

**Follow-up table to the country visit of the Special Rapporteur on freedom of religion or belief to Turkmenistan (4-10 September 2008)**

Recommendations of the Special Rapporteur's mission report (A/HRC/10/8/Add.4)	Follow-up information from UN documents (e.g. Special Procedures, UPR, Treaty Bodies)	Follow-up information from the Government of Turkmenistan
<p><b>A/HRC/10/8/Add.4</b></p> <p>63. Several provisions of the amended <b>Religious Organizations Law</b> are incompatible with international human rights standards and contradict the Constitution of Turkmenistan in some instances. The Special Rapporteur urges the Government to review the Religious Organizations Law, so that it no longer infringes on the rights of individuals and groups in their exercise of freedom of religion or belief. In doing so, the Government should ensure that interested stakeholders at the national level be included in the reviewing process, in order to offer them the opportunity to provide valuable input to the revised draft legislation. Likewise, the Special Rapporteur is of the view that recommendations of relevant international or regional organizations relating to the revision of the Religious Organizations Law should be considered carefully. The Special Rapporteur remains available if further comments on draft legislation on religious issues are deemed necessary.</p>		<p><b>A/HRC/10/79</b>  <b>Report of the Working Group on the Universal Periodic Review, January 2009</b></p> <p>57. On freedom of religion and belief, a new law was adopted in 2003. At the invitation of the Government, the Special Rapporteur on the freedom of religion visited in September 2008 and the report of her visit includes recommendations on the need to reform legislation regulating the activities of religious organizations. A proposal has been sent to Parliament in this regard, including on the registration of religious groups. Turkmenistan is counting on cooperation, particularly with International Centre of Non-commercial Law in Washington D.C., with the assistance of USAID. Based on the results of the experts' work, the Government will make recommendations to Parliament in this regard. [...]</p> <p>69. The recommendations formulated during the inter-active dialogue have been examined by Turkmenistan and the recommendations listed below enjoy the support of Turkmenistan: [...] 15. To adopt adequate measures for the protection and promotion of religious freedom, in order to ensure effective freedom of worship for all religious communities (Italy); to take measures to grant effective and unhindered enjoyment of the freedom of religion (Germany);</p> <p><b>A/64/159</b>  <b>Interim report of the Special Rapporteur on freedom of religion or belief, July 2009</b></p> <p>43. In its reply letter of 1 April 2009, the Government of Turkmenistan indicated that it would be taking the Special Rapporteur's comments into consideration during the country's further reform process and the preparation of its periodic report to the Human Rights Committee. The Government stated that legislation in Turkmenistan was currently under reform, including</p>

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		<p>legislation on religious organizations, in keeping with the new Constitution and the Special Rapporteur's recommendations. The presentation of the review of Turkmenistan's legislation on religious organizations, with the participation of international experts and representatives of relevant State bodies, was scheduled for the first half of 2009.</p> <p><b>A/HRC/10/29</b>  <b>Report of the Human Rights Council on its tenth Session, November 2009</b>  538. In January 2009, the Inter-ministerial Committee submitted its report for 2008. The Committee's role is to monitor national legislation with regard to human rights and to prepare proposals on the implementation of international human rights law and on institutional transformation. It addressed proposals to Parliament on the need to reform the penitentiary system and the system of juvenile justice; mechanisms of legal protection; the creation of a government body on family, maternal and child protection; work on legislation regulating religious organizations and civil society organizations; and on the regulation of the media.</p>
<p><b>A/HRC/10/8/Add.4</b>  64. The Special Rapporteur recommends that the prohibition on unregistered religious activities be removed from the Religious Organizations Law. The <b>registration procedures</b> should be amended so as to be non-discriminatory, especially towards religious minorities. In addition, once registered by the Ministry of Justice in Ashgabat, a religious organization should be entitled to operate on the entire national territory. However, if for formal reasons, regional and local authorities would require registration at their levels, then the registration procedures should not be cumbersome. They should be clear, quick and easy in order to allow branches of religious organizations to operate freely at the regional or local levels.</p>	<p><b>A/HRC/WG.6/3/TKM/3</b>  <b>Working Group on the Universal Periodic Review, Summary of 14 stakeholders' submissions, September 2008</b>  18. In violation of its international obligations and contrary to the country's Constitution, religious freedom is severely restricted in Turkmenistan, as noted by AI. From early 1997, when re-registration of religious communities was made compulsory, until 2004, only two religious communities - the Russian Orthodox Church and Sunni Muslims - obtained registration. All other religious groups were effectively denied registration making them more vulnerable to government pressure including imprisonment, deportation, internal exile, house eviction and</p>	<p><b>A/HRC/10/79</b>  <b>Report of the Working Group on the Universal Periodic Review, January 2009</b>  70. The following recommendations will be examined by Turkmenistan, which will provide responses in due time. The responses will be included in the outcome report to be adopted by the Council at its tenth session. In the course of the discussion, the following recommendations were made to Turkmenistan: [...] 12. [...] to eliminate all impediments to freedom of religion and belief at juridical and administrative levels, and put an end to the intimidation of members of religious communities (Belgium);</p> <p><b>A/HRC/10/79/Add.1</b></p>

