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Promoting Freedom of Religion or Belief in Uzbekistan: Examining Five Years of Progress

This submission consists of extracts and summaries of a March 2023 report entitled “**Promoting Freedom of Religion or Belief in Uzbekistan: Examining Five Years of Progress**,” which was a joint project of Freedom of Religion or Belief Project, Ralph Bunche Institute, CUNY, and University of Essex. Mr. Ahmed Shaheed (former UN Special Rapporteur on freedom of religion or belief (“Special Rapporteur”)) led this project. The full report is available (English, Russian): <https://srforb.org/uzbekistan-report/>

A. Background

The report assesses the Government of Uzbekistan’s (Government’s) implementation of 12 recommendations that Mr. Shaheed, the then Special Rapporteur, offered in his 2018 country report (“2018 Report”), noting the significant strides made by Uzbekistan as well as remaining gaps.¹

When Mr. Shaheed visited Uzbekistan in October 2017, it marked the first official visit by a UN Special Procedure mandate-holder in over 15 years. He subsequently submitted an influential report to the Government and UN Human Rights Council, providing his findings and twelve recommendations. The 2018 Report discussed the country’s reform efforts, limitations on freedom of religion or belief (“FoRB”), and the impact of State approaches to promoting “secularism” and tackling “extremism.” The Government engaged constructively with Mr. Shaheed’s report, stimulating national discussions and gradually adopting a variety of reforms to implement some recommendations.

Five years later, Mr. Shaheed - now former Special Rapporteur - and his team have analyzed the progress made in implementing his recommendations. The report assesses 16 areas to which the recommendations pertain, finding some progress in eleven and noting persistent gaps in five areas. The assessment process draws upon nine consultations and nine bilateral meetings with relevant stakeholders, including civil society, faith-based actors and Government representatives, as well as extensive desk-based research. It employs a human rights indicator framework for assessing the enjoyment of FoRB, annexed to the report. The report provides 14 follow-up recommendations to further cooperation, collaboration, and compliance with international human rights standards. The report will hopefully serve as a valuable baseline for relevant stakeholders to draw upon when considering how to further

¹ UN Special Rapporteur on freedom of religion or belief, ‘Mission to Uzbekistan’ (UN Human Rights Council 2018) A/HRC/37/49/Add.2 <<https://undocs.org/A/HRC/37/49/Add.2>>.

promote and protect the right to FoRB in Uzbekistan.

B. Introduction

1. Uzbekistan has made strides in implementing reforms and enhancing human rights protections since 2017.² In February 2022, the Government reported that its large-scale reforms included the adoption of “300 new laws” and the passage of “more than 4,000 decisions” aimed at “fundamentally reforming all spheres of life of the State and society” and at strengthening the protection of human rights in Uzbekistan.³

2. Following the Government's decision to host the Special Rapporteur in 2017 and to implement subsequent recommendations, various reactions have emerged from civil society. While some praise the changing policies and attitudes towards religious communities and their needs, others remain concerned about the current level of enjoyment of freedom of religion or belief resulting from the reform agenda.⁴ Additionally, multiple sources express worry about the potential impact of fresh challenges to freedom of expression, association and assembly, and freedom of religion or belief.

3. Government representatives recently reaffirmed their commitment to continue updating the country's legal framework, recalling that for States worldwide, legislative and policy reform is an ongoing and evolving process.⁵ This positive posture will help to address stakeholders' concerns that progress has stalled and that aspirations for thriving civic spaces will remain elusive.

C. Key Findings

The “Key Findings” section (summarized due to word limits) covers each 2018 Report recommendation, evaluates it and then determines whether it is fully, partially or not implemented.

1) *Secularism*

2018 Recommendation: *para 101 (a): Encourage open debate on the meaning of secularism to overcome the current restrictive interpretation and attitudes within the administration and law enforcement agencies, whereby manifestations of freedom of religion or belief are strictly monitored and boundaries are regulated. Secular commitments should provide space to positively accommodate religious diversity in society without discrimination or fear. [...]*

Status: Partially implemented

² Special Rapporteur on the promotion and protection of human rights while countering terrorism, ‘Visit to Uzbekistan’ (Human Rights Council 2022) UN Special Procedure Report A/HRC/49/45/Add.1 para 5 <<https://www.ohchr.org/en/documents/country-reports/ahrc4945add1-visit-uzbekistan-report-special-rapporteur-promotion-and>>.

