



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

Security, state control, and freedom of religion and belief

Fundamental freedoms I, including freedom of thought, conscience, religion or belief - WS7

In July Kyriakos Kyriakou-Hadjjiyianni, rapporteur of the OSCE Parliamentary Assembly's Committee on Democracy, Human Rights and Humanitarian Questions, highlighted the OSCE's goal of being "a security community", stating that "such a community must be based on democratic institutions, primarily impartial and independent judiciaries and on inclusive societies underpinned by fundamental rights and freedoms". Human dimension commitments from the Helsinki Final Act onwards underline this, Kyiv 2013, for example, "emphasizing the link between security and full respect for the freedom of thought, conscience, religion or belief".

Yet as our Annotated Agenda reminds us, "the perception in some parts of the OSCE region seems to be that the exercise of freedom of religion or belief requires specific permission from the state. Such an understanding goes against the concept of freedom of religion or belief as an inalienable right belonging to everyone without distinction". In Uzbekistan for example, all exercise of freedom of religion or belief with others without state permission is illegal, and there is total state control of the Muslim community. In May 2018 two new restrictive requirements for seeking state permission to exist were added, and punishments for seeking state registration have included in 2018: being fined for applying for registration; being tortured after trying to get state registration; and being fined for providing documents for registration. Kazakhstan also makes the exercise of this freedom dependent on state permission, prisoners of conscience jailed for exercising freedom of religion and belief being primarily alleged adherents of Muslim missionary movement Tabligh Jamaat. In the past they have included Protestants, a Jehovah's Witness, and an atheist. In 2017 at least 284 individuals, religious communities, and others were prosecuted for exercising freedom of religion and belief without state permission. The "offences" included meeting for worship without state permission, offering religious literature, icons or other items for sale or free-of-charge without state permission, and Muslims praying in mosques in ways banned by the state-controlled Muslim Board - for example by using the word Amen aloud. Punishments included fines, a three-day jail sentence for refusing to pay an earlier fine, temporary or permanent bans on activity (including bans on entire communities meeting for worship), and confiscation and destruction of religious literature.

Wide-ranging draft legal changes now under consideration would impose even greater restrictions on exercising freedom of religion and belief without state permission, Kazakhstan claiming that this implements human rights obligations, and that people who exercise freedom of religion and belief without state permission are a "risk group" who may get involved in "terrorism". As human rights defender Yevgeni Zhovtis, of the Kazakhstan International Bureau for Human Rights and Rule of Law, has commented: "Instead of a normal partnership and mutual respect, the authorities begin to intimidate society. Experience shows this, such measures mainly 'hit' not the extremists and radicals, but law-abiding citizens, at the same time reducing their loyalty and civic sense".

His words highlight the wisdom of our Annotated Agenda inviting us to "examine and reflect on progress toward the full implementation of OSCE commitments in light of current challenges, particularly in the intersection of freedom of religion or belief and security". Freedom of religion and belief violations attack deep-rooted personal identities and values, including those of atheists and agnostics, and therefore make existing tensions more difficult to resolve and add new conflicts. Serious freedom of religion and belief violations normally take place in societies where the rule of law is weak, and which deny women equality. As former UN Special Rapporteur on Freedom of Religion and Belief Asma Jahangir commented: "When I am asked which community is persecuted most, I always reply 'human beings'". So the best approach is to focus on the freedom in "freedom of religion and belief", as an empowering freedom for everyone with the other fundamental freedoms.

Current UN Special Rapporteur on Freedom of Religion and Belief Ahmed Shaheed has stated that the lack of freedom of religion or belief and linked fundamental freedoms in his home country of the Maldives is directly connected with there being no independent parliament or judiciary. As he said in his January 2017 report: “any and all limitations must be the exception, not the rule. Moreover, the burden of justification for such restrictions falls on those who wish to impose them”.

In April 2017, three UN Special Rapporteurs underlined the importance of - as our Annotated Agenda notes - the existing commitments laying down that “the right to freedom of religion or belief ... will not be subject to any restrictions except those ... consistent with other obligations under international law”. In relation to Russia’s nationwide Jehovah’s Witnesses ban the Special Rapporteur on Freedom of Opinion and Expression David Kaye, then-SR on the Freedoms of Peaceful Assembly and Association Maina Kiai, and SR on Freedom of Religion and Belief Ahmed Shaheed stated that “the use of counter-extremism legislation in this way to confine freedom of opinion, including religious belief, expression and association to that which is state-approved is unlawful and dangerous, and signals a dark future for all religious freedom in Russia”. These warnings have been confirmed by Russia’s increasing numbers of prisoners of conscience jailed for exercising freedom of religion and belief. From June 2017 onwards six Muslims have been jailed for periods of between two and eight years for meeting with other Muslims to study theologian Said Nursi’s writings. Other prosecutions are in progress. Typically, such Muslims meet without state permission in private homes to study Islam, with one or more expounding Nursi’s works, and to pray, eat, and drink tea together. Also Jehovah’s Witnesses are increasingly being detained for long periods of a year or more simply for exercising their freedom of religion and belief, at least 50 Jehovah’s Witnesses are being investigated on “extremism” criminal charges, with 21 men and 1 woman known to be in detention, 3 more under house arrest and 27 under travel restrictions.

State control of society is the goal of many participating States, using as our Annotated Agenda reminds us unjustifiable excuses such as alleged “security” concerns to justify violating international obligations. As then-UN Special Rapporteur on Freedom of Religion and Belief Heiner Bielefeldt said in August 2016: “Freedom of religion or belief rightly has been termed a ‘gateway’ to other freedoms, including freedom of expression and freedom of peaceful assembly and association. There can be no free religious community life without respect for those other freedoms, which are closely intertwined with the right to freedom of religion or belief itself. This is exactly what worries authoritarian Governments and often causes them to curb freedom of religion or belief”¹.

So to understand and address implementation gaps, as well as to assist OSCE participating States to advance freedom of religion or belief for all while ensuring security, participating States, OSCE institutions and field operations, and civil society could:

- monitor and analyse in concrete terms violations of everyone’s freedom of religion or belief and interlinked freedoms of expression, assembly and association 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 commitments² 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*³, 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*.⁴

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¹ http://www.ohchr.org/Documents/Issues/Religion/A-71-269_en.pdf

² http://www.forum18.org/archive.php?article_id=1351

³ http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/137585.pdf

⁴ [https://www.osce.org/resources/publications/Guidelines%20Belief?filters=+im_taxonomy_vid_22:\(464\)&solrsort=score%20desc&rows=50&category=Publications](https://www.osce.org/resources/publications/Guidelines%20Belief?filters=+im_taxonomy_vid_22:(464)&solrsort=score%20desc&rows=50&category=Publications)