

1. Ahead of the UN Human Rights Council May 2010 Universal Periodic Review of Belarus, Forum 18 News Service has found that the country continues to violate its commitments to implement freedom of religion or belief for all. "Legal" restrictions under the 2002 Religion Law include: requiring all religious activity by groups to have state permission, and be limited to one geographical area; barring meetings for worship or other religious activity in private homes that are either regular or large scale; requiring all places of worship to be state-approved; and routinely expelling both Catholic and Protestant foreign religious workers.

2. After crushing other large-scale independent organisations inside the country, the authorities fear the potential of the largest remaining internal group of independent organisations – churches. This fear is reinforced by the fact that a number of political opposition leaders are Christians. For many religious believers, “legal” restrictions combine to make nothing legally possible, as state permission is unobtainable in practice. This makes conditions similar to the late Soviet period.

3. Belarusian state representatives often insist that the Religion Law is in line with standard legal practice in democratic states. But its demands on religious communities are not just simple bureaucratic procedures which some are failing to follow due to incompetence or intransigence. As one Belarusian Protestant notes, "They have created conditions so you can't live by the law. We would need to close half our churches in order to operate technically in accordance with the law."

### **Reducing aspirations through regulation**

4. The 2002 Law reflects deliberate government policy which officials make systematic efforts to apply. But implementation is not uniform, as the state seeks to maintain control of the religious sphere without provoking a popular backlash. While sporadic, prosecution is thus sufficiently frequent and random to intimidate religious communities into seeking immunity within the web of official restrictions. Here, the state makes use of Belarusian believers' desire to be law-abiding and their experience of more severe persecution in the earlier Soviet period. By managing down religious communities' aspirations in this way – with a minimum of confrontation and a static end result - it may appear as if little action is taken against them. In fact, they are being contained within an invisible ghetto of regulation.

5. The uneasy balance between a semblance of religious freedom and the reality of restriction is proving increasingly difficult for the Lukashenko regime to maintain, however. This is particularly so as international opinion becomes more influential. The most prominent example concerns one of Minsk's largest charismatic churches, New Life. Purchased in 2002, New Life's building - a spacious, modern barn-like structure on the edge of Minsk - is legally still a cowshed. The state authorities refuse to allow the church to legalise its position by changing the building's designation to a place of worship, or to use it for services. The congregation's worship at the building has resulted in multiple large fines in addition to its formal confiscation. The congregation has nowhere else to meet, having earlier been barred from public facilities by district administrations throughout Minsk. It even toyed with the idea of keeping several cows at the church in order to nominally legitimise its position - but animal husbandry is now banned in Minsk.

6. The church's long and complex struggle has included congregation members and well-wishers from across Belarus embarking on a high-profile hunger strike. A top-ranking Presidential Administration official, Oleg Proleskovsky, hinted that a legal resolution was possible. This was the reason New Life returned to the courts in December 2006. After more than two years of delays, however, the Higher Economic Court threw out its appeal on 13 January 2009, returning the church's battle to its starting point. It is evident that the Presidential Administration was looking to buy time. In the most recent development, the Minsk authorities demanded that New Life vacate its building by 1 June 2009, the latest excuse given being that a kindergarten is planned for the site – even though there is a suitable vacant plot of land next to the church. When the 1 June deadline expired, more than 500 church members and Christians from across Belarus came to defend the building New Life had bought and restored with their own funds, time and hard work. The congregation is refusing to comply with

the state's demands, but no further action has yet been taken.

7. The state's blockage of every previous effort by New Life members to exercise their right to religious freedom while remaining within Belarusian law has made the case a litmus test for the regime's broader religious policy. Its future response will prove an indicator of the degree to which Belarus is truly prepared to respect human rights.

8. The arbitrary refusal of rented premises for worship which contributed to New Life's predicament is often reported by other Protestant as well as Jehovah's Witness congregations. Many manage to keep a low profile. But this is not the case with the Baptist Council of Churches, a body which broke away from the Soviet government-recognised Baptist Union in 1961 in protest at regulations preventing missionary activity and religious instruction to children. Refusing on principle to register with the authorities in post-Soviet countries, its uncompromising stance regularly results in prosecution in Belarus and other states where – in breach of international human rights standards – such registration is mandatory.