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	<p>harassment. Despite their long-standing privileged status, the Russian Orthodox Church and the Sunni Muslim communities have also been under strict state control and members of these groups have also been targeted and punished when daring to express dissent. Institute on Religion and Public Policy (IRPP) added that the government successfully controls the country's mosques and Islamic clergy through appointment and constant oversight, ensuring that their theology is in line with the ideology of the country's rulers. F18 explained that, although the government allows Sunni Islam to operate within tightly controlled limits, this is not the case for Shia Islam, which is mainly professed by the ethnic Azeri and Iranian minorities in the west of the country who are traditionally more devout than ethnic Turkmens. Such official intolerance of Shia Islam may be linked to former President Niyazov's racially-motivated policy of promoting an ethnically homogenous Turkmen-speaking, Turkmen cultural national identity of which Sunni Islam was seen as a part.</p> <p>19. According to IRPP, in 2004 criminal penalties for practicing with an unregistered religious group were abolished. However, as noted by F18, unregistered religious activity remains an offence under article 205 of the Code of Administrative Offences and state agencies have continued to behave as if unregistered religious activity was still a criminal offence. The European Association of Jehovah's Christian Witnesses (JW) added that Jehovah's Witnesses are not registered either although they have shown their willingness to cooperate with the authorities.</p> <p>20. AI reported that since 2004, as a result of international pressure, several religious communities have gained registration. However, harassment and intimidation of members both of registered as well as unregistered religious groups continue to be reported. Religious gatherings in homes have been raided in many cases; often the participants were temporarily</p>	<p><b>Report of the Working Group on the Universal Periodic Review, Addendum, Supplementary questions in connection with the universal periodic review, February 2009</b></p> <p>5. The Act on Freedom of Conscience and on Religious Organizations was adopted on 29 May 1991.</p> <p>6. The Constitution guarantees freedom of religions and faiths. On 21 October 2003 the Mejlis adopted the Freedom of Faiths and Religious Organizations Act, which reaffirms everyone's right to freedom of faith, citizens' equality before the law irrespective of their attitude to religion and beliefs, and the principle of respect for all religions. The Act defines freedom of faith as a constitutional right of citizens to profess any religion or none, to express and disseminate beliefs connected with their attitude to religion and to participate in the performance of religious worship, rituals and ceremonies.</p> <p>7. In keeping with the universally recognized rules of international law, the Freedom of Faiths and Religious Organizations Act sets out the conditions for the establishment of religious organizations. Whereas previously the establishment of such an organization required an application from at least 500 citizens of Turkmenistan, it now requires only an application from five adult citizens permanently resident in the country.</p> <p>8. The following are grounds for refusing to register a religious organization: the organization in question is not recognized as religious; the provisions of its statutes and other documents do not meet the requirements of Turkmen law or contain knowingly false information; the organization's founders are legally incompetent.</p> <p>9. Refusal to register a religious organization is not an obstacle to resubmission of its documents for registration, but in that event the reasons for the refusal must have been eliminated.</p> <p>10. Refusal to register a religious organization may be appealed to the courts. In all, 120 religious</p>

