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RELIGIOUS FREEDOM IN AZERBAIJAN

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Introduction

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organisation dedicated to promoting and protecting human rights around the world. The ECLJ holds Special Consultative status before the United Nations Economic and Social Council[1]. The purpose of this report is to raise concerns regarding human rights violations in the Azerbaijan Republic for the 2017 Universal Periodic Review (UPR). These violations primarily stem from President Ilham Aliyev's continued efforts to curb freedom of religion and freedom of expression[2].

Constitutional Provisions and International Agreements Guaranteeing Freedom of Religion

2. Azerbaijan's Constitution specifically states that all religions are equal before the law, and that "[e]veryone has the right to define his/her attitude to religion, to profess, individually or together with others, any religion or to profess no religion, to express and spread one's beliefs concerning religion"[3]. The Constitution also promises freedom of expression by stating that "[e]veryone may enjoy freedom of thought and speech"[4]. While the Constitution prima facie declares these freedoms, it contradicts itself within other sections by restricting freedoms of religion, as discussed in the next section.

3. In addition to the constitutional provisions, Azerbaijan is also bound by Articles 18 and 19 of the International Covenant on Civil and Political Rights (ICCPR)[5], which Azerbaijan has ratified without reservations or interpretive declarations[6]. Contrary to the constitutional guarantees and international covenants, the Azeri government continues to persecute its citizens through its law.

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[1] *Integrated Civil Society Organizations System*, NGO BRANCH, U.N. DEP'T OF ECON. & SOC. AFF., http://esango.un.org/civilsociety/ (last visited 7 Sept. 2017) (discussing consultative status in 2007 for the European Centre for Law and Justice by searching "European Centre for Law and Justice" in the iCSO Database).

[2] *"Revolving Doors": The Ongoing Persecution of Government Critics in Azerbaijan*, AMNESTY INT'L (16 June 2016), https://www.amnesty.org/en/documents/eur55/4268/2016/en/ [hereinafter *Revolving Doors*]; *Azerbaijan criminalizes defamation of the president*, REUTERS (30 Nov. 2016, 3:32 PM), http://www.reuters.com/article/us-azerbaijan-defamation/azerbaijan-criminalizes-defamation-of-the-president-online-idUSKBN13P2OT.

[3] AZER. CONST. art. 48, § II, *available at* http://en.president.az/azerbaijan/constitution.

[4] *Id*. art. 47, § I.

[5] G.A. Res. 2200A (XXI), International Covenant on Civil and Political Rights, art. 52 (16 Dec. 1966) [hereinafter ICCPR].

[6] *Status of Ratification Interactive Dashboard*, OFF. U.N. HIGH COMMISSIONER FOR HUMAN RIGHTS, http://indicators.ohchr.org/ (last accessed 7 Sept. 2017) (accessed by selecting Azerbaijan from the countries list).

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Despite the Constitutional Provisions for Freedom of Religion, Other Laws Unduly Restrict that Freedom

5. The Azeri Constitution contains specific exceptions to the freedoms of expression and religion, which it claims are in line with the restrictions allowed by the ICCPR. However, the restrictions are broader than what is allowed under the ICCPR's public order and public morals exceptions. Moreover, in practice, the government uses restrictions to stifle its minority citizens' rights to freedom of religion. For instance, in direct contradiction to its own constitutional provisions that allow religious freedom, Article 48 states that religious rituals "should not violate public order and contradict public morals; Religious beliefs and convictions do not excuse infringements of the law"[7]. Article 18 bans "[t]he spread and propaganda of religions (religious movements) which humiliate human dignity and contradict the principles of humanity"[8]. Article 47 restricts freedom of expression if it is provocative: "Propaganda provoking racial, national, religious, social animosity or hostility or relying on any other criteria is inadmissible"[9].

6. The Azeri government uses these sections of the Constitution to justify additional laws that amount to persecution against minority faiths within Azerbaijan. For example, the Law on Freedom of Religious Belief takes the constitutional provisions that contain restrictions on religion a step further by declaring that "Foreigners and persons without citizenship shall be prohibited to [sic] conduct religious propaganda"[10]. This law also states that the government shall not interfere with religious activities[11]. However, it then contradicts itself by requiring all religious associations, or a religious commune greater than nine persons, to register with the government or risk a conviction of illegal assembly[12].

7. Furthermore, the Azeri government created an authoritative body of executive power for religious affairs, the State Committee for Work with Religious Organisations (SCWRO), which interprets and enforces the Law on Freedom of Religious Belief[13]. The SCWRO continues to increase its control of religious communities with prohibitions on media, publications, the disbursement of information, and proselytism[14]. The state censorship law, Article 22, requires that printed and published religious literature be approved by the SCWRO before it can be sold or distributed[15]. An individual or organisation faces either heavy fines or imprisonment if these

[7] AZER. CONST. art. 48, §§ III, IV.
[8] *Id*. art. 18, §§ II, IV.
[9] *Id*. art. 47, § III.
[10] *Law of the Republic of Azerbaijan*, On Freedom of Religious Belief (1992), ch. I, art. 1, *available at* http://scwra.gov.az/upload/Files/Law%20of%20the%20Republic%20of%20Azerbaijan%20On%20Freedom%20of%20Religious%20Belief.pdf.
[11] *Id*. ch. I, art. 5.
[12] *Id*. ch. I, art. 12.
[13] *Id*. ch. VI, art. 28–29.
[14] Felix Corley, *Azerbaijan: "We forbid religious books – but this isn't religious discrimination"*, FORUM 18 NEWS SERVICE (1 Oct. 2015), http://www.forum18.org/archive.php?article_id=2107.
[15] *Law of the Republic*, *supra* note **Error! Bookmark not defined.**, ch. IV, art. 22.

