

**Follow-up table to the country visit of the Special Rapporteur on freedom of religion or belief to Tajikistan (26 February-1 March 2007)**

<b>Conclusions and recommendations of the Special Rapporteur (A/HRC/7/10/Add.2)</b>	<b>Follow-up information from UN documents (e.g. Special Procedures, UPR, Treaty Bodies)</b>	<b>Follow-up information from the Government of Tajikistan</b>
<p>51. The Government should actively protect and promote the freedom of religion or belief of both the Muslim communities and the various religious minorities in Tajikistan. The recommendations by the Special Rapporteur refer specifically to the issues of registration, proselytism, the situation of women, places of worship, conscientious objection and counter terrorism measures.</p>		
<p>52. The Special Rapporteur wishes to reiterate that the right to freedom of religion is not limited to members of registered religious communities (see also E/CN.4/2005/61, paras. 56-58). Registration should not be a precondition for practising one's religion, although it is appropriate to require registration for the acquisition of a legal personality and related benefits. In the latter case, registration procedures should be easy and quick and not depend on extensive formal requirements in terms of the number of members or the length of time a particular religious group has existed. Furthermore, registration should not depend on reviews of the substantive content of the belief, the structure and the clergy. Finally, no religious group should be empowered to decide on the registration of another religious group. Consequently, a domestic provision prohibiting all unregistered religious activity would not be in conformity with international human rights standards. Re-registration requirements that operate retroactively or fail to protect vested interests should also be questioned and an adequate transition period should be envisaged concerning the application of new registration rules.</p>		
<p>53. The Special Rapporteur cautions against the adoption of legal provisions that would prohibit actions directed at converting believers of one confession to others as well as any other charitable or missionary activity that exerts intellectual, mental or other pressure on citizens in proselyte aims. In this regard, the Special Rapporteur would like to refer to the section on missionary activities and propagation of one's religion in her 2005 report to the General Assembly (A/60/399, paras. 59-68), in which she stated that missionary activity was accepted as a legitimate expression of religion or belief and therefore enjoyed the protection afforded by article 18 of the International Covenant on Civil and Political Rights and other relevant international instruments. Missionary activity could not be considered a violation of the freedom of religion and belief of others if all involved parties were adults able to reason on their own and if there was no relation of dependency or hierarchy between the missionaries and the objects of the missionary activities.</p>	<p><b>A/HRC/7/10/Add.1</b>  <b>Communication sent by the Special Rapporteur on freedom of religion or belief on 21 August 2007</b>                  245. The Special Rapporteur brought to the attention of the Government information she had received concerning the draft religion law. Allegedly, in June 2007, the Ministry of Culture has produced a draft law "On Freedom of Conscience, on Religious Associations and Other Organizations". Various religious communities have voiced their concerns that the draft law establishes a burdensome registration procedure for religious organizations and that it gives the competent state agency on religious affairs a wide authority over the religious organizations. For state registration of a church, its founders are required to submit an application with signatures of 400 followers for establishing a church in a district or 800 signatures in a city (or 1.200 signatures in the city of</p>	

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	<p>Dushanbe). The draft law relates the establishing of mosques to the number of the population in a territorial unit of the Republic of Tajikistan, i.e. another mosque can only be established if thresholds between 2.000 and 60.000 people in a village, settlement, city or Dushanbe City have been reached.</p> <p>246. Furthermore, the draft law prohibits actions directed to converting believers of one confession into others as well as any other charitable or missionary activity having a nature of intellectual, mental or other pressure to citizens in proselyte aims. According to the draft law, only citizens of the Republic of Tajikistan who have special religious education can be heads of religious organizations. The draft law seems to restrict the production, export, import and dissemination or religious literature to religious organizations, thus excluding any such activity of non-registered religious entities. Finally, the draft law provides that all religious organizations that already exist must re-register under the provisions of the new draft law.</p> <p>247. There are concerns that the draft law of June 2007 could lead to undue limitations on the rights of religious communities and could impermissibly restrict religious activities of religious minorities. The Special Rapporteur also referred to her communication dated 18 May 2006 concerning a previous draft law in early 2006 entitled “About the freedom of conscience and religious unions” (see A/HRC/4/21/Add.1, para. 286).</p> <p>248. Moreover, it was reported that the Ministry of Culture recently published a list of officially banned religious literature which allegedly consists primarily of documents by Hizb-ut Tahrir. The Special Rapporteur also requested the Government to send her a copy of the list of banned religious literature and explain the legal procedure of prohibiting religious literature.</p> <p><b>Observations</b></p> <p>249. The Special Rapporteur regrets that she has not received a reply from the Government concerning the above mentioned allegation. She already commented on the previous 2006 draft law “On Freedom of Conscience and Religious Associations”</p>	