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	<p>detained, given large fines, dismissed from their work places, and communities have been warned that their religious activities could lead to them losing their registration. In some cases police beat religious believers or threatened them with violence. According to F18, unregistered religious communities face regular raids by Ministry of State Security (MSS) secret police officers, backed up by ordinary police officers, officials of the local administration and local religious affairs officials, who work closely together in suppressing and punishing as criminal all unregistered religious activity. The MSS secret police and the ordinary police also try to recruit spies in unregistered religious groups.</p>	<p>organizations are registered in Turkmenistan; 98 of them are Muslim, 13 Orthodox and 9 of other faiths. 11. The United Nations Special Rapporteur on freedom of religion or belief, Ms. Asma Jahangir, visited Turkmenistan in September 2008 at the Government's invitation. 12. The Interdepartmental Commission on compliance with Turkmenistan's international human rights obligations has made proposals to Parliament on the need for reform of the legislation governing the activities of religious organizations. Experts from the International Center for Not-for-Profit Law (ICNL) in Washington D.C. have been given the package of current relevant legislation to monitor it for compliance with international standards and to draw up proposals for improvements.</p>
<p><b>A/HRC/10/8/Add.4</b> 65. Undue restrictions on <b>religious material, education and attire</b> should also be removed from the Religious Organizations Law. The Special Rapporteur recommends that the Government of Turkmenistan remains neutral on religious matter and does not interfere in religious education. Imams should be allowed to receive religious education in other institutions as well as in the Faculty of History of the Magtymuly Turkmen State University and non-Sunni Muslim religious communities should be allowed to have their own religious training institutions if they so desire. Likewise, the Government should ensure that all religious communities are able to teach members about their beliefs in public or in private. The Special Rapporteur would therefore encourage the Government to revise articles 6 and 9 of the Religious Organizations Law accordingly.</p>	<p><b>A/HRC/WG.6/3/TKM/3 Working Group on the Universal Periodic Review, Summary of 14 stakeholders' submissions, September 2008</b> 21. [...] According to IRPP, the country refuses to allow the publication of religious works, significantly hampering the ability of minority religious groups to worship. F18 added that religious literature found by police or the secret police in raids on religious meetings in private homes is routinely confiscated.</p>	<p><b>A/HRC/10/79 Report of the Working Group on the Universal Periodic Review, January 2009</b> 70. The following recommendations will be examined by Turkmenistan, which will provide responses in due time. The responses will be included in the outcome report to be adopted by the Council at its tenth session. In the course of the discussion, the following recommendations were made to Turkmenistan: [...] 12. [...] do more to promote and protect freedom of religion or belief, including by safeguarding personal access to, and use and ownership of, religious literature and materials (United Kingdom);</p>
<p><b>A/HRC/10/8/Add.4</b> 66. The Government should ensure that religious communities incur no obstructions with regard to the building, opening, renting or use of <b>places of worship</b> and that they are not deprived of their places of worship. In cases where such deprivation is justified by lawful reasons and after judicial review, it should provide the religious community concerned with a suitable alternative place of worship. In addition, the Government shall</p>	<p><b>A/HRC/WG.6/3/TKM/3 Working Group on the Universal Periodic Review, Summary of 14 stakeholders' submissions, September 2008</b> 21. F18 noted that places of worship have been confiscated and destroyed in recent years. Those still being open are tightly restricted, with many faiths not being allowed any place of worship. Formal religious</p>	

