

U.S. Commission on International Religious Freedom Hearing

Religious Freedom in Tajikistan: Policy Options for a Country of Particular Concern

Thursday, July 20, 2023

10:30 AM – 12:00 PM ET

Virtual

Intervention by Nazila Ghanea, UN Special Rapporteur on freedom of religion or belief

Introduction

- I would like to thank USCIRF for having invited me to this important event and for the opportunity to share my main findings following my official country visit to the Republic of Tajikistan from 11 to 20 April 2023, upon the invitation of the Government. This was my first visit since taking up my mandate, but the second of the mandate to the country (the first being by Asma Jahangir in February/March 2007). The cooperation extended by the Government to my delegation allowed us to carry out the visit in an effective manner.
- During the visit, my delegation met government officials from various ministries, representatives of the Parliament, Supreme Court, General Prosecutor's office, relevant State Committees, the Commissioner for Human Rights (Ombudsman) and many more. We were also able to visit a prison where religious prisoners are detained. We further held fruitful meetings with the UN Resident Coordinator and the UN country team, diplomats, regional and international human rights organizations, representatives of religious associations and communities and faith-based actors, NGOs, human rights lawyers, journalists and scholars.
- One of my main findings was that Government laws, policies and practices in the field of religion or belief today are often mentioned by the authorities as factors that deeply impact national concerns as being impacted by broader geopolitical, strategic, security and economic concerns facing the country. Something that is also often mentioned, is the situation in Afghanistan after the return of the Taliban to power and the joint 1,400 km shared border with that country, relations with Russia after the war in Ukraine, tensions with Kyrgyzstan and economic cooperation with China.
- The authorities themselves noted on a number of occasions that the U.S. State Department has designated Tajikistan as a country of particular concern (CPC) since 2016, and that they indicated that they were eager to be removed from that list.

Main findings

- I wish to emphasize at the outset that one cannot say that freedom of religion or belief (FORB) is totally absent in Tajikistan. There is a spectrum of treatment being experienced by both Muslims and non-Muslims. Regardless, the spectrum of the enjoyment of FORB falls alarmingly short of the scope of guarantees in international human rights law, as the country is bound by, including under the ICCPR.
- What drives this highly regulated scope for FORB is an almost singular overarching drive to address violent extremism and terrorism. The legislative framework consists of the

2020 Law on Countering Extremism and 2021 Law on Combating Terrorism. However, both these laws and the Criminal Code offer overbroad and ambiguous definitions, which do not meet the threshold of seriousness required for such acts, notably that the intent is to cause death or serious bodily injury. In addition, the overly broad definition of terrorist organizations in article 4 of the said law has had practical implications, including in relation to the ever-growing list of banned groups.

- The mandate reminded the authorities that legal provisions addressing incitement must be in line with the ICCPR (articles 19 and 20) and consider the guidance set out in the 2012 Rabat Plan of Action. The evidentiary requirements and threshold for incitement also need to be clear in the law and strictly applied in conformity with human rights standards, including due process. On a positive note, I welcomed the fact that the punishment for incitement for first time offenders was reduced to a fine and indicated that this reduction of punishment is a good practice that should be more widely applied in the country's process of harmonizing its laws and policies in line with international human rights standards.
- There is a cluster of concerns that are often referenced around religious organizations and movements, religious enmity and the forcible overthrow of constitutional state structures, and political parties and armed groups acting against nationalism and religious hatred that can only be understood in the light of the civil war of 1992-1997 in Tajikistan. I reminded the Government that scope needs to be offered to FORB in the country, and that religion or belief do not in themselves pose severe risk factors to societal life, they can serve as active contributors to development, peace and understanding.
- The Tajik authorities regularly describe FORB as an individual and private freedom. There is a strongly selective application of the right to FORB which reduces it to its 'forum internum' and results in the violation of the many other aspects of the right. The indicative scope of manifestation of religion or belief, including in public and along with others, is worship, observance, practice and teaching. The authorities widely shared the misguided belief that manifestation can be limited on the grounds of national security, but this is explicitly not the case. Neither can it be subject to derogation in times of public emergency that threaten the life of the nation (article 4.2 of the ICCPR).
- In terms of worship, the number and regulation of mosques and other places of worship throughout the country leads to severe restrictions on the freedom to manifest religion or belief through worship. Surveillance, imposed reporting and intrusion, apply across the board to all but can have a disproportionate and disparate impact on religion or belief minorities.
- I also wish to add that the concern about children and youth being attracted to extremism and terrorism is given as the rationale for three exclusions; the prohibition of boys under 18 from entering the mosque, the prohibition of all those under 18 participating in any religious events apart from funerals and the prohibition on children receiving any religious education outside the home and from their parents.
- With regard to women and girls, they also do not have the possibility to pray in the mosques, and particular types of headdresses are prohibited and restricted as being indicative of extremism or belonging to banned extremist or terrorist groups.
- On a positive note, in July 2022, Tajikistan enacted its first ever antidiscrimination law, and there is the need to press for the harmonization of legislation with this new law and conducting awareness raising and other activities to implement the law in practice.

