

2022 report

Regional challenges in the intersection of  
Freedom of Religion or Belief and Gender Equality

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## Caucasus & Central Asia



# REPORT ON REGIONAL CHALLENGES IN THE INTERSECTION OF FREEDOM OF RELIGION OR BELIEF AND GENDER EQUALITY FOR CAUCASUS AND CENTRAL ASIA

PART OF A SERIES OF REPORTS FROM THE PROJECT *REGIONAL WORKSHOPS ON FREEDOM OF RELIGION OR BELIEF AND SUSTAINABLE DEVELOPMENT GOAL 5 ON ACHIEVING GENDER EQUALITY AND EMPOWER ALL WOMEN AND GIRLS*

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## Introduction

In May 2022, 28 people met for a workshop in Yerevan, Armenia, to discuss challenges in the intersection of freedom of religion or belief (FoRB) and gender equality in the Caucasus and Central Asia. The workshop brought together a diverse group of participants from five countries: Armenia, Georgia, Kazakhstan, Kyrgyzstan, and Uzbekistan, including both gender equality activists, FoRB activists, and religious actors from diverse Christian, Muslim and Yazidi backgrounds.

This report gives a summary of the main issues discussed at the workshop, presenting an overview of the most significant contemporary challenges to FoRB and gender equality in Caucasus and Central Asia, as perceived by workshop participants who work and live in that regional context.

The workshop was organized and facilitated by Stefanus Alliance International, a Norwegian mission and human rights organization with special focus on FoRB. It was the first in a series of regional workshops on FoRB and gender equality, to be held from 2022 - 2024, funded by the Norwegian Ministry of Foreign Affairs. The initiative builds on, and is a follow-up to, an Expert Consultation Process on FoRB, gender equality and the Sustainable Development Goals (SDGs), which Stefanus Alliance International organized together with the Danish Institute for Human Rights in 2019, in cooperation with the UN Special Rapporteur on FoRB, and the UN Interagency Task Force on Religion and Development, and that was funded by the Danish and Norwegian Foreign Ministries.<sup>1</sup> The present report does not express the views of these organizations and institutions.

## I. Background information

### 1. Methodology

The workshop participants were chosen to reflect a wide variety of viewpoints, including perspectives from grassroots actors in both majority and minority religious communities, as well as perspectives from both women's rights activists and gender equality activists for people of diverse sexual orientation and gender identity (SOGI). The organizers anticipated that these differences would result in a higher quality of discussions and contribute to a better and broader understanding of the issues in the intersection of the FoRB and gender equality in this region. One disclaimer to note is that although women's equality perspectives were represented from both Caucasus and Central Asian countries, gender equality perspectives for people of diverse SOGI at this workshop came only from Caucasus countries. Consequently, the findings presented in this report on challenges in the intersection of FoRB and gender equality for people of diverse SOGI are examples from Caucasus countries, not from Central Asia.

The workshop began with basic human rights training, including an introduction to the normative intersection of FoRB and gender equality, presented by the organizers, ensuring participants were on the same playing field in terms of conceptual knowledge before they began discussing issues related to these two rights in a regional context. The introductory session also included some regional perspectives, presented by participants, outlining specific challenges and opportunities in the intersection of FoRB and gender equality in their own context.

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<sup>1</sup> For more information about this process, see Marie Juul Petersen, *Promoting Freedom of Religion or Belief and Gender Equality in The Context of The Sustainable Development Goals: A Focus on Access to Justice, Education and Health. Reflections from The 2019 Expert Consultation Process*. Copenhagen: The Danish Institute for Human Rights

The interactive format of the first session prepared the ground for informed and clear group discussions. Three working groups were formed to examine the situation in Armenia, Georgia, and Central Asia, so participants could discuss issues in their own respective linguistic context, being Armenian, Georgian, and Russian. Each group was composed of members representing different genders, ethnic and religious backgrounds, including both religious and secular perspectives, as well as both FoRB and gender equality expertise. Breakout groups were asked to discuss and identify key challenges related to FoRB and gender equality in their respective countries, and then share across groups later in plenary sessions.

## 2. Key human rights standards

The Universal Declaration of Human Rights (UDHR), along with a number of other international and regional human rights instruments protect the right to freedom of religion or belief and define its globally accepted normative content. Article 18 of the legally binding International Covenant on Civil and Political Rights (ICCPR)<sup>2</sup> states: “Everyone shall have the right to freedom of thought, conscience, and religion [...]”<sup>3</sup> This right includes three major components: the right to have (or not have) a religion or belief; the right to change, adopt or leave a religion or belief; and the right to manifest one’s religion or belief in public or private. Importantly, the freedom to not hold or express any particular religion or belief is also protected. Furthermore, the right to FoRB also safeguards parents’ freedom to instruct their children on morals and values. Freedom to manifest one’s religion or belief may be subject to limitations. For the limitations to be compatible with the Covenant, they must be prescribed by law and be necessary to protect public safety, order, health, morals, or the fundamental rights and freedoms of others.<sup>4</sup>

Women’s rights and gender equality include the fundamental rights and freedoms of women and those of diverse gender identities, and are at the core of the international human rights protection system. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)<sup>5</sup> is the primary legal reference for the protection and promotion of women’s rights globally.<sup>6</sup> There is also the CEDAW Committee, an independent group of experts that monitors the implementation of the CEDAW Convention. Although there is not a convention specifically outlining discrimination against people of diverse SOGI, the equality and non-discrimination principle as provided by international human rights law system applies to all people, regardless of sex, sexual orientation, and gender identity or expression, or any other status. There is also a mandate in the UN for an independent expert to address violence and discrimination based on SOGI.

