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TAJKISTAN

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Introduction

1. ADF International is a faith-based legal advocacy organization that protects fundamental freedoms and promotes the inherent dignity of all people. As well as having ECOSOC consultative status with the United Nations (registered name 'Alliance Defending Freedom'), ADF International has accreditation with the European Commission and Parliament, and the Organization of American States. ADF International is also a participant in the FRA Fundamental Rights Platform.
2. This report highlights the severe restrictions on freedom of religion in Tajikistan, including barriers to church registration, the unjustified monitoring of religious activities, censoring of religious materials and the prohibition of children from participating in religious activities. It also highlights the impact of the country's laws and policies on combating extremism on both freedom of religion or belief and freedom of expression.

(a) Freedom of Religion or Belief

3. In the previous Universal Periodic Review cycle, Tajikistan supported several recommendations pertaining to freedom of religion, including to take measures as necessary to eliminate restrictions on freedom of worship' and to 'lift bans on religious groups to enable them to practice their religions freely.'¹ However, in practice, the national government has maintained its repressive laws and policies on public religious practice, specifically targeting minority communities.
4. Article 26 of the Constitution of Tajikistan guarantees freedom of religion, including the right 'to profess any religion individually or jointly with others or not to profess any and to take part in religious customs and ceremonies.'² This provision also includes a right to choose and change religious beliefs freely, as well as to act in accordance with those beliefs. Additionally, Article 30 expressly provides that 'everyone shall be guaranteed the freedom of speech, publishing and the right to use means of information' and that 'state censorship and prosecution for criticism shall be prohibited.'³
5. The 2009 Law on Freedom of Conscience and Religious Associations regulates, as the name suggests, freedom of conscience and of religion in Tajikistan. It imposes numerous unjustified restrictions on this human right. Article 4(8) prohibits

¹ UN Human Rights Council 'Report of the Working Group on the Universal Periodic Review: Tajikistan (Addendum)' (7 September 2016) UN Doc A/HRC/33/11/Add.1.

² 1994 Constitution (Basic Law) of the Republic of Tajikistan, art. 26.

<http://www.president.tj/en/taxonomy/term/5/28>

³ Ibid., art.30.

incitement to ‘any kind of religious hatred and conflict, or insult of religious and atheistic feelings of citizens.’ Article 4(9) prohibits larger-scale activities by unregistered religious groups.⁴

6. The law sets out onerous requirements for registration of religious associations. These include reporting on the number of members over the past 5 years, providing a charter covering ‘all features of the confession’ as well as information on sources of funding and properties.⁵
7. Registered associations are required to provide an annual report of activities as well as cooperate fully with any monitoring activities by public authorities.⁶ Religious literature must be approved by the ‘state theological expertise’ while⁷ preaching and other outreach activities are prohibited in school and places of residence.⁸ Muslims face restrictions on the establishment and functioning of mosques as well as requiring government approval for pilgrimages to Mecca.⁹
8. Regrettably, severe limitations on freedom of religion or belief also target children and their parents. Article 8 of the Parental Responsibility Law prohibits parents from allowing minors to participate in any religious activities outside of formal enrolment in religious education.¹⁰ Article 9 also prevents children in foreign countries to receive religious education without written consent from authorized state bodies.¹¹
9. In January 2020, a Law on Countering Extremism was enacted in Tajikistan.¹² The law specifically mandates increased surveillance and control over religious activities, especially when undertaken by unregistered groups.¹³ In particular, the fines for infringement of various legal provisions on the registration and operation of religious organizations have been dramatically increased, reflecting a

⁴ 2009 Law739 on Conscience and Religious Associations, art. 4.

https://www.legislationline.org/download/id/6658/file/Tajikistan_law_conscience_religious_associations_2009_a_m2011_eng.pdf

⁵ Ibid., art.13-15.

⁶ Ibid., art. 19.

⁷ Ibid., art.22.

⁸ Ibid., art.23.

⁹ Ibid., art. 11 and 21.

¹⁰ Law No. 762 (2011) on the Responsibility of Parents for the Education of Children, art. 8

http://mmk.tj/system/files/Legislation/762_tj.pdf.

¹¹ Ibid., art. 9.

