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Hizb ut-Tahrir al-Islami proscribed as a terrorist group and the European Court (Part II)

Is Hizb ut-Tahrir a political or a religious movement? Is it inciting or justifying terrorism? Is it anti-Semitic or even genocidal? See Part I [HERE](#)

By Willy Fautré, Human Rights Without Frontiers

HRWF (24.01.2024) - On Thursday 18 January, the UK proscribed the British branch of the Islamist movement Hizb ut-Tahrir al-Islami (Islamic Liberation Party) under the national Terrorism Act.

British Home Secretary James Cleverly who was the initiator of the parliamentary move then tweeted "I have made the decision to ban Hizb ut-Tahrir in the UK. Their promotion and encouragement of the abhorrent attacks perpetrated by Hamas goes against everything our country stands for. Belonging to and inviting support for this group will be a criminal offence."

Noteworthy is that previous attempts to ban the movement under Tony Blair and David Cameron had been unsuccessful because the charges could not be legally and convincingly substantiated on the basis of their literature. Only Hizb ut-Tahrir's public support of Hamas' attack in Israel on 7 October last tipped the balance in the opposite direction as Hamas is proscribed as a terrorist organization in the UK and is under EU sanctions.

It is however not uninteresting to have a closer look at some complaints concerning Hizb ut-Tahrir filed with the European Court of Human Rights, the arguments developed by the conflicting parties and the decisions taken by the Court.

Nafik Ashirov and International Memorial v. Russia (application no. 25246/07)

On 14 February 2003, the [Supreme Court of the Russian Federation](#) declared 15 organizations, including Hizb ut-Tahrir and Al-Qaeda, to be terrorist organizations. Their activities were prohibited on the whole territory of Russia.

The Supreme Court then described the Islamic Liberation Party ("Hizb ut-Tahrir al-Islami") as "an organization aiming to eliminate non-Islamic governments and establish Islamic rule on a global scale by re-establishing the 'World Islamic Caliphate', initially in regions with a predominantly Muslim population, including Russia and the CIS countries. Main forms of activity: militant Islamist propaganda, combined with intolerance to other religions; active recruitment of supporters, purposeful work to split society (primarily propaganda with powerful financial reinforcement)."

About the context of the ban

This witch-hunt taking place less than a year and a half after the 9/11 terrorist attacks in the United States was then understandable to identify potential threats, prevent any terrorist attack as well as guarantee the public security of the Russian citizens and institutions.

Moreover, in the context of the two wars (the Chechen Wars) led by Russia against separatist movements in Chechnya, the 15 Islamic organizations were suspected of wanting to overthrow the existing constitutional system and create an "Islamic State" in the North Caucasus. To support its ban, the Russian Supreme Court even referred to a list of foreign terrorist organizations of the U.S. Department of State at that time, approved by the Congress after the 9/11 terrorist attacks of Al-Qaeda in the United States.

The plaintiffs

On 8 June 2007, a complaint was filed with the European Court of Human Rights by two plaintiffs.

Nafik Ashirov, the first applicant, was born in 1954 and was living in Moscow. He was an imam but he was not a member of Hizb ut-Tahrir. As the chairman of the Religious Board of Muslims of the Asian part of Russia, he prepared a report on Hizb ut-Tahrir's literature. This was a request of a non-governmental organisation representing several members of Hizb ut-Tahrir in criminal proceedings which wanted to know whether the movement's literature advocated an extremist version of Islam. The report stated that *"the prosecution of Russian citizens on the sole basis of some statements about Hizb ut-Tahrir's brochures and teachings was wrong and breached the right of Muslims to freedom of expression of religious beliefs. It was also wrong to characterise the religious beliefs of the followers of [Hizb ut-Tahrir] as extremist, let alone terrorist"*.

The second applicant was the famous human rights organization "International Memorial," which endorsed the report and published it on its website.

Memorial was founded during the fall of the Soviet Union to investigate the human rights violations and other crimes committed under Joseph Stalin's rule. As of December 2021, Memorial encompassed over 50 organizations in Russia. After the Russian "Foreign Agent Law" was passed in July 2012, Memorial came under increasing government pressure. On 21 July 2014, the Memorial Human Rights Centre was declared a "foreign agent" by the Ministry of Justice. On 29 December 2021, the Moscow City Court liquidated the Memorial Human Rights Centre, referring to a decision of the Supreme Court of Russia on the previous day.

On the same day, the European Court of Human Rights applied an interim measure to halt the forced dissolution of Memorial. Despite this warning, the dissolution was confirmed by the Russian Court of Appeal on 5 April 2022.

In 2022, Memorial was awarded the Nobel Peace Prize along with Belarusian human rights activist Ales Bialiatski and the Ukrainian human rights organization Centre for Civil Liberties.

It is important to recall what is Memorial, as this prestigious organization took sides with Hizb ut-Tahrir.

The accusations

On 20 February 2006 a deputy Moscow City prosecutor issued a warning to Mr Ashirov, considering that his report “promoted the ideas of Hizb ut-Tahrir and provided a justification for its terrorist activities”.

On 26 February 2006 a similar warning was addressed to the executive director of International Memorial for publishing the materials of a banned terrorist organization on its website, thereby aiding and abetting its terrorist activities. He ordered the executive director of International Memorial to remove Mr Ashirov’s report from the website within three days. International Memorial did that immediately.

On appeal, the Zamoskvoretskiy District Court of Moscow found that the warnings had been lawful and justified.

The assessment of the European Court

The Court recognized that Hizb ut-Tahrir’s ideology was clearly contrary to the values of the European Convention of Human Rights but Mr Ashirov’s report was “not laudatory of Hizb ut-Tahrir” and “did not contain any direct or indirect calls for violence or a justification of violence, hatred or intolerance, let alone any calls to commit a terrorist offence, vindication or justification of terrorism.”

The Court noted that “the Supreme Court’s decision banning Hizb ut-Tahrir was taken in the absence of the public or representatives of the organisation, and the decision banning Hizb ut-Tahrir was never officially published.”

The Court also considered that “by publishing Mr Ashirov’s report on its website and thereby drawing attention to a matter of public interest, International Memorial exercised its role of a public watchdog.”

In its ruling, the Court declared the complaint about the alleged violation of the right to freedom of expression admissible and held that there had been a violation of Article 10 of the Convention in respect of both applicants. It also held that Russia was to pay 2500 EUR to each applicant, in respect of non-pecuniary damage, and EUR 4,785 in respect of costs and expenses for the European Human Rights Advocacy Centre.

Last but not