

**United Nations Human Rights Council
Universal Periodic Review
Uzbekistan**

Submission of The Becket Fund for Religious Liberty

21 July 2008



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The Becket Fund is a nonprofit, interfaith, public interest law firm protecting the free expression of all religious traditions.

United Nations Human Rights Council Universal Periodic Review of Member-State Uzbekistan¹

The Becket Fund for Religious Liberty, in special consultative status with ECOSOC, submits this analysis of the rule of law and religious freedom law in Uzbekistan as a contribution to the Universal Period Review of UNHRC member-state Uzbekistan.

1. Legal Framework

1.1 Historical Background²

Uzbekistan was a part of the Soviet Union from 1924 until 1991. During this period, Uzbekistan enforced Soviet legislation that placed significant restrictions on religious organizations.³ The Soviet Union considered registration for religious associations privilege and not a right; registrations was also restricted to individual associations and not entire faith communities. Under Gorbachev's leadership, a new USSR Law on Freedom of Conscience and on Religious Organizations was enacted in 1991 and granted much more liberal rights to religious organizations and religious persons. However, later that year, Uzbekistan declared independence from the Soviet Union. Before the new constitution was even written, the new Uzbek government in 1991 passed the Law on Freedom of Religion, which remained in force until new legislation repealed this law in 1998. This law guaranteed the protection of religious freedom and even granted religious freedom rights to foreigners and stateless persons.

1.2 Constitutional Framework

The Uzbekistan Constitution was adopted in December 1992 and established the newly independent Uzbekistan as a democratic nation with a three-branch government, headed by the executive branch. Article 29 of the Constitution guarantees the "freedom of thought, speech, and belief" for all people, and Article 31 explicitly guarantees freedom of belief, including non-belief:

"Freedom of conscience is guaranteed for all. Each person has the right to practice any or no religion. Forced imposition of religious views is not permitted."⁴

Despite these guarantees, there are still serious concerns about the Constitution's treatment of free speech, free association, religious parties, and Uzbek "heritage." The Constitution maintains the right to restrict free speech which is "directed against the existing constitutional order and in some other instances specified by law" (Article 29). Chapter XIII of the constitution places restrictions on the freedom to associate. "[R]eligiously based political parties" are forbidden, as are secret societies or associations (Article 57). Article 61 explicitly declares a separation of religious organizations and associations from the state, while also declaring an equality of such organizations before the law. Most significantly this article states: "The state does not interfere in the activities of religious associations." But this article is paradoxically followed by Article 62, which maintains the state's ability to dissolve, prohibit, and limit an association with

¹ We are indebted to reports by the U.S. Commission on International Religious Freedom, the U.S. Department of State, the Library of Congress, Human Rights Watch, and RELIGIOUS FREEDOM IN THE WORLD (Paul A. Marshall ed., 2008).

² Law Library, Library of Congress to the Commission on Security and Cooperation in Europe, 106th Cong. Religious Liberty: The Legal Framework in Selected OSCE Countries (2000).

³ 1918 Decree on the Separation of Religion from the State.

⁴ Constitution of Uzbekistan art. 31.

the approval of the court. Finally, in Article 49, citizens are required to protect the “historical, spiritual, and cultural heritage of the people of Uzbekistan.”

1.3 International Commitments

As a signatory to the 1990 Charter of Paris and the Concluding Document of the Budapest Summit (1994), Uzbekistan is committed to the Universal Declaration of Human Rights (UDHR).⁵ In 1995, Uzbekistan also signed both the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESR).⁶

2. Implementation

Despite constitutional guarantees and international agreements ensuring religious freedom, Uzbekistan under President Karimov has for the last decade treated religion as a security threat and has placed undue restrictions on the practice of religion in the public square. The passage of new legislation in 1998 and changes to the Penal Code have placed greater restrictions on religious associations and individual rights to education, proselytism, and religious dress.

2.1 Law on Freedom of Worship and Religious Organizations

Context

Approximately eighty percent of the population of Uzbekistan is Muslim, predominantly Sunni. Under Soviet rule, the oppression of public religion caused the radicalization of some followers of the Wahhabi tradition. The most notorious extremist group in Uzbekistan is *Hizb ut-Tahrir* (HT), an extremist Islamist political organization that advocates the overthrow of secular governments to be replaced with a worldwide Islamic government or Caliphate.⁷ Thus, President Karimov, who has not allowed free and fair elections since his election in 1991, has used this security threat to limit public expressions of religion. In 1998, Karimov himself spoke in support of the new Law on Freedom of Worship and Religious Organizations, which gave the state greater control over religion:

“... the main task of the Government is to bring religious rules and religious relations, as well as relations between the state and religious organizations—between society and religion—into line with present-day requirements. That means to attune them with our path of building a state which is democratic and based on law.”⁸

⁵ Article 18 of the UDHR states: “Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.” Universal Declaration of Human Rights, G.A. Res. 217A, at 71, U.N. GAOR, 3d Sess. 1st plen.mtg., U.N. Doc. A/810 (Dec. 12, 1948).

