

AZERBAIJAN



USCIRF STATUS:

Tier 2

BOTTOM LINE:

Despite the Azeri government's claims of tolerance, the religious freedom situation has deteriorated, especially after passage of its restrictive 2009 religion law. Registration requests from religious organizations are delayed or denied and in the past year non-violent religious activists have been detained, fined, and imprisoned.

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Despite the government's claims of official tolerance, religious freedom conditions in Azerbaijan deteriorated over the past few years. During the reporting period, religious organizations were closed and non-violent religious activity was punished with detentions, fines and other penalties. The Azeri government applied the repressive religion law adopted in 2009 that curtails a range of religious activities. Penalties were increased for religion law violations in 2010 and 2011. Unregistered religious activity is illegal and the activities of registered groups are tightly regulated. Based on these concerns, USCIRF places Azerbaijan on Tier 2 for the first time in 2013. USCIRF briefly discussed Azerbaijan in previous Annual Reports and issued a press statement critical of the religion law in 2009.

BACKGROUND

Approximately 96 percent of the population is Muslim, and the remainder includes Russian Orthodox, Armenian Apostolic, other Christian groups, Jews, and non-believers. About 65 percent of the country's Muslims are Shi'a and 35 percent are Sunni, according to Azerbaijan's State Committee on Work with Religious Associations (SCWRA). Most Christians are Russian Orthodox, whose identity, like that of Muslims, tends to be based on culture and ethnicity. Approximately 20,000 Jews live in Baku, with smaller communities throughout the country. Other small religious groups have been in Azerbaijan for over 100 years, including Lutherans, Roman Catholics, Baptists, Molokans, Seventh-day Adventists, and Baha'is. Since the country's independence in 1991, other religious groups considered foreign or "non-traditional," have emerged, including other evangelical Christians, Jehovah's Witnesses, Hare Krishnas, and Salafi Muslims. Baku is also home to a significant expatriate Christian community.

RELIGIOUS FREEDOM CONDITIONS

Restrictive Legal Framework: Azerbaijan's religion law has been amended 14 times since it was first adopted in 1992, with major restrictive changes adopted in secret. The law is used as the basis for limiting religious freedoms and for justifying police raids, detentions, and fines. The law's numerous problematic provisions include: compulsory state registration, including complex and intrusive registration requirements; no mechanism for appealing registration denials; religious activities limited to a community's registered address and not in private homes or in public; an elaborate system of government censorship of religious materials combined with the requirement of official permission to produce, import, export and disseminate such materials; and a requirement for government-approved religious education to preach or teach religion or lead religious ceremonies. After the reporting period, the Azeri parliament adopted further restrictive amendments to the religion, NGO, and other laws, purportedly to prevent the spread of religious extremism and of foreign missionary organizations through additional financial reporting requirements.

The following violations of the religion law are subject to fines under the country's administrative code: failing to register with the state; holding religious meetings or ceremonies without state approval; conducting religious activity outside a religious association's registered address; and engaging in activity not in accord with a religious community's state-approved statute. In 2010, the applicable fines were increased 16-fold from 2009: individuals may be fined up to US \$2,550 and church officials up to US \$10,200. The country's average monthly wage in May 2012 was US \$484, but the rural population earns much less.

Violations of provisions relating to religious education are subject to penalties under the criminal code. Individuals found to have forced children to take part in religious activity or religious education are liable for fines or jail terms of up to two years. Officials of religious organizations are subject to larger fines or

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between two and five years' imprisonment. In late 2011 the Administrative Code introduced dramatically increased fines for such "offenses."

Muslims are subject to additional restrictions which do not apply to other faiths: all Muslim religious leaders are appointed by the state-backed Caucasus Muslim Board; such appointments are limited to Azeri citizens educated in Azerbaijan; all mosques must be members of, and submit written reports to, the Caucasus Muslim Board; and only Azeri citizens can establish Islamic religious communities. Under a 2008 "informal" and unpublished government order, prayer is no longer allowed outside of mosques, and police have enforced this ban. The Ministry of Education's introduction of a standard school uniform in 2010 led to a massive petition campaign over the ban on the Islamic headscarf. Large public protests over the headscarf ban have resulted in numerous arrests and detentions, including 72 arrests after a rowdy Baku demonstration in October 2012. After the reporting period, the headscarf ban was extended to Azeri university students.

In October 2012, the Council of Europe's Venice Commission and the Organization for Security and Cooperation in Europe (OSCE) issued a joint legal opinion that Azerbaijan's religion law failed to meet the country's international human rights commitments. A senior Presidential Administration official and a senior official of the ruling New Azerbaijan Party both rejected the Venice Commission/OSCE's recommendations for legal reforms, Forum 18 reported. The government did not address the identified shortcomings and the highlighted problems remain.

