

United Nations Human Rights Council
Universal Periodic Review, 8th Session
Christian Solidarity Worldwide – Stakeholder Submission
BELARUS

INTRODUCTION

1. Christian Solidarity Worldwide (CSW) is a human rights organisation specialising in international freedom of religion and belief. CSW monitors the human rights situation in Belarus and seeks to raise awareness of human rights concerns and conduct advocacy on violations of freedom of religion and belief where they occur. This submission seeks to highlight our current human rights concerns in Belarus.
2. Belarus is a member of the Organisation for Security and Cooperation in Europe (OSCE) and has ratified the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR) and is party to a number of other international human right treaties. Similarly, Belarus' Constitution sets out a commitment to upholding human rights. However these international and domestic legal obligations are rarely reflected in actual legislation or in practice.
3. In recent years, respect for human rights and civil liberties, including freedom of speech, assembly, association, religion, worship and expression have continued to deteriorate in Belarus. International standards of human rights are not upheld by the government. Instead, the government itself repeatedly violates the ICCPR to which it is a party. Religious freedom is restricted both actively and indirectly by the authorities. Nongovernmental organisations (NGOs), religious institutions and religious leaders are subjected to frequent harassment, prosecution, fines, repression and even imprisonment under the terms of the 2002 Law on Freedom of Conscience and Religious Organisations. A number of foreign religious workers have been deported or failed to have their visas renewed. The government makes it almost impossible for religious groups to register buildings for religious use, forcing them to carry out their activities outside of the law.
4. **Recommendation: The Belarusian government should uphold and ensure the protection of all fundamental human rights and ensure its compliance with international standards and in particular its obligations under the ICCPR and the ICESCR, notably Article 18 of the ICCPR relating to freedom of religion and belief.**

POLITICAL AND LEGAL BACKGROUND

5. There has been a general deterioration in human rights since Alexander Lukashenko came to power in Belarus in 1994. Basic freedoms, including the freedom of speech, press, assembly, association, religion and expression are restricted. Criminal penalties have been imposed for the crime of “discrediting Belarus” which can be incurred through “fraudulent representation of the political, economic, social, military or international situation”. Civil and political rights are widely violated.

6. In May 2007, Belarus lost its bid to join the UN Human Rights Council due to its failure to fulfil the criteria for membership. In addition Belarus is the only European country which is not a member of the Council of Europe and is therefore not bound by the European Convention or subject to the European Court of Human Rights.
7. The Belarusian Constitution provides for freedom of religion and the equality of religions and denominations before the law. It also acknowledges the precedence of international law. Despite this, the 2002 Law on Freedom of Conscience and Religious Organisations allows the government to control the activities of religious groups, forces religious communities to re-register, and makes it virtually impossible for them to rent secular premises or to obtain permissions for their activities in public places.

LEGAL CONCERNS

General

8. The Law on Freedom of Conscience and Religious Organisations was adopted in 2002. This law was compiled and passed without general consultation of existing religious organisations. New restrictions concerning freedom of conscience and religion were justified by the government, which argued that they had been adopted as a result of the changing situation in Belarus. Prior to passing the law many religious organisations and individuals expressed their concern, stating that the use of the new law might lead to restrictions on religious freedom. The law's implementation caused a surge of indignation among believers and society in general.
9. Much of the law is in direct contradiction with the Belarusian Constitution, most specifically Article 31 which guarantees every citizen the right to free expression of their religious convictions. The legislation is also inconsistent with the ICCPR and the ICESCR.
10. In practice this law has allowed the government to “legally” restrict the freedom of religion. The government regularly uses Article 25 of the 2002 Law on Freedom of Conscience and Religious Organisations, and Articles 23, 167 and Article 193-1 of the Administrative Violations Code to restrict religious freedom. Article 193-1, which was amended in 2005, puts in place criminal sentences, including fines or imprisonment for up to six months, and in serious cases up to two years, for activities of unregistered religious associations.
11. Since the adoption of this law, the activity of individual religious communities has also become extremely dependent on the personal inclinations of individual officials, as it allows them to ignore and disregard fundamental human rights and freedoms.
12. **Recommendation: The Belarusian government should revise or repeal the 2002 Law on Freedom of Conscience and Religious Organisations to ensure compliance with international standards and restore procedures guaranteeing respect for freedom of religion and belief.**

Registration

Of religious bodies

13. Without state registration, any activity by a religious community is illegal and can be prosecuted under the Criminal Code. Therefore religious leaders of different denominations face administrative charges under Article 9.9 of the Administrative Code of the Republic of Belarus (a previous version of Article 193). According to the law, any violation constitutes a breach of responsibility for “establishing a religious organisation and leading it without prior registration of its charter (statute) in the established order”. However, the government puts restrictions on granting legal entity status to religious organisations. The legislative regulations restrict, and in practice often make it impossible for new religious communities to register. Under this legislation, religious communities must follow numerous formal procedures, submit to inspections, and coordinate with state institutions; in practice these requirements present an insurmountable barrier to the legal functioning of religious communities.
14. Under the 2002 Law on Freedom of Conscience and Religious Organisations, even pre-existing religious organisations were required to re-register. In many cases, the authorities refused to re-register existing religious groups, thereby making it extremely difficult for them to function, organise religious meetings, distribute literature, invite foreign religious leaders into the country, and to rent or purchase property. As a result, many religious groups have been repeatedly fined for holding illegal religious meetings and carrying out unsanctioned religious activities. In addition, since 2006, a number of religious leaders have been imprisoned and/or fined because of their participation in unauthorised religious activity.