Women are often affected by multiple layers of discrimination, because of their gender, including when exercising their right to FoRB. Women belonging to religious, belief and/or ethnic minority groups, or those who have a diverse SOGI, are particularly subjected to intersectional and multilayered discriminations.<sup>7</sup> Despite this, their perspectives are often neglected when examining the protection of FoRB.<sup>8</sup> In some cases, FoRB is even erroneously

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<sup>2</sup> All five countries assessed in this report have ratified ICCPR.

<sup>3</sup> UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, Art. 18. Para. 1.

<sup>4</sup> *Ib.*, Para 3.

<sup>5</sup> All five countries assessed in this report have ratified CEDAW.

<sup>6</sup> UN General Assembly, *Convention on the Elimination of All Forms of Discrimination Against Women*, 18 December 1979, United Nations, Treaty Series, vol. 1249, p. 13.

<sup>7</sup> Elisa Chavez, Vija Herefoss. *Freedom of Religion or Belief for Everyone: Women in Focus*. Oslo: Stefanus Alliance International. 2021, 5.

<sup>8</sup> *Id.*, 9.

invoked to justify restrictions on women’s rights and gender equality.<sup>9</sup> Similarly, gender equality activists often lack sensitivity towards the right to FoRB and having a religious or belief identity in their advocacy. In the context of human rights activism, it is sometimes wrongly assumed that gender-related anti-discrimination agendas would be weakened by integrating sensitivity to FoRB.<sup>10</sup>

The purpose of the workshop was to increase awareness of how FoRB and gender equality are interlinked, both in terms of challenges and opportunities, as well as better understand specific regional issues in this intersection of rights across countries in Central Asia and South Caucasus.

### 3. Regional Context

<i>Country</i>	<i>Freedom in the World Report<sup>11</sup></i>	<i>Gender Inequality Index – Human Development Reports<sup>12</sup></i>	<i>World Economic Forum – Gender Gap Index Rank<sup>13</sup></i>	<i>Women Peace and Security Index<sup>14</sup></i>	<i>USCIRF –Country Status<sup>15</sup></i>	<i>State-Church Relations<sup>16</sup></i>	<i>PEW Government Restrictions Index<sup>17</sup></i>	<i>PEW Social Hostilities Index<sup>18</sup></i>
<i>Armenia</i>	Partly Free (55)	0.216	89	85	N/A	Preferred religion	Moderate (3.5)	Moderate (1.9)
<i>Georgia</i>	Partly Free (58)	0.280	55	40	N/A	Preferred religion	Moderate (3.6)	Moderate (3.3)
<i>Kazakhst.</i>	Not Free (23)	0.161	65	59	Special Watch List	Cooperation	Very high (7.0)	Moderate (2.0)
<i>Kyrgyzst.</i>	Not Free (27)	0.370	86	97	N/A	Controlled religion, negative attitude	Very high (6.6)	Moderate (2.2)
<i>Uzbekist.</i>	Not Free (11)	0.227	N/A	74	Special Watch List	Controlled religion, negative attitude	Very high (7.2)	Moderate (2.9)

Figure 1. Country profiles

<sup>9</sup> Id., 5.

<sup>10</sup> UN General Assembly, Elimination of all forms of religious intolerance : note / by the Secretary-General : *Interim report of the Special Rapporteur on freedom of religion or belief (focus: freedom of religion or belief and equality between men and women)*, Heiner Bielefeldt, 7 August 2013, A/68/290, 2013, para. 33.

<sup>11</sup> Data retrieved from: <https://freedomhouse.org/countries/freedom-world/scores> , accessed on 20 October, 2022.

<sup>12</sup> Data retrieved from: <https://hdr.undp.org/data-center/thematic-composite-indices/gender-inequality-index#/indicies/GII> , accessed on 20 October, 2022.

<sup>13</sup> Data retrieved from: <https://www.weforum.org/reports/global-gender-gap-report-2022/> , accessed on 20 October, 2022.

<sup>14</sup> Data retrieved from: <https://giwps.georgetown.edu/the-index/> , accessed on 20 October, 2022.

<sup>15</sup> Data retrieved from: <https://www.uscirf.gov/countries> , accessed on 20 October 2022.

<sup>16</sup> Data retrieved from: <https://www.thearda.com/world-religion/national-profiles> , accessed on 20 October, 2022.

<sup>17</sup> Data retrieved from: [https://www.pewresearch.org/religion/wp-content/uploads/sites/7/2021/09/PF\\_09.30.21\\_religious\\_restrictions\\_AppendixC.pdf](https://www.pewresearch.org/religion/wp-content/uploads/sites/7/2021/09/PF_09.30.21_religious_restrictions_AppendixC.pdf) , accessed on November 3, 2022.

<sup>18</sup> Ibid.

The countries represented during the workshop all have secular political regimes. But although most of the legislation across these countries is secular, fundamental freedoms, including FoRB, are not equally protected for all citizens. There are also cases in all countries of religious favoritism and even targeted discrimination based on religion or belief identity. In Kazakhstan, Kyrgyzstan and Uzbekistan, the majority of the population is Muslim, whilst in Armenia and Georgia, it is Christian.

The level of fundamental freedoms and extent of gender equality varies significantly across countries in this region. In Uzbekistan and Kyrgyzstan there are strict registration requirements for religious or belief organizations, and any unregistered organizations are prohibited to practice their religion or belief and may undergo severe criminal sanctions. Proselytism is also prohibited by law. There are religious and belief prisoners in both Uzbekistan and Kazakhstan.<sup>19</sup> Armenian and Georgian legislative frameworks grant unique privileges to the dominant religious groups, being the Christian Orthodox Church in Georgia and the Christian Apostolic Church in Armenia, and discriminate against any other religious or belief minority organization in various ways. Armenia and Georgia favorize the respective dominant churches with public funding, and while some minority groups receive some public funding, not everyone does. Proselytism is also not accepted in Armenia.<sup>20</sup> Recent reports revealed a massive state surveillance scheme on religious leaders, human rights activists, and journalists reporting on FoRB issues in Georgia.<sup>21</sup>

According to recent reports, gender-based violence, including sexual violence, polygamy, forced marriage, bride kidnapping, and child marriages, as well as unequal property rights and unpaid domestic work are the most pressing women's rights issues in the Central Asia region,<sup>22</sup> while in Armenia and Georgia violence against women, weak political participation, and economic empowerment together with stereotypical gender roles constitute the main challenges for ensuring gender equality.<sup>23</sup>

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<sup>19</sup> US Commission on International Religious Freedom. *Religious Prisoners of Conscience in Kazakhstan*. 2022. 16 September 2022. <https://www.uscirtf.gov/news-room/uscirtf-spotlight/religious-prisoners-conscience-kazakhstan> ; Uzbekistan Country Update. 2 September 2022.

