

Belarus UPR submission, October 2019

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Forum 18, established in 2003, provides original, detailed, and accurate monitoring and analysis of violations of freedom of thought, conscience and belief in Russia, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan, Azerbaijan, Georgia, occupied Ukrainian territory, and Belarus. We also provide analyses on freedom of religion and belief in Turkey.

1. Before the May 2020 UN Human Rights Council Universal Periodic Review (UPR) of Belarus, Forum 18 notes continuing violations of freedom of religion and belief, and of interlinked freedoms of expression, association, and assembly.
2. Belarus continues to keep religious communities within an invisible ghetto of regulation. The state closely controls people meeting to exercise their religious freedom, forcing many religious communities to keep out of sight. Officials are hostile towards followers of faiths they see as a threat and the state maintains a network of KGB secret police and religious affairs officials to ensure compliance. Restrictions include: strict controls on foreign citizens who conduct religious activity; restrictions on who can hold worship meetings and where; difficult or expensive permission to hold public events; difficulty of opening places of worship; prior compulsory censorship of much religious literature; lack of a full, equal provision for conscientious objectors to military service; and obstruction of the religious freedom of death-row prisoners.
3. Belarus has punished exercise of freedom of religion and belief less in recent years. Yet without change to the restrictive legal framework and attitudes of officials, such violations will continue.

Regulation

4. Central to the government's web of restrictions is the 2002 Religion Law. This specifies compulsory state registration of all religious communities and geographical limits on where religious activity may take place. Foreign religious personnel invited by local religious communities require state permission to conduct religious activity, which prevents them from conducting any religious activity away from the one venue for which they have approval.
5. Religious gatherings in private homes must not be either regular or large scale. Places of worship are designated by the state (as are places where religious literature is sold). All public exercise of freedom of religion or belief must have state permission and entails high fees for police, healthcare and cleaning services. Some communities fail to apply for state permission for public events because of the extent of detail the authorities demand and the cost.
6. A network of religious affairs officials closely monitors religious communities. In addition to the Office of the most senior, Plenipotentiary for Religious and Ethnic Affairs Leonid Gulyako, each of the country's six regions plus Minsk city employs about 20 religious affairs officials. Local Ideology Department officials and the KGB secret police also restrict freedom of religion or belief.

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7. Many decisions – especially those by the Plenipotentiary – cannot be challenged. Under the Religion Law, a religious organisation found to have violated the law must correct the alleged violation within six months and not repeat it within a year. If it fails to do so, the authorities may shut the organisation down (Article 37). No legal provision exists to challenge such warnings, despite a 2007 Constitutional Court decision highlighting this lack. Jehovah's Witnesses failed even in the Supreme Court to challenge such warnings.

Controls on foreigners

8. Belarus strictly controls foreign citizens who conduct religious activity, including those invited by local religious communities. Under a 2008 Cabinet of Ministers Decree, amended in 2010, foreigners may work only within houses of worship belonging to, or premises continually rented by, the religious organisation that invited them. This must be a state-registered religious association consisting of 10 or more communities, at least one of which must have functioned for 20 years. Transferring a foreign religious worker from one religious organisation to another - such as between parishes of the same denomination - requires permission from a state religious affairs official, even to conduct a single worship service.

9. Under the 2008 decree, Plenipotentiary for Religious and Ethnic Affairs Gulyako decides whether a foreign citizen's religious work is "necessary". If granted, such permission lasts from between three months and one year, necessitating frequent re-applications. He may refuse permission without giving any reason. Foreign citizens must also demonstrate knowledge of Belarus' state languages (Belarusian and Russian) in order to perform religious work.

10. Those violating these restrictions risk punishment under Administrative Code Article 23.55, which punishes foreigners who break the rules governing their stay in Belarus.

11. In 2018, Plenipotentiary Gulyako rejected Orthodox Church applications for at least two priests from Russia to be allowed to serve in parishes. In 2018 he also rejected Catholic Church applications for at least three priests from Poland. In 2019, he also rejected the continued service of a further Polish Catholic priest, who had served in Belarus for 20 years, only to allow him six more months after Church protests.

12. Gulyako also rejects applications for short-term visitors to be allowed to conduct religious work. In 2017 he rejected a Pentecostal Church's application for a pastor from Poland, in August 2018 a Catholic application for an Indian priest's visit to lead spiritual exercises, and in December 2018 the Baptist Union's application for a preacher from the United States for a festival due to be held in Minsk in May 2019. (Gulyako did grant permission for all 45 of the Catholic bishops who convened in Minsk in October 2017 for the Council of Bishops' Conferences of Europe meeting to conduct religious work during their visit and thus participate in Mass.)

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13. Both Catholic and Orthodox leaders – who say they do not have enough native priests - have expressed a desire to see such controls on foreigners changed. Fear of expulsion is acute for the Catholic Church, about 80 of whose approximately 500 priests are foreign citizens.

