

Mandates of the Special Rapporteur on freedom of religion or belief; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on minority issues; and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on freedom of religion or belief; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on minority issues; and Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, pursuant to Human Rights Council resolutions 40/10, 43/4, 41/12, 43/8 and 40/16.

In this connection, we would like to bring to the attention of your Excellency's Government, information we have received concerning the recent act "On Freedom of Conscience and Religious Organisations", signed into law by the President of Uzbekistan on 5 July 2021. We are concerned that certain provisions in the bill fail to meet Uzbekistan's obligations under international human rights law and may also contravene the objectives of Uzbekistan's 'Roadmap to Ensure Freedom of Religion or Belief'¹ which adopted the recommendations of the UN Special Rapporteur on Freedom of Religion or Belief following his 2017 country visit², as well as the President's National Strategy on Human Rights.³

We take note of your Excellency Government's explanatory document indicating that Uzbekistan's obligations under the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights (ICCPR), the UN Human Rights Committee's jurisprudence and general comments, as well as the recommendations of the Council of Europe's Venice Commission and of the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe, were taken into account in the process elaborating the provisions of the law.⁴

We additionally note that while the State has not removed the requirement for registration of religious communities, the law takes some steps to streamline the registration process. Nonetheless, we remain concerned that the published law retains many of the provisions identified as previously problematic by the UN Special Procedures, the Council of Europe's Venice Commission, OSCE-ODIHR and other

¹ "Road Map on Ensuring Freedom of Religion or Belief", as passed by the Uzbek Parliament and approved by the President May 4 2018

² <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23179&LangID=E>

³ [Presidential Decree of June 22 2020 \(No. UP-6012\)](#) as amended of the Presidential decree of April 30 2021 (No. UP-6218)

⁴ <https://xs.uz/ru/post/kommentarij-k-zakonu-respubliki-uzbekistan-o-svobode-sovesti-i-religioznykh-organizatsiyakh-v-novoj-redaktsii>

⁵ See for example Joint Opinion of the Venice Commission and OSCE/ODIHR on the draft law, at [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2020\)002-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2020)002-e)

international experts,⁵ some of which the Government had undertaken to revise.⁶

With regard to the consultation process, we are concerned by the reported lack of transparency with which, in the period since August 2020, the Uzbek parliament and senate debated, modified and approved the draft law. In particular, we regret that during the period of discussion and elaboration of the draft text, revisions of the law were not publicly issued for comment on by Uzbek citizens, nor, despite request, was a draft copy of the law shared with international partners, including the UN Special Rapporteur on Freedom of Religion or Belief, until after the bill had passed.

We noted with appreciation the statement made by His Excellency President Shavkat Mirziyoyev at the 46th Session of the UN Human Rights Council in which he stated that the Government of Uzbekistan had taken into consideration the UN Special Rapporteur on Freedom of Religion or Belief's recommendations. However, we are particularly concerned that the following provisions of the 'Law On Freedom of Conscience and Religious Organisations' fail to integrate the international partners' recommendations, including those of the Special Rapporteur on Freedom of Religion or Belief, and are incompatible with the international human rights principles and standards to which your Excellency's Government has committed to abide by.

According to the information received:

Article 7 of the law maintains the total ban on all forms of peaceful missionary activity in Uzbekistan. Your Excellency's Government had previously indicated a wish to change this language to better reflect an intention to restrict "coercive conversion". However, as provided in Article 3 of the law, the definition of the term "missionary work" is drafted in a broad manner, which could be interpreted to cover any form of communication and dissemination of religious teachings, and thus disproportionately affect religious and faith adherents, often belonging to religious or faith minorities, whose doctrine calls for preaching and other outreach activities by means of non-coercive persuasion.⁷

While international law prohibits coercion in the right to have or adopt a religion of one's choice, coercion has a high bar under international law, such as the use of physical force, penal sanction or the restriction of access to education, medical care, employment and other services on the basis of religion. In addition, the ICCPR explicitly provides for the right, in public or private, to manifest, worship, observe, practice or teach one's religion or belief, and such *forum externum* manifestations may cover also non-coercive actions to persuade others. Legal or administrative restrictions on the peaceful communication of religious ideas may itself interfere with an individual's right to adopt or convert to a religion or belief of their choice, and may be implemented in a discriminatory manner.

