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RELIGIOUS FREEDOM AND FREEDOM OF EXPRESSION IN TURKMENISTAN

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Introduction

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organisation dedicated to promoting and protecting human rights around the world. The ECLJ holds Special Consultative status before the United Nations Economic and Social Council¹. The purpose of this report is to raise concerns regarding human rights violations in Turkmenistan for the 2017 Universal Periodic Review (UPR). These violations primarily stem from constitutional provisions and other laws.

Constitutional Provisions and International Agreements Guaranteeing Freedom of Religion

2. Turkmenistan's Constitution offers broad protection for religious liberty: "The state shall guarantee freedom of religion and belief, and equality before the law"². The Constitution also guarantees that "[e]ach person shall independently determine his/her attitude toward religion, shall have the right to, individually or jointly with others, profess any religion or none, to express and disseminate beliefs related to attitude toward religion, to participate in religious observances, rituals, and ceremonies"³. Lastly, it contains an equal protection clause stating that Turkmenistan guarantees "the equality of rights and freedoms of a person and a citizen . . . regardless of their nationality, race, skin colour, sex, origin, property and official status, place of residence, language, religion, political beliefs, party affiliation or lack of thereof and other circumstances"⁴. Despite the fact that these rights have been enumerated, the government continues to place tyrannical legislative restrictions on the freedoms of religion and expression as discussed in the next section.

3. In addition to the constitutional provisions, Turkmenistan is bound by Article 18 of the International Covenant on Civil and Political Rights (ICCPR)⁵, which Turkmenistan has ratified without reservations or interpretive declarations⁶. Contrary to the constitutional guarantees and international covenants, the Turkmen government continues to persecute its citizens through its restrictive law.

Despite the Constitutional Provisions for Freedom of Religion, Other Laws Unduly Restrict that Freedom

4. While purporting to provide broad constitutional protections, the Turkmen law contradictorily curtails these liberties by forbidding associations that could "encroach[] on the

¹ *Integrated Civil Society Organisations System*, NGO BRANCH, U.N. DEP'T OF ECON. & SOC. AFF., <http://esango.un.org/civilsociety/> (last visited 7 Sept. 2017) (discussing consultative status in 2007 for the European Centre for Law and Justice by searching "European Centre for Law and Justice" in the iCSO Database).

² TURKM. CONST. art. 18, *available at* <http://www.legislationline.org/documents/section/constitutions/country/51>.

³ *Id.* art. 41.

⁴ *Id.* art. 28.

⁵ G.A. Res. 2200A (XXI), International Covenant on Civil and Political Rights, art. 52 (16 Dec. 1966).

⁶ *Status of Ratification Interactive Dashboard*, OFF. U.N. HIGH COMMISSIONER FOR HUMAN RIGHTS, <http://indicators.ohchr.org/> (last accessed 7 Sept. 2017) (accessed by selecting Turkmenistan from the countries list).

health and morality of the people”⁷. In carrying out such constitutional mandates, the Turkmen government has enacted laws with crushing implications for religious minorities⁸. The Law on Religious Organisations and Religious Freedom was approved by the government in March of 2004⁹. This law curtails religious freedom by stating that, “[e]xercising the right to religious freedom shall not contradict the established public legal order; it may be temporarily limited if needed to ensure national security and public order, to protect the lives, health, morale, rights and freedoms of other citizens”¹⁰.

5. The Law on Religious Freedom also requires all religious organisations to register with the Ministry of Justice (MOJ) in order to legally operate¹¹. A religious organisation must have at least fifty adult members in order to register, which is considerable compared to the previous requirements of five members¹². Organisations can be turned down for *inter alia* not being “recognized as a religion by the State Commission on Religious Organisations and Expert Evaluation of Religious Information Resources (SCROEERIR), which is headed by the grand mufti”¹³. Additionally, even if registered, a religious organisation cannot operate absent leaders who have received “appropriate religious education”¹⁴. Turkmen practicing religion without registration have been beaten or imprisoned¹⁵. Religious organisations may also be dissolved for activities that harm the “health and morale” of Turkmen¹⁶. For example, Pentecostal groups, Evangelical churches, and Baha’is have all registered within Turkmenistan; however, a number of these religious groups have been rejected from re-registration¹⁷. The government failed to register any new organisations in 2016¹⁸.