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	<p>in the report after her country visit to Tajikistan (A/HRC/7/10/Add.2). The draft law “On Freedom of Conscience, on Religious Associations and Other Organizations” of June 2007 also contains provisions which would be difficult to reconcile with international human rights standards if the draft law was adopted in this form. The Special Rapporteur would like to emphasize that registration should not be a precondition for practicing one’s religion, but may only be appropriate for the acquisition of a legal personality and related benefits. In the latter case, registration procedures should be easy and quick and not depend on extensive formal requirements in terms of the number of members or the time a particular religious group has existed. Re-registration requirements that operate retroactively or fail to protect vested interests should also be questioned and an adequate transition period should be envisaged concerning the application of new registration rules. Furthermore, the draft law of June 2007 seems to unduly restrict religious activities of smaller religious groups and minorities. Finally, the Special Rapporteur would be appreciative to receive the requested list of banned religious literature.</p>	
<p>54. The Special Rapporteur is concerned about the vulnerable situation of women in Tajik society, which is also partly influenced by traditional or perceived religious factors. She associates herself with the concluding comments of the Committee on the Elimination of Discrimination against Women adopted on 26 January 2007 and with the concluding observations of the Committee on Economic, Social and Cultural Rights adopted on 23 November 2006. The Government should be encouraged to review legal and administrative regulations in order to prevent religious unions from taking place without verification that a civil marriage has been registered first. The Government should also strengthen its efforts to eliminate the causes that lead to polygamous unions and develop strategies targeted at parents and religious leaders to prevent such unions. One of the possible measures to initiate change in the widely accepted subordination of women and stereotypical roles applied to both sexes could be awareness-raising and educational campaigns that address, inter alia, religious and community leaders. Most importantly, women themselves have to be empowered. With regard to the headscarf issue, the Special Rapporteur would like to refer to the section on religious symbols in her 2006 report to the Commission on Human Rights in which she emphasized</p>	<p><b>A/HRC/11/6/Add.2</b>  <b>Report of the Special Rapporteur on violence against women, its causes and consequences, May 2008</b></p> <p>42. Reasons for the worrisome increase in unregistered matrimonies are varied. Reference was made to the 20 Somoni (about US\$ 5.80) registration fee for the official marriage as being a cause, but compared to other wedding costs such a sum is negligible. While the rising influence of religion has also been mentioned, the primary cause behind the deviation from civil marriages seems to be linked to poverty and the motivation of the in-laws or the husband to deny the wife access to family property and assets, which more often than not is under the legal ownership of the in-laws.</p> <p>43. Women in unregistered marriages are said to be more vulnerable to being subjected to violence and abuse, and have more difficulty ending an abusive relationship due to lack of support, alternative housing and legal protection, compared to</p>	

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<p>that the fundamental objective should be to safeguard both the positive freedom of religion or belief as manifested in observance and practice by voluntarily wearing or displaying religious symbols and the negative freedom from being forced to wear or display religious symbols (E/CN.4/2006/5, para. 60).</p>	<p>women in a civil marriage. A 1999 WHO survey found that 52 per cent of women in unregistered marriages, compared to 40 per cent of women in registered marriages, experienced sexual abuse; 67 per cent of women in unregistered marriages versus 51 per cent of women officially married experienced psychological abuse. Many of the former, along with their children, are also most likely to be abandoned or evicted from their home by their de facto husband or his relatives.</p> <p>44. The rise in unregistered marriages is invariably accompanied by early and polygamous marriages. Evidence shows that girls are being married at an increasingly younger age, and often against their will. The legal age of marriage has also been reduced from 18 years in Soviet times to 17 (art. 13, Family Code), for both boys and girls. Under some circumstances, such as pregnancy, marriage may be concluded at 16. Marriages under the legal age are criminalized under the Criminal Code and cannot be registered officially. An unregistered religious marriage offers a way out for those wishing to wed their daughters at a young age. Early marriages - whether registered or not - have adverse impact on girls' physical and psychological development as well as their attendance in school and their acquisition of professional skills, thus limiting their life choices. [...]</p> <p>84. In light of the above, I would like to make the following recommendations to the Government of Tajikistan, many of which are relevant to international organizations and donor agencies: [...]</p> <ul style="list-style-type: none"> <li>- Conduct and support awareness-raising campaigns on domestic violence and women's rights, which specifically target religious and community leaders, girls and boys, men, and women particularly in rural areas [...]</li> <li>- Issue instructions to religious leaders, in cooperation with the Council of Ulema, to keep a written record of religious marriages performed and to conduct religious marriages only where proof of civil marriage is made available [...]</li> <li>- In cooperation with national and international organizations and religious leaders, conduct awareness-raising campaigns on the importance of civil registration of marriages,</li> </ul>	