⁵ See for example Joint Opinion of the Venice Commission and OSCE/ODIHR on the draft law, at [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2020\)002-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2020)002-e)

⁶ Comments made by the Uzbek Delegation at the OSCE Supplementary Human Dimension Meeting in November 2020

⁷ Article 3 defines missionary work as "activities to force the planting of religious views and dissemination of religious teaching by purposefully exerting ideological influence over a person or group of persons, with the aim of their conversion"

Of particular concern is also the fact that the prohibition of missionary work is stipulated in the same provision of the law (Article 7) alongside expressed considerations and concerns regarding “religious fundamentalism and extremism” as well as regarding “peaceful coexistence”, thus implicitly or explicitly securitizing peaceful missionary work and any dissemination of religious or faith teachings.

Furthermore, Article 7 includes a clause that prohibits “activities which offend the religious feelings of believers”. Religious offence and public order laws that restrict behaviour on the basis of religious sentiment or ‘defamation of religions’ protect institutions at the expense of the freedom of expression, association and assembly and freedom of belief of actual rights holders. Religious offence clauses censure and censor inter-religious or belief dialogue, debate and criticism which is constructive, healthy and necessary in a democratic society. Broadly, they are incompatible with international law.

Although Article 7 seeks to uphold the principle of separation of state and religion, the law appears to afford wide-ranging powers to state institutions, such as the Committee on Religious Affairs, to closely regulate manifestations and expressions based on religions or belief, and to monitor, sanction or declare illegal all those manifestations and expressions deemed inconsistent with this principle.

Articles 8, 11 and 17 of the Law on Freedom of Conscience and Religious Organisations, for example, maintain the ban on religious education outside of state approved and regulated ‘religious educational institutions’, which reinforces state control and paradoxically contradicts the precepts of Article 7 on the separation of religion from the State. In particular, the law provides that for the registration of a religious education centre, the Committee on Religious Affairs requires religious communities to go through a burdensome authentication and licensing procedure. At the same time, it appears that the approval of the registration of a religious education centre is contingent upon the legal recognition of the religious or faith community *per se*, and the approval of the registration of its religious organisation. In article 8, the law also imposes age restrictions on religious education in the registered religious institutions, by excluding anyone under 18 years, while Article 3 defines illegal religious activity as including any religious education or teaching which falls outside the institutional framework of the official state educational system.

Article 10 retains the ban on the manufacture, import and distribution of religious materials without prior approval by the Committee on Religious Affairs. While there may exist legitimate security concerns that call for thorough and robust efforts to counter the spread of radicalisation and religious extremism, such measures should uphold the principles and standards of international human rights law, and remain subject to the key principles of necessity, proportionality, legality and non-discrimination. Furthermore, it is noted with concern that this specific article does not offer any clarity regarding the process of “religious examination”, including any institutional and procedural specificities, as well as the possibility for the concerned individuals or religious representatives to engage with the competent authority during this process.

While noting that Articles 3 and 17 of the law reduce the registration requirement for a religious organisation from 100 to 50 citizens, we are concerned that the registration process remains onerous and needlessly prohibitive. For example, the law now adds a stipulation that the 50 citizens must all reside in same geographic area, while registration is still subject to approval on unspecified grounds by the Committee on Religious Affairs. In addition, Article 23 reserves the right of the government to refuse registration if the State does not recognise an organisation as ‘religious’. As drafted, most manifestations of religion or belief without registration as a religious organisation remain illegal. These laws are discriminatory towards smaller, newly established and non-traditional religious communities, who may not meet the 50-citizen requirement or may not be perceived as ‘religious’ in nature by authorities. Additionally, these provisions are discriminatory against religious communities who simply do not wish to register, thus blanketly rendering their activities illegal. Free exercise of freedom of religion or belief should never be contingent upon the government’s recognition – legal or other – and approval of a religious community.