6. Additionally, the religions within Turkmenistan are strictly monitored by the Council on Religious Affairs (CRA)¹⁹. This entity, along with the secret police and anti-terrorist police force, continually raid the gatherings of both registered and unregistered religious groups²⁰. The Council has been known to intervene when unregistered groups seek to rent, buy, or construct

⁷ TURKM. CONST. art. 44.

⁸ *International Religious Freedom Report 2016: Turkmenistan*, U.S. STATE DEP’T, <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2016&dclid=268946> (last visited 26 Sept. 2017) [hereinafter *Religious Freedom Report*].

⁹ On Religious Freedom and Religious Organisations (Act No. 4/2004) (Turkm.).

¹⁰ *Id.* art. 3.

¹¹ *Religious Freedom Report*, *supra* note 8.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Michael Kozak, U.S. Ambassador, *Statement on Freedom of Thought, Conscience, Religion, or Belief*, U.S. MISSION TO THE OSCE (14 Sept. 2017), <http://www.osce.org/odihr/341361?download=true>.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Decree No. 4012 of the President on Establishment of Departments for Coordination of Activities and Religious Establishments under Ashgabat Hyakimlik (City Municipality) of 5 Jan. 1999*, ORGANISATION FOR SECURITY & CO-OPERATION IN EUROPE, <http://www.osce.org/odihr/17184?download=true> (last visited 20 Sept. 2017).

²⁰ *Turkmenistan 2017*, U.S. COMMISSION ON INT’L RELIGIOUS FREEDOM, <http://www.uscirf.gov/sites/default/files/Turkmenistan.2017.pdf> (last visited 26 Sept. 2017); *see, e.g.*, Turkmenistan Religious Freedom Concerns: Statement by the European Association of Jehovah’s Christian Witnesses *3, 4, 7 (12 Sept. 2017), <http://www.osce.org/odihr/339996?download=true>.

buildings for worship²¹, which is not allowed without a permit²². The Council also placed a ban on the production, import, export, and distribution of religious texts in Turkmenistan²³, and only registered religious groups are eligible to import such texts²⁴. Even then, the imported texts must be approved by the Council via stamp²⁵.

7. The government imposes strict punishments for violations, including imprisonment, involuntary drug treatment, and monetary penalties²⁶. These laws specifically violate the ICCPR's Article 18 protection of religious worship and practice because they unduly restrict the practice of religion and violate the rights afforded to individuals by the ICCPR.

Incidents of Restrictions on Freedom of Religion

A. Protestant Christians

8. In February 2015, Turkmen police officers pressured a group of Protestant church members to cease attending religious meetings and to abandon their faith²⁷. The police began harassing the church members one afternoon after they had been gathered in a home celebrating the return of a student who had been studying abroad²⁸. Police entered the home and demanded that the members write statements asserting that they were conducting a worship service instead of a welcome home party²⁹. When many of the members refused to do so, the officers conducted a search of the home³⁰. After finding a Bible, the police interrogated the family members until two in the morning³¹. As a result of the encounter, the police fined the leader of the Protestant church, Narmurad Mominov, an amount equivalent to two weeks of a farmer's salary³².

9. In February 2016, Turkmenistan's secret police summoned a pastor and assistant of Mary's Baptist Church to a mosque under the pretense of meeting with the local imam³³. Upon arrival, the pastor and his assistant were confronted by two police officers³⁴. The officers interrogated the pastor concerning the use of church funding to support children summer camps³⁵. They demanded that the pastor sign a statement admitting that he had violated the law, but the pastor refused³⁶. The police forbade the pastor from holding children's summer camps at Mary's, and further admonished that, if the pastor held any more summer camps, they will be

²¹ *Religious Freedom Report*, *supra* note 8.

²² *Turkmenistan 2017*, *supra* note 20.

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ Felix Corley, *Turkmenistan: "Who Can Forbid Us From Praying?" Yet Many Raids, Fines Continue*, FORUM 18 (12 Mar. 2015), http://www.forum18.org/archive.php?article_id=2047.

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ Felix Corley, *Turkmenistan, Children's Summer Camps Warning, Fines, New Religion Law, "No Religion" in Army*, FORUM 18 (18 Apr. 2016), http://www.forum18.org/archive.php?article_id=2169.

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

having a “different conversation”³⁷. This was not the first time police intimidated Mary’s members. In 2013, police raided Mary’s summer camp, questioning children and parents for three hours³⁸. The pastor has also been fined twice, and the secret police first began ordering the pastor to cancel summer camps in 2014³⁹.

