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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 I: Freedom of thought, conscience, or belief

In last December's Astana Commemorative Declaration in Kazakhstan, Heads of State or Government of participating States "reaffirm our full adherence to the Charter of the United Nations and to all OSCE norms, principles and commitments" and state their "responsibility to implement them fully and in good faith". They also "reiterate that human rights and fundamental freedoms are inalienable, and that their protection and promotion is our first responsibility" and state that "greater efforts must be made to promote freedom of religion or belief". The Declaration also notes the interlinked nature of human rights, a point expanded upon in the *Guidelines on Freedom of Peaceful Assembly* drafted with the help of now imprisoned Kazakh human rights defender Yevgeny Zhovtis.

So following the Astana Declaration it is particularly disappointing that the host, last year's Chair-in-Office, is as we speak breaking the commitments it solemnly reaffirmed. With "unprecedented speed" as one observer put it, a new Religion Law and another law amending nine other legal provisions affecting freedom of religion or belief is being rushed through parliament - these may even be passed on Thursday, Forum 18 has learned. These two laws will, among other violations of the country's human dimension commitments ban unregistered religious activity and impose a complex four-tier registration system which appears to be designed to obstruct freedom of religion or belief - for example the requirement for state officials to check a group's ideas before a group's registration is granted. They will also: impose compulsory censorship of religious literature and objects, also restricting who can produce them, and who and where they can be distributed; seriously restrict the rights of children to be involved in religious activity; require national and local permission before any new place of worship is opened; require a licence for any institution sending students to study abroad.

The OSCE is a security organisation. A key insight behind commitments from the Helsinki Final Act onwards is that national and international security and human rights depend on each other. A study published this January by Cambridge University Press, *The Price of Freedom Denied* by Brian Grim and Roger Finke, shows that worldwide restricting religious freedom fuels social tensions and violence. Some then demand even more restrictions, so further fuelling the very tensions and problems that are claimed as the reason for restrictions. This certainly matches Forum 18's experience monitoring and analysing countries like Uzbekistan. Grim and Finke's study also notes that where religious freedom is allowed to flourish, democracy and development goals such as wider availability of health care and educational opportunities for women also tend to benefit.

It is in this context that legal reviews provided by the ODIHR's Advisory Council of Experts on Freedom of Religion or Belief, with the Council of Europe's Venice Commission, can be of great benefit to participating States. When Kazakhstan in 2008-9 put forward restrictions on freedom of religion or belief, the Advisory Council produced a careful 44 page legal analysis, outlining the ways in which that package failed to meet international standards including OSCE commitments. It is much to be regretted - not least from a security perspective - that the points made in that review have apparently been ignored in drafting the latest package, especially as preparations for the current package have been continuing since at least September 2009, as the National Human Rights Action Plan of that month indicated.

Implementing human dimension commitments is about far more than having just and non-discriminatory laws. There must also be - among other things - the rule of law, and an active respect and co-operation with civil society in implementing commitments. This wider context in Kazakhstan - and many other participating States - is not encouraging. Officials and state-backed organisations have launched campaigns encouraging intolerance of the freedom of religion or belief of those who follow so-called "non-traditional" faiths. Independent mosques in Kazakhstan have been threatened by officials that if they do not join the Muslim Board, they will not be re-registered after - not if - the draft Religion Law is adopted. This would effectively ban them, as - against the country's human

dimension commitments - unregistered religious activity will be banned. Such threats by state officials continue, as one Imam explained: "I have no peace. They keep calling my phones almost every day several times," he said. "They forced me to break my fast before it is time to do so, and even now when I am again fasting trying to make up for the lost time of the fast during Ramadan, they give me no peace." This is despite Article 19, Part 2 of the current National Security Law banning interference by the state in religious communities.

After legal residence in Kazakhstan for 15 years, marriage to a Kazakh citizen and with a two-year-old daughter, a Russian citizen was in mid-August denied his application to renew his residence permit because he preaches in his local Protestant church, according to documentation seen by Forum 18. No court order authorised this de facto expulsion. In August a Baptist was fined nearly five months' minimum wage for holding an unregistered worship service - even though under the current Religion Law - which may be replaced - "worship services, religious rites and ceremonies may be conducted without interference in private homes and flats of citizens." As Baptists pointed out, they were merely exercising their rights under the Constitution's Article 32, which states that citizens have the rights to "peacefully and without weapons to assemble, conduct gatherings, and meetings". They commented on the police raid on their worship that "during our worship service we did not threaten state security, did not disturb public order, did not infringe on the rights and freedoms of others, and did not threaten public health. So any limitation put on our worship is unlawful."

As the reference to freedom of peaceful assembly indicates and the *Guidelines on Freedom of Peaceful Assembly* underline, freedom of religion or belief is inseparably linked with the rule of law and the other fundamental freedoms. And so it is not surprising that when freedom of religion or belief is attacked in a participating State, other fundamental freedoms and the rule of law are also under threat, as is seen to be the case with the freedoms of assembly and association of striking oil workers in Kazakhstan. So it is vital to recognise that such violations affect everyone - not just followers of one religion or belief, such as in the OSCE context those falling within the separate categories of 'Anti-Semitism', 'Muslims', and 'Christians and Members of Other Religions'. Indeed, one cannot understand the reality of violations by looking at particular types of believers in isolation - just as it is absurd to look at political rights by looking at the rights of supporters of particular political parties in isolation. As former UN Special Rapporteur on Freedom of Religion or Belief Asma Jahangir commented: "When I am asked which community is persecuted most, I always reply 'human beings'".

There is not time to cover all the problems with implementing of freedom of religion or belief commitments in participating States. These include but are not limited to: Armenia with 70 jailed conscientious objectors and where minority groups are bullied by dominant churches linked to national identity; Belarus which continues to deny freedom of religion or belief to political prisoners of conscience; Turkey which denies the rights to conscientious objection and independent legal status for religious communities; and Tajikistan with its almost complete ban on religious activity by children up to the age of 18, and mosque closure campaigns. But I end by quoting a human rights defender in Turkmenistan, Natalya Shabunts. Writing of a church's solidarity with its pastor, jailed after a rigged trial for four years, she wrote: "One thing shines through from this sordid tale: no church member betrayed their pastor and almost all came to the court. In a country where fundamental human rights are violated on a daily basis and an atmosphere of fear prevails before the unpunished actions of the 'law-enforcement agencies', this is a very bold move."

To stand in solidarity with civil society activists working for the implementation of human dimension commitments, recommendations for participating States and OSCE institutions would include:

- freedom of religion or belief violations 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;
- OSCE institutions and field operations mainstreaming freedom of religion or belief for all in human dimension work, taking full advantage of the ODIHR's expertise;
- and implementing in full legal reviews and opinions provided by the Venice Commission and OSCE/ODIHR Advisory Council of Experts on Freedom of Religion or Belief.

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