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also ensure that religious communities are able to meet in private places of worship without state interference.	education is impossible, except from a small Muslim theological section in the History Faculty of Magtymguly Turkmen State University. Although Muslims are not allowed to travel abroad for religious education, Russian Orthodox men from Turkmenistan are allowed to study for the priesthood outside the country.	
<p><b>A/HRC/10/8/Add.4</b></p> <p>67. On the <b>Council on Religious Affairs</b>, although the Special Rapporteur has noticed that its members in Ashgabat have recently adopted a more progressive attitude towards registration of religious minority groups, this change of attitude does not seem to have reached the Council's regional representatives yet. She would like to recommend that the Council on Religious Affairs, both at national and regional levels, change its orientation, so as to become a facilitating rather than monitoring mechanism. In order to do so, it needs to be autonomous and independent in its character. It also needs to be more representative and should, to that effect, include representatives of religious minorities.</p>		
<p><b>A/HRC/10/8/Add.4</b></p> <p>68. The Government should ensure that <b>conscientious objectors</b> in Turkmenistan, in particular Jehovah's Witnesses who refuse to serve in the army due to their religious beliefs, be offered an alternative civilian service which is compatible with the reasons for conscientious objection. As such, the Government should also revise the Conscription and Military Service Act which refers to the possibility of being sanctioned twice for the same offence. The Special Rapporteur would like to recall that according to the principle of "ne bis in idem", as enshrined in article 14 (7) of the International Covenant on Civil and Political Rights, no one shall be liable to be tried or punished again for an offence for which he or she has already been convicted or acquitted in accordance with the law and penal procedure of each country.</p>	<p><b>A/HRC/WG.6/3/TKM/3</b></p> <p><b>Working Group on the Universal Periodic Review, Summary of 14 stakeholders' submissions, September 2008</b></p> <p>22. AI continued to be concerned about the lack of a civilian alternative to military service for those objecting to serve in the armed forces on the basis of conscientiously-held beliefs, including religion. CPTI explained that legislation does not provide for a permission to those with a conscientious objection to military service to be excused if called up, nor is there any means of opting to perform that service in an unarmed capacity, nor an alternative service of a civilian nature. IRPP added that conscientious objectors who refuse to serve in the armed forces can receive a maximum penalty of two years' imprisonment.</p> <p><b>A/HRC/10/29</b></p>	<p><b>A/HRC/10/79</b></p> <p><b>Report of the Working Group on the Universal Periodic Review, January 2009</b></p> <p>70. The following recommendations will be examined by Turkmenistan, which will provide responses in due time. The responses will be included in the outcome report to be adopted by the Council at its tenth session. In the course of the discussion, the following recommendations were made to Turkmenistan: [...]</p> <p>12. To recognize conscientious objection to military service in law and practice and stop prosecuting, imprisoning and repeatedly punishing conscientious objectors (Slovenia);</p> <p><b>A/64/159</b></p> <p><b>Interim report of the Special Rapporteur on freedom of religion or belief, July 2009</b></p> <p>43. In its reply letter of 1 April 2009, the Government of Turkmenistan indicated that it would be taking the</p>