### **Penalties for unregistered activity**

9. Fines for Baptist Council of Churches members in Belarus for unregistered religious activity have been increasing, the highest ever fine – 2,100,000 Belarusian Roubles (4,750 Norwegian Kroner, 533 Euros or 745 US Dollars) – being imposed on Nikolai Poleshchuk in Osipovichi on 28 May 2009, on charges of violating the procedure for conducting outdoor events. He had earlier received three official warnings for running a Christian street library in the town. Local Baptists estimate the fine to be equivalent to nearly three months' average wages for those in the town who have work.

10. Council of Churches members are usually prosecuted under Article 9.9 of the Code of Administrative Violations, which punishes the creation or leadership of a religious organisation without state registration with a fine of up to 20 times the base monthly unit for wages and state benefits. Since 2006, other Protestants have faced increasingly serious punishment for worship in private homes without state permission.

11. November 2005 amendments to the Criminal Code now punish the organisation or leadership of a religious organisation found to "harm the rights, freedoms and legal interests of citizens, or prevent their fulfilment of state, social or family duties" with imprisonment for up to three years. They have yet to be enforced.

12. Pentecostal or charismatic communities, Jehovah's Witnesses and the few Belarusian Orthodox not affiliated with the Moscow Patriarchate may also be targeted for unsanctioned worship. Muslim and Jewish communities have told Forum 18 that their home meetings, while technically illegal, are not subject to state scrutiny. In a prosecution for unsanctioned home worship, Pastor Valentin Borovik – whose Pentecostal congregation numbers fewer than the 20 adult citizens legally required for state registration – was fined 315,000 Belarusian Roubles (768 Norwegian Kroner, 95 Euros or 149 Dollars) in June 2008. "At meetings they read the Gospel, discuss questions of religious faith, sing songs and conduct religious rites," Mosty District Court (Grodno Region) noted as evidence of wrongdoing. In March 2009, Belarus' Supreme Court dismissed Pastor Borovik's challenge to the state's requirement that worship must be registered to be legal. "Your reasoning that the administrative legal norm contradicts the present Constitution and the [United Nations'] International Covenant [on Civil and Political Rights (ICCPR)] (..) does not correspond with reality," it ruled.

13. After a six-hour raid in October 2009 on a Protestant Sunday worship service in a private home, Forum 18 asked Anna Danisevich, an official of the district Ideology Department who led the raid, why this happened. She denied the raid was a raid and claimed: "We acted strictly in accordance with the law. We live in a democratic state" Asked why she and officials stayed at the house for six hours, she told Forum 18: "To prevent them from continuing their worship service."

### **Belarus' actions contradict Belarus' obligations**

14. Compulsory state registration breaks the international human rights standards Belarus has agreed to abide by. "Requiring faith communities to register is almost impossible to reconcile with international and OSCE human-rights standards," Professor Malcolm Evans, a member of the OSCE's Advisory Council of Experts on Freedom of Religion or Belief notes. "Unless it is for the purposes of tax benefits or to obtain charitable status, there should be no need for compulsory registration."

15. Earlier confronted with the mismatch between the 2002 Law and Belarus' human rights obligations as a signatory to the ICCPR, the state's response was similarly one of dismissive denial. Refused registration of an umbrella association – and therefore the right to invite foreign guests under Belarusian law – because the authorities would not approve their Minsk premises, Hare Krishna devotees complained to the UN Human Rights Committee in 2003. The UN Committee upheld their complaint, pointing out that "appropriate premises [for worship] could be obtained subsequent to registration" (Communication No. 1207/2003, 23 August 2005). On receipt of the UN Committee's Communication, however, the Belarusian government simply chose to ignore precedence of international over local law by insisting its decision was justified under Belarusian law.

16. The state continues to block some outdoor religious events by registered organisations. In August 2008 the authorities in the small town of Svisloch (Grodno Region) banned an open-air baptism planned by Grace Pentecostal Church. The local Ideology Department explained that, as "the overwhelming majority of residents of the town belong to the two confessions historically found on Slavic territory - Orthodoxy and Catholicism - the rite of baptism conducted by members of your religious organisation could arouse mixed reactions among the population." Just minutes before it was about to begin in September 2008, a local ideological official halted an ecumenical music festival in Borisov (Minsk Region), at which dozens of Belarusian Christian bands were due to perform to thousands of spectators. This was despite the fact that full state permission was obtained for the festival in accordance with the 2003 Demonstrations Law, one of the organisers, Polish Catholic priest Fr Zbigniew Grygorcewicz, insisted to Forum 18.