Government Control through Registration: Religious groups in Azerbaijan have been required to re-register five times since the 1992 religion law. The registration process is mandatory and groups which are denied registration or refuse on theological grounds are considered "illegal." The process is arbitrary and requires prior approval from local authorities before registering with the national government. Any activity of registered religious organizations can only occur at the community's legal address and the organization must inform the government of religious education activities.

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All independent mosques outside the framework of the state-backed Caucasian Muslim Board have failed to obtain registration, as well as some of the Board's own mosques. Also without legal status are almost all Protestant denominations (including Baptists, Seventh-day Adventists and Pentecostals), as well as Jehovah's Witnesses.

Some NGOs that campaign for religious freedom or discuss religious topics, such as the International Religious Liberty Association and Devamm, have been denied registration as non-governmental organizations (NGO). Reportedly, official pressure resulted in the 2012 emigration to Norway of the leader of the "Moral Purity" Muslim NGO. Previously, that NGO had been allowed to organize popular Azeri TV programs on religious issues.

In February 2012, the Azeri Supreme Court ordered the registration of the Baku-based Cathedral of Praise Pentecostal Church, but that same month the Jehovah's Witnesses lost their Supreme Court case over registration. In September 2012, the SCWRA won a legal battle to strip the only registered Muslim community in the town of Hirdalan, near Baku, of its registration, leaving the town's 40,000 residents with no legal place of worship. Other religious communities reportedly have not challenged registration denials in the courts, based on the belief that they cannot win against the government in corrupt Azeri courts. Only six religious communities are known to have achieved state registration in 2012, Forum 18 reported.

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After the reporting period, the European Court of Human Rights (ECtHR) dismissed a case brought by Baku's independent Juma Mosque Congregation. They sued over the government's refusal to re-register the congregation and the government's eviction of the congregation from the state-owned mosque it had used for 12 years. The court held that the congregation had failed to exhaust domestic remedies and had no protected right to obtain a place of worship from state authorities. According to lawyers representing the congregation, the government's actions against the Juma Mosque were caused by the group's refusal to replace its leader, Ilgar Ibrahimoglu Allahverdiyev, a prominent democracy and religious liberty activist, with a government-appointed imam.

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Penalties for Religious Activity: Unregistered religious communities lack legal status and may face raids and other penalties. In January 2012, a group of Muslims were ordered to close an unregistered prayer room in Baku. In March 2012 in Turan village in northern Azerbaijan, police raided the home of a reader of the works of Turkish theologian Said Nursi and confiscated literature. In May 2012, police raided the Baku home of a Muslim that resulted in the detention of many of the Muslim's friends and the confiscation of the Qur'an and books by Muslim authors, including Nursi. In November 2012, police raided the homes of two former Baptist prisoners of conscience in the town of Aliabad in the Zakatala region and confiscated New Testaments. Jehovah's Witnesses have been the victims of numerous police raids since 2007, including in 2012, and have filed five separate cases at the ECtHR; no decisions have been issued.

The religion law and administrative code bans on undefined "religious propaganda" by foreigners and stateless persons have led to deportations of some Muslims, Protestants and Jehovah's Witnesses. Some deportees were former Soviet citizens and long-term residents.

The Human Rights Center of Azerbaijan (HRCA), a non-governmental organization, has compiled a list of 220 Azeris convicted between 2005 and 2011 for alleged religious extremism, including Shi'i and Wahhabi Muslims. According to the HRCA, three people have been sentenced in connection with their religious views: Fakhraddin Mirzayev (whose case is described below) and two Muslims, Nurani Mammadov and Rufat Nuriyev, who protested the school headscarf ban. All three are scheduled for release from prison in 2013.

In January 2013, a rapporteur of the Parliamentary Assembly of the Council of Europe (PACE) issued his final human rights report on Azerbaijan including a list of political prisoners. Of these cases, 23 individuals have been convicted in Azerbaijan for alleged membership in Islamist groups, organizations and political parties.

After the reporting period, Azerbaijan's Supreme Court rejected an appeal by Movsum Samedov, one of the 23 individuals highlighted by PACE. He was arrested in January 2011, after denouncing Azeri officials for the headscarf ban, and was sentenced to 10-12 years in jail in October 2011 on security related charges. Reportedly he will file a challenge in the ECtHR.

Refusal to Allow Conscientious Objection: While the Azerbaijan Constitution explicitly allows for alternative service, other laws subject those who refuse military service subject to a prison term of up to two years. In the first such criminal case since 2010, Fakhraddin Mirzayev, a Jehovah's Witness conscientious objector, is currently imprisoned. A court in the city of Gyanja had sentenced him to a one-year term in September 2012. Despite Azerbaijan's membership in the Council of Europe (CoE) since

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2001 and its promises to allow alternative service to comply with CoE standards, the government continues to penalize conscientious objectors. In July 2011, the ECtHR explicitly recognized the right to conscientious objection to military service for a Jehovah's Witness in Armenia as a right protected under international standards of freedom of religion or belief. Two Jehovah's Witnesses conscientious objectors currently have cases pending against Azerbaijan in the ECtHR.