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censorship laws are violated[16]. These laws specifically violate the ICCPR's Article 18 protection of religious worship and practice because they unduly restrict the practice of religion and violate the rights afforded to individuals by the ICCPR.

Incidents of Restrictions on Freedom

A. Free Exercise of Religion

8. In 2015, the authorities charged two Jehovah's Witnesses—a partially disabled widow, Irina Zakharchenko, and her daughter, Valida Jabrayilova—for the alleged crime of distributing Bible literature without "appropriate permission"[17]. The authorities charged the two women with an offense that is intended to cover crimes by organized groups and carries a heavy fine of up to $8,600[18]. The women shared their faith by offering brochures with Bible stories to residents of an apartment complex. The SCWRO and investigators summoned Irina and Valida for questioning multiple times[19]. Without warning, the women were given a closed hearing and were placed in detention because the Ministry of National Security (MNS) was afraid the women might "escape and hide from investigation"[20]. While in detention for eleven months, the MNS searched the women's homes and confiscated their property[21]. Ultimately, the Azeri Supreme Court found that the women had not committed any crimes and exonerated them on 10 February 2017[22]. However, it is concerning that these women were imprisoned and charged with a crime at all.

9. Additionally, Azeri laws regulating the publication of religious texts caused multiple booksellers to receive fines for selling books the SCWRO deemed unacceptable[23]. One woman, Kifayat Maharramova, was recently fined for selling religious literature without prior government approval, and the SCWRO seized fifty-eight books and sixteen CDs from her shop[24].

[16] Corley, *supra* note 14.
[17] *Rising Religious Intolerance in Azerbaijan*, JEHOVAH'S WITNESSES (23 Mar. 2015), https://www.jw.org/en/news/legal/by-region/azerbaijan/religious-intolerance/.
[18] *Id.*
[19] *Id.*
[20] *Id.*
[21] *Id.*
[22] *Azerbaijan Supreme Court Exonerates Irina Zakharchenko and Valida Jabrayilova*, JEHOVAH'S WITNESSES (10 Feb. 2017), https://www.jw.org/en/news/legal/by-region/azerbaijan/irina-valida-exonerated-20170210/.
[23] *Azerbaijanis Fined and Detained for Selling Religious Books*, WORLD WATCH MONITOR (24 May 2017), https://www.worldwatchmonitor.org/2017/05/azerbaijanis-fined-and-detained-for-selling-religious-books/.
[24] *Id.*

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B. Freedom to Assemble – "Illegal" Religious Meetings

10. Religious groups in Azerbaijan are required to register with the government[25], and despite their efforts to comply with the law, minority religious organisations are often either denied the registration or kept waiting for the application to be processed[26]. Just last year, the government fined and imprisoned a Baptist pastor, Hamid Shabanov, for leading worship services without state permission, even though he repeatedly tried to register his congregation and was repeatedly denied[27]. Police raided Hamid's home and arrested him. Hamid claims that the hearing was in a language he did not speak and the court did not provide a translator[28]. His case is still ongoing, and currently under appeal.

11. In another instance, twenty-two Christians were arrested for assembling to worship and two of the pastors were required to pay fines[29]. The religious group had applied for registration, but the authorities had not granted them permission to gather for worship by the time they assembled[30].

12. In December 2016, thirty attendees of a prayer meeting were initially arrested and the pastors were fined for hosting an "illegal" prayer meeting[31]. This congregation had not applied for registration, and the police told the attendees: "[e]ach of you may pray in your own house, but meetings are forbidden, otherwise you will be arrested again – with more serious consequences than a fine"[32]. The punishment for illegal religious activity by second offenders is time served in prison[33]

Conclusion

13. The 2017 Working Group on the UPR must address the continuous violations against the freedom of religion and expression by the government of Azerbaijan. The Working Group must urge the Azeri government to take the necessary steps to reform its laws and enforce them with the SCRWO to protect minority religions. The Azeri law is unduly restrictive of fundamental rights, and the Working Group must encourage Azerbaijan to carry out its international commitments under the ICCPR.

[25] *Law of the Republic*, *supra* note10, ch. I, art 12.
[26] *Azerbaijani Christians Fined Over 'Illegal' Prayer Meeting*, WORLD WATCH MONITOR (13 Dec. 2016), https://www.worldwatchmonitor.org/2016/12/azerbaijani-christians-fined-over-illegal-prayer-meeting/.
[27] *Azerbaijan: Baptist Pastor Challenges State Over Constitutional Right to Worship*, WORLD WATCH MONITOR (18 July 2017), https://www.worldwatchmonitor.org/coe/azerbaijan-baptist-pastor-challenges-state-over-constitutional-right-to-worship.
[28] *Id.*
[29] Asia Perrin, *Two Pastors Fined, Other Believers Released in Azerbaijan*, OPEN DOORS (8 Feb. 2017), https://www.opendoorsusa.org/take-action/pray/two-pastors-fined-believers-released-azerbaijan/.
[30] *Azerbaijani Christians Fined Over 'Illegal' Prayer Meeting*, *supra* note 26.
[31] *Id.*
[32] *Id.*
[33] *Id.*

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