⁶ Article 18 of the ICCPR guarantees the right to “freedom of thought, conscience and religion.” It prohibits “coercion which would impair his freedom to have or to adopt a religion or belief of his choice.” International Covenant on Civil and Political Rights, G.A. Res. 2200A (XXI), 21 U.N. Doc. A/6316, (Dec. 16, 1966). Article 13 of the ICESR requires acceding states to “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 educations standard 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.” International Covenant on Economic, Social and Cultural Rights, G.A. Res. 2200A (XXI), U.N. Doc. A/6316, (Dec. 16, 1966).

⁷ Thus far, HT has not endorsed violence, though it does not condemn it.

⁸ Uzbek President Views Role of Religion in State, FBIS Daily Report, April 30, 1998, Document ID: FTS19980430001554.

Registration

The 1998 law gives the Religious Affairs Committee—a government committee that reports to the Ministry of Justice—broad powers to review applications for religious organization registration. The law requires a minimum of 100 Uzbek citizens in order to form a religious organization; thus non-citizens are not able to establish religious organizations and often have difficulty participating in religious organizations. The government often rejects applications that do not indicate the ownership of property for the practice of the religion (groups practicing in personal homes are often rejected). The government frequently denies applications on technical grounds for missing components in the elaborate registration application. While international law recognizes that limitations on the freedom of religion are at times necessary, the overbreadth of the registration restrictions unduly limits a person’s “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.”⁹ The U.S. Department of State states that this law “provides strict and burdensome criteria for [religious groups’] registration.”¹⁰

Education

In order to train clergy, a religious group must have a “registered central administrative body,” which requires the group to have registered associations in 8 of the 13 provinces. Because of this requirement, only six groups have established central bodies and are, therefore, permitted to train clergy. Religious education is not permitted in public schools or in private homes.¹¹

Youth

Minors are not permitted to participate in religious associations.¹²

Religious Literature

The production and distribution of unapproved religious literature is forbidden by the 1998 law. The government insists on previewing literature before it is produced and often rejects literature with little reasoning other than its religious nature.¹³

Religious Dress

This law also prohibits Uzbeks from appearing in public in “ritual” attire – a vague prohibition which is often used against religious attire of all types. While the only exemption is for clergy,

⁹ Article 18(3) of the ICCPR states “Freedom to manifest one’s religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.” Article 18(1) ensures that everyone shall enjoy the “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.”

¹⁰ U.S. Department of State International Religious Freedom Report, 2007.

¹¹ Article 18 of the ICCPR states that everyone shall have the “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*.” (emphasis added).

¹² Article 18(4) of the ICCPR states: “The States Parties to the present Covenant undertake to have respect for 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.”

¹³ According to General Comment No. 22 on Article 18 of the ICCPR, “[t]he practice and teaching of religion or belief includes acts integral to the conduct by religious groups of their basic affairs, such as...the freedom to prepare and distribute religious texts or publications.”

the Government has shown improvement in the tolerance for the wearing of headscarves (hajibs) in educational institutions and public areas.¹⁴

2.2 Penal Code

The Penal Code was amended in 1998 to increase the penalties for violating laws on religious activity. The Criminal Code laws which are most frequently used against religious groups and persons include Article 159 (anti-constitutional activity); Article 216 (illegal establishment of religious organization); Article 216, section 2 (violation of legislation governing religion, including proselytism); Article 244, section 1 (production and distribution of materials dangerous to public order and security); and Article 244, section 2 (establishment, direction of, or participation in religious extremist, separatist, fundamentalist, or other banned organizations).