Additionally, once a religious or belief community successfully registers, it appears that the law imposes undue impediments on the organisation and enjoyment of religious activities. Religious organisations must, for example, notify authorities of any events they intend to hold aside from religious rites and ceremonies (Article 12). Activities aside from religious rites conducted outside of a place of worship and without proper notice are automatically considered illegal (Article 3, as modified by the Decree of the Ministry of Justice of 1 June 2018). Taken together, these two articles drastically impede the ability all registered religious communities and organisations to legitimately manifest their right to freedom of religion or belief, as well as the rights to freedom of expression and freedom of association and peaceful assembly.

Finally, Article 11 of the law requires leaders of religious organisations to have “appropriate religious education”, except where the organisation does not have a system of professional religious education. While no guidance is provided as to what is considered satisfactory qualification, this clause *prima facie* interferes with the right of religious communities’ to freely appoint their own leaders.

In connection with the above-mentioned alleged facts and expressed concerns, we would like to draw the attention of your Excellency’s Government to the relevant international norms and standards that are applicable to the issues brought forth.

We would like to refer your Excellency’s Government to the ICCPR, to which Uzbekistan is a state party since 28 September 1995, and in particular articles 2, 14, 18, 19, 21, 22, 26 and 27, which provide for the principle of non-discrimination on any grounds – including religion or belief – equality before the law and the right to an effective remedy, the rights to freedom of thought, conscience, religion or belief, opinion, expression, association and freedom of peaceful assembly, as well as the right of persons belonging to minorities.

Article 18 (1) of the ICCPR stresses “Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom [...] either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.” Article 18 (4) additionally establishes State parties must respect “the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions”.

In its interpretation of Article 18 of ICCPR, the Human Rights Committee further explains that “[t]he freedom to manifest religion or belief in worship, observance, practice and teaching encompasses a broad range of acts. The concept of worship extends to ritual and ceremonial acts giving direct expression to belief, as well as various practices integral to such acts, including the building of places of worship [...] the display of symbols [...] In addition, the practice and teaching of religion or belief includes acts integral to the conduct by religious groups of their basic affairs, such as freedom to choose their religious leaders, priests and teachers, the freedom to establish seminaries or religious schools and the freedom to prepare and distribute religious texts or publications.” (General Comment No. 22, CCPR/C/21/Rev.1/Add.4, para. 4).

In paragraph 9 of the same General Comment No. 22, the Committee stated that the fact that a religion is recognized as a State religion or that it is established as official or traditional or that its followers comprise the majority of the population, shall not result in any impairment of the enjoyment of any of the rights under the Covenant, including articles 18 and 27, nor in any discrimination against adherents to other minority religions or non-believers. The Committee also underlined in paragraph 10 of the same General Comment that if a set of beliefs is treated as official ideology in constitutions, statutes, proclamations of ruling parties, etc., or in actual practice, this shall not result in any impairment of the freedoms under article 18 or any other rights recognized under the Covenant nor in any discrimination against persons who do not accept the official ideology or who oppose it.

In addition, we wish also to recall that while the manifestation of religion or belief may be restricted as per Article 18(3) of the ICCPR, to protect public safety, order, health, morals and the fundamental rights and freedoms of others, any such limitation must fulfil a number of obligatory criteria of legality, proportionality and necessity, including being non-discriminatory in intent or effect and constitute the least restrictive measure.

We moreover refer to article 19 of the ICCPR, which guarantees the right of everyone to freedom of opinion and expression, which includes “freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice”.

We would also like to refer to Human Rights Council resolution 24/5 in which the Council “reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions of the free exercise of the rights to

freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law” (OP2, emphasis added).

