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*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 2 - Fundamental freedoms - Freedom of thought, conscience or belief*

At the last HDIM Ambassador Lenarčič rightly described freedom of religion or belief as “one of the most central and longstanding of the OSCE human dimension commitments.” Participating States have often reaffirmed - as in the 1989 Vienna Concluding Document - that they will “respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all.” Vienna 1989 - foreshadowing much in that extraordinary year - states the reason for the commitment: it “is an essential factor for the peace, justice and security necessary to ensure the development of friendly relations and co-operation.” In the experience of participating States, violating freedom of thought, conscience or belief for all causes and encourages tensions, creating insecurity and conflict.

So it is vital to move “from commitments to implementation”, as this year's SHDM on freedom of religion or belief put it. Many at the SHDM supported this, calling for the Chairperson-in-Office in particular to set a good example in implementation. Unfortunately Kazakhstan continues to violate its commitments, violations documented by Forum 18 including: literature censorship; state encouragement of religious intolerance; legal restrictions on freedom of religion or belief; raids, interrogations, threats and fines of registered and unregistered religious communities and individuals; unfair trials; the jailing of some particularly disfavoured believers; restrictions on the social and charitable work of religious communities; close police and KNB secret police surveillance of religious communities; and attempts to deprive religious communities of property. These violations interlock with violations of other fundamental freedoms, such as freedom of expression and of association.

Kazakhstan asserted in late 2008 that the ODIHR had blocked publication of an OSCE Legal Opinion on a draft Law imposing restrictions on freedom of religion or belief, even though the ODIHR publicly stated that it had recommended - as is normal practice - that the Opinion be made public. The draft Law was eventually rejected, although noted human rights defenders - such as Yevgeni Zhovtis of the Kazakhstan International Bureau for Human Rights and Rule of Law - warned that the restrictions may be brought back after the Chairperson-in-Office term ends.

This year's SHDM on freedom of religion or belief addressed the status and autonomy of religion or belief communities, and the ability of individuals - on their own or in community with others - to act on their religion or belief. From the Helsinki Final Act onwards, participating States have committed themselves to implementing freedom of religion or belief for all - irrespective of whether or not the people concerned have state permission for their religious activity, such as meeting for worship. Despite this, some participating States insist on state registration as a precondition for exercising freedom of religion or belief. Uzbekistan, for example, makes all non-state registered religious activity a criminal offence and has banned in the country's north-west all religious activity that is not either state-controlled (as against independent) Muslim, or Russian Orthodox Christian. This kind of restriction is an attempt - which as Forum 18 has documented has failed - to make the very existence of a group of people exercising a fundamental freedom dependent on state permission. Belarus, Azerbaijan, Kyrgyzstan and Turkmenistan are amongst other participating States which make such attempts, and Tajikistan has banned Jehovah's Witness and Protestant organisations.

To ban unregistered religious activity and existence is inherently absurd, as it denies the truth that fundamental freedoms are not gifts of the state, but - as the Helsinki Final Act states - “derive from the inherent dignity of the human person and are essential for his [sic] free and full development.”

Religious or belief community registration systems are not of themselves a violation of the human dimension commitments. But as with any legal tool, it's worth asking the question: Is this needed at all? Some participating States, such as Ireland, see no need for them. Instead, all civil society groups - including all religious or belief communities - have access to simple, quick mechanisms to enable them to gain legal status, as well as tax and charitable benefits. But these mechanisms are not compulsory, nor doctrine tests, nor preconditions for meeting together, worshipping, and carrying out other

peaceful religious activity. Their role is to enable and not restrict fundamental freedom - a fundamental part of implementing the human dimension commitments.

Enabling people who wish to practice a religion or belief to have a place of worship is one of the most basic ways in which a participating State can implement its commitments to freedom of religion or belief, as this year's SHDM noted. Closely linked with this is the freedom to meet together for worship and the study of sacred texts in small groups in informal settings, such as a private home - and indeed the right to freedom of association. This is particularly important in those participating States which try to make the existence of a community depend on state permission. Followers of many religions and beliefs consider that an essential part of their belief is to be able to meet with their co-believers for study, discussion, worship and prayer. Indeed, as a Turkmen Protestant put it to Forum 18, "without freedom to meet for worship it is impossible to claim that we have freedom of religion or belief."

However, many participating States actively oppose implementation of their commitments. Uzbekistan continues - as does Belarus - to ban meetings together for worship in non-registered places such as homes, and routinely raids believers gathered for worship. The result can be enormous fines of up to 100 times the minimum monthly salary - as has happened to groups of Uzbek Baptists this year. Such raids often involve Criminal Investigation and Counter-Terrorism Departments of the police, raising serious questions about the genuineness of police and state commitment to addressing real threats of organised crime and terrorism. In one case this year, police arrested church members and claimed Baptists were "at risk of danger in the case of a terrorist act which could be carried out by people in their home." Similarly, Uzbekistan has taken action against Christian and Muslim schoolchildren who attend churches and mosques. This raises the issue of the ability of people to freely use a place of worship. How far can a community be said to have a place of worship if people cannot freely use it?

Amongst other human dimension commitment violations involving places of worship documented by Forum 18 are: Tajikistan, where mosques, churches and a synagogue have been demolished or confiscated, and preaching from the Koran is only permitted within "cathedral" mosques; Kyrgyzstan, where Protestants, Baha'is, Jehovah's Witnesses and Hare Krishna devotees have great difficulties - especially in rural areas - caused by the authorities' refusal to defend their right to bury their dead according to their own rites; Kazakhstan, where there have been persistent attempts to remove property from religious minorities; Azerbaijan where mosques have been closed, Muslims banned from praying outside mosques during Friday prayers, and Georgian Orthodox and Baptist churches banned from re-opening; Serbia, where there are continuing attacks on places of worship, although these are declining in an improved media and political climate for vulnerable groups; and Turkey, where religious communities still cannot own their own places of worship, and some vulnerable groups have needed to hire guards to protect their places of worship.

Much more could be said on human dimension commitment violations in 2009, for example Uzbekistan's jailing of 47 followers of the approach to Islam of the theologian Said Nursi. So what can be done? This year's SHDM and previous HDIMs have heard excellent recommendations, including that:

- violations of human rights are to be seen as not only attacks on particular people or communities, but also as attacks on the fundamental rights and freedoms of all people;
- insisting that politically binding human dimension commitments are for implementation by all participating States - especially by those holding the function of Chairperson-in-Office;
- OSCE field operations mainstream freedom of religion or belief in human dimension work;
- OSCE field operations and other institutions take full advantage of the ODIHR's expertise to assist participating States with implementing their freedom of religion or belief commitments;
- the ODIHR continues to affirm in its work the dependence of genuine tolerance and non-discrimination on effective respect for fundamental human rights and the rule of law;
- and that resources be provided to enable the work of the OSCE / ODIHR Advisory Council of Experts on Freedom of Religion or Belief to be expanded.

Those who, under immense pressures, exercise their right to freedom of religion and belief put the human dimension commitments into action. They actively assist us to move "from commitments to implementation". Our part in this struggle is to do what we can to help make this fundamental human dimension commitment a living reality for everyone in the OSCE region.

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