¹² Law No. 1516 (2020) on Countering Extremism,

https://www.legislationline.org/download/id/8835/file/Tajikistan_law_countering_extremism_as_of_2020_en.pdf

¹³ Ibid., art. 11(8).

crackdown on unapproved religious activities by the state.¹⁴

10. The central body monitoring and regulating religious matters in Tajikistan is the State Committee for Religious Affairs (hereinafter, 'SCRA'). It mandates the appointment and removal of religious leaders, determines the permissibility of teachings and religious activities, and monitors the construction, maintenance, and closure of religious buildings. It also enforces the various legal restrictions through fines and imprisonments.¹⁵
11. Apart from closing, demolishing and in some cases converting non-permitted mosques to secular uses, the SCRA has imposed tighter controls by requiring mosque communities to seek approval by local authorities before using specific buildings for worship or allocating land to build a mosque.¹⁶ Even the religious practices themselves are often regulated, notably including 'mourning regulations' for Muslims to ensure state-approved expressions of grief. The Traditions Law bans customary religious meals, non-traditional apparel, and religious traditions at funerals.¹⁷

Cases

12. Regrettably, Tajikistan's failures to protect the right to freedom of religion or belief for all has a severe impact in practice, as demonstrated by the grave incidents of discrimination and other human rights violations against people of faith occurred during the reporting period.
13. In 2019, several Muslim men claimed being rejected Tajik passports due to having full beards. This case was reportedly part of an ongoing government campaign to discourage beards and other outward features common to Muslims, which are viewed by many officials as signs of foreign cultural intrusion or even religious extremism.¹⁸ In December 2019, Nilufar Rajabova, a Muslim Tajikistani woman, was detained by the police simply for wearing her hijab. She was detained with about 20 other women, and fined for 'hooliganism'. Rajabova was forced to take her hijab off and was detained for more than 10 hours after protesting the detention

¹⁴ M. Baryam, J. Kinahan 'TAJIKISTAN: Religious freedom survey' (22 December 2020) Forum 18, <https://www.forum18.org/archive.php?article_id=2625>.

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ M. Holikzod, A. Olimov, P. Baumgartner 'No Country For Bearded Young Men: Only 'Well-Groomed' Tajiks Getting Passports' (11 January 2019) Radio Free Europe <<https://www.rferl.org/a/no-country-for-bearded-young-men-only-well-groomed-tajiks-getting-passports/29705257.html>>.

as a breach of women's rights and national laws.¹⁹In the same month, Khayriddin Dostakov, a 36-year-old Muslim man, was arrested for allegedly spreading 'extremist ideas' after returning from a family visit to Russia. He was reportedly questioned on his religious beliefs and tortured. In reality, he had been working to draw Tajik migrants away from Islamic extremism by warning them about the dangers of the conflicts in Iraq and Syria.²⁰

14. Although Christians constitute a very small minority of the population, the 2021 World Watch List has classified Tajikistan as the 33rd most dangerous country in the world to be a Christian.²¹ The most targeted Christians are converts from Islam and non-traditional Protestant groups, as well as churches that engage in active proselytization.²²
15. In February 2019, custom officials confiscated and burned 5,000 calendars which contained bible verses, imported by a Baptist Church, which were deemed 'propaganda of an alien religion'. The church was fined and charged with violating the compulsory religious censorship law that criminalizes the producing and distributing religious material without state approval.²³ In December 2019, protestant pastor Bakhrom Kholmatov was freed after being arrested on in 2017 on charges of religious extremism and incitement to hatred. He had been sentenced for 'singing extremist songs in church and so inciting religious hatred.' At the time of his arrest, officers interrogated and beat other church members and removed Christian songbooks they deemed as 'extremist'. The SCRA fined the church for engaging in unregistered religious activity.²⁴
16. Minority non-Muslim communities are not only the victims of religious discrimination, but also of societal oppression. In June 2018, a family of Christian converts from Islam were stigmatized by their community when they sought to bury their mother. Their own Muslim relatives tried to prevent the mother's burial and ceremony under the pretext that they were 'betrayers' of Islam. Converts from

¹⁹Radio Free Europe 'Tajik Woman Says Police Detained, Threatened Her Over Islamic Head Scarf In Anti-Hijab Raid' (18 December 2019)<<https://www.rferl.org/a/tajik-woman-police-detained-threatened-islamic-head-scarf-in-anti-hijab-raid/30332633.html>>.

²⁰M. Bayram 'TAJIKISTAN: Alleged "extremist", alleged Shia, jail, torture' (29 January 2020) Forum 18 <https://www.forum18.org/archive.php?article_id=2538>.

²¹Open Doors 'Tajikistan: Country Dossier' (December 2020) World Watch Research <<https://www.opendoorsusa.org/wp-content/uploads/2016/09/Tajikistan-WWL-2021-Country-dossier.pdf>>.

²²World Watch Monitor 'Tajikistan' <<https://www.worldwatchmonitor.org/countries/tajikistan/>>.