14. In May 2019, Mogilev Regional Executive Committee warned a local Jehovah's Witness community for allowing locally resident foreign citizens to participate "illegally" in worship meetings. (The community had received another warning in August 2018. Two warnings within a year or the failure to end the "violation" can lead to the stripping of registration.)

Worship meeting restrictions

15. Under the Religion Law, religious activity can only take place "unobstructed" by registered religious communities in state-approved houses of worship (Article 25). Yet the state obstructs acquisition of such houses of worship by disfavoured religious communities. Officials then use various legal tools to limit such communities.

16. Restrictions begin from the moment a community forms. Under the Religion Law, all religious organisations must be registered with the state (Article 14). The Law is silent on those with fewer than 20 members – the minimum for registration. This creates a Catch-22 situation for a new community: it cannot publicise its existence before it has 20 committed members, but must do so in order to attract such a membership. Fledgling communities of disfavoured faiths thus meet under threat of state reprisals, even in private homes.

17. Officials arbitrarily deny registration to religious communities they do not like. Some Jehovah's Witness communities have faced repeated denials, often for more than ten years. These include the communities in Lida in Grodno Region (most recent denial January 2019); Vileika in Minsk Region (most recent denial February 2019); and Borisov in Minsk Region (most recent denial July 2019). In all these cases Jehovah's Witnesses unsuccessfully tried to challenge the denials. In July 2019, Minsk's Frunze District Executive Committee rejected the latest application from the Pentecostal Your Will Be Done Church. An official involved in the rejections since 2017 told the Pastor of "an order from superiors not to register any new communities". Orthodox communities outside the framework of the Moscow Patriarchate are not allowed to register.

18. The Religion Law makes no provision for those who do not wish to register. This primarily concerns the Council of Churches Baptists, and some Pentecostals, who believe registration leads to state interference. Courts regularly fined Council of Churches Baptists for unregistered religious activity until 2015.

19. Since 2015, the authorities do not appear to have imposed fines for meeting for worship without having compulsory state registration or in an unapproved venue.

20. Until July 2019, those involved in unregistered religious communities could also face prosecution under Criminal Code Article 193-1, which punished "organisation of or participation in

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activity by an unregistered political party, foundation, civil or religious organisation" with a fine or up to two years' imprisonment. Human rights defenders had long campaigned for this provision to be abolished.

21. However, in July 2019 similar punishments were introduced with a new Administrative Code Article 23.88. This punishes "Illegal organisation of or participation in activity by an unregistered political party, foundation, civil or religious organisation" with a fine of up to about five weeks' average wages for those in work. Police can issue the summary fines with no court hearing.

Public religious events restricted

22. Individuals can be punished or threatened with punishment for activity in public, whether sharing their faith, offering religious literature or conducting religious processions on the streets. Baptist husband and wife Andrei and Tatyana Fokin were most recently fined a total of two months' average wages in October 2018 for offering literature and singing Christian songs near the market in Lepel. In January 2019, the Supreme Court dismissed appeals by two Jehovah's Witnesses from Rogachev fined for sharing their faith with others.

23. Renting publicly-owned premises for large events is difficult. The Baptist Union was forced to cancel a planned festival it wished to hold in a Minsk stadium in May 2019 after officials failed to respond to its request for permission.

24. The Council of Ministers adopted Decree No. 49 "On the procedure of payment for public security provided by Police, for healthcare services, for cleaning venue after the public event" in January 2019. The Decree requires that all permitted public event organisers - including of religious events - pay in advance for police, healthcare and cleaning services. The Decree sets the price depending on the number of participants.

25. Holding public events is already difficult. Many human rights and opposition activists interpreted the Decree as a further obstruction to public events not organised by the authorities.

26. The Catholic Bishops' Conference enquired whether Decree No. 49 applies to religious events. Interior Minister Igor Shunevich responded in May 2019 that religious organisations are not subject to the Decree if their events are held in designated places. Such places include churches, cemeteries, crematoria, pilgrimage sites and others approved by local authorities. Following the letter, the Council of Ministers did not amend the Decree.

27. However, as pilgrimage routes are not included, police and local authorities continue to demand fees for pilgrimages. At the last minute, Greek Catholic leaders had to cancel what would have been their 25th annual pilgrimage from Vitebsk to Polotsk in July 2019 because of the "unaffordable" police fees. The fee demanded would have represented one day's average pay for each of the up to 100 expected participants, plus fees for health provision and cleaning along the route.

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Religious property

28. Many communities without formal places of worship find it impossible to get property redesignated so that it can legally be used for worship. Without a designated house of worship, religious activity requires advance state permission, and officials often refuse. Orthodox and Catholic communities are rarely affected, partly due to the state's more positive attitude towards them, but also because they are more likely to occupy historically preserved, designated worship buildings.