<https://www.uscirtf.gov/sites/default/files/2022%20Uzbekistan%20Country%20Update.pdf>

<sup>20</sup> US Department of State. Office of International Religious Freedom. *2021 Report on International Religious Freedom. Armenia*. 2 June, 2021. <https://www.state.gov/reports/2021-report-on-international-religious-freedom/armenia/>

<sup>21</sup> US Department of State. Office of International Religious Freedom. *2021 Report on International Religious Freedom. Georgia*, 2 June 2021. <https://www.state.gov/reports/2021-report-on-international-religious-freedom/georgia/>

<sup>22</sup> See: Asia Development Bank. *Kyrgyz Republic Country Gender Assessment, December 2019*.

<https://www.adb.org/sites/default/files/institutional-document/546966/kyrgyz-republic-country-gender-assessment-2019.pdf> ; UN Committee on the Elimination of Discrimination Against Women (CEDAW),

Concluding observations on the fifth periodic report of Uzbekistan, 20 November 2015, CEDAW/C/UZB/Q/5; Asian Development Bank. *Kazakhstan Country Gender Assessment*. December 2018.

<https://www.adb.org/sites/default/files/institutional-document/479136/kazakhstan-country-gender-assessment.pdf> ; Asian Development Bank. *Uzbekistan Country Gender Assessment. Update*. December 2018.

<https://www.adb.org/sites/default/files/institutional-document/479841/uzbekistan-country-gender-assessment-update.pdf> .

<sup>23</sup> See: Asian Development Bank. *Georgia Gender Assessment*

2018. <https://www.adb.org/sites/default/files/institutional-document/479186/georgia-country-gender-assessment.pdf> ; and Asia Development Bank. *Armenia Gender Assessment 2019*.

<https://www.adb.org/sites/default/files/institutional-document/546716/armenia-country-gender-assessment-2019.pdf>

## II. An overview of FoRB violations and their implications for gender equality

### 1. Restrictions and pressure to change one's religion or belief

Women in Caucasus and Central Asia are often more affected by discrimination based on their religion or belief than men. Similarly, there is an even higher level of discrimination against those belonging a minority group, be it a religious, belief or ethnic minority, or those who are of a diverse SOGI. In Kazakhstan, Kyrgyzstan, and Uzbekistan, one of the most pressing FoRB violations that disproportionately and negatively affect women is a highly restricted freedom of changing their religion or belief identity. Negative consequences of conversion are generally supported by religious leaders and local communities, and fueled by stereotypical gender roles and power dynamics. Women are often forced to convert to their husband's religion after marriage, and also restricted to independently adopt a new religion or belief identity after getting married. In Kyrgyzstan and Uzbekistan, women are sometimes severely beaten by their family members for independently adopting a new religion or belief identity.

Public shaming campaigns is another tactic used, often led by other women in the community, forcing a wife to convert to her husband's religion. In most cases in Central Asia, forced conversions concern the conversion *to* a Muslim faith, which is the majority religion in the region. In Armenia, this pressure around conversion is most prevalent in the Yezidi minority group, which prohibits women from changing their religious identity as a means of preserving their minority community's identity – a phenomena of internal gender discrimination within minority groups observed in other minority communities as well.<sup>24</sup>

Although proselytizing and missionary activities are protected under FoRB, participants from Uzbekistan noted that domestic legislation prohibits proselytism. Converts from Islam to other religions or beliefs face severe consequences in the form of punishment by informal "peoples' courts" due to the widely accepted concept of religious nationalism, according to which being an Uzbek automatically means being a Muslim.

In Kyrgyzstan, public reports are available about different forms of violence affecting men who have converted, but the cases of women who often are subject to domestic violence for converting are often underreported. In Armenia and Kazakhstan, women can suffer severe economic implications for adopting a religion or belief different from the majority religion, given the lack of independent income opportunities and male-dependent household economy, which are classic characteristics of a patriarchal cultural society.

### 2. Restrictions to practice one's religion or belief for women and girls

In Central Asia, legal prohibitions preventing women and girls from wearing religious attire in schools disproportionately limit the access to education for Muslim girls, often forcing them to choose between attending school or peacefully manifesting their religious identity, of which the latter is protected by FoRB.

Since the Soviet times, school uniforms in Central Asian countries have been compulsory, and the majority of people in these countries would still be in favor of this tradition. For instance, in Kazakhstan, while the law does not explicitly prohibit religious clothing in schools, a

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<sup>24</sup> Elisa Chavez, Vija Herefoss. *Freedom of Religion or Belief for Everyone: Women in Focus*. Oslo: Stefanus Alliance International. 2021, 22.

ministerial decree enforces the secular nature of education and imposes uniforms for all students. Hence, in theory, wearing any kind of religious symbols like headscarves or cross necklaces, is not permitted. However, this regulation disproportionately affects Muslim girls and limits their access to education.

In Kyrgyzstan, the law allows for wearing religious attire in schools, but women and girls who wear headscarves often experience social judgments and stigmatization. It is mostly a secularized Islam that is accepted in Kyrgyzstan, so professing one's Muslim faith in public by wearing religious attire is socially often related to radicalization and can thus be explained to lead to some social stigma, even though Islam is the largest religious community in the country.