10. Furthermore, on 20 February 2016, members of Mary’s and the Greater Grace Congregation (GGC) in Ashgabat visited the town of Tejen to share their faith with the locals⁴⁰. They offered religious literature to a state security officer in civilian clothes⁴¹. The undercover officer detained the members and took them to the State Services offices⁴². They were detained until late in the evening, and upon release, the police seized their literature, phones, and money⁴³. Shortly after the release, on February 29, they were fined 500 Manats (equivalent to roughly \$140 USD)⁴⁴.

11. In June 2017, a school supervisor, in conjunction with police involvement, forced a Turkmen teacher, Karina, to resign from her job after refusing to renounce her Christian faith⁴⁵. Open Doors USA reported that the teacher drew police scrutiny after translating Biblical materials into the Turkmen language⁴⁶. Shortly thereafter, Karina was called to a “work” meeting, which turned out to be an interrogation by the police⁴⁷. A few days later, her supervisor also interrogated her about her faith⁴⁸. She was subsequently forced to write a letter of resignation⁴⁹.

B. Jehovah’s Witnesses – Prisoners of Conscience

12. In July 2014, police came to Mansur Masharipov’s home and demanded that he hand over all religious literature in his possession⁵⁰. He turned over numerous materials including New Testament copies, religious notes and educational materials, and a religious calendar⁵¹. The police confiscated the material as well as his mobile phone, and an officer took Masharipov into custody for “preventative measures in connection with his adherence to the Jehovah’s Witness movement”⁵². When he refused arrest, the police charged him with assaulting a police officer. The police dragged Masharipov into their vehicle and began beating him about the head and

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *When She Kept Following Jesus, She Was Forced to Resign*, OPEN DOORS (4 June 2017), <https://www.opendoorsusa.org/take-action/pray/when-she-kept-following-jesus-she-was-forced-to-resign/>.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ Felix Corley, *Turkmenistan: Search, Arrest, Torture, Escape, Arrest, Prison*, FORUM 18 (21 Sept. 2016), http://www.forum18.org/archive.php?article_id=2217.

⁵¹ *Id.*

⁵² *Id.*

body⁵³. He was beaten repeatedly at the police station and the police openly discussed falsifying testimony against him regarding the supposed assault⁵⁴. While at the station, Masharipov was forced to sign a document in a foreign language that detailed the raid on his home from the officers' perspectives⁵⁵. He was then taken to a drug rehabilitation facility where he was injected with unknown drugs⁵⁶. Masharipov was able to escape from the facility and was arrested again on 30 June 2016⁵⁷.

13. On 6 February 2015, police arrested four Jehovah's Witnesses in Turkmenabad and tortured three of them, including Ms. Adylova⁵⁸. Viktor Yarygin, Rustam Nazarov, Charygeldy Dzhumaev, and Jamilya Adylova were charged with "minor hooliganism" for possessing religious literature⁵⁹. Mr. Dzhumaev was tortured so severely that he lost consciousness multiple times⁶⁰. Ultimately, Mr. Yarygin was fined, Mr. Nazarov was sentenced to thirty days in prison, and Mr. Dzhumaev and Ms. Adylova were both sentenced to forty-five days in prison⁶¹. According to Turkmenistan's Administrative Code, the maximum sentence for "minor hooliganism" is fifteen days in prison; however, the court bypassed this law by sentencing Mr. Dzhumaev and Ms. Adylova to three consecutive terms of imprisonment⁶².

14. On 20 February 2015, Turkmenabad police conducted a raid on the home of Zeynep Husaynova and her son Tohtabay because they were Jehovah's Witnesses. The police confiscated personal religious literature⁶³. The police threatened Zeynep with arrest and fifteen days of imprisonment for possessing "illegal" religious literature⁶⁴.

15. On 14 March 2015, Turkmenabad police raided the home of Bahram Hemdemov in which thirty-eight Jehovah's Witnesses had gathered for religious activities⁶⁵. The police confiscated religious literature and ultimately arrested all thirty-eight attendees⁶⁶. All were convicted for possession of illegal religious literature; eight were imprisoned for fifteen days, and thirty were fined⁶⁷. Police also confiscated Bahram's personal possessions and tortured him during multiple interrogations⁶⁸. On 19 May, Bahram Hemdemov was convicted of inciting

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ Felix Corley, *Turkmenistan: Torture and Jail for One 4 Year and 14 Short-Term Prisoners of Conscience*, FORUM 18 (3 Oct. 2016), http://www.forum18.org/archive.php?article_id=2063 [hereinafter *Turkmenistan: Torture and Jail*].

