



Forum 18 www.forum18.org
The right to believe, to worship and witness
The right to change one's belief or religion
The right to join together and express one's belief

Tolerance and non-discrimination II including discrimination on grounds of beliefs - WS7

At June's SHDM on this topic, former ODIHR Director Michael-Georg Link stated: "in the interest of exercising political control over society as a whole some governments in the OSCE region have imposed far reaching measures that encroach on freedom of religion or belief. The main concern here is to prevent certain religious or belief communities from enjoying a dynamic, vibrant and independent existence for fear that this might in the long run erode the State's control over society". He described this as a particularly significant threat "to our efforts to build flourishing, open, tolerant and inclusive societies - the true and lasting basis of security in the OSCE region". To combat that security threat, the Austrian Chairmanship rightly reminded us of "the pressing need for us to think creatively about ways to meaningfully respect and translate these [human dimension] commitments into action, respecting, in particular, the universality of the right to freedom of religion or belief".

"The universality of the right to freedom of religion or belief" is an indispensable principle and tool in combatting intolerance and discrimination. For freedom of religion and belief is a freedom for all people - including women, LGBTI people, atheists and agnostics. Naming particular kinds of intolerance and discrimination - for example against women - can be helpful. But it is impossible in the OSCE region to understand freedom of religion and belief violations against any one group unless one considers everyone's freedom. A split into isolated categories of 'Anti-Semitism', 'Muslims', and 'Christians and Members of Other Religions' does not reflect reality, promotes negative stereotyping, and discourages co-operative responses. It is like splitting election observation into isolated observer groups: for government voters; for opposition voters; and for those who do not vote. It is far more constructive to focus on the freedom in freedom of religion and belief, as an empowering freedom for everyone with the other fundamental freedoms.

The most systemic and consistent threats to freedom of thought, conscience, religion or belief and other fundamental freedoms come from participating States. Their targets are not isolated categories of religious believers, but any and all people who exercise their fundamental freedoms outside state control. As former ODIHR Director Link stated at the SHDM, "some participating States have gone so far to insist that the exercise of freedom of religion or belief - even of core elements of this human right - requires specific permission from the State, an understanding that goes against the conception of freedom of religion or belief as an inalienable right belonging to everyone, including non-believers, without distinction".

Kazakhstan is one such participating State. There are increasing numbers of prisoners of conscience jailed for exercising freedom of religion and belief, primarily alleged adherents of Muslim missionary movement Tabligh Jamaat. The regime has repeatedly refused to explain what, if any, crime the alleged Tabligh Jamaat adherents have committed. One court verdict accuses the movement of "intolerance" towards Shia Islam - even though the regime itself has banned all Shia mosques and literature. The regime has also jailed Seventh-day Adventist Yklas Kabduakasov for two years from December 2015. The KNB secret police had recruited students to invite him to a flat the KNB rented, and claimed he was spreading "religious discord" when discussing his faith with these KNB informers and offering them Christian books.

One of the regime's latest prisoners of conscience is Jehovah's Witness cancer sufferer Teymur Akhmedov, arrested in January 2017 for discussing his faith with young people recruited as KNB informers. On 2 May he was jailed for five years and banned for a further three years from conducting "ideological/preaching activity". The national cancer centre has stated that he needs to be hospitalised for an operation, so his jailing breaks the *UN Standard Minimum Rules for the Treatment of Prisoners* (known as the *Mandela Rules*). The judge claimed this was necessary to defend "a civilised society". Whilst so flagrantly violating their commitments, Kazakhstan and participating States such as Azerbaijan claim that they are places where "tolerance" and "dialogue" flourish.

Akhmedov has also been tortured in detention, but against the *UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* - and as in other cases - no officials have been arrested or tried for torturing prisoners of conscience jailed for exercising freedom of religion and belief. However, Akhmedov's lawyers were threatened with criminal trial for "revealing information from a pre-trial investigation". Their "crime" was to send copies of their legal appeal to President Nazarbayev and the Foreign Ministry.

Other freedom of religion or belief violations include mosques outside state control and non-Sunni Hanafi Islam being banned. All discussion of faith by people without state permission, or not using state-approved texts, or outside state-approved locations, is banned. Almaty's Source of Life Protestant Church, the city's Jehovah's Witnesses Centre, and Oskemen's New Life Protestant Church have all this year received three month bans from meeting for worship. And new legal changes imposing further restrictions on freedom of religion and belief are planned. The regime's commitment to the "dialogue" it loudly claims may further be judged by, among other things, its ludicrous claim to have won almost 98 per cent of the vote in April 2015's presidential "election".

The best antidote to this kind of politicisation of freedom of religion and belief is possibly that outlined in the *European Union Guidelines on the promotion and protection of freedom of religion or belief*. They note that: "Religious tolerance as well as inter-cultural and interreligious dialogue must be promoted in a human rights perspective, ensuring respect of freedom of religion or belief, freedom of expression and other human rights and fundamental freedoms".

The need for a human rights-based approach is highlighted by another equal opportunity oppressor, Azerbaijan, which claims to be "an example of tolerance" yet has repeatedly closed Sunni Muslim mosques. A 2014 police list of banned books includes Islamic texts by theologian Said Nursi, Jehovah's Witness texts, and the Old Testament or Hebrew Bible used by Christians and Jews. Police have long confiscated these texts and others during raids on Muslim, Jehovah's Witness, and Baptist private homes and meetings of people exercising their right to freedom of religion or belief. There are many prisoners of conscience, especially human rights defenders and journalists. On 3 July 2017 Shia Imam Sardar Babayev was jailed for three years for leading mosque prayers because he was educated abroad. The regime has a record of torturing prisoners of conscience, with impunity for the torturers.

Participating States which seriously violate their human dimension commitments normally deny the reality of their actions, sometimes claiming security as the excuse for their violations. Yet as Maastricht 2003 put it, "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". What can constructively be done? Implementing OSCE human dimension commitments has been shown, for example in the north of Ireland, to be a highly effective way of addressing the root causes of insecurity. So participating States, OSCE institutions and field operations, and civil society could:

- understand in concrete terms the serious violations of the freedom of religion or belief and interlinked freedoms of expression, assembly and association taking place in the OSCE region - including the targetting by some participating States of women exercising these freedoms;
- mainstream freedom of religion or belief work within an all human rights for all perspective, stressing implementation of all fundamental freedoms, including to be free from torture;
- insist in line with human dimension commitments that the non-negotiable most effective step to ensure security is to fully implement fundamental freedoms commitments;
- challenge the misuse of concepts such as "anti-terrorism", "extremism", "religious tolerance", and "dialogue" to disguise human dimension commitment violations;
- use tools such as the *EU Guidelines on the promotion and protection of freedom of religion or belief*¹, the *OSCE/Venice Commission Joint Guidelines on the Legal Personality of Religion or Belief Communities and on Freedom of Association*, the *OSCE Guidelines on Freedom of Peaceful Assembly*, and on the *Protection of Human Rights Defenders*.²

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¹ http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/137585.pdf

² <http://www.osce.org/gsearch?qr=Guidelines>