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	particularly in rural/remote areas - Lower marriage registration fees or offer compensation for the poorer segment of the population - Establish a centralized database for the civil registration of marriages	
<p>55. The Special Rapporteur would like to stress that, when taking administrative decisions, the authorities need to take into account the specific character of places of worship and their particular significance for believers. This is particularly relevant in the case of the country's sole synagogue, which has been in use for decades and is currently earmarked for demolition, to make way for the construction of a palace of nations and a national park. Furthermore, mosques, churches and other places of worship need to be fully respected and protected by the authorities. The Special Rapporteur would like to remind the Government of article 6 (a) of the Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief which states that the right to freedom of thought, conscience, religion or belief includes the freedom "to worship or assemble in connection with a religion or belief, and to establish and maintain places for these purposes". Furthermore, in its resolution 2005/40, the Commission on Human Rights urged States to exert the utmost efforts, in accordance with their national legislation and in conformity with international human rights law, to ensure that religious places, sites, shrines and religious expressions are fully respected and protected and to take additional measures in cases where they are vulnerable to desecration or destruction. Finally, in its resolution 55/254 on protection of religious sites, the General Assembly encouraged all States to promote a culture of tolerance and respect for the diversity of religions and for religious sites, which represent an important aspect of the collective heritage of humankind.</p>		
<p>56. The Special Rapporteur is concerned that the Government of Tajikistan does not recognize the right to conscientious objection to compulsory military service. She would like to reiterate the recommendation of the Human Rights Committee that the Government take all necessary measures to recognize the right of conscientious objectors to be exempted from military service. In line with the Human Rights Committee's general comment No. 22 (1993), when this right is recognized by law or practice, there shall be no differentiation among conscientious objectors on the basis of the nature of their particular beliefs; likewise, there shall be no discrimination against conscientious objectors because they have failed to perform military service. Furthermore, the Special Rapporteur encourages the Government to ensure that no legislation is adopted which overstates the permissible limitations on the</p>		

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freedom to manifest one's religion or belief, especially with regard to the issue of conscientious objection to compulsory military service.		
57. The Special Rapporteur is conscious of the fact that the obligation of a State to protect and promote human rights require it to take effective measures to combat terrorism. However, she would like to underline that the State must ensure that any measure taken to combat acts of terrorism complies with its obligations under international law, in particular international human rights, refugee and humanitarian law. Some anti-terrorism measures could include elements, or have unintended consequences, that undermine the respect for fundamental human rights.		
58. Since Tajikistan does not have an independent national institution for the promotion and protection of human rights, the Special Rapporteur encourages the Government to establish such a national human rights institution in accordance with the Paris Principles (General Assembly resolution, 48/134, annex). She also reiterates the concerns expressed by the Special Representative of the Secretary-General on the situation of human rights defenders about reports that State institutions dealing with human rights are not keen to extend their responsibility to providing human rights protection (E/CN.4/2006/95/Add. 5, para. 1563). Furthermore, she reiterates the recommendation of the Special Rapporteur on the independence of judges and lawyers that the competency of the Constitutional Court to consider individual complaints be enshrined in the Constitution and that the individual complaints procedures be extended to all violations of constitutional rights by acts of public authority (E/CN.4/2006/52/Add. 4, para. 94). An independent, neutral and impartial judiciary and prompt access to a lawyer are vital to safeguarding freedom of religion or belief.		
59. The Government should be encouraged to respect the right to freedom of religion or belief of all individuals and religious communities, particularly when adopting specific legislation and policies. The Special Rapporteur trusts that the Government is engaged in seeking the most appropriate approach to dealing with these complex issues, and she hopes that the Government will adopt creative means to address these pressing matters.		
60. Children literally represent the future of each country. Almost half the population of Tajikistan is under 18 years of age; it is estimated that one fifth of the schools in Tajikistan were destroyed during the civil war of the 1990s. Providing quality education is crucial for the development of society. In general, there is an urgent need to promote, through education, the protection and respect for freedom of religion or belief in order to strengthen peace, understanding and tolerance among individuals, groups and nations, and with a		

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view to developing respect for pluralism.		
<p>61. In this regard, the Special Rapporteur would like to draw the Government's attention to the final document of the International Consultative Conference on School Education in relation to Freedom of Religion or Belief, Tolerance and Non-discrimination, held in Madrid from 23 to 25 November 2001 (E/CN.4/2002/73, appendix). The final document adopted by consensus, could serve as a useful guide for educational policies aimed at strengthening the promotion and protection of human rights, eradicating prejudices and conceptions incompatible with freedom of religion or belief and ensuring respect for and acceptance of pluralism and diversity in the field of religion or belief and of the right not to receive religious instruction inconsistent with one's own conviction. Recently, there have been promising initiatives in Tajikistan to train teachers, students and civil society members on the issues of religious identity, Islam and peacebuilding. Such efforts could eventually lead to a better understanding of freedom of religion and of the role of religion in identity, conflict and conflict resolution.</p>		
<p>62. In general, human rights are not going to flourish without overall freedom in society. As reiterated by the Vienna Declaration and Programme of Action, all human rights are universal, indivisible, interdependent and interrelated. People should not be afraid of expressing ideas frankly, raising their concerns to the authorities or bringing cases to court. Self-censorship may have adverse effects on the enjoyment of all human rights and fundamental freedoms. Furthermore, sustained interfaith dialogue, possibly including members of civil society and women, might prevent misunderstandings and eliminate some forms of intolerance or discrimination based on religion or belief. In addition, human rights education could promote understanding, tolerance and peace between all religious groups and might ultimately contribute to the effective promotion of religious tolerance. Such an approach might be a promising avenue for preventing incitement to discrimination, hostility or violence.</p>		