In Georgia, Muslim women also encounter specific challenges within their own religious communities when it comes to practicing their faith. Due to the stereotypical gender roles and a patriarchal approach to women's domestic roles, Muslim women find themselves discouraged by their families and sometimes even religious community leaders from attending Friday prayers in the mosque. Instead, they are encouraged to pray at home and are reassured that this is in line with the Muslim faith. Interestingly, several Georgian Muslim women recognize that such behavior has less to do with Islamic norms and more to do with the established patriarchal social norms that prevent women's general participation in public life, and they are willing to raise the issue openly within their communities.

### 3. Restrictions to practice one's religion or belief for people of diverse SOGI

In Armenia and Georgia, the right to practice one's religion or belief for people of diverse sexual orientation and gender identity (SOGI) is considered one of the most pressing issues in the intersection of FoRB and gender equality, while there were no references shared on this from the Central Asia countries.

In the Caucasus countries people of diverse SOGI are not welcomed in the vast majority of religious or belief communities. According to the prevalent perceptions among religious communities, being a person of diverse SOGI, and having a religious identity are incompatible; thus, a person is often expected to either change their sexual orientation or gender identity and conform to the expected gender role; or stop practicing their religion. One of the rare exceptions is the Evangelical Baptist Church of Georgia. But in most other religious or belief communities, they are not welcome to practice their belief alongside other members within the communities. This can be partly explained by the fact that churches in the former Soviet Union have not been exposed to the broader theological discourse that encompasses the issues of diversity within sexuality and gender identity. Thus, there is a need to foster awareness about different theological discourses among religious leaders.

In Georgia, people of diverse SOGI are often physically attacked by radical Christian orthodox groups. Transgender persons are particularly at risk for violence, as they cannot even approach churches without risking physical threats and fear of beatings.

In both Armenia and Georgia there is also a lack of fora where FoRB and gender equality activists for people of diverse SOGI could come together to discuss the intersecting issues. To further complicate the issue, some secular civil society groups lack sensitivity towards religious identities and might even have unconscious biases against those persons of diverse SOGI who choose to publicly express their religious identity. This begins to explain why there is still little information and knowledge about FoRB restrictions and violations for people of diverse SOGI.



In Central Asia, there is an even more limited public conversation around such issues, and no concrete examples of violations and discrimination around FoRB for people of diverse SOGI were shared during the workshop, although there is a common understanding that their fundamental freedoms are extremely limited.

#### 4. Restrictions for women's leadership in religious institutions

While women often suffer from discrimination and marginalization in decision-making and public participation in general, they are especially discriminated against when it comes to decision-making and leadership in traditional religious communities.

In Armenia and Georgia, there are fewer opportunities for women to impact decision-making within religious institutions; and this is especially true for the two major religious communities – the Christian Apostolic Church of Armenia and the Georgian Christian Orthodox Church – as well as for the Muslim community in Georgia, which is the largest religious minority group in the country.

In Armenia, the issue of increasing women's possibility to access positions with decision-making power within their religious communities is considered one of the most discussed and pressing issues related to the intersection of FoRB and women's equality today.

### III. An overview of gender equality issues and their implications for FoRB

#### 1. Violence against women

Across the Caucasus and Central Asia region, violence against women is often considered the most challenging issue for realizing gender equality in the respective countries. Although laws exist to protect women from violence, including domestic violence laws, there is a lack of political will to implement the existing legislation. This can be explained by social norms which tend to tolerate or silently approve of gender-based violence, as well as a culture of blaming and shaming of survivors of gender-based violence and especially survivors of sexual abuse.

Another layer of challenges in combatting gender-based violence is the issue of reporting. Due to the fact that the violence takes place behind closed doors and there is a significant shame and stigma concerning the survivors of rape and sexual assaults, women often choose not to report such crimes. The problem is exacerbated as religious leaders and families often discourage survivors of gender-based violence from making “family issues” public by speaking out about abuse and seeking legal help. In some cases, religious leaders even encourage violence against women by preaching that physical punishment of wives and daughters can be acceptable, and indeed can be necessary for “disciplining” them. In one case from Central Asia, a Mullah had preached that: “If you beat your wife at least once a week, you are expelling the devil from her.”

While domestic violence also affects women from majority religions, in Kyrgyzstan, women who convert from the majority religion to a minority religion are at a greater risk of physical abuse by their own family members.

These deeply rooted social norms of controlling women through violence significantly impact law enforcement officials' attitudes and allow for impunity for gender-based violence. Police

officers prefer not to intervene in cases of domestic violence. Even where restraining orders are issued, they are not being enforced.

In Uzbekistan, women often lack information and awareness about their rights, existing support systems, and are therefore unable to seek professional medical assistance or legal help in case of domestic abuse.

Across the whole region, there is also the case of unwilling and unable government institutions to prevent and address cases of domestic violence effectively, and they often justify their inaction – implicitly or explicitly – with reference to religious or cultural beliefs.

Violence against women constitutes one of the harmful practices prohibited under the UN Committee on the Elimination of Discrimination against Women.

Gender-based violence against women stems from patriarchal values, such as “the ideology of men’s entitlement and privilege over women, social norms regarding masculinity, and the need to assert male control or power, enforce gender roles or prevent, discourage or punish what is considered to be unacceptable female behavior,”<sup>25</sup> and it has less to do with religious beliefs per se. However, governments often justify their deficient legal and policy frameworks in the name of tradition, culture, religion or a state-backed fundamentalist ideology.