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	<p><b>Report of the Human Rights Council on its tenth Session, November 2009</b>  565. With reference to the recommendations contained in paragraph 70 (12) of the report of the Working Group, Conscience and Peace Tax International noted, as a first step, the preparation of the legislation allowing conscientious objectors to perform unarmed military service. It encouraged Turkmenistan to make a careful study of international related standards, including the jurisprudence of the Human Rights Committee, and to bring the State's legislation into line with them. It drew attention to Commission on Human Rights resolution 1998/77, in which the Commission called for instituting alternative services that were compatible with the reasons for the objection. It indicated that, while unarmed military service met the needs of those whose only objection was to personally bear arms, there were many whose conscience would not permit them to act in support of those who did. It stated that Turkmenistan should bear in mind the recommendation not to imprison conscientious objectors and that any repeated punishment constituted repeated punishment for the same offence.</p> <p><b>A/HRC/16/53/Add.1</b>  <b>Urgent appeal sent on 12 February 2010 jointly by the Chair-Rapporteur of the Working Group on Arbitrary Detention and Special Rapporteur on freedom of religion or belief</b>  384. The Special Procedures mandate holders brought to the attention of the Government information regarding Mr. Navruz Nasyrbaev, son of a baptised Jehovah's Witness who has not yet been baptised himself, residing in Dashoguz; Mr. Sakhymurad Annamamedov; Mr. Mukhammedmurad Annamamedov; Mr. Shadurdi Ushotov; and Mr. Akmurat Egendurdiev, who are Jehovah's Witnesses and conscientious objectors in Turkmenistan.  385. According to the information received, on 7</p>	<p>Special Rapporteur's comments into consideration during the country's further reform process and the preparation of its periodic report to the Human Rights Committee. [...] Furthermore, the Government of Turkmenistan indicated that it was also taking steps to ensure that the right to freedom of thought, conscience and religion could be reconciled with compulsory military service by introducing alternative service within non-military structures of the Ministry of Defence, such as in medical and construction units.</p> <p><b>A/HRC/10/29</b>  <b>Report of the Human Rights Council on its tenth Session, November 2009</b>  555. Concerning the recommendation to recognize conscientious objection to military service and with respect to recognizing the right of persons renouncing military service on religious grounds, Turkmenistan provided information that conditions existed that allowed for guaranteeing the right to freedom of religion and the fulfilment of military duty by serving in non-military structures of the Ministry of Defence, such as medical and construction units. Turkmenistan also indicated that the process of improving the legislation on religious organizations was ongoing. Experts from the International Centre for Not-for-Profit Law were currently examining the existing legislation regulating the functioning of religious organizations with regard to its conformity with international norms. An agreement had been reached with the Centre and USAID to hold a number of seminars and organize a presentation on the assessment, which was currently being made. The seminars were expected to bring together international experts and representatives from Parliament, the Ministry of Justice and other relevant bodies of Turkmenistan. Recommendations for legislative changes would be made based on the recommendations of the Special Rapporteur, a review of international</p>

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	<p>December 2009, Mr. Navruz Nasyrlaev was sentenced by the Dashoguz City Court under article 219, part 1, of the Turkmen Criminal Code to two years imprisonment in a general regime labour camp for his refusal to serve in the military. Mr. Navruz Nasyrlaev appealed against his sentence, but in its decision of 3 January 2010 the Dashoguz Regional Court upheld the original sentence of the court of first instance. Mr. Navruz Nasyrlaev was called up in March 2009 when reaching the age of 18. He, however, refused to serve in the army because of his beliefs.</p> <p>386. With the arrest and sentencing of Mr. Navruz Nasyrlaev, a total of five conscientious objectors are currently serving prison terms in Turkmenistan: Mr. Sakhetmurad Annamamedov and Mr. Mukhammedmurad Annamamedov originally received a suspended sentence in November 2008, which was commuted to a two years prison sentence on 21 May 2009. Mr. Shadurdi Ushotov was convicted for refusing to serve in the military on 13 July 2009. Mr. Akmurat Egendurdiev was sentenced on 29 July 2009 to 18 months of imprisonment. All are currently imprisoned at Seydi Labour Camp.</p> <p>387. Three more conscientious objectors are serving non-custodial sentences. Mr. Vladimir Golosenko, from Turkmenbashi, was sentenced in February 2008 to two years of forced labour and 20 percent of his salary goes to the State. Mr. Zafar Abdullaev was given a two-year suspended sentence by Dashoguz City Court in April 2009. He is currently living at home. Also in April 2009, the Dashoguz City Court rendered a suspended sentence of two years against Mr. Dovran Kushmanov. He has to report to the police weekly.</p> <p>388. The Jehovah's Witness young men have indicated that they were willing to do alternative non-military service, however, the laws of Turkmenistan offer no non-combat alternative to those who cannot serve in the military on grounds of conscience, religion or belief.</p>	<p>standards, foreign legislation and the monitoring by the experts of the International Centre.</p>