³ OHCHR, ‘Experts of the Committee on Economic, Social and Cultural Rights Commend Uzbekistan on Fulfilling Its Treaty Obligations, Ask about Corruption and Violence against Children’ (1 September 2022) <<https://www.ohchr.org/en/press-releases/2022/02/experts-committee-economic-social-and-cultural-rights-commend-uzbekistan>>.

⁴ Consultations - civil society including diverse faith-based actors.

⁵ Consultation - Government interlocutors.

In recent years, the Government has made significant strides toward bolstering human rights through a series of initiatives in its 2019 roadmap including decrees for civil servants to receive human rights education and adopting the Bukhara Declaration (which highlights respect for FoRB but does not fully adhere to the UNESCO Declaration of Principles on Toleration concept of “tolerance”). However, evidence of State-driven initiatives promoting open discourse on secularism within the administration and law enforcement remains scarce.

2) Reform of the Law on Freedom of Conscience and Religious Organizations

2018 Recommendation: *para 101 (b): Follow through on the acknowledgement that the 1998 Law needs substantial revision. A new law on freedom of religion or belief should be fully compatible with article 18 of the International Covenant on Civil and Political Rights. The new draft law should be open to consultations and comments by the public, especially civil society, religious and belief communities and international partners, including the United Nations system;*

Status: Partially implemented

In July 2021, the law “Freedom of Conscience and Religious Organizations” (“2021 Law”) was enacted, replacing the 1998 version. The new law enhances adherence to international human rights standards, addressing ambiguous phrases, such as “ethnic strife” that may be interpreted as justifications for limiting freedom of religion or belief, and partially streamlines registration requirements for religious organisations. However, it falls short of satisfying Uzbekistan’s obligations under Article 18 ICCPR and other international human rights law instruments: notably the law continues to limit and, in some instances, criminalizes various manifestations of FoRB.⁶

3) Ban on Proselytism and Missionary Activity

2018 Recommendation: *para 101(c): The ban on proselytism and missionary activity [...] should be overhauled.*

Status: Not implemented

The 2021 Law continues to ban proselytism and missionary activity. Many reported that “voluntary” conversion was permitted under the law and asserted that it was socially accepted. However, some respondents reported confusion about which anti-conversion laws in Uzbekistan were still being enforced. It also appears that the sensitivity to proselytizing varies from region to region.⁷

4) Restrictions on religious literature

⁶ Consultation - faith-based actors.

⁷ Consultation - faith-based actors.

2018 Recommendation: *para 101 (c): The ban on [...] the practice of licensing the import, publication and distribution of religious literature, should be overhauled;*

Status: Partially implemented

Proposed amendments to the Criminal Code, which rescind criminal penalties for repeated violations of statutes regulating religious material production and distribution, are a welcome step in the right direction. However, the legal framework ultimately bans all forms of religious literature without the Government's approval (Article 10 of the 2021 Law).

5) Registration of religious or belief communities

2018 Recommendation: *para 101 (c): Make registration optional only to facilitate the operational functions of religious organizations. Procedures should be quick, transparent, fair and without undue bureaucratic complications. [...] Thresholds for registration at local, regional and national levels should be defined in such a way that minorities can fully operate throughout the country. [...]*

Status: Not implemented

The 2021 Law represents significant strides in streamlining aspects of registration - reducing the number of people necessary to register from 100 to 50, with fewer documents required overall. However, many other historically unsuccessful communities are yet to experience substantial change for their own benefit. And the process can remain onerous and is still compulsory.

6) Restrictions on unregistered communities

2018 Recommendation: *para 101 (c): Non-registered communities must be able to operate free from discrimination and fear of intimidation.*

(d): Provide viable options to religious or belief communities which, for whatever reason, do not have the status of a recognized religious community or do not wish to obtain that status can obtain an alternative form of legal personality that would allow them to carry out important community functions in a suitable manner

Status: Not implemented

7) Religious education for children

2018 Recommendation: *para 101 (e): Respect the liberty of parents or legal guardians to provide a religious education to their children consistent with their convictions and the evolving capacities of the child. [...]*

Status: Not implemented

The country's existing regulations permit only State-approved professional religious training in religious schools, while primary and secondary religious schools remain impermissible.