While FoRB protects the right of individuals to hold and practice religious beliefs, it does not protect any act of violence, use of force, threats, or any other form of coercion in the name of religion.<sup>26</sup> Also, as a general rule, Article 18 of the ICCPR which protects the freedom of religion or belief may not “be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms [...] or at their limitation to a greater extent than is provided for in the present Covenant”.<sup>27</sup> As it has been consistently presented by past and present UN Special Rapporteurs on Freedom of Religion or Belief, FoRB can never be invoked to justify the State’s non-compliance with the obligations under the CEDAW that prohibit harmful practices against women, including gender-based violence.<sup>28</sup>

In this regard, not only do the States have the obligation to adopt and effectively implement the legislation prohibiting violence against women, but they also have the duty to take active preventive measures, such as carrying out “awareness-raising programs that promote an understanding of gender-based violence against women as unacceptable and harmful” and providing “information about available legal recourses against it.”<sup>29</sup>

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<sup>25</sup> UN Committee on the Elimination of Discrimination against Women. *General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19 (2017)*, CEDAW/C/GC/35, 26 July 2017, para. 19.

<sup>26</sup> See also, Elisa Chavez, Vija Herefoss. *Freedom of Religion or Belief for Everyone: Women in Focus*. Oslo: Stefanus Alliance International. 2021, 8.

<sup>27</sup> UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, Art. 5. Para. 1.

<sup>28</sup> UN General Assembly, *Elimination of all forms of religious intolerance* : note / by the Secretary-General : *Interim report of the Special Rapporteur on freedom of religion or belief (focus: freedom of religion or belief and equality between men and women)*, Heiner Bielefeldt, 7 August 2013, A/68/290, 2013, para. 32.

<sup>29</sup> UN Committee on the Elimination of Discrimination against Women. *General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19 (2017)*, CEDAW/C/GC/35, 26 July 2017, para. 30 b), ii).

## 2. Polygamy

Polygamy was unanimously named as one of the most pressing issues negatively affecting women in the Central Asian countries, while there were no references shared on this from the Caucasus countries.

In Central Asia, there is a broad understanding that polygamy has negative consequences for women's and children's emotional well-being and that it severely affects their legal rights. Especially problematic is the situation of children who are born within second and third marriages, as they are deprived of inheritance rights. But although polygamy is prohibited by law in all three Central Asian countries discussed, and even criminalized in Kyrgyzstan and Uzbekistan, it is widely practiced.

In Kyrgyzstan and Uzbekistan, polygamy is punishable by two years of imprisonment, but the law is not evenly applied. In Kazakhstan, polygamy was decriminalized in 1998 and is now only prohibited under civil law. However, a common denominator across the Central Asian countries is that wealthy men who can afford a second wife, are often in de facto polygamous unions which are recognized by their religious leadership and local communities, though not by the state. Even though a second and third marriage could not be registered under the civil code, mullahs still perform the Niqaah ceremony and endorse polygamous unions within some Muslim communities. Politicians and government officials are seen to be unwilling to address the issue seriously because they themselves have several wives and are therefore not interested in punishing or putting an end to the praxis.

Moreover, patriarchal perceptions about women's limited role as a mother and a wife restricts women in accessing opportunities of paid labor and independent sources of income, and because of the consequential general economic dependence on men across Central Asia, it particularly forces women in poverty, divorcees, and/or widows to accept their role as a second or third wife, purely for their own survival.

While polygamy is recognized by the CEDAW Committee as one of the most harmful practices, and as "an inadmissible discrimination against women" that needs to be "abolished,"<sup>30</sup> it is important to note that in countries with dominant Muslim communities and secular political systems, the relevant legislation is not effectively enforced partially because of the contradiction between the legislation and deeply rooted social norms and customs. While the existence of this contradiction merits to be recognized, "States parties to the [CEDAW] have explicit obligations to discourage and prohibit polygamy because it is contrary to the Convention."<sup>31</sup> States have the statutory obligation under CEDAW to ensure that the legislation prohibiting harmful practices "takes precedence over customary, traditional or religious laws that allow, condone or

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<sup>30</sup> UN Committee on the Elimination of Discrimination against Women. UN Committee on the Rights of the Child. 2014, Joint General Recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/General Comment No. 18 of the UN Committee on the Rights of the Child (2014) on harmful practices para. 55 (c), cited in Nazila Ghanea, "Navigating the Tensions: Women's Rights, Religion and Freedom of Religion or Belief." *Religion & Human Rights* 16, no. 2-3 (2021): 68.

<sup>31</sup> UN Committee on the Elimination of Discrimination against Women. UN Committee on the Rights of the Child. *Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child (2019) on harmful practices*, CEDAW/C/GC/31/Rev.1–CRC/C/GC/18/Rev.1, 8 May, 2019, para. 28.

prescribe any harmful practice, especially in countries with plural legal systems”.<sup>32</sup> In any case, the persistence of this harmful practice and the non-enforcement of the legislation by States cannot be justifiable by the reference to FoRB.

### 3. Forced marriage and child marriage

In Armenia, Georgia, and Kyrgyzstan, there is an issue of harmful practices like forced marriage and child marriage, alongside girl abductions and bride kidnappings. Although these practices are prohibited and criminalized by law, they are largely accepted because of local, prevalent religious social norms. In Armenia, the problem mostly affects Yezidi minorities and rural communities, while in Georgia and Kyrgyzstan, it mainly concerns the Muslim communities. However, in Armenia, people of diverse SOGI are also often subjected to forced marriage in an attempt from their family and religious community to force them to conform to stereotypical gender roles.

In Georgia, law enforcement institutions use double standards when dealing with bride kidnapping and cases of child marriage, disproportionately discriminating against the rights of girls from the Azerbaijani Muslim minority communities. According to a Georgian participant, “Because early marriage, forced (arranged) marriage or bride kidnapping is acceptable by the local Azerbaijani Muslim communities, police and prosecutors don’t apply the same criminal investigation and charging guidelines. Consequently, Azerbaijani Muslim girls’ freedom to choose their partner or the right to decide whether to marry or not are violated not only by their families, religious leaders, and communities but also by the Government.”