Government Censorship of Religious Materials: State permission is required to produce, import, export, and distribute religious material. Religious material cannot be sold outside officially-approved locations and foreigners cannot preach. Penalties for first time offenders include heavy fines or up to two years' imprisonment, while a "conspiratorial" or organized group, a repeat offender, or an organization official faces a prison term of between two and five years. Azerbaijan is the only Council of Europe member state to impose a system of compulsory censorship of religious and other literature.

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The government has confiscated religious materials, including personal copies of the Qur'an and the Bible, as well as religious materials from Baptists, Jehovah's Witnesses and Hare Krishnas, at the country's borders. In 2012, police raided the homes of members of numerous religious communities, including Muslims, Adventists, Baptists and Jehovah's Witnesses. Reportedly, the Georgian Orthodox Church, and many Muslim groups are more easily permitted to obtain or publish literature than religious minority groups. Members of the Catholic Church rely on email to receive religious materials. Jehovah's Witnesses have had particular difficulties and have appealed through the Azeri courts to challenge the SCWRA's censorship rights.

Closure and Confiscation of Places of Worship: Since 2009, Azerbaijan has closed or destroyed numerous houses of worship, mainly Sunni mosques, despite efforts by local Muslim communities. Mosques closed in 2009 include the "Albanian" Mosque in the city of Gyanja, as well as two mosques built by Turkey's Diyanet in the 1990's: the Martyrs' Mosque in Baku and the Juma Mosque in the city of Nakhichevan. The closure of these mosques has had numerous adverse consequences for their communities. For example, in Gyanja, members of their city's only Sunni "Albanian" mosque must pray in small groups in private homes, often under police surveillance.

Other religious minority communities, such as the Baptists in Baku, are also seeking the return of their historic places of worship. In December 2012, Baku's Baha'i community lost its struggle to save its last historic building from being razed as part of urban renewal. The Georgian Orthodox Church would like to reopen four churches in the Gakh Region and establish a monastery. In recent years, however, Azeri authorities have restricted worship to 30 minutes in three churches and a Georgian Orthodox Bishop told Forum 18 that many in his community are deprived of the sacraments. As of April 2012, two Georgian Orthodox communities had been registered.

Situation in the Nakhichevan Exclave: Residents of the Nakhichevan exclave encounter more severe religious freedom restrictions than in Azerbaijan's other regions. For example, in 2009 government employees and students were ordered not to attend Ashura mosque commemorations and the next day many Muslims were detained, including in a psychiatric hospital. In 2010, secret police detained without trial four Muslim readers of Nursi's works for three days. After a Turkish-funded Sunni imam left Nakhichevan in 2011, the Shi'i community took over the Sunni Juma Mosque, leaving local Sunni Muslims nowhere to pray. Baha'is, a small Adventist group and a Hare Krishna community have been banned by local authorities, leading some members of these communities to move to other areas of Azerbaijan.

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RECOMMENDATIONS FOR U.S. POLICY

In order to promote freedom of religion or belief in Azerbaijan, the U.S. government should:

- press the Azeri government to allow religious groups to operate freely without registration, and advocate for substantive amendments to the religion law's registration process so as to ease its requirements and to make it voluntary;
- urge the Azeri government to cease police raids of religious meetings, as well as the issuance of fines, property confiscation, detentions and imprisonment of participants and leaders;
- encourage President Aliev to speak publicly about respect for religious freedom for all Azeris, to state that repressive government actions will not be tolerated, and to include minority and other domestic religious communities in various conferences that discuss and promote international religious tolerance in Baku;
- encourage public scrutiny of Azerbaijan's record on religious freedom and related human rights in appropriate international fora, such as the UN, OSCE, and other multilateral venues, and highlight cases of prosecution of Azeri citizens that violate these international norms in comments at such fora;
- urge the Azeri government to agree to visits by UN Special Rapporteurs on Freedom of Religion or Belief, the Independence of the Judiciary, and Torture, set specific visit dates, and provide the full and necessary conditions for such a visit;
- ensure that the U.S. Embassy in Azerbaijan maintains active contacts with Azeri human rights activists and press the Azeri government to ensure that every prisoner has greater access to his or her family, human rights monitors, adequate medical care, and a lawyer, as specified in international human rights instruments;
- specify freedom of religion as a grants category and area of activity in the Democracy and Conflict Mitigation program of the U.S. Agency for International Development and the Democracy Commission Small Grants program administered by the U.S. Embassy, and encourage the publicly-funded National Endowment for Democracy to make grants for civil society programs on tolerance and freedom of religion or belief; and
- increase radio, Internet, and other broadcasting, particularly in the Azeri language, of objective news and information on relevant issues, including specific religious freedom concerns in the country and explaining why religious freedom is an important element of U.S. foreign policy.