



**United Nations Human Rights Council
Universal Periodic Review: Tajikistan**

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Submission of the International Center for Advocates Against Discrimination (ICAAD)

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About ICAAD

The International Center for Advocates Against Discrimination (ICAAD) is a tax-exempt 501(c)(3) non-profit organization that combats structural discrimination and promotes human rights norms consistent with public international law. Structural discrimination refers to systems of inequality that provide a social, political, cultural, or economic advantage to a dominant group while furthering barriers of exclusion that make marginalized communities more susceptible to violence and indignity. By leveraging partnerships, ICAAD brings together passionate multidisciplinary teams of lawyers, data scientists, universities, and design strategists to improve access to justice for women, girls, and vulnerable communities, while strengthening the capacity of civil society and government.

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Executive Summary

The prevalence in Tajik society of conservative strains of Islam, combined with traditional practices predicated on the subservience of women and a lack of government action, has led to overwhelming structural discrimination against women. This is manifest in violence in the home and restrictions on women's rights in the street. Tajikistan has made legislative progress in its bids to improve the status of women in the country, but remains in violation of sections of CEDAW and the ICCPR, to which it is a party. For example, Tajikistan is the subject of reports of widespread domestic violence, as well as traditional patriarchal practices such as forced marriages.¹ The country also places tight controls on religious practice in general.

Drawing on ICAAD's research, this submission highlights issues of structural discrimination that impact women and, to a lesser extent, religious minorities. The research examines Tajikistan's compliance with its international human rights obligations, as well as its implementation of domestic legislation, covering: women and religious practice, violence against women and domestic violence generally, and the status of the country's small religious minorities.

(A) Women's Rights Issues

In addition to the commonality of domestic violence against women² and their generally secondary or subservient position in Tajik society, women are essentially barred from attending religious services in Tajikistan.

a) Systematic Discrimination:

- a. A 2004 fatwa issued by the country's nominally independent Council of Ulema bars women from praying in mosques; the United States recommended that Tajikistan rescind the edict, but was rejected.³ The fatwa states that women should pray at home, in accordance with Tajikistan's traditions.
- b. Non-Sunni women – who make up 2% or less of Tajikistan's population – are not subject to the fatwa.⁴

b) State Response

- a. Tajikistan rejected the United States' recommendation regarding the fatwa; it was the only recommendation made at Tajikistan's first UPR on the issue.⁵ Tajikistan did not address the recommendation on follow-up.⁶

c) Remaining Challenges

- a. The vast majority of Tajikistan's women remain restricted in their freedom to exercise their religion. Tajikistan's rejection of the United States' recommendation regarding the fatwa indicates state approval.

d) Recommendations

- a. Tajikistan should be proud of its status as one of the rare states to have ratified CEDAW with no reservations.⁷ All the same, Tajikistan must take steps at the executive level to strike down this unabashedly gender-based prohibition on religious practice outside the home. In particular, Tajikistan should make clear its intent to comply with CEDAW and, in practice, "take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise," as the Convention states.⁸
- b. Tajikistan must also take measures to fulfill its obligations under the ICCPR, to which it is a party, in this regard. For example, Article 18 states, everyone "has the right to manifest [their] religion or belief in worship, observance, practice and teaching."⁹

(B) Violence Against Women

Tajikistan received some nine recommendations referring specifically to violence against women, including one, from Uruguay, calling on Tajikistan to combat "the widely accepted subordination of women" in Tajik society.¹⁰ The UN's Special Rapporteur on Violence Against Women made recommendations in this connection, in 2008.¹¹

(1) Systematic Discrimination

- a. Women in Tajikistan, whether or not they marry by choice, face widespread domestic violence.¹² Prior to Tajikistan's first UPR, domestic violence was not criminalized. Additionally, reports of forced marriages – including child marriages – are not uncommon, though no state made recommendations that Tajikistan combat this practice.¹³

(2) State Response

- a. Tajikistan held a roundtable in early 2014 on CEDAW and a national plan of action that would work towards the implementation of recommendations made by the UN Committee on the Rights of Women.¹⁴ Tajikistan also took the commendable measure of creating some 105 consultation centers nationwide for victims of domestic violence. According to official numbers, more than 11,000 women visited these centers in 2013.¹⁵ Tajikistan states that "more than 92%" of women visiting these centers received free legal consultations.¹⁶
- b. Tajikistan has also stated that it is planning to develop a Plan of Action 2015-2020 on enhancing the role of women in society.¹⁷ It also reported on the passage in 2013 of a law "On the Prevention of Domestic Violence." A fine is imposed for violation of the

law in the amount of approximately USD\$16-40. A violation of a protective order results in fines of approximately USD\$40-80 or administrative arrest for the period of 5-15 days.¹⁸

(3) Remaining Challenges

- a. Tajik NGOs complain that despite the fact that a year has passed since the changes to state policy regarding domestic violence, Dushanbe provides no official statistics on registered complaints of domestic violence, protective orders, or penal liabilities imposed on domestic assailants.¹⁹
- b. Official reports on Tajikistan's intake centers state that in 70% of domestic violence complaints "positive actions were taken."²⁰ The actual impact of these "positive actions" is unclear.

(4) Recommendations

- a. Tajikistan should align its policies with its obligations under CEDAW. It must record and disclose concrete numbers regarding improvements, or the lack thereof, in combating violence against women. A necessary step would be toughening of sanctions for gender-based violence for both fines and imprisonment for first time offenders and violators of protective orders.
- b. Tajikistan should ensure that victims of domestic violence understand their right to file charges. This recommendation also stands for the specifics of the law "On the Prevention of Domestic Violence," which remain unclear.
- c. Finally, Tajikistan should invite dialogue with wealthier governments regarding areas where it would be willing to receive assistance as part of its campaign to end gender-based violence.