²³Radio Free Europe 'Alien Religion': Tajik Customs Officials Burn 5,000 Baptist Calendars'(14 February 2019) <<https://www.rferl.org/a/customs-officials-burn-5-000-baptist-christian-calendars-in-tajikistan/29769755.html>>.

²⁴World Watch Monitor 'Tajik pastor freed after 3 years in prison for 'singing extremist songs in church'' (18 December 2019)<<https://www.worldwatchmonitor.org/2019/12/tajik-pastor-freed-after-3-years-in-prison-for-singing-extremist-songs-in-church/>>.

Islam are perceived as shameful to their entire community and Muslim family members often prevent these converts from being buried in their own villages.

17. The Presbyterian Korean Church has faced violence and reprisals that caused them to close down after initially gaining much popularity in the early 2000s. Following a deadly bombing attack committed by university students who blamed the church for inciting Muslims to abandon their faith and convert to Christianity, the church had to maintain a low profile and its current status remains unclear. Although Tajik authorities claim the church is unregistered and therefore illegal, the church maintains that they received no court order to shut down. The current pastor has stated that many members of his congregation are afraid to share their faith and prefer going to mosques with Muslims, but praying as Christians.²⁵
18. In October 2020, a nationwide census was conducted, including for the first time a question on the individual's religious affiliation. The question has five possible categories: 'Muslim', 'Christian', 'non-believer', 'refused to answer', and 'other' (with a box to specify which belief). For fear of reprisals, several non-Muslim individuals preferred to mark themselves as 'Muslim' instead of disclosing their true religious beliefs.²⁶

Freedom of Religion or Belief and Freedom of Expression in International Law

19. Article 18 of the International Covenant on Civil and Political Rights (ICCPR) which Tajikistan ratified in 1999, protects the right to freedom of religion or belief, guaranteeing the right to manifest one's religion or belief in worship, observance, practice, and teaching. It also protects the right of parents and legal guardians to ensure the religious and moral education of their children in conformity with their own convictions. Article 27 of the ICCPR further guarantees that '[i]n those States in which religious minorities exist, persons belonging to such minorities shall not be denied the right, in community, with the other members of their own group... to profess and practise their own religion.'
20. While article 18(3) does permit certain narrow limitations on religious freedom, International law is clear that the exercise of this fundamental human right can be limited only for the sake of national security and public health and morals. Tajikistan's numerous regulative laws and restrictions clearly exceed these criteria. They go beyond protecting national security or public safety by placing almost all

²⁵ IWPR Central Asia 'Tajik Christians Fear Talking About Their Faith' (11 March 2019) Institute for War and Peace Reporting <<https://iwpr.net/global-voices/tajik-christians-fear-talking-about-their-faith>>.

²⁶ F. Corley 'TAJIKISTAN: "No reason to fear" census religion question?' (18 September 2020) Forum 18 <https://www.forum18.org/archive.php?article_id=2601>.

aspects of religious practice under the control of the state in blatant violation of freedom of religion.

21. The restrictions on religious education of children also violate the right of parents 'to ensure the religious and moral education of their children in conformity with their own convictions,' as outlined in article 18(4). The Parental Responsibility Law also directly violates children's right to freedom of religion, as outlined in article 14 of the Convention on the Rights of the Child (CRC), ratified by Tajikistan in 1993.

22. Tajikistan's laws also violate the right to freedom of expression outlined in article 19 of the ICCPR. The prohibitions on 'extremist' activities are ambiguous and broadly defined, giving immense power to the government to restrict legitimate expression in unjustified ways. These measures also have an inevitable chilling effect on free expression, especially on religious matters.

(b) Recommendations

23. In light of the aforementioned, ADF International suggest the following recommendations be made to Tajikistan:

- a. Review and amend all national legislation relevant to freedom of religion or belief to ensure their full conformity with international human rights law;
- b. Repeal the provisions of the Law on Freedom of Conscience and Religious Associations that impose undue restrictions on fundamental freedoms;
- c. Amend the Traditions Law to remove undue restrictions imposed over religious dress and traditions;
- d. Remove burdensome registration requirements for religious organizations and rescind intrusive governmental practices that infringe upon the right to freedom of religion and belief;
- e. Remove any prohibitions on religious or belief communities operating on an unregistered basis, as international human rights law does not allow the enforcement of any such alleged obligation;
- f. Cease all restrictions on the production and reproduction of religious literature and materials;
- g. Repeal the provisions of Law No. 762 on the Responsibility of Parents for the Education of Children that prohibit the participation of children in religious activities and unjustly violate parental rights;

- h. Bring Law No. 1516 on Countering Extremism in compliance with international human rights law, especially Article 19 of the International Covenant on Civil and Political Rights.



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