⁵⁹ *Turkmenistan Sentences Bahram Hemdemov to Four-Year Prison Term for Religious Activity*, JEHOVAH'S WITNESSES (24 Nov. 2015), <https://www.jw.org/en/news/legal/by-region/turkmenistan/no-religious-freedom-bahram/> [hereinafter *Turkmenistan Sentences*].

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Turkmenistan: Torture and Jail*, *supra* note 58.

⁶⁶ *Will Bahram Hemdemov Be Released With the Next Amnesty?*, JEHOVAH'S WITNESSES (24 Oct. 2016), <https://www.jw.org/en/news/legal/by-region/turkmenistan/no-amnesty-for-bahram-hemdemov/>.

⁶⁷ *Id.*

⁶⁸ *Id.*

religious hatred and given a four year prison term⁶⁹. On 16 March, Bahram’s son, 19-year-old Serdar Hemdemov, was arrested and sentenced to fifteen days imprisonment⁷⁰. He was arrested and convicted again on 31 March⁷¹. During his imprisonment, Serdar was subjected to a variety of human rights violations that placed him in isolation⁷². Hemdemov’s attorney stated that Hemdemov was targeted by the Turkman government in an attempt to “threaten and intimidate” Jehovah’s Witnesses⁷³. The UN Committee Against Torture recognized the plight of Hemdemov and appealed to Turkmenistan to “ensure that impartial investigations are opened promptly into . . . the alleged torture in detention of Bahram Hemdemov . . . ”⁷⁴. Hemdemov was released after a one-year imprisonment⁷⁵.

16. On 16 March 2015, police arrested another Jehovah’s Witness, Emirjan Jumanazarov, for “disorderly conduct”⁷⁶ while he was walking down the street. He received a fifteen-day prison sentence⁷⁷. During his imprisonment, Jumanazarov was subjected to beatings and obscene insults, and threatened with electrocution⁷⁸. Officers then forced him to sign a statement saying he had been shortly detained for what was only an identification check⁷⁹. On 1 April 2015, Jumanazarov was again arrested for disorderly conduct, supposedly because he had insulted an officer who had stopped him for preaching the beliefs of an unregistered religious organisation⁸⁰.

17. On 6 May 2015, police detained Konstantin Vlaskin, a Jehovah’s Witness, after an identification stop on the street⁸¹. They then accompanied him to his home, confiscated his religious literature and computer, and proceeded to torture him and his sister⁸². This is not the first time Vlaskin was imprisoned for his beliefs. He was detained and tortured for fifteen days in 2005 for similar reasons⁸³.

C. Jehovah’s Witnesses – Forced Military Service

18. In 2016, Turkmen courts convicted six Jehovah’s Witness for refusing to serve in the military on grounds of conscientious objection⁸⁴. Five were given two-year sentences (which were suspended). The sixth received a one-year corrective labor sentence to be carried out from

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Will Turkmenistan Implement the UN Human Rights Committee Decisions?*, JEHOVAH’S WITNESSES (4 July 2017), <https://www.jw.org/en/news/legal/by-region/turkmenistan/will-turkmenistan-implement-un-human-rights-decisions/>.

⁷⁵ *Id.*

⁷⁶ Corley, *supra* note 58.

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *Id.*

⁸³ *Id.*

⁸⁴ Felix Corley, *Six Conscientious Objectors Sentenced in 2016*, FORUM 18 (3 Oct. 2016), http://www.forum18.org/archive.php?article_id=2220.

his home under specified restrictions including the garnishment of one-fifth of his wages. During 2014 and 2015, five other Jehovah's Witnesses were similarly convicted and given corrective labor sentences. It appears that none of these conscientious objectors had been imprisoned as of March 2017⁸⁵.

Conclusion

19. The 2017 Working Group on the UPR must address the continuous violations against the freedom of religion and expression, and urge Turkmenistan to reform its laws. The Turkmen law is unduly restrictive of fundamental rights, and the Working Group must encourage Turkmenistan to carry out its obligation to guarantee religious freedom for all of its citizens under its constitution as well as its international commitments under the ICCPR.

⁸⁵ *Review of Turkmenistan under the International Covenant on Civil and Political Rights*, INT'L P'SHIP FOR HUMAN RIGHTS (Mar. 2017), http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/TKM/INT_CCPR_CSS_TKM_26458_E.pdf.