Forced marriages, including child marriages, are considered as harmful practices that are discriminatory and go against the dignity and freedom of choice of women and girls. Forced marriages are defined as, “marriages where one or both parties have not personally expressed their full and free consent to the union”.<sup>33</sup> A child marriage is always considered as a form of forced marriage, given that (at least) one of the parties would be below the legal age of adulthood and therefore not sufficiently mature to make an informed decision about a life partner.<sup>34</sup> Child marriages “constitute a denial of the dignity and/or integrity of the individual and a violation of human rights and fundamental freedoms enshrined in the two Conventions [CEDAW and the Convention on the Rights of the Child (CRC)].”<sup>35</sup>

Marriage is considered as a “sacred institution” in most religions and beliefs, and the freedom to perform a religious or belief marriage ceremony may be part of the right to manifest or practice one’s religion or belief. But this can also be limited under exceptional circumstances, as explained in paragraph 3 of Article 18 in the ICCPR. Specifically, if such limitation is

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<sup>32</sup> UN Committee on the Elimination of Discrimination against Women. UN Committee on the Rights of the Child. 2014, Joint General Recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/General Comment No. 18 of the UN Committee on the Rights of the Child (2014) on harmful practices, para. 54 (c), cited in Nazila Ghanea, "Navigating the Tensions: Women’s Rights, Religion and Freedom of Religion or Belief." *Religion & Human Rights* 16, no. 2-3 (2021): 88.

<sup>33</sup> UN Committee on the Elimination of Discrimination against Women. UN Committee on the Rights of the Child. 2014, Joint General Recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/General Comment No. 18 of the UN Committee on the Rights of the Child (2014) on harmful practices, para. 22.

<sup>34</sup> *Id.*, para. 20.

<sup>35</sup> UN Committee on the Elimination of Discrimination against Women. UN Committee on the Rights of the Child. 2014, Joint General Recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/General Comment No. 18 of the UN Committee on the Rights of the Child (2014) on harmful practices, para. 14 (a), 19.

prescribed by law and is necessary for the protection of the fundamental freedoms of others, as is the case with forced marriage and child marriage. However, as a principle, FoRB does also not protect any act of violence, use of force, threats, or any other form of coercion in the name of religion.<sup>36</sup> In contrast to women's freedom to choose a religious marriage ceremony, forced and child marriages neglect individual freedoms of choice by definition.

Governments cannot justify their inaction or condoning of harmful practices with the reference to local traditions, cultural or religious customs, or even the FoRB of religious communities or individuals. Harmful practices, such as exemplified above with domestic violence, polygamy, forced marriage, and child marriage, are not protected by FoRB and may therefore never be justified on the basis on FoRB.

#### 4. Access to healthcare

Workshop participants from Central Asia noted that despite the legislative provisions about equal access to healthcare, in practice, women are discriminated against and are not provided with the medical services that consider their cultural and religious identity. For instance, in Kyrgyzstan and Kazakhstan, some Muslim women only want to be treated by female doctors, but the health care system is not designed to accommodate such measures. Participants referenced cases where husbands attempted to intervene to “defend” and “protect” the honor of their wives if they were referred to or treated by male doctors. Such situations may prevent women from receiving life-saving treatment or necessary health care, like for example during pregnancy, childbirth, or post-pregnancy care.

In Armenia, some participants expressed a concern over the role of the dominant church in campaigning against abortion. Participants stated that while women have a legal right to abortion in Armenia, the dominant church emphasizes its autonomy and founding principles of Christianity while actively calling for limiting women's health rights, like the right to abortion.

Article 12 in paragraph 1 of CEDAW requires the States to take “all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health-care services, including those related to family planning.” Art. 14 specifically emphasizes the need to ensure access to health-care services for women in rural communities.

Sexual and reproductive health and rights (SRHR) is a key element of women's right to health. Women's right to healthcare includes “the right to make free and responsible decisions and choices, free of violence, coercion and discrimination, regarding matters concerning one's body and sexual and reproductive health.”<sup>37</sup> Hence, governments have the positive obligation to ensure that women are not coerced and are able to make health decision concerning their bodies, even if such decisions may go against dominant religious beliefs or local social norms.

At the same time, to publicly advocate against abortion, individually or collectively, from a religious point of view, is protected under FoRB Art. 18 of the ICCPR, even if such campaigns may be seen as problematic by human rights and women's rights activists, and especially given the low level of awareness about the reproductive rights among women. However, any coercion

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<sup>36</sup> See also, Elisa Chavez, Vija Herefoss. *Freedom of Religion or Belief for Everyone: Women in Focus*. Oslo: Stefanus Alliance International. 2021, 8.

<sup>37</sup> Committee on Economic, Social and Cultural Rights. *General comment No. 22 (2016) on the right to sexual and reproductive health (article 12 of the International Covenant on Economic, Social and Cultural Rights)*, E/C.12/GC/22, 2 May, 2016, para. 5.

of women by religious organizations or leaders to renounce a medical treatment, including contraceptive medication, or abortion, should not be permitted by governments as this would constitute a violation of the right of women to make their own health decisions. Coercion is also not protected by FoRB.

In order to increase religious and belief community members awareness about reproductive health and rights, women's rights activists could engage in dialogue with respective communities, and provide ample information to women belonging to religious and belief communities about their rights and accessible reproductive health care services.

## 5. Access to education

Across Caucasus and Central Asian countries, it was unanimously pointed out that women and girls' access to education is often hindered due to the child marriage, forced marriage and bridal abduction, as well as prevalent stereotypical sex and gender roles of women as mothers and wives. Moreover, in Central Asia specifically, there is a concern about the regulations prohibiting religious attire in schools, putting young Muslim girls in a situation where they have to make a choice between wearing a headscarf or continuing their studies (more on this in section 2).

