

Session I - Freedom of thought, conscience or belief - Implementation of commitments

The Helsinki Final Act states that “participating States will respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion.” This fundamental, politically binding, human dimension commitment has been repeatedly reaffirmed. Indeed, as Ambassador Lenarčič stated at the last HDIM, it is “one of the most central and longstanding of the OSCE human dimension commitments.”

Implementation is the key to this commitment. In the following paragraphs of the Helsinki Final Act, participating States committed themselves to “promote and encourage the effective exercise” of these rights; to “recognize and respect the freedom of the individual to profess and practice, alone or in community with others, religion or belief acting in accordance with the dictates of his own conscience”; to “constantly respect these rights and freedoms”; to “promote universal and effective respect for them”; to “act in conformity with the purposes and principles of the (...) Universal Declaration of Human Rights”; and to “fulfil their obligations as set forth in the international declarations and agreements in this field”. The need for implementation has been reaffirmed in many OSCE ministerial decisions, documents, and meetings - including the last SHDM on this commitment.

Why is it so important that we move, as the Annotated Agenda we have puts it, “from commitments to implementation”? Because freedom of thought, conscience and belief is a foundation of the key OSCE insight that security and human rights are inseparable. This is because it is intertwined with the rule of law and other fundamental freedoms such as freedom of speech and association, freedom of the media, freedom of expression and freedom of movement. The wisdom of this insight has been repeatedly shown in many contexts, such as in the north of Ireland. Violating freedom of thought, conscience or belief for all always causes and encourages tensions, creating insecurity and conflict. To put it another way, respecting the exercise of freedom of thought, conscience and belief - and other fundamental freedoms - defuses tensions, encourages security, and builds tolerant, peaceful societies. This is why moving “from commitments to implementation” is so important.

All participating States have committed themselves to implement the politically binding human dimension commitments. Yet sadly some participating States still violate these commitments. There are far more kinds and incidents of violations (documented and analysed by Forum 18) than there is time to outline now. One participating State - which is by no means the worst in the OSCE area - offers numerous examples of this. Only last month Azerbaijan brought in laws directly contradicting its commitments, introducing new “offences” such as in one example producing, importing, exporting, and circulating non-state approved religious literature and selling it in places the state does not approve. Amongst the other violations introduced are extraordinary tests of doctrines before legal status is granted, such as a group’s “form and methods, traditions, attitude to the family, marriage and education, information on limitations on rights and duties of the members of the society” amongst many other requirements there is not have time to list, and a ban on the group’s religious activity anywhere apart from a place approved by the state.

Having targeted all religions or beliefs last month, last week the Parliament turned to targeting Muslims specifically. Azerbaijan has already closed some mosques and barred Muslims from praying outside during Friday prayers. Last week, Parliament passed amendments requiring all leaders of Muslim communities to be appointed by the state, and stating that “religious rituals of the Islamic faith can be carried out only by citizens of Azerbaijan who have received their education in Azerbaijan.” In a sadly typical example of denial, parliamentary deputy Ali Huseynov, who heads the Legal Policy and State Building Committee - which arranged the amendments’ passage through Parliament - stated they “do not at all restrict freedom of conscience”.

These violations of commitments, add further to the country's sorry record of actions against people in vulnerable groups, such as Jehovah's Witnesses raided during peaceful religious worship, Baptists denied registration in the north, Georgian Orthodox churches kept closed against the wishes of their people, or those who just want to read religious literature censored by the state. This censorship directly contradicts the 1989 Vienna Concluding Document - which foreshadowed so much that happened in that extraordinary year 1989 - with its vision of "new ways for co-operation, in promoting respect for human rights and fundamental freedoms and thus strengthening international security."

Sadly, Azerbaijan did not take advantage of the assistance readily available from the ODIHR in fulfilling its commitments, for example legislative review by the OSCE Council of Experts on Freedom of Religion or Belief. This failure to explore how legislation could be framed to match commitments was despite calls for such a review from the Monitoring Committee of the Council of Europe Parliamentary Assembly and an Azeri opposition parliamentary deputy, Fazil Gazanfaroglu Mustafae, who pointed out that last month's changes limited freedom of conscience and violated the Constitution. It is to be hoped that President Aliev will refuse to sign last week's changes and that Azerbaijan will take advantage of the ODIHR's assistance in reviewing current legislation. As the experience of other participating States indicates, this assistance can be very helpful in implementing the human dimension commitments to "respect human rights and fundamental freedoms"

The decline in respect for freedom of thought, conscience and belief also continues in other parts of the OSCE area. To take some of the examples of violations from last month, Turkmenistan jailed two conscientious objectors, Belarus fined a Baptist almost three months' average salary for unregistered religious activity, Kazakhstan jailed a Baptist for leading unregistered worship, and Tajikistan continued to detain 93 members of the Jamaat Tabligh Muslim group, and confiscated a Protestant church. Forum 18 continues to document and analyse these violations.

So what can be done? The most obvious step is for participating States to implement the Human Dimension commitments they themselves have made. Yet, as the most serious violators in the OSCE area are participating States themselves, how can we implement commitments? We have heard the recommendations of the Civil Society Roundtable before this SHDM. They built on the Civil Society Preparatory Meeting for the 2007 Bucharest High Level Conference on Combating Discrimination and Promoting Mutual Respect and Understanding, which made some excellent recommendations. Some of these are:

- "that participating States and OSCE institutions and field operations, in their structures and activity, address such human rights violations in a way which does not discriminate against or in favour of any belief including the right to publicly criticise religious or other beliefs, as violations of a fundamental human right of all people";
- "[that] participating States (...) enable citizens and groups to challenge prejudices, stereotypes, denigration and hate speech expressed against all persons and communities, whatever their religious or non-religious beliefs. In this context, particular attention should be paid to the media, the public discourse of political and social leaders as well as state officials, and public training and educational programs";
- "We encourage the ODIHR to address the connections between fundamental human rights and tolerance and non-discrimination issues and we recommend that this be reflected in the internal structure of ODIHR by designating dedicated staff to all the aspects of the issue [freedom of thought, conscience and belief] in the Human Rights Department";
- and "[that] the OSCE/ODIHR Advisory Council on Freedom of Religion or Belief's activities (...) be expanded. We call for resources to be given to enable this to happen..."

Those who, under immense pressures, exercise the right to freedom of religion and belief put the human dimension commitments into action. Their actions actively assist us to move "from commitments to implementation". Our part in this struggle is to do what we can to help make this fundamental human dimension commitment a living reality for everyone in the OSCE area.

Subscribe free to Forum 18 News Service weekly or daily editions via www.forum18.org