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	<p>(b) No response received from the Government</p> <p>© Observations by the Special Rapporteur</p> <p>389. The Special Rapporteur regrets that he has so far not received a reply from the Government of Turkmenistan concerning the above mentioned allegations. He appeals to Government of Turkmenistan to ensure the right to freedom of thought, conscience and religion of the above mentioned Jehovah's Witnesses in accordance with article 18 of the International Covenant on Civil and Political Rights. The Human Rights Committee indicated in its general comment 22 that a right to conscientious objection "can be derived from article 18, inasmuch as the obligation to use lethal force may seriously conflict with the freedom of conscience and the right to manifest one's religion or belief." Furthermore, he would like to draw the attention of the Government to paragraph 5 of Resolution 1998/77 of the Commission on Human Rights, which emphasizes that States should take the necessary measures to refrain from subjecting conscientious objectors to imprisonment.</p> <p>390. The Special Rapporteur refers to Opinion No. 16/2008 of the Working Group on Arbitrary Detention (A/HRC/10/21/Add.1, p. 139), in which concerns are expressed that the arrest and imprisonment of Mr. Navruz Nasyrlaev, Mr. Sakhetsmurad Annamamedov, Mr. Mukhammedmurad Annamamedov, Mr. Shadurdi Ushotov, and Mr. Akmurat Egendurdiev might represent an unlawful restriction of their right to freedom of thought, conscience, and religion or belief. In its Opinion, the Working Group declared arbitrary the imprisonment – including the first term in case of repeated convictions – of a conscientious objector as being in violation of the rights guaranteed by article 18 of the International Covenant on Civil and Political Rights.</p> <p>391. The Special Rapporteur would like to reiterate the observations and recommendations on the issue of conscientious objection in his predecessor's country</p>	



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	<p>report on Turkmenistan (see A/HRC/10/8/Add.4, paras. 17, 50-51, 61 and 68). In paragraph 68 of the country report, the Special Rapporteur recommended that “the Government should ensure that conscientious objectors in Turkmenistan, in particular Jehovah’s Witnesses who refuse to serve in the army due to their religious beliefs, be offered an alternative civilian service which is compatible with the reasons for conscientious objection. As such, the Government should also revise the Conscription and Military Service Act which refers to the possibility of being sanctioned twice for the same offence. The Special Rapporteur would like to recall that according to the principle of “ne bis in idem”, as enshrined in article 14 (7) of the International Covenant on Civil and Political Rights, no one shall be liable to be tried or punished again for an offence for which he or she has already been convicted or acquitted in accordance with the law and penal procedure of each country.”</p>	
<p><b>A/HRC/10/8/Add.4</b> 69. The Special Rapporteur urges the Government to initiate reforms in the <b>judiciary</b>, so as to offer effective legal means of redress and compensation for denial of freedom of religion or belief. Moreover, she recommends that the Supreme Court of Justice of Turkmenistan be entitled to determine whether a law is in conformity or not with the Constitution.</p>		<p><b>A/HRC/10/29</b> <b>Report of the Human Rights Council on its tenth Session, November 2009</b> 551. With regard to the recommendation to establish a constitutional court and ombudsman system, Turkmenistan provided information that, inter alia, the UNDAF 2010–2015 and the EU/OHCHR/UNDP projects included activities aimed at learning about the experience with constitutional courts and constitutional councils in other countries. There were also plans to undertake a monitoring of the human rights system in Turkmenistan, from which relevant proposals would be formulated regarding institutions and legislation.</p>
<p><b>A/HRC/10/8/Add.4</b> 70. Finally, the Special Rapporteur recommends that law enforcement officials and representatives of local authorities are provided with adequate training in order to raise <b>awareness about international human rights standards</b>, including on freedom of religion or belief. Law enforcement officials should cease all activities which result in undue limitations on the</p>		

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<p>freedom to manifest one's religion or belief, such as police raids to prevent religious gatherings or arrests of believers who undertake peaceful missionary activities. In case of abusive implementation of the law by officials, the Government should ensure that those responsible are not granted impunity.</p>		

*17 February 2011*