Although laws that force or coerce students to wear particular religious dress codes and symbols restrict equal access to education, there is "no single solution in international human rights law concerning the ban of religious attire and symbols in an educational settings."<sup>38</sup> As a general rule, such restrictions may be permissible, "if they are crucial to protect the rights of girls, religious minorities or vulnerable groups, and as long as restrictions are neutrally worded and not discriminatory or inconsistently applied."<sup>39</sup> Cases where the bans on religious attire disproportionately burden only a selected religious community members and have a negative impact on women and girls' access to education should be considered as requiring careful examination, especially within jurisdictions with a record of discriminatory treatment towards religious minorities. It should also be taken into account that although some select limitations on FoRB is permissible under very strict and specific circumstances, part of FoRB also protects peaceful manifestations of one's religion or belief which includes wearing religious or belief-specific attire and symbols. When examining cases of legal *restrictions* for women to wear their religious attire in public, as well as the legal *obligations* for women to wear religious attire in public, it becomes evident how these examples stem from the exact same problematic and patriarchal culture of telling women what to and what not to do, although they are completely contradictory in legal effect.<sup>40</sup>

## IV. Major explanatory factors

### 1. Prevalence of patriarchal social norms

There is a wide understanding across the Caucasus and Central Asian region that both religious discourse and the FoRB discourse are often used to mask deeply rooted patriarchal social and cultural norms. For instance, while describing the issues of child marriage, kidnapping of

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<sup>38</sup> Marie Juul Petersen, *Promoting Freedom of Religion or Belief and Gender Equality in The Context of The Sustainable Development Goals: A Focus on Access to Justice, Education and Health. Reflections from The 2019 Expert Consultation Process*. Copenhagen: The Danish Institute for Human Rights, 44.

<sup>39</sup> *Id.*

<sup>40</sup> Elisa Chavez, Vija Herefoss. *Freedom of Religion or Belief for Everyone: Women in Focus*. Oslo: Stefanus Alliance International. 2021, 16-17.

women, women's role in public life, and specifically within the religious community itself, representatives of civil society, women's rights defenders, and religious communities blamed local social norms. Women generally face greater social control than men in Central Asian countries. Social control affects women's private and public life. Men, women, religious leaders, governmental actors, and local communities alike all play their part in the social control of women.

For instance, the concept of shame - a significant social construct in most of the Central Asian societies - plays a serious role in hindering women's access to justice and leads to impunity for domestic violence against women. As a participant from Kazakhstan noted: "Shame in society plays a very important role. Guilt does not have the same role or importance. Shame is worse than guilt." Consequently, according to the established social norms, issues of domestic violence, including sexual abuse, should not be made public by being spoken about, reported on, or addressed outside of the family circles, because it will bring shame to the family. This is a massive challenge in terms of effectively addressing and solving the widespread challenge in Central Asian countries of domestic and gender-based violence.

## 2. FoRB and gender equality violations disproportionately affecting minorities

Women from both majority and minority religious or belief communities are subjected to gendered FoRB violations, targeted both because of their religious or belief identity and because of their gender. However, women belonging to a minority group, be it because of their ethnicity, religion or belief, or sexual orientation, are particularly subjected to intersectional double and triple forms of discrimination.

This was particularly evident in Central Asia in relation to forced conversions and domestic violence against women who chose to convert from the dominant Muslim religion to a minority religion. Women belonging to minority communities are forced to convert to their husband's religion. While both men and women who chose to abandon a majority religious community and convert to a minority religion or belief community experience harsh punishment from their native communities, the beatings and other violent crimes committed against the converted men mostly take place in public areas, while the converted women are more often beaten by their family members in the private sphere. For this reason, these cases remain underreported and unpunished.

The problem of double discrimination of women belonging to religious, belief and ethnic minorities is evident in the Caucasus countries as well. Women belonging to ethnic or religious and belief minorities are also subject to disproportionate discrimination within their own communities. This is the case of Yezidi women in Armenia whose freedom to change their religion is more limited than that of Yezidi men in the same community.

In Armenia, Yezidi women living in rural regions are also disproportionately affected by domestic violence. Child marriage and sex-selective abortions with female infanticide are also widely practiced, but women in the community have limited access to information and legal protection from the government compared to women from religious and ethnic majority groups living in urban areas.

In Georgia, Muslim and Azerbaijani minority women are too more often subject to domestic violence, as well as forced marriage and child marriage, and the government does not protect them equally compared to Christian ethnic Georgian survivors of the same crimes. A recurring

issue is that law enforcement officials, instead of applying existing legislation, prefers to settle the cases through informal agreements based on the local customary norms, and are consistently unwilling to enforce the legislation to protect survivors in minority communities, referring to local traditions of those communities. As explained above, such practice is in violation of commitments for signatory states to the CEDAW, and said states actually have the positive obligation to enforce the legislation and protect the survivors of domestic violence and other harmful practices without discrimination based on their religion, belief or ethnicity.

In Armenia and Georgia alike, it was reported that transgender women are also particularly and disproportionately affected by unequal protection from law enforcing institutions, because of their gender identity, and are de facto unable to practice their religion or belief due to the existing social discrimination and violent hostility towards people of diverse SOGI.

These examples illustrate how the layers of multiple identities – gender identity, religion, belief, ethnicity, sexual orientation – require specific attention when examining and addressing the pressing issues affecting FoRB and gender equality, and particularly when one of the intersecting identities belongs to a minority group in a given country. Awareness of multiple and intersectional identity-related challenges may facilitate synergies between the work of the FoRB activists, gender equality activists, and other human rights activists alike.