17. Fr Grygorcewicz was expelled from the country in December 2008, and his parishioners have pressed officials for his return. In a 6 April 2009 letter to parishioners seen by Forum 18, Vladimir Lameko, deputy to the state Plenipotentiary for Religious and Ethnic Affairs, insisted that the "position" of the Office over Fr Grygorcewicz's expulsion had already been explained to them and that "changing our view is not possible".

18. Following the May 2009 imposition of the largest fine known to that date for unregistered religious activity – against Baptist Nikolai Poleshchuk for distributing religious literature - Forum 18 asked whether it was right to punish peaceful religious activity. Anna Zemlyanukhina, Head of Osipovich District Ideology Department, replied: "I know my Constitution and human rights. It is all in accordance with the law."

19. Belarusian and international law upholds the rights of prisoners and detainees to pastoral visits, communal worship and religious literature. However, prisoners of conscience have told Forum 18 that these rights are repeatedly denied to political prisoners, as well as in some cases to ordinary prisoners. Prisoners are reportedly forced to work at Easter and Christmas. Political opposition activists - particularly the young - often draw upon Christian ideas, so requests to exercise their freedom of religion or belief in prison have often been made. Death penalty prisoners are denied a final meeting with clergy before being executed. As of early November 2009, no prisoners were jailed purely for their religious convictions.

### **Agencies of state control**

20. Revived in 2003, state Ideology Departments are often instrumental to the close monitoring of religious communities in cases such as those described above. Typically, groups comprising ideology officials, police and sometimes KGB secret police disrupt religious meetings and initiate prosecution of believers. A key factor in the state's relative eagerness to exert control over religious

communities is its preservation of an extensive Soviet-era religious affairs bureaucracy and anti-religious stance. In addition to a Plenipotentiary for Religious and Ethnic Affairs and four officials working on religious affairs in Minsk (until July 2006 the State Committee for Religious and Ethnic Affairs), there are one or two religious affairs officials in each of the country's six regions plus Minsk city, and further officials dealing with religious affairs in every district (approximately 20 per region).

21. The Belarusian KGB secret police - which has pointedly not changed its name since Soviet times - has sought to have icons of the New Martyrs - as Orthodox Christians killed for their faith in the Soviet Union are known in the Orthodox Church - removed from Grodno cathedral. Such influence means that Belarusian Orthodox representatives appear nervous about publicly acknowledging New Martyrs believed to be among the many victims of the Stalin-era secret police at the mass killing grounds of Kuropaty (Kurapaty) on the edge of Minsk.

22. While President Lukashenko has publicly stressed the role of Orthodoxy in Belarus, Forum 18 has found little evidence that state support for the Belarusian Orthodox Church (Moscow Patriarchate) is more than nominal.

### **New trends**

23. Some new trends have emerged as well as the above long-standing human rights violations.

#### **- Independent civil society actions**

24. The state is keen to restrict Protestant activity in particular as a potential political threat. One Protestant noted that their belief in the priesthood of all believers means that "each individual Protestant is a potential activist". Indeed, religious believers have complained to Forum 18 that the authorities attempt to stop them publicly discussing general social issues. After exhausting other methods of negotiation with the state authorities, Protestant churches have begun using tactics of organised resistance normally associated with secular political activism in pursuit of religious freedom. Mainstream political activists are in turn drawing on religious ideas, and a number of key opposition figures are committed Christians.

25. Besides New Life's October 2006 hunger strike and subsequent non-violent civil disobedience actions, in which a variety of churches from across Belarus have participated, the strongest example to date of this trend is the petition to change the 2002 Law begun in April 2007. "We are defending the rights of all Christians (Orthodox, Catholics, Protestants), all citizens of Belarus," its co-ordinators declared. "The law violates the rights of all people, even atheists."

26. The state attempted to thwart the petition by denying permission to hold demonstrations, arresting petition-gatherers, confiscating material detailing religious freedom violations and encouraging support for the campaign, and arranging for a petition-gatherer to be fired from his employment as an electrician. Having nevertheless succeeded in gathering over 50,000 signatures – the minimum required for a law to be reviewed by Belarus' Constitutional Court – the co-ordinators submitted the petition to various state organs in February 2008. All refused to consider the petition; a typical response echoed earlier dismissive denials by claiming that the petitioners' allegations of religious freedom violations "do not correspond with reality". At an unprecedented, four-hour round table of religious leaders in Minsk on 19 September 2007, Vice-premier Aleksandr Kosinets also rejected the possibility of amending the 2002 Law. In May 2008, a copy of the petition was presented to the European Parliament, which passed a resolution the same month calling for the 2002 Law to be revised.