8) Facilitation of religious training

2018 Recommendation: *para 101 (e): [...] Adequate infrastructure should be provided to educational institutions and private religious schools and similar institutions must be able to function freely and without undue administrative stipulations.*

Status: Partially implemented

The Government has recently made notable investments in religious educational institutions, including establishing the IIA as a secular institute of higher education that focuses on teaching and researching Islamic studies and assisting Islamic religious schools. But demand reportedly outstrips the capacity of the existing religious education system in Uzbekistan, which the State strictly controls.

9) Reform of the Criminal Code and the Code of Administrative Offences

2018 Recommendation: *para 101 (f): Review and revise all provisions relating to freedom of religion or belief in the Criminal Code and the Code of Administrative Offences (CAO) to conform with article 18 of the International Covenant on Civil and Political Rights and other relevant international human rights standards. Voluntary same-sex relationships should be decriminalized.*

Status: Partially implemented

Key provisions of the 2021 Law, including restrictions on religious materials and proselytism, are subject to administrative sanctions under the CAO and criminal sanctions under the Criminal Code. A draft Criminal Code is under discussion, which would bring some improvements such as for decriminalizing production, storage, import, or distribution of religious materials (Article 244.3) and religious education. But broad extremism charges and criminalisation of same-sex relationships remain.

10) Countering Terrorism and Violent Extremism

2018 Recommendation: *para 101 (g): Review vague definitions of “extremism” as the overly broad range of offences concerning religious activities may have a negative impact on freedom of religion or belief, in conjunction with the freedoms of expression and of assembly. The current definitions should be replaced by clear and narrow definitions. The Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence can provide practical guidance in that regard. The draft law on countering extremism should be opened to public consultation, comments and*

debate before its adoption.

Status: Partially implemented

The Government identifies countering “extremism” and the “preservation of peace and social harmony” as critical to promoting national security. To this end, the Government has implemented measures that limit and restrict religious expression, according to its view that the threat to peace and harmony increases when religion is not confined to private life.⁸

The draft Criminal Code would remove references to “religious extremism,” but there is currently no indication that the Government intends to define “extremism” or “extremist activities.”

11) Religious detainees

2018 Recommendation: *para 101 (h): Review the cases of all persons imprisoned on vague charges of “religious extremism”, “anti-constitutional” activity or membership in an “illegal religious group” and release all prisoners of conscience. The arbitrary practice of extending jail terms must end immediately or each case must be subject to a full review with the guarantee of due process. A mechanism for redress and compensation to those prisoners of conscience must also be established and all relevant State institutions and the Supreme Court should ensure that the measures for rehabilitation and reintegration of former prisoners of conscience include immediate and full reinstatement of their civil political and economic social rights;*

Status: Partially implemented

Since October 2017, the Government has taken significant steps to release further religious prisoners and become more forthcoming in sharing data on the religious prisoners it has released. The number of persons currently imprisoned on vague charges relating to “religious extremism”, “anti-constitutional” activity, or membership in an “illegal religious group” in Uzbekistan—also known as “religious detainees”—is unconfirmed. Estimates range up to 2,000+ persons. An accessible system of redress and rehabilitation for former religious detainees is necessary, including the immediate and full reinstatement of their rights.

12) Right of prisoners to freedom of religion or belief

2018 Recommendation: *para 101 (l): [r]ecognize freedom of religion or belief as an inherent right for everyone, including prisoners. The Nelson Mandela Rules should be consistently applied in all prisons and the Government should ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as discussed.*

Status: Partially implemented

⁸ A/HRC/37/49/Add.2 para 49.

Since October 2017, the State has recognized that prisoners “have the right to profess any religion or not to profess any.”⁹ While it has engaged in extensive trainings on the Nelson Mandela rules including for law enforcement and prison officials, some reports of restrictions on prisoners’ FoRB right still emerge.