(C) Minority Rights Issues

Religiously and ethnically, Tajikistan is a nearly homogenous country: less than ten percent of its citizens either do not practice Sunni Islam, are not ethnically Tajik, or both. Religious believers are only legally permitted to practice religions that have been expressly authorized by official Dushanbe.²¹

(1) Systematic Discrimination

- a. A single recommendation, from Italy, focused on minority rights – specifically, the rights of non-Muslims in Tajikistan.²² Tajikistan's population is 96% Sunni. In years past, Catholic groups noted a 2007 draft law (which was not passed) that would have banned religious education in the home.²³ Tajikistan is home to 326 Roman Catholics (0.0045%

of the population), with four priests and eight nuns serving the entire country.²⁴ Despite the fact that the draft law of concern did not pass, Tajikistan's religious minorities are marginalized in other ways.

(2) State Response

- a. Tajikistan did not respond to the recommendation, which it had accepted, on follow-up.

(3) Remaining Challenges

- a. The potential threats faced by Tajikistan's tiny Catholic population are shared by other minority religions including Jehovah's Witnesses, Protestants, and Russian Orthodox believers. Some Muslims are also targeted in a purported "anti-extremism" campaign that has been underway for many years.²⁵
- b. Tajik NGOs report the following discriminatory practices with respect to religious beliefs and worship: a ban on people under 18 from participating in any religious activity other than funerals; demolitions and closures of Muslim, Christian, and Jewish religious facilities; bans on the Jehovah's Witnesses and some Islamic and Protestant movements; jailing of Muslims and criminal charges against Jehovah's Witnesses; a ban on unsanctioned religious activity; limitations on the numbers of mosques permitted and the activities allowed inside them; limitations on the right to share beliefs; compulsion of imams in state-controlled mosques (the only sort permitted) to preach state-written sermons; and the closure of all but one of the country's madrassas.²⁶

(4) Recommendations

- a. Tajikistan must bring its policies, stated and otherwise, into concert with its obligations regarding religious freedoms under the ICCPR. For example, the Convention calls on States Parties to ensure the right of citizens to "have or to adopt a religion or belief of [their] choice," along with the "freedom, either individually or in community with others and in public or private, to manifest [their] religion or belief in worship, observance, practice and teaching."²⁷
- b. Further, Tajikistan must ensure that its "anti-extremism" campaign, which impinges on the right of religious exercise, is not an abuse of the margin of appreciation outlined in ICCPR Article 18(3), which allows states to limit "[f]reedom to manifest one's religion or beliefs" as "prescribed by law and [as] necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others."
- c. In terms of the special legal status given to Tajikistan's Sunni Muslims by omission of restrictions (notwithstanding restrictions on women), Tajikistan should bring its policies into alignment with Article 26, which guarantees equality before the law despite, inter alia, religious status.²⁸

¹ U.N. Special Rapporteur on violence against women, its causes and consequences, *On the Promotion and Protection of all Human Rights, Civil, Political, Economic, Social, and Cultural Rights, Including the Right to Development, Addendum: Mission to Tajikistan*, ¶ 33, U.N. Doc. A/HRC/11/6/Add.2 (Apr. 29, 2009).

² *Domestic Violence in Tajikistan*, The Advocates For Human Rights Minneapolis (Oct. 2008), http://www.stopvaw.org/uploads/tajikistan_3_6_07_layout_-_final_mc.pdf.

³ *Tajikistan*, MID-TERM IMPLEMENTATION ASSESSMENT (UPR-Info, Geneva, Switz.), Jun. 3, 2014, at 64..

⁴ United States Department of State, Bureau of Democracy, Human Rights and Labor, *Tajikistan 2013 International Religious Freedom Report*, undated, at 8.

⁵ UPR-Info, *supra* note 3, at 64.

⁶ *See generally supra*, note 4.

⁷ United Nations Treaty Collection, CEDAW fact sheet (Nov. 18, 2014, 2:52 PM), section *Declarations and Reservations* https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en#EndDec.

⁸ United Nations Convention on the Elimination of All Forms of Discrimination against Women, Dec. 18, 1979, 1249 U.N.T.S. 13 [hereinafter *CEDAW*], Article 2.

⁹ International Convention on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 117 [hereinafter *ICCPR*], Article 18.

¹⁰ UPR-Info, *supra* note 3, at 52-54.

¹¹ *Id.*

¹² *Supra* note 2.

¹³ *Tajikistan: Poverty Encourages Early Marriages*, Eusarianet.org (Mar. 2, 2012), <http://www.eurasianet.org/node/65075>; *see also* United Nations Population Fund, *Tajikistan: Child Marriage*, undated 2012, <http://unfpa.org/webdav/site/eeca/shared/documents/publications/Tajikistan%20English.pdf> (Nov. 18, 2014, 3:06 PM).

¹⁴ UPR-Info, *supra* note 3, at 54.

¹⁵ *Id.* at 55.

¹⁶ *Id.*

¹⁷ *Id.* at 56.

¹⁸ *Id.* at 55.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Supra* note 4 at 3.

²² UPR-Info, *supra* note 3, at 16.

²³ *Draft law to ban religious minorities*, AsiaNews.it (July 4, 2007), <http://www.asianews.it/index.php?l=en&art=9733>.

²⁴ *Mission "Sui Iuris" of Tadjikistan*, THE HIERARCHY OF THE CATHOLIC CHURCH (Sept. 21, 2013), <http://www.catholic-hierarchy.org/diocese/dtadj.html>.

²⁵ *Supra* note 4.

²⁶ *Supra* note 21.

²⁷ ICCPR, *supra* note 9, at Article 18(1).

²⁸ *Id.* at Article 26.