We would like to respectfully remind your Government of the 1981 United Nations Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (A/RES/36/55), which in its Article 2 (1): “[n]o one shall be subject to discrimination by any State, institution, group of persons, or person on grounds of religion or other belief.” In Article 4 (1), the General Assembly further states that: “All States shall take effective measures to prevent and eliminate discrimination on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms [...]” Furthermore, we would like to refer your Government to Article 4(2) according to which: “All States shall make all efforts to enact or rescind legislation where necessary to prohibit any such discrimination, and to take all appropriate measures to combat intolerance on the grounds of religion or other beliefs in this matter. According articles 6 (d) and (e), the right to freedom of thought, conscience, religion or belief includes also the freedom “to write, issue and disseminate relevant publications in these areas”, and the freedom “to teach a religion or belief in places suitable for these purposes” and read in conjunction with the principles contained in the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence (A/HRC/22/17/Add.4), any statement or expressed opinion should fulfil the six part threshold test of context, content and form, speaker, intent, extent of the speech act, and likelihood/imminence, in order to be considered as a criminal offence.

Furthermore, we would like to recall that the General Assembly, in its resolution 63/181 paragraph 9 (j) urges States “To ensure that all public officials and civil servants, including members of law enforcement bodies, the military and educators, in the course of fulfilling their official duties, respect all religions or beliefs and do not discriminate for reasons based on religion or belief, and that all necessary and appropriate education or training is provided.”

With respect to the use to counter terrorism and extremism justifications to restrict the legitimate exercise of freedom of expression, we would like to underline that any restriction on expression or information that a government seeks to justify on grounds of national security and counter terrorism must have the genuine purpose and demonstrable effect of protecting a legitimate national security interest (CCPR/C/GC/34). We would like to stress that counter terrorism legislation with penal sanctions should not be misused against individuals peacefully exercising their rights to freedom of expression and freedom of association and of peaceful assembly. These rights are protected under ICCPR and non-violent exercise of these rights is not a criminal offence. Counter terrorism legislation should not be used as an excuse to suppress peaceful minority groups and their members. We consequently urge the Government to maintain a definition of extremism and terrorism consistent with the core legal meanings adopted by States and commends the definition of terrorism developed by the mandate of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism for your consideration (A/HRC/16/51).

We also recall the relevant provisions of the United Nations Security Council resolutions 1373 (2001), 1456(2003), 1566 (2004), 1624 (2005), 2178 (2014), 2242 (2015), 2341 (2017), 2354 (2017), 2368 (2017), 2370 (2017), 2395 (2017) and 2396

(2017); as well as Human Rights Council resolution 35/34 and General Assembly resolutions 49/60, 51/210, 72/123 and 72/180. All these resolutions require that States must ensure that any measures taken to combat terrorism and violent extremism, including incitement of and support for terrorist acts, comply with all of their obligations under international law, in particular international human rights law, refugee law, and humanitarian law.

Furthermore, Article 27 of the ICCPR establishes that in those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities have the right, in community with the other members of their group, “to enjoy their own culture, to profess and practice their own religion, or to use their own language”. The 1992 United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, adopted in General Assembly resolution 47/135, refers to the obligation of States to protect the existence and the identity of religious or belief minorities within their territories and to adopt measures to that end (article 1), to ensure that they enjoy their own culture and profess and practice their own religion (article 2), as well as to adopt the required measures to ensure that persons belonging to minorities can exercise their human rights without discrimination (article 4).

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any information and/or comment(s) you may have on the above information.
2. Please provide information on measures your Excellency’s government has taken, or is planning to take to ensure the compliance of the law with Uzbekistan’s obligations under international human rights law.
3. Please provide any information on the status of the implementation of the recommendations by human rights mechanisms, international and regional organisations, including the United Nations Special Rapporteur on Freedom of Religion or Belief, and in particular information about enacted legislation, other policies and measures undertaken and, where applicable, relevant data demonstrating their impact.

This communication, as a comment on pending or recently adopted legislation, regulations or policies, and any response received from your Excellency’s Government will be made public via the communications reporting [website](#) after 48 hours. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

We reiterate our willingness to assist Uzbekistan in its efforts to strengthen the country’s legislative and institutional framework, guaranteeing the enjoyment of human rights for all in Uzbekistan, including the rights to freedom of thought, conscience, religion or belief, opinion, expression, association and peaceful assembly.

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

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