Of buildings and premises

15. As a result of the 2002 Law on Freedom of Conscience and Religious Organisations the activity of religious communities can only take place on premises which have been officially registered with the government. However, all too frequently, government officials do not grant permission for registration, renovation or construction and the religious communities are then forced to meet illegally in private homes for their activities. According to Article 25 of the 2002 law, religious organisations do not have the right to hold religious meetings (public worship services) in the rented buildings (which are not designated religious buildings) without prior permission from local authorities.
16. As a result some are regularly fined for their use of residential premises for religious purposes. Further complicating the situation, they are at the same time denied permission to convert premises from residential to religious use. Consequently, many meetings are conducted illegally under the current legislation.

Manifestation of religion / Religious activity

17. Article 18 of the ICCPR stipulates that “Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others”. However legislation in Belarus has had the effect of inordinately stifling such “manifestation”.

18. Religious communities do not have the right to develop their own mass media, to establish religious educational institutions or to train religious personnel, nor to invite foreign priests to satisfy religious needs of believers. Only religious unions have such a right. According to this law, a religious union can be established only if it has no less than ten religious communities and one of these communities has been active in the Republic of Belarus for no less than twenty years. Many recently emerged religious organisations will not have an opportunity to establish a union in the near future. This limits the right to practise religion.
19. Members of religious organisations do not have the right to share their religious convictions or to carry out any religious activity (to preach, distribute literature, hold public worship services, etc) beyond the borders of the location where the community is registered. According to the law an activity of a religious union can be carried out only in those places where registered communities are established and they are members of the religious union. Therefore any missionary activity becomes illegal and the sharing of religious convictions restricted.
20. The law provides a foundation for restrictions on the production and distribution of religious materials (religious literature, video and audio materials, etc.). Only enterprises established by registered religious organisations have the right to produce religious materials.
21. **Recommendation: The Belarusian government should honour its obligations to protect the manifestation of religion, including with respect to corporate religious expression and registration, and to only place restrictions on such manifestation as are outlined and sanctioned in international law.**

Misrepresentation in the state media

22. Over the past few years the state mass media has been used to broadcast unproven information about activities of religious organisations. When describing certain religious organisations the word “sect” is used. In many cases these so-called sects are portrayed as being in opposition to the state-sanctioned Orthodox Church, which is perceived to be the traditional faith of the Belarusian people. The state mass media disseminates derogatory information about various religious organisations, while presenting Orthodoxy in a much more positive light. The activities of government institutions and the mass media are not based on equal respect for religious convictions and inevitably leads to religious discrimination of some denominations and groups.
23. **Recommendation: The Belarusian government should end any malicious discrimination of any religious community within the media, and rather should seek to promote respect of human rights and freedom of religion and belief.**

Discrimination against foreign workers

24. The 2002 Law on Freedom of Conscience and Religious Organisations does not permit foreigners and persons without citizenship, legally residing in Belarus, to be founders (constitutors) and/or members of religious organisations. Registration offices call for a statement in the charter saying that only citizens of the Republic of Belarus can be members of religious organisations.

25. Under the terms of the country's National Security Concept, the work of foreign religious organisations and missionaries can be considered to be a potential threat to national security. The National Security Concept, signed by President Aleksandr Lukashenko on 17 July 2001, suggests the increase in the activity of foreign religious organisations and missionaries “to monopolise the spiritual life of society”¹ as being among the fundamental factors which pose a threat to national security. According to Forum18 News Service reports, the concept also calls for a counteraction of their “negative influence”².
26. As a result, reports have been received of many foreign religious leaders and charity workers not having their work permits renewed. In addition, a number of foreign religious leaders were deported after being accused of organising illegal religious activity. Finally, under regulations adopted in 2001, foreign religious workers are not allowed to participate in any religious activity outside the inviting institution. Any violation of Article 185 of the Administrative Code for Rules of Foreign Citizens’ Stay in the Republic of Belarus may result in a warning or a fine of up to twenty times the minimum monthly wage.

Discrimination within the military

27. Since 2006 all military conscripts have been made to complete an application form in the Military Registration and Enlistment Office in Luninets. The form includes questions relating to the conscripts and their families’ religious faith and practice.
28. Should a conscript indicate that he or she belongs to a certain religion and/or attends the services of a religious community, the Military Registration and Enlistment Office then requires a document from the corresponding religious leader. This is in order to verify the information about a conscript’s membership of the religious community. Conscripts have complained that Pentecostals and Baptists are unjustifiably equated with Satanists and the Great White Brotherhood despite the fact that Pentecostal and Baptist churches are legally registered religious organisations in Belarus, while the Great White Brotherhood and Satanists are not.
29. In addition, the questions are not in compliance with Article 5 of the 2002 religious law which states that “nobody is obliged to give statements about his/her attitude towards religion and can be compelled to do so while determining the attitude towards religion, practicing one or another religion, participation or not participation in activities of religious organisations.” In addition, according to Article 7 of the same law “a citizen is not obliged to give statements about his/her attitude towards religion in official documents unless he/she wishes it himself/herself.”
30. **Recommendation: The Belarusian government must honour its obligation under international law to desist from discrimination on the basis of religion. Further, it must uphold its own constitutional provisions protecting citizens’ right to avoid obliged disclosure of religious adherence.**

¹ See Forum 18’s website: http://www.forum18.org/Archive.php?article_id=1311

² Ibid.