29. Those using private homes for worship meetings risk punishment under Administrative Code Article 21.16, Part 1, which punishes improper use of residential property. Jehovah's Witness and Council of Churches Baptist homeowners have been fined, including a Baptist in Gomel in 2014.

30. Using a private home as a legal address is against the law. Especially in villages, some religious communities – including Jehovah's Witnesses and independent Pentecostals – find it difficult to get the authorities to agree the use of a building as a legal address necessary to lodge a registration application.

Religious literature censorship

31. The state imposes compulsory prior state censorship of and restrictions on distribution of most religious literature and objects. Under Religion Law Article 26, all imported religious literature and objects undergo state censorship enacted by an "Expert Council" attached to the Plenipotentiary's Office, as does all religious literature which libraries wish to acquire. The Plenipotentiary can seek an "expert analysis" of any religious literature being distributed. Only registered religious organisations can establish companies to produce religious literature. Shops selling religious literature require permission from local administrations. "Expert analyses" can take up to three months, making timely delivery of imported religious publications impossible.

32. While approving imports of other Jehovah's Witness texts, in June 2019 the "Expert Council" rejected the April 2019 issue of "The Watchtower". After similar rejection of the May 2012 issue for containing allegedly "religious/political" material, Jehovah's Witnesses tried but failed to get a copy of the Council's "expert analysis".

33. Courts can ban literature and other materials as "extremist". Such works are then placed on the Information Ministry's Republican List of Extremist Materials, published on the Ministry's website. The List includes many xenophobic and racist works (such as Adolf Hitler's "Mein Kampf"), as well as some religious works that do not call for the violation of anyone's human rights.

34. In 2014, a Minsk Court banned "The Way to the Koran" by Azerbaijani Muslim theologian Elmir Kuliyeu. In 2016, a Gomel Court banned "An Orthodox on Orthodoxy: Popular theology, or theology for dummies" by Sergei Nikolaenko, Pastor of the city's Reformed Orthodox

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Transfiguration Church. Both remain on the Republican List of Extremist Materials (as updated in September 2019).

Only partial conscientious objection

35. The alternative to military service introduced in 2016 allows many but not all conscientious objectors to conduct a civilian service. Only young men with a religious pacifist objection are eligible to apply for alternative civilian service, not those with non-religious pacifist convictions. It is unclear whether even all young men with religious objections to military service are allowed to do civilian alternative service, as the Law is silent on how objectors from communities which are not as a community formally pacifist – such as the Orthodox Church – should be treated.

36. Moreover, civilian service is twice the length of military service and those undertaking it are paid less than military conscripts. And if conscripts already doing military service change their beliefs to become conscientious objectors, they are not eligible to transfer to alternative service. Those called up to reserve duties are similarly obstructed from claiming conscientious objection.

37. Jehovah's Witness Dmitry Mozol was called up for reserve duties, to begin in March 2019. Pinsk Military Conscription Office rejected his February 2019 request to perform alternative service instead, as did Brest Region Military Conscription Office, the army leadership and the Defence Minister. Mozol is trying to uphold his right to conscientious objection through the courts. Other Jehovah's Witnesses have been issued similar summonses to reserve duties, which they refuse. None of these cases has gone to court.

Death-row prisoners

38. The Criminal Enforcement Code guarantees death-row prisoners the right "to have meetings with a priest" (Article 174). However, such prisoners may not be granted pastoral visits they request.

39. Death-row prisoners are informed of their executions only minutes beforehand. Andrei Burdyka arranged a visit by an Orthodox priest, but was executed in 2011 days before the planned visit.

40. If death-row prisoners are not Orthodox, arranging a clergy visit is all-but impossible. Occasional exceptions are made for Catholic priests. Officials allowed convicted murderer Pavel Selyun – executed in 2014 – to conduct a correspondence course with a Protestant Bible study centre. However, they denied a pastor's visit.

41. The bodies of executed prisoners are not given to families, the date and place of burial is secret, and no opportunity is given for a religious burial service.

42. Vladislav Kovalev's relatives complained to the UN Human Rights Committee that his 2012 execution violated their right to freedom of religion (among other rights). In refusing to give

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Kovalev's family his body for an Orthodox burial, the relatives argued, the state violated their right to religious freedom.

43. In October 2012 the UN Committee concluded that the state's refusal to hand over bodies for burial and to disclose the place of burial "have the effect of intimidating or punishing the family by intentionally leaving it in a state of uncertainty and mental distress". Viewing this as amounting to inhuman treatment in violation of the ICCPR, the Committee did not examine the relatives' claim that freedom of religion or belief had also been violated.

44. Selyun's mother Tamara similarly tried to recover his body. "I want to read the last rites over my son's body and bury him as a Christian. But I was told that the body could not be handed over." In a May 2014 letter, prison head Colonel Vikenty Varikash told her: "Bodies are not handed over for burial and the place of burial is not communicated." (END)