27. Civil society human rights defenders have drafted a text for a new Religion Law. An open roundtable to discuss this, due to have taken place in October 2009 in Minsk, was obstructed by the authorities. Organisers had to re-schedule the roundtable.

#### **- Expulsions of foreign religious workers**

28. Another recent trend is for the Belarusian authorities to deny visas to a growing number of foreign Protestant workers and Roman Catholic priests and nuns. Between the end of 2006 and the end of 2008, 12 Polish Catholic priests and eight nuns were forced to leave Belarus. In the same

period, at least five foreign Protestants were deported in connection with their religious activity. A handful of cases were reported in previous years. Expulsions of Catholics routinely take place at the end of each year. According to Archbishop Tadeusz Kondrusiewicz, who heads the Catholic Church in Belarus, of the 430 or so Catholic priests in Belarus, about 160 are foreign citizens. Most are Polish.

29. Protests are often launched against the expulsions, in one case gathering 12,000 signatures, but none has been able to return. It appears that public social activism, such as the organisation of anti-alcoholism programmes or events including non-Catholic youth, has led to the targeting of particular Catholic priests.

30. Expulsions can often involve the KGB secret police. In February 2009 two Danish citizens were deported for taking part in worship services in Gomel's charismatic Living Faith Church. Police said they broke the law by "spreading religious ideas". The congregation's pastor noted that an unfamiliar visitor to the church had filmed the pair with a mobile phone; he suspected this was part of KGB monitoring. Religious communities understand that the KGB keeps a close eye on their activity.

31. Belarus' National Security Concept, signed by President Lukashenko on 17 July 2001, includes "the activation of the activity of foreign religious organisations and missionaries to monopolise the spiritual life of society" among fundamental factors posing a threat to national security in the humanitarian sphere. It also calls for the counteraction of their "negative influence". "National security" has been invoked to justify a Protestant expulsion, even though this is not a permissible ground to limit freedom of religion or belief under the ICCPR.

32. Even if officially permitted to conduct religious activity, foreign citizens are subject to strict controls. A February 1999 Council of Ministers decree ruled that they may work only within houses of worship belonging to or premises continually rented by the religious organisation which invited them. This must be a registered religious association consisting of ten or more communities, at least one of which must have functioned in Belarus for 20 years. The transfer of a foreign religious worker from one religious organisation to another - such as between parishes - requires permission from the relevant state official dealing with religious affairs, even for a single worship service.

33. In addition, under a January 2008 successor decree, Belarus' top religious affairs official now has sole discretion in deciding whether religious work by a foreign citizen is necessary. The Plenipotentiary for Religious and Ethnic Affairs, currently Leonid Gulyako, also has the right not to give reasons for refusing a foreign religious worker's visit. He can shorten the visit "if the period of time required for realisation of the aims for which the foreign citizen is invited does not correspond to that requested." Foreign citizens must also now attest knowledge of Belarus' state languages (Belarusian and Russian) in order to perform religious work.

#### **- Restrictions on non-worship activities**

34. The state has also moved to restrict social activity by religious communities since the 2006 presidential elections, in addition to expelling some Catholic priests for their public social activity. In July 2007 a local ideology official, tried to break up the annual family holiday camp run by the Minsk-based charismatic Jesus Christ Church. Producing a handwritten order in ballpoint pen on plain paper, he claimed that the camp needed the official permission of religious affairs officials.

35. Recently a rehabilitation programme for alcoholics and drug addicts run by a Belarusian Christian social organisation, Cliff House, has been targeted by an ideology official in the eastern city of Mogilev. After a raid its co-ordinator was fined 140,000 Belarusian Roubles (315 Norwegian Kroner, 35 Euros, or 50 US Dollars) on 11 May 2009 for conducting unregistered religious activity.

#### **- Prosecutions of conscientious objectors to compulsory military service**

36. After a lull since 2000, Belarus has in 2009 re-started criminal prosecutions of conscientious objectors. On 6 November 2009, Jehovah's Witness Dmitry Smyk was fined 3,500,000 Belarusian Roubles (7,300 Norwegian Kroner, 863 Euros or 1,284 US Dollars). He told Forum 18 that he is ready to do alternative civilian service, as guaranteed by Belarus' Constitution. However, there is no mechanism to enact this. "So I have the right, but can't use it," Smyk noted. Three more criminal prosecutions of other Jehovah's Witness conscientious objectors are apparently imminent. (END)