The Code also distinguishes between an “illegal” group—a group that violates the 1998 law and is not permitted to register—and a “prohibited” group—a group that is outlawed by the government and would never be permitted to apply for registration (these groups are often accused of extremist activity). In 2005, penalties for repeated offenses were raised. Fines under the Criminal Code are approximately 200 to 300 times the minimum monthly wage, and, under the Administrative Code, fines are approximately 50 to 100 times the minimum monthly wage.¹⁵ In 2006, the government also imposed criminal penalties for the “illegal production, storage, import or distribution of materials of religious content.”¹⁶

2.3 Religious Discrimination

According to Human Rights Watch reports, a protest occurred on May 13, 2005 in Andijon province, after gunmen freed a number of people on trial for involvement in Akromiya, a Muslim business organization. When part of the protest became violent, armed Uzbek forces fired on the crowd, killing hundreds of people.¹⁷ In the aftermath of this event, the government has become even harsher on all civic associations, including religious groups.

Given the extremism of HT, the government is particularly suspicious of Islamic organizations and maintains firm control over Islam. Through the official Muftiate, the government controls training, appointments, and dismissals of imams. The Muftiate also distributes approved sermons and controls pilgrimage trips. Additionally, there are 11 state-controlled *madrassas* (Islamic secondary schools) and 2 state-controlled higher education institutions (the Islamic Institute and the Islamic University in Tashkent) in Uzbekistan.

Protestants have faced increased persecution in recent years, as Sunday morning services have been targeted by the Uzbek National Security Service (or secret police) for raids. The U.S. Department of State has reported numerous churches that have not been permitted to register.¹⁸

¹⁴ According to General Comment No. 22 on Article 18 of the ICCPR, “[t]he observance and practice of religion or belief may include not only ceremonial acts but also such customs as... the wearing of distinctive clothing or headcoverings.” And U.S. Department of State International Religious Freedom Report, 2007.

¹⁵ U.S. Department of State International Religious Freedom Report, 2007.

¹⁶ Ibid.

¹⁷ The deaths included women and children according to the US Commission on International Religious Freedom Report, 2008.

¹⁸ U.S. Department of State International Religious Freedom Report, 2007. Bethany Baptist Church in the Mirzo-Ulegbek District of Tashkent, the Pentecostal Church in Chirchik, Greater Grace Christian Church in Samarkand, Emmanuel Church of Nukus, Karakalpakstan, the *Mir* (Peace) Church of Nukus, the Hushkhabar Church in Guliston, the Pentecostal Church in Andijon, and the Baptist Church in Gazalkent.

Unregistered churches are particularly targeted by security forces, and church leaders have been sent to labor camps for religious activity.¹⁹

The Hare Krishna community in Karakalpakstan has experienced harassment and pressure, as it has been referred to as a supposed “enemy of the people.”²⁰ Karakalpakstan represses all minority religious groups; only Muslim and Orthodox groups are registered; numerous churches have been stripped of registration.

Jehovah’s Witnesses have also experienced pressure from security forces as communities have been denied registration, groups have been raided, and some followers have been sentenced to prison for illegally teaching religion. As of June 27, 2008, Irfon Khamidov, a Jehovah’s Witness, is serving a two-year prison sentence, and Dilafruz Arziyeva, also a Jehovah’s Witness, is serving a two-year corrective labor sentence. In April 2008, Jehovah’s Witness Olim Turaev was sentenced to four years at a labor camp.²¹

Other minority religions such as the Russian Orthodox, Catholics, Lutherans, and Jews have not experienced persecution but do not enjoy complete freedom of association or freedom to manifest religion.

3. Recommendations

During the Universal Periodic Review, the UN Human Rights Council should take care to consider religious freedom in its evaluation of Uzbekistan. We respectfully recommend that the UNHRC not only base its evaluation of Uzbekistan on constitutional assurances of religious freedom, but also on the use of legal doctrines to control religious institutions.

The UNHRC should pay particular attention to the Law on Freedom of Worship and Religious Organizations and the effects it has had on the freedom of religion and the freedom of association in Uzbekistan. Uzbekistan should also be held to the standards of the UDHR and the ICCPR regarding this law.

We also encourage Uzbekistan to invite the Special Rapporteur on Freedom of Religion or Belief to conduct a full report on the state of religious freedom in that country.

¹⁹ In 2007 Dmitry Shestakov, a Pentecostal pastor, was sentenced to four years of labor camp for “leading an illegal congregation” and propagating “religious extremism” Mushfig Bayram, *UZBEKISTAN: Four religious minority members still serving criminal sentences* FORUM18, Jan. 16, 2008, http://www.forum18.org/Archive.php?article_id=1153.

²⁰ U.S. Commission on International Religious Freedom Report, 2008.

²¹ Mushfig Bayram, *UZBEKISTAN: Protestant in detention facing criminal charges, Baptists jailed for 10 days*, FORUM18, Jun. 27, 2008, http://www.forum18.org/Archive.php?article_id=1150.