- There are many instances in which discrimination is rife and religious accommodation almost completely absent. Just one instance of this relates to the refusal to recognise conscientious objection to military service and provide for an alternative service. In fact, Jehovah's Witnesses had their registration withdrawn due in large part to their refusal to perform military service. In light of the 2022 Views of the UN Human Rights Committee on this matter, which found violations to articles 18.1 and 22.1 of the ICCPR, the request by Jehovah's Witnesses for a review of that withdrawal decision was before the Dushanbe Military Court during my visit, and my delegation followed the case carefully.
- Following numerous reports on the recent events from November 2021 onwards in the Gorno-Badakhshan Autonomous Oblast (province) (GBAO) and upon receipt of the special permission required, our team dedicated 15 to 18 April 2023 for a visit to GBAO. I very much regret that the authorities did not facilitate official meetings and we were unable to meet with them.
- We reached out to a range of religion or belief communities and faith-based actors in GBAO. There was a widespread reluctance to speak and a fear of reprisals. We had first-hand information on the region that was cross checked and strongly confirmed through direct observation on the ground. According to tens of sources, the State Committee on National Security has recently invited heads of some 128 local NGOs to a meeting in GBAO and persuaded or forced them to "voluntarily self-liquidate". More than 30 of those NGOs, even those working with children, suspended their activities, and more than 10 NGOs have self-liquidated under the pressure. Yet more alarming news has been received regarding the situation here in recent weeks.

Conclusions

- As I mentioned at the end of my visit, countering violent extremism and terrorism can constitute legitimate grounds for limitations to manifestation of FORB. However, this needs to be carried out in a manner that does not risk extinguishing the right to religion or belief itself. In Tajikistan, this balance has not been struck in a way that fully upholds FORB.
- I urged the authorities to re-examine each of the areas that I had outlined in my end-of-visit statement and widen the scope of enjoyment of manifestation of FORB. I also recalled that the authorities' pursuit of security does not stand at loggerheads with FORB. Quite the contrary.
- I will submit my visit report, containing my full observations and recommendations to the UN Human Rights Council in March 2024. Recommendations will include those around upholding FORB whilst countering terrorism and preventing violent extremism and sharpening laws and practices on such matters; dealing with any advocacy of hatred that constitutes incitement to discrimination, hostility or violence; emphasising the need to uphold the full scope of manifestation of FORB, including for women, children and youth, prisoners, religious and belief minorities and conscientious objectors to military service; religious education; fair trials and due process; and the maintenance of an open civic space.
- I believe that the Tajik Government has a unique opportunity to reform laws and policies that severely constrict religious practice and expression. I have indicated to the Government that I stand ready to be of any assistance in advancing these objectives.
- Thank you very much for your attention.