations, practices and policies. Encourages the participating States to seek the assistance of the ODIHR and its Panel of Experts on Freedom of Religion or Belief. Emphasizes the importance of a continued and strengthened interfaith and intercultural dialogue to promote greater tolerance, respect and mutual understanding;

Ministerial Declaration on the Occasion of the 60th Anniversary of the Universal Declaration of Human Rights (Helsinki 2008)⁵⁵

We, the members of the Ministerial Council of the OSCE, reaffirm our strong commitment to the Universal Declaration of Human Rights ("the Universal Declaration"), adopted by the United Nations General Assembly on 10 December 1948.

54 <<http://www.osce.org/item/4163.html>>

55 <<http://www.osce.org/item/35582.html>>

On the occasion of the 60th anniversary of the adoption of the Universal Declaration, we recommit ourselves to act in conformity with the purposes and principles of the Charter of the United Nations and with the Universal Declaration of Human Rights.

In the spirit of the Helsinki Final Act, we underline the principles guiding relations between participating States enshrined therein, in particular the respect for human rights and fundamental freedoms.

We stress that all human rights are universal.

We remain committed to respecting the inherent dignity of the human being, as recognized in the Universal Declaration and relevant OSCE documents to which we have agreed.

We declare that the rights contained in the Universal Declaration remain relevant.

We reaffirm to ensure the full implementation of the OSCE human dimension commitments. All OSCE commitments without exception apply equally to each participating State.

We reaffirm the inseparable connection between ensuring respect for human rights and maintaining peace, justice, well-being for peoples and stability, as recognized by the OSCE concept of common and comprehensive security.

Taking into account the principles guiding relations between participating States enshrined in the Helsinki Final Act, we reaffirm that the commitments undertaken in the field of the OSCE human dimension are matters of direct and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the State concerned as stipulated in the 1991 Moscow document. *[See above]*

(...)

We remain committed to the rule of law and equal protection under the law for all, based on respect for human rights and effective, accessible and just legal systems.

We stress that everyone has the right to life, liberty and security of person; no one shall be held in slavery, and no one shall be subjected to torture or cruel, inhuman or degrading treatment or punishment.

We recognize that human rights are best respected in democratic societies, where decisions are taken with maximum transparency and broad participation. We

support a pluralistic civil society and encourage partnerships between different stakeholders in the promotion and protection of human rights.

We reiterate that everyone has the right to freedom of thought, conscience, religion or belief; freedom of opinion and expression, freedom of peaceful assembly and association. The exercise of these rights may be subject to only such limitations as are provided by law and consistent with our obligations under international law and with our international commitments.

Ministerial Declaration on the Sixty-Fifth Anniversary of the End of the World War II (Athens 2009)⁵⁶

(...)

We have learned from history the danger of intolerance, discrimination, extremism and hatred on ethnic, racial and religious grounds. We are committed to combat these threats, including through the OSCE, and we reject any attempts to justify them.

(...)

The lessons of the [sic] World War II are still of relevance today, when we need to unite our efforts and resources to address threats and challenges to our common security and stability and to defend our common principles. New times have brought new threats and challenges, one of the most dangerous of which is terrorism. We will fight this and other threats to security together, inter alia, through the OSCE.

We are convinced that the peaceful resolution of all existing conflicts, the observance of the norms of international law, the aims and principles of the UN Charter, the fulfilment of commitments contained in the Helsinki Final Act and other agreed OSCE documents are the best way to pay tribute to those who struggled for peace, freedom, democracy and human dignity, to commemorate all victims of World War II, to overcome the past, and to save present and future generations from the scourge of war and violence.

56 <www.osce.org/item/41857.html>

I English-language websites on freedom of religion or belief

Oslo Coalition on Freedom of Religion or Belief; a network formed by Norwegian academic, religious and belief communities and NGOs, based in the Norwegian Centre for Human Rights, to work on international religious freedom and tolerance: <www.oslocoalition.org>.

Forum 18; a web and e-mail initiative providing original reporting and analysis on freedom of religion or belief violations: <www.forum18.org>.

The OSCE Office for Democratic Institutions and Human Rights (ODIHR) webpage on freedom of religion or belief: <www.osce.org/odihr/20056.html>.

US Commission on International Religious Freedom; an agency funded by the US Congress providing independent policy recommendations to the US President, the State Department, and the Congress: <www.uscirf.gov>.



NORWEGIAN HELSINKI COMMITTEE
Kirkegata 5, N-0153 Oslo
Telefon: (+47) 22 47 92 02 – Fax: (+47) 22 41 60 76
E-mail: nhc@nhc.no – www.nhc.no