



Forum 18 News Service <http://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

Working Session 6 - Freedom of religion or belief - Implementing this fundamental freedom

Our Agenda rightly calls attention to the need for participating States to implement their commitments to ensure and promote freedom of thought, conscience, religion or belief. Implementation is key for a security organisation such as the OSCE. For as the human dimension commitments from the Helsinki Final Act onwards recognise, national and international security and human rights depend on each other. Yet participating States continue to undermine their stated goal of comprehensive security by violating their own commitments, and are the worst violators of human rights in the OSCE region. There is not time to outline all the many such violations Forum 18 has documented, but analysing even a small sample can point to constructive responses to violations.

Two particularly disturbing freedom of religion or belief violations involve Kazakhstan's apparent misuse of psychiatry. *(This misuse also appears to be happening in the case of Kazakh human rights defender Zinaida Mukhortova, a case in which the freedom of religion or belief is not one of the rights engaged.)* Atheist writer and anti-corruption campaigner Aleksandr Kharlamov and Presbyterian pastor Bakhytzhon Kashkumbayev have both been arrested and still face trials. Kharlamov was in pre-trial detention from his 14 March arrest to 4 September for "inciting religious hatred", and although sane has been subjected to repeated forcible psychiatric examinations. Kashkumbayev was arrested on criminal charges of "harming health" on 17 May and is still detained - including having had one month in a psychiatric hospital. This is even though the only person whose health the state claims was harmed told Forum 18 that Kashkumbayev is "totally innocent and has not harmed my health at all". She herself was subjected to forcible psychiatric treatment by the state. Asked whether the use of psychiatry in these cases may be a return to Soviet-era misuse of psychiatry, a Prosecutor claimed to Forum 18 that the Criminal Procedure Code "necessitates such assessment in order to determine whether the suspects can be answerable for serious crimes". Family members and lawyers of both prisoners have been denied access as well as information on where the prisoners are.

After speaking at last year's HDIM about torture in Kazakhstan, human rights defender Vadim Kuramshin was arrested three days before he intended to hold a press conference in support of the independent - and now stripped of legal status - 19th century Din-Muhammad Mosque. *(In December 2012 Kuramshin was sentenced to 12 years in jail, the trial and sentence being condemned by Kazakh and international human rights defenders.)* Mosques outside Kazakhstan's state-backed Muslim Board are being denied re-registration - and so permission to exist and meet - if they will not join the Board, with independent and ethnic minority mosques being particularly targeted. All Ahmadi Muslim communities have been forcibly closed and banned from meeting for worship. The only school of Islam permitted by the state to exist is Hanafi Sunni Islam.

Officials routinely deny such violations, President Nazarbaev claiming on 17 April to visiting Finnish President Niinistö that "Kazakhstan is an example to the world of equal rights and freedoms for all citizens" and that "religious freedom is fully secured". Officials make claims of "tolerance" and "dialogue". Such claims aim to empty language of meaning, and deny binding obligations to ensure and promote fundamental rights. The Norwegian Helsinki Committee and Freedom House further analyse this systemic misuse of language in their "cunning democracy" side event on Friday lunchtime.

Turkmenistan is another participating State whose officials routinely deny the government's human rights violations. The Foreign Ministry insisted to the UN Human Rights Council on 4 September that: "there are no laws restricting the activities of religious organisations and allowing the criminalisation of religious activities only due to the absence of legal registration." Officials have refused to explain why this statement was made the same month a new Code of Administrative Offences was adopted - with no public consultation - which reinforces existing punishments for exercising freedom of religion or belief. To take only one example, refusal to register a religious organisation or leading it is punished with fines, violating the country's Constitution and international human rights obligations.

The state has also punished those bringing issues to international attention. On 24 January, after the UN Human Rights Committee sought a response from Turkmenistan to complaints by 10 Jehovah's Witness conscientious objectors, about 30 police officers raided the lead complainant's family home in the northern city of Dashoguz. Six people were taken to a police station, all being beaten and tortured. One female detainee was threatened with being raped on a table in the police station. Three were then fined the equivalent of two months average wages for exercising freedom of religion or belief without state permission. The raid, detentions, torture, beatings, threats and fines "were obviously designed to punish and intimidate the Nasyrlyayev family for the 10 complaints of conscientious objectors to military service filed against Turkmenistan," the conscientious objectors' lawyer complained to the Office of the UN High Commissioner for Human Rights. Such official violence is common in Turkmenistan. No state official was prepared to discuss the violations with Forum 18, including officials of the National Institute for Democracy and Human Rights. "No one has the right to beat me, humiliate me or hang me to the point of my passing out", one of the torture victims stated.

Turkmenistan continues to jail conscientious objectors to military service, the most recent known sentence being an 18-month term imposed on prisoner of conscience Amirlan Tolkachev on 10 July.

As these and many other violations documented by Forum 18 demonstrate, splitting consideration of freedom of religion or belief violations three ways - into 'Muslims', 'Jews', 'Christians and others' - fails to grasp their reality, interconnectedness with other human rights, and seriousness. This is especially so when violations - which would if carried out by non-state actors be hate crimes - are committed by participating States. Phobia language is also problematic. Both approaches encourage biased agendas obscuring the reality of situations they purport to describe. Such approaches also encourage negative stereotyping and discourage co-operative responses to violations. Against this, many followers of religious and philosophical traditions - including Judaism, Islam, Christianity and beliefs such as atheism - insist that their beliefs require them to defend the dignity of all people with no exceptions.

Splitting freedom of religion or belief three ways is rather like the kind of absurdity that would see election observation missions having three entirely isolated groups of observers: for those who vote for governing parties; for those who vote for opposition parties; and for those who do not vote.

Indeed, phobia language and splitting freedom of religion or belief issues three ways caricatures the reality that participating States, in the OSCE region the worst violators of human rights, normally target followers of any religion or belief which they see as outside state control - not just the followers of one religion or belief.

In contrast, examples of participating States constructively responding to freedom of religion or belief and interlinked human rights violations include the European Union's *Guidelines on the promotion and protection of freedom of religion or belief*.¹ They offer concrete responses developed in consultation with civil society organisations, including member organisations of the European Platform on Religious Intolerance and Discrimination (EPRID) alongside Forum 18 and the Swedish Mission Council. They translate into policy an insight of former UN Special Rapporteur on Freedom of Religion or Belief Asma Jahangir: "When I am asked which community is persecuted most, I always reply 'human beings'".

To assist implementation of human dimension commitments, recommendations for participating States and OSCE institutions and field operations would include:

- insisting that the politically binding human dimension commitments to ensure freedom of religion or belief and related human rights are implemented in full by all participating States;
- identifying freedom of religion or belief violations against particular people or communities as attacks on the fundamental rights and freedoms of all people;
- and mainstreaming the commitments to ensure and promote freedom of religion or belief for all and its interlinked human rights, taking advantage of resources such as the *EU Guidelines on the promotion and protection of freedom of religion or belief*, the *ODIHR/Venice Commission Guidelines for Review of Legislation pertaining to Religion or Belief*, and the forthcoming *ODIHR Guidelines on Recognition of Religious or Belief Communities*.

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