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Key Findings

Despite Azerbaijan's strong tradition of societal religious tolerance, official respect for religious freedom further deteriorated in 2015, along with a sharp decline in respect for democratic norms. Over the past year, the government continued to levy penalties for violations of its repressive 2009 religion law, and also adopted new legal restrictions on religion. Peaceful religious believers, their defenders, and civil society activists were detained, fined, and jailed on various charges. Registration requests from religious groups were delayed or denied and religious groups closed. Based on these concerns, in 2016 USCIRF again places Azerbaijan on Tier 2, where it has been since 2013.

Background

Bordering Armenia, Georgia, Iran, and Turkey, Azerbaijan has a population of approximately nine million. According to the State Department, 96 percent of Azerbaijan's population is Muslim, about 65 percent Shi'a and 35 percent Sunni. The other four percent of the population includes: Russian Orthodox, Armenian Orthodox, and other Christians (including Lutherans, Roman Catholics, Baptists, Molokans, and Seventh-day Adventists); some 20,000 Jews; Baha'is; and non-believers. Among Muslims and Russian Orthodox, religious identity is often based on ethnicity. Shi'a Muslims, Sunni Muslims, Russian Orthodox, and Jews are officially seen as the country's "traditional" religious groups. Some 13 million ethnic Azeris also live in northern Iran.

Independent, pre-Soviet Azerbaijan (1920-1922) was the world's first Muslim-majority secular parliamentary republic with a good record of respect for religious freedom. After the USSR collapsed, Azerbaijan regained independence in 1991. The Nagorno-Karabakh War with Armenia ended in a 1994 cease-fire; Azerbaijan lost 16 percent of its land and gained 600,000 internally displaced persons. The Organization for Security and Cooperation in Europe's (OSCE) Minsk Group, co-chaired by the United States, France, and Russia, mediates this conflict; clashes in September 2015 led to military fatalities.

The Aliiev family, with roots in the Nakhichevan exclave, has dominated Azerbaijan's politics for decades. Heydar Aliiev was the First Party Secretary of Soviet Azerbaijan from 1969 to 1982, and president of independent Azerbaijan from 1993 until his 2003 resignation. Aliiev named his son, Ilham, as his party's sole candidate in a 2003 presidential election. Term limits were lifted in 2009

and Ilham Aliiev has been president ever since. The Azerbaijani government is viewed as corrupt and increasingly authoritarian by human rights activists. Criticism of Azerbaijan's human rights record by UN human rights bodies, including the UN Committee against Torture, continued during the reporting period.

Azerbaijan's 2009 religion law is used to limit religious freedom and to justify fines, police raids, detentions, and imprisonment. The law's provisions include: compulsory state registration with complex and intrusive requirements; no appeal for registration denials; religious activities limited to a community's registered address; extensive state controls on the content, production, import, export, and dissemination of religious materials; and required state-approved religious education to preach, teach religion, or lead ceremonies. Individuals or groups violating the religion law are subject to administrative fines. In 2010, fines for religious organizations increased 16-fold. In 2014, the parliament increased reporting requirements for civil society and religious groups to the State Committee for Work with Religious Organizations (SCWRO), purportedly to prevent the spread of religious extremism and foreign missionary activity.

In 2012, the Council of Europe's Venice Commission and the OSCE issued a legal opinion finding that Azerbaijan's religion law failed to meet its international human rights commitments. In 2014, the European Court of Human Rights (ECtHR) found that the 2009 law gives authorities "unlimited discretionary power" to define and prosecute "illegal" religious activity. The mandate of the OSCE office in Baku expired in December 2015; in a highly unusual move, Azerbaijan did not renew that mandate.

In late June-early July 2015, two USCIRF Commissioners and one staff member visited Baku to meet with government officials, members of various religious communities, and civil society activists.

Religious Freedom Conditions 2015-2016

New Legal Restrictions on Religion

Under religion law amendments adopted in October 2015, religious groups must file reports with the government on their activities and finances, and official religion specialists who evaluate materials and testify at trials must undergo additional state training. The commercial activity law also was amended to empower law enforcement bodies to regulate religious texts and materials. In December 2015, President Aliiev signed into law amendments to the religion law, the criminal code, the administrative code, and the citizenship law, plus a new "religious extremism" law. These amendments were made public only a few days before they were adopted in parliament, Forum 18 reported. The religion law amendments limit religious flags and slogans to places of worship and prohibit Azerbaijani citizens with foreign education and non-Azerbaijani citizens from leading Islamic rituals. Citizens who ignore that ban face a one-year prison term or a fine of US\$1,200-3,000; foreigners or stateless persons face jail terms of one to two years; those who belong to allegedly extremist groups or repeat offenders face two to five-year jail terms. The new extremism law grants officials wide powers over allegedly "extremist" activity. Under the amended citizenship law, citizenship can be stripped from those who are members of allegedly extremist religious groups. The administrative code now sets fines for parents who do not send their children to state schools.

