

NATIONS UNIES
HAUT COMMISSARIAT DES NATIONS UNIES
AUX DROITS DE L'HOMME

PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

**Mandates of the Special Rapporteur on freedom of religion or belief, and the Special Rapporteur on
the right to education**

REFERENCE: AL Education (1998-11) G/SO 214 (56-23)
TJK 2/2011

28 July 2011

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on freedom of religion or belief and Special Rapporteur on the right to education, pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 14/11 and 17/3.

We would like to draw the attention of your Excellency's Government to information we have received regarding recently adopted legislation imposing restrictions on the rights of children and their parents with regard to **religious education**.

According to information received:

On 21 July 2011, the Upper Chamber of the Parliament of Tajikistan adopted the Parental Responsibility Law. Pursuant to its article 8, parents are obliged "not to let children-teenagers participate in the activity of religious organizations, with the exception of those officially enrolled in religious education." Article 9 of the Parental Responsibility Law "bans the encouragement of children to receive education in illegal schools and education institutions as well as from individual persons who do not have permission for such activity" and requires parents "not to allow the education of adolescent children abroad without the permission of appropriate state agencies". Article 11 of the Parental Responsibility Law includes the Committee on Religious Affairs among the state agencies tasked with enforcing parents' responsibility for their children. An exception clause in a previous draft version of this provision relating to "funerals and mourning events" was removed from the Parental Responsibility Law as adopted on 21 July 2011. In addition, the Upper Chamber of the Parliament of Tajikistan also adopted amendments to the Criminal Code on 21 July 2011. Article 160 of the Criminal Code, as amended, punishes organizers and participants in "unapproved gatherings, meetings, demonstrations, pickets and street processions" with a maximum penalty of two years' imprisonment. Furthermore, a new article 307-4 punishes illegally teaching religious "extremist" doctrines, however, without defining these terms further. Both the Parental Responsibility Law and the

Criminal Code amendments still have to be signed by President Emomali Rahmon and be published in the Government's official newspaper Jumhuriyat.

On 8 July 2011, amendments to the 2009 Religion Law came into force after the President signed them into law on 28 June 2011. According to its amended article 8, anyone of any faith wishing to receive religious education outside Tajikistan must receive State permission from the Education Ministry and the Committee on Religious Affairs. The Special Rapporteur on freedom of religion or belief has already voiced concerns about previous versions of the draft Religion Law (please refer to A/HRC/4/21/Add.1, para. 286; A/HRC/7/10/Add.1, paras. 245-249; and A/HRC/7/10/Add.2, paras. 17, 23, 33 and 37).

While we do not wish to prejudge the accuracy of these allegations, we wish to recall to your Excellency's Government to ensure the right of freedom of religion or belief in accordance with the principles set forth in the Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief and in article 18 of the Universal Declaration on Human Rights and of the International Covenant on Civil and Political Rights. In addition, article 13 (3) of the International Covenant on Economic, Social and Cultural Rights provides that States "undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions." Furthermore, article 14 of the Convention on the Rights of the Child provides that "(1) States Parties shall respect the right of the child to freedom of thought, conscience and religion. (2) States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child." Article 12 of the Convention on the Rights of the Child requires States Parties "to assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child."

Furthermore, the General Assembly, in its resolution 65/211, urges States to step up their efforts to protect and promote freedom of thought, conscience and religion or belief, and to this end: "(b) To ensure that existing legislation is not implemented in a discriminatory way or does not result in discrimination based on religion or belief [...]; (d) To ensure that no one is discriminated against on the basis of his or her religion or belief when accessing, inter alia, education [...]; (g) To ensure, in particular, the right of all persons to worship, assemble or teach in connection with a religion or belief and their right to establish and maintain places for these purposes, and the right of all persons to seek, receive and impart information and ideas in these areas; (h) To ensure that, in accordance with appropriate national legislation and in conformity with international human rights law, the freedom of all persons and members of groups to establish and maintain religious, charitable or humanitarian institutions is fully respected and protected; (i) To ensure that all public officials and civil servants, [...] in the course of

fulfilling their official duties, respect freedom of religion or belief and do not discriminate for reasons based on religion or belief, and that all necessary and appropriate awareness-raising, education or training is provided; [...] (k) To promote, through the educational system and other means, mutual understanding, tolerance, non-discrimination and respect in all matters relating to freedom of religion or belief by encouraging, in the society at large, a wider knowledge of different religions and beliefs and of the history, traditions, languages and cultures of the various religious minorities existing within their jurisdiction”.

Moreover, it is our responsibilities under the mandate provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters:

1. Are the facts alleged in the above summary of the case accurate?
2. Please explain how the new Parental Responsibility Law, the amended Criminal Code and the amended Religion Law are compatible with international human rights standards regarding non-discrimination, the right to freedom of religion or belief and the right of parents and legal guardians to ensure the religious and moral education of their children in conformity with their own convictions?

We would appreciate a response within sixty days. We undertake to ensure that your Excellency’s Government’s response to each of these questions is accurately reflected in the reports we will submit to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

Heiner Bielefeldt
Special Rapporteur on freedom of religion or belief

Kishore Singh
Special Rapporteur on the right to education