### 3. Lack of political will to enforce existing laws

In Armenia, Georgia, and Kazakhstan, one of the main problems are not the outdated social norms but the unwillingness of political and religious leaders to enforce non-discriminatory and existing human rights-based legislation. An Armenian participant stated: “On some issues, the society is more conservative than the religious organizations, but since the latter do not want to lose their influence and power, they do not challenge these issues publicly.” A participant from Kazakhstan noted how sometimes politicians adopt the legislation which purposefully contains loopholes that allows for impunity, for example so men cannot be held responsible for the actions or practices prohibited by the legislation: “In some cases, politicians and government officials are unwilling to address the issue of polygamy because they themselves have several wives and are therefore not interested in punishing or putting an end to the praxis.”

A participant from Georgia suggested: “Legislation on combatting domestic violence is not enforced to protect religious and ethnic minority women because police officials consider child marriages, bride abductions, and domestic violence as part of their culture and religious values: ‘this is how they treat women in their culture/religion. We should not intervene,’ hence, reinforcing negative stereotypes of certain cultures or religions.” Such attitudes go against the spirit of the ICCPR and the principle of indivisibility of the human rights system, recognized under Article 5, paragraph 1 of the Covenant according to which the rights protected under the ICCPR may not be interpreted as authorizing “any act aimed at the destruction of any of the rights and freedoms.” Protection of FoRB cannot be invoked by governments to justify harmful practices against women. To the contrary, States have the positive obligation to adopt the legislation combatting gender-based violence and ensure that they are enforced and take “precedence over customary, traditional or religious laws that allow, condone or prescribe any harmful practice.”<sup>41</sup> Furthermore, they are required to take preventive measures against

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<sup>41</sup> UN Committee on the Elimination of Discrimination against Women. UN Committee on the Rights of the Child. 2014, Joint General Recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/General Comment No. 18 of the UN Committee on the Rights of the Child (2014) on harmful



domestic violence, forced marriages and child marriages, including by providing awareness-raising programs that condemn the gender-based violence against women and girls as unacceptable and harmful, and provide information about available legal recourses against it.<sup>42</sup>

#### 4. Economic inequity perpetuating harmful practices

Across Caucasus and Central Asian countries, there is consensus that a major factor for women being disproportionately affected by domestic violence, polygamy, and forced marriage is not only because of the traditional and patriarchal religious value-based societies, but concretely also because of a lack of economic opportunities in society for women which leads to economic dependency on male relatives or partners. This factor appeared to hinder young women's freedom to marry, access to education, as well as their right and opportunities to be free from domestic violence. If women across Caucasus and Central Asia were economically empowered, they would be more protected.

For instance, the participants from Central Asia unanimously agreed that women of poor socioeconomic backgrounds are often constrained to accept polygamy due to economic reasons or forced to accept abusive relations as they have no economic/financial means to sustain themselves independently.

#### 5. Human rights illiteracy

Across Caucasus and Central Asia, there was also a unanimous agreement that the current low level of awareness and knowledge about the rights of women limits their access to justice and the use of available legal remedies and services to enhance gender equality in the regional contexts they live and work in. This also includes their awareness and knowledge about tools related to FoRB, in order to improve the situation in which they can freely adopt, change, and practice their religion or belief.

This issue is accentuated among women and girls living in rural areas, and especially in religious, belief and/or ethnic minority groups who generally lack equal access to education due to a complex range of factors.

## Conclusion

Some challenges identified in the intersection of FoRB and gender are shared equally by participants across the Caucasus and Central Asian region. These issues include gender-based violence, child marriage, forced marriage, and equal access to sexual and reproductive health and rights. However, other issues, such as those related to people of diverse SOGI and the leadership roles of women within religious institutions, were only shared from the Caucasus countries. Likewise, the issue of polygamy was only shared from the Central Asian countries. This goes to show how perspectives on main challenges in the intersection of FoRB and gender equality are shaped by not only regional, but also sub-regional and local contexts, as well as demography and social norms in any given context.

Socio-cultural norms in this region are patriarchal in nature, often adopted and promoted by religious communities as well. They are also accentuated by "traditional" sexual orientation and

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practices, para. 54 (c), cited in Nazila Ghanea, "Navigating the Tensions: Women's Rights, Religion and Freedom of Religion or Belief." *Religion & Human Rights* 16, no. 2-3 (2021): 88.

<sup>42</sup> UN Committee on the Elimination of Discrimination against Women. *General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19 (2017)*, CEDAW/C/GC/35, 26 July 2017, para. 30 b), ii).

gender identity roles, as promoted by Soviet ideology, whose heritage still prevails across the region. These norms play a part in the restriction to adopt, change, or practice one's religion or belief, both for women and for people of diverse SOGI. They also normalize a culture of gender-based violence.

Economic dependence of women in male-driven household economies and lack of awareness about the rights of women and girls appeared to be another important explanatory factor that contributes to the perpetuation of above-mentioned discriminatory practices against women.

At the same time, existing inequalities and discriminatory practices often stem from the lack of political will of public officials to enforce legislation taking into account prevalent cultural and social norms.

Lastly, a lack of knowledge on FoRB as well as gender equality is a cross-cutting issue for the region of Caucasus and Central Asia. Not only in terms of women and people of diverse SOGI knowing their rights, and accessible tools to help them secure and advocate for these rights, but also in terms of attitudes on the compatibility between FoRB and gender equality, including the misconceptions and misuse of the two rights. During the regional workshop, it was observed that participants had various perspectives on whether these two rights can actually be compatible or not, both for promoting FoRB and also for promoting gender equality. For some, it was also difficult to identify issues in the intersection of the two rights, because of difficulty in understanding how they might be linked in the lived realities of people. This confirms the assumption that there is indeed a need for awareness raising, human rights training and further exploring and understanding of issues in the intersection of FoRB and gender equality, as well as more knowledge on the individual thematic rights themselves. Some participants noted this was their first experience looking at issues in an intersectional context, and that the experience was considered an important first step in reaching a common normative understanding and identifying possible synergies and strategies for solving the issues in this intersection, even on those issues in which gender actors and religious communities have traditionally disagreed.