Penalties for Religious Freedom Advocacy

The Azerbaijani NGO Legal Protection and Awareness Society Public Union (LPASPU) compiled a list of 40 Muslims jailed as of 2014 for the non-violent practice of their faith or advocacy for religious freedom. Most were sentenced for publicly protesting what is in effect a ban on headscarves in school. Eleven members of that group are still imprisoned; President Aliiev

pardoned two in March 2015. The trial of lawyer Rasul Jafarov, the LPASPU leader, began in January 2015; although testimony did not support official charges of financial manipulations, he was sentenced to six and a half years in prison. In April 2015, Intigam Aliyev got a jail term of seven and a half years on false charges that included tax evasion; he has presented many religious freedom cases at the ECtHR. After the reporting period, human rights lawyers Jafarov and Aliyev were released under a presidential pardon, but that pardon did not extend to any religious prisoners. In September 2015, journalist Khadija Ismayilova received a prison term of seven and a half years for alleged embezzlement and tax evasion. Known for reporting on high-level corruption, she also advocated for religious freedom. Leila and Arif Yunus, noted human rights activists who also drew attention to religious freedom, were jailed in August 2014. After being sentenced to eight and a half years in prison in August 2015, Leyla Yunus was released and her sentence suspended in December 2015 on the grounds of her deteriorating health. Arif was released for the same reason in November 2015, but neither are allowed to leave Baku.

Penalties for Religious Activity

Mubariz Qarayev, a Sunni Muslim imam from the Lezgin Mosque in Baku, was arrested in March 2015. The Lezgin Mosque is one of many Sunni Muslim mosques the government seeks to close. In October 2015, five Sunni Muslims (Ismail and his brother Zakariya Mammadov, Shahin Hasanov, Eldeniz Hajiyevev, and Revan Sabzaliev) were convicted for reading the works of Turkish theologian Said Nursi; four of the five received five-year prison terms, and their lawyers were not allowed to attend the trial's final session.

In March 2015, the secret police arrested Shi'a Muslim Jeyhun Jafarov, the former host of a TV show about Islam; as of late January 2016, he was still jailed on treason charges. Nuhbala Rahimov, a Shi'a Muslim prayer leader from Rahima Hanum Mosque in Nardaran, was arrested in December 2015; at the end of the reporting period, he is in four months of pre-trial detention facing possible criminal charges.

In January 2016, a Baku court convicted Jehovah's Witnesses Irina Zakharchenko and Valida Jabrayilova for offering one religious pamphlet without an official permit but waived their fines. The two women had been detained for 20 months, including in a secret police investigation prison. The UN and USCIRF had expressed concern over the women's unjust detention and over Zakharchenko's precarious health.

The Muslim Unity Movement

The fundamentalist Shi'a Muslim Unity Movement (MUM) was formed in January 2015 and has been particularly targeted by the state as "terrorists," although the group is not known to use or advocate violence. The group's leader, Imam Taleh Bagirov, has served time in prison on drug charges that his supporters allege were imposed to punish his peaceful religious activities. In November 2015, Bagirov was visiting the Shi'a village of Nardaran when an assault by Interior Ministry forces resulted in the deaths of two police officers and at least five villagers. Police later detained 14 MUM members in Nardaran who face possible life terms. As of February 2016, a total of 60 MUM members reportedly were arrested. Among those arrested during the Nardaran raid was MUM leader Taleh Bagirov, who later sued the government for torture. In February 2016, Bagirov withdrew this complaint, reportedly to prevent further torture of other jailed Muslims.

Government Control through Registration

Registration is mandatory, and religious groups denied registration, or that refuse to register, are deemed "illegal." Members of unregistered religious communities often face raids, confiscation of religious texts, and other penalties. Yet even registered religious groups are allowed only to conduct activity at their legal address and are subject to other restrictions. In 2015, the SCWRO

reported that 510 religious communities were registered in Azerbaijan: the 32 non-Muslim denominations include nine Christian, six Jewish, one Krishna, and one Baha'i denomination. Baptist and Adventist leaders told USCIRF in June 2015 that their churches' rights were circumscribed because the state still had not granted them full registration.

Additional Restrictions on Muslims

Muslims in Azerbaijan are subject to special official restrictions. Police enforce a 2008 decree that does not allow public prayer outside of mosques. The state-backed Caucasus Muslim Board (CMB) dates to the Soviet era. All Muslim religious leaders are named by the CMB and must be citizens educated in Azerbaijan; all mosques must belong to the CMB; and only citizens can establish Islamic communities. By 2014, all Islamic communities that did not belong to the CMB lacked legal status and were vulnerable to police action. In 2010, the Ministry of Education introduced a school uniform, in effect banning the Islamic headscarf. In 2013, that ban was extended to universities, leading to petitions and unauthorized protests. During the reporting period, authorities continued to raid meetings of Salafis and of readers of Said Nursi, as well as alleged followers of the Turkish Islamic leader Fethullah Gulen. According to the State Department, officials and educators lost their jobs if they were suspected of ties to the Gulen movement.

In 2015, the government and the CMB continued its campaign to close Sunni Muslim places of worship. The Lezgin Mosque – one of two Sunni Muslim mosques open in Baku – was again threatened with closure and its imam arrested in March 2015, as discussed above. But Shi'a mosques are far from exempt. After the November 2015 armed assault on the Shi'a village of Nardaran, at least four unregistered mosques were closed; officials said it is illegal for them to host prayers and that these mosques must register and join the CMB, Forum 18 reported.

Status of Religious Minorities

Jewish communities have long lived in Azerbaijan, are well integrated into society, and have rarely faced anti-Semitism; Azerbaijan has close official relations with Israel. There is also a small Catholic community and a unique Udi Albanian church. All three small religious communities enjoy good relations with the government. Most Protestant denominations, however, do not have legal status, including Baptists, Seventh-day Adventists, and Pentecostals, as well as Jehovah's Witnesses. Two Georgian Orthodox communities are registered in the Gakh region, but cannot hold religious services. As of January 2016, the Azeri government continued to deny their priests permits to re-enter the country. The government has not returned any confiscated religious facilities or provided compensation. Baku's renovated Armenian Apostolic Saint Gregory the Illuminator's Church is used by the Presidential Department of Administration Affairs. The Culture Ministry runs a concert hall in the confiscated Lutheran Church building in Baku; the rentals of that building officially are limited to registered religious groups and therefore exclude the Greater Grace Church. In 2015, Jehovah's Witnesses have faced detentions and fines for their religious practice and advocacy.

Status of Conscientious Objection

When Azerbaijan joined the Council of Europe in 2001 it promised to allow an alternative to military service, but has yet to enact such a law. While the constitution allows for alternative service, other laws set two-year prison terms for refusal of military service. Conscripted in October 2013, Jehovah's Witness Kamran Shikhaliev lost another court appeal in November 2015 against his term in a military discipline unit.

Government Censorship of Religious Materials

Penalties for first-time violators of official restrictions and censorship of religious texts include up to two years in jail. A "conspiratorial" or organized group or a repeat offender faces a prison term of between two and five years. Followers of Turkish theologian Said Nursi and Jehovah's Witnesses continue to be detained and imprisoned for their alleged violations of Azerbaijan's laws on religious materials.

Situation in the Nakhichevan Exclave

Residents of the Nakhichevan exclave face more severe religious freedom restrictions than elsewhere in Azerbaijan. Local Sunni Muslims have nowhere to pray. In addition, up to 50 Shi'a mosques – particularly those seen by officials as close to Iran – reportedly were closed. During Shi'a Muslim Ashura ceremonies, police prevented children and students from entering mosques. Many state employees reportedly are afraid to attend mosque services. The Baha'i, Adventist, and Hare Krishna faiths are banned in the exclave.

U.S. Policy

The United States aims to encourage pro-Western democracy and to help build an open market economy in Azerbaijan. Other goals include promoting regional stability, primarily resolution of the Nagorno-Karabakh conflict, enhancing energy security, and fostering economic and political reforms. U.S. companies cooperate in offshore oil development with Azerbaijan. Azerbaijan supports the North Atlantic Treaty Organization (NATO) operations in Afghanistan by participating in the Northern Distribution Network and counters transnational threats, especially from Iran. U.S. assistance helps build capacity for maritime counterterrorism operations, especially in its Caspian Sea area, and provides military security training courses. U.S. civil society assistance in Azerbaijan focuses on small grants for civil society and on civic dialogue.

In February 2015, the United States announced the start of an ongoing U.S.-Azerbaijani dialogue on civil society and democracy to run in parallel with Council of Europe initiatives. On religious freedom, according to the State Department, the U.S. ambassador and other embassy officials discussed registration issues and obstacles to the importation and publication of religious literature with government officials, and met with religious groups. In December 2015, U.S. Congressman and Chair of the Congressional Commission on Security and Cooperation in Europe (Helsinki Commission) Chris Smith introduced the Azerbaijan Democracy Act of 2015. This bill, if enacted, would deny U.S. visas to those senior Azerbaijani government officials who have committed severe human rights abuses.

Recommendations

In order to promote freedom of religion or belief in Azerbaijan, USCIRF recommends that the U.S. government should:

- Urge the Azerbaijani government to reform its religion law to bring it into conformity with recommendations by the Council of Europe's Venice Commission and the Organization for Security and Co-operation in Europe (OSCE) in 2012;
- Urge the Azerbaijani government to cease detaining or imprisoning members of religious groups for peaceful religious activity, religious affiliation, or religious freedom advocacy;
- Ensure that the U.S. Embassy in Azerbaijan maintains appropriate contacts with human rights activists, including at the ambassadorial level;

- Press the government of Azerbaijan to provide every prisoner regular access to his or her family, human rights monitors, adequate medical care, and a lawyer, as specified in international human rights instruments;
- Encourage scrutiny of Azerbaijan's violations of international religious freedom and related norms at the UN and OSCE, and urge the OSCE to engage these issues publicly;
- Urge the Azerbaijani government to agree to visits by the UN Special Rapporteurs on Freedom of Religion or Belief, Independence of the Judiciary, and Torture; set specific visit dates; and provide the necessary conditions for such visits;
- Press the government of Azerbaijan to allow religious groups to operate freely without registration, including amending the religion law's registration requirements;
- Specify freedom of religion or belief as a grants category and area of activity in the Democracy and Conflict Mitigation program of the U.S. Agency for International Development and the Democracy Commission Small Grants program administered by the U.S. Embassy, and encourage the publicly-funded National Endowment for Democracy to make grants for civil society programs on tolerance and freedom of religion or belief; and
- Increase U.S. government-funded radio and Internet programs, particularly in the Azeri language on issues such as religious freedom, including its role in U.S. foreign policy.

Additional Statement by Commissioners Daniel Mark and Katrina Lantos Swett:

We agree with what is written in the chapter on Azerbaijan. We write in order to provide some more context, especially in light of what was learned during the Commissioner-led delegation to Azerbaijan in 2015. This may help explain why Azerbaijan belongs on Tier 2 alongside other countries that might strike some as far more egregious violators of religious freedom.

Azerbaijan, as the chapter notes at the outset, has a long history of religious tolerance among its government and its people. Religious freedom in Azerbaijan has roots going back to its pre-Soviet days. Though Soviet repression of religion must be unequivocally condemned, it also had the result of reinforcing the secular character of the nation, leaving Azerbaijan without an indigenous brand of fundamentalist Islam that infects other countries.

Currently, Azerbaijan has religious tolerance for some minority communities, particularly those with a long history in the country, including Russian Orthodox, Catholics, and Jews. The freedom with which those faith communities live is remarkable and perhaps unique among Muslim-majority countries. It is all the more noteworthy given the conditions elsewhere in Central Asia as well as in the Middle East. Nevertheless, the government's role in restricting religious freedom must not be overlooked.

First, the government regulates all religious communities, requiring registration, limiting activities to specific location, and controlling the importation and production of religious publications, among other violations. USCIRF continues to oppose such regulation of religious communities and activities in many countries. Such regulation of religion is wrong whether it is applied to all religious groups equally or to some groups selectively.

Second, in its effort to prevent the spread of Islamist extremism, the government represses Muslim worship and other religious practice, such as through the closing of mosques and the imprisonment of imams. Even though official concerns about the infiltration of Islamism into Azerbaijan may be warranted to some extent, it is critical that the government not cast too wide a net, deeming all fervent expressions of Muslim faith to be a threat. As religious observance among

Muslims grows in Azerbaijan, there is no easy solution for balancing between preserving religious freedom and combating extremism, but the government's efforts must in any case be more carefully calibrated.

Third, while the government has good relations with some religious minorities, other communities, especially those newer to Azerbaijan, are unnecessarily oppressed. The government seems unprepared to allow society to make room for Baptists, Seventh-day Adventists, Jehovah's Witnesses, and other small Protestant minorities. The government is wrong to see these groups as any sort of threat to the security of the state or the stability of the social fabric.

Finally, it is important to emphasize that the placement of Azerbaijan on Tier 2 points to a worry about the overall trajectory of religious freedom in Azerbaijan. The increasing restrictiveness toward religion, coupled with what appears to be diminishing respect for human rights more broadly, bodes poorly for the future of freedom in general and religious freedom in particular in Azerbaijan. During the USCIRF visit to Azerbaijan, many rightfully expressed pride in the country's tradition of religious tolerance. The placement of Azerbaijan on Tier 2 hopefully serves as an "early" warning sign to encourage change before conditions further deteriorate.

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