13) Surveillance

2018 Recommendation: *para 101 (i): Stop resorting to various intrusive surveillance measures, including inscription on “preventive or supervision” lists by National Security Service agencies, law enforcement officers or Mahalla committees. The practice of randomly putting individuals on a “monitoring” register, often based on unsubstantiated suspicion, should be discontinued and all those currently on the register should be reviewed. Trust-building projects should be implemented among the communities.*

Status: Not implemented

State organs have long played a role in openly and secretly conducting surveillance of religious or belief communities in Uzbekistan, typically under the auspices of protecting secularism or fighting extremism. Monitoring and *de facto* blacklists, including alleged “extremists,” are one such tool. President Mirziyoyev has removed the names of over 20,000 individuals (largely Muslims and their relatives) from *de facto* blacklists, including the Preventive Registry.

Sources highlight that the Government has continued to place individuals who are suspected or accused of extremism, including former religious prisoners, on “supervision lists” and surveilled them.¹⁰ Some may be subsequently subject to interrogation, warnings, and even detention; and fearing further prosecution, some reportedly have tried to flee the country.

14) Religious literature

2018 Recommendation: *para 101 (j): Encourage the promotion of literacy with regard to religions and freedom of religion or belief through the newly established Al-Bukhari International Research Centre and the Centre of Islamic Civilization. The State should also move beyond the confines of traditional religious or ethnic communities and promote crossboundary dialogue. The Toledo Guiding Principles should be used to develop religious education programmes [...]*

Status: Partially implemented

⁹ A/HRC/37/49/Add.4 para 23; Government of Uzbekistan, ‘Response of the Government of the Republic of Uzbekistan to the Advanced Version of the Report of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism of the Visit to Uzbekistan’ (UN Human Rights Council 2022) A/HRC/49/45/Add.2 para 42 <<https://undocs.org/A/HRC/49/45/Add.2>>.

¹⁰ Steve Swerdlow, ‘Uzbekistan’s Religious and Political Prisoners: Addressing a Legacy of Repression’ (US Commission on International Religious Freedom 2021) 16, 48 <https://www.uscirf.gov/sites/default/files/2021-10/2021%20Uzbekistan%20Report_0.pdf>; A/HRC/37/49/Add.2 para 64.

15) Involvement of women religious leaders

2018 Recommendation: *para 101 (j): [...] female theologians of different denominations, should play an active role in such [religious education] dialogue and programmes. That could serve as a signal to further broaden the understanding and acceptance of diversity within society;*

Status: Partially implemented

In an encouraging move, the Government actively involves women religious leaders in educational programs and dialogues while bolstering their leadership capacities. Despite these positive developments, patriarchal norms continue to restrict women from actively participating in the development of religious education programs, marginalizing women religious leaders and theologians. Limited opportunities for receiving religious education further hamper women’s recognition as religious leaders both legally and socially.

16) Strengthening the National Human Rights Institution

2018 Recommendation: *para 101 (k): Further strengthen the institutional setting of human rights protection, for instance, by establishing a national human rights institution that is fully compatible with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles);*

Status: Partially implemented

UN treaty bodies have raised concerns over the Ombudsperson’s functions and activities that have a bearing on its compliance with the Paris Principles.¹¹ The Parliament is currently reviewing draft legislation entitled “On the Authorized Person of the Oliy Majlis of the Republic of Uzbekistan for Human Rights (Ombudsman).”¹²

¹¹ CCPR/C/UZB/CO/5 para 24; CAT, ‘Concluding Observations on the Fifth Periodic Report of Uzbekistan’ (Committee Against Torture 2020) CAT/C/UZB/CO/5 paras 11, 14, 15.

¹² “Об Уполномоченном Олий Мажлиса Республика Узбекистан По Правам Человека (Омбудсмане)” Вынесен На Общественное Обсуждение [Draft Law of the Republic of Uzbekistan “On the Authorized Person of the Oliy Majlis of the Republic of Uzbekistan for Human Rights (Ombudsman)” Submitted for Public Discussion]’ (17 December 2021) <<http://www.ombudsman.uz/ru/news/2021/12/17/ombudsmanga-qonunchilik-tashabbusi-berilishi-boyicha-qonun-loyihasi-jamoatchilik-muhokamasiga-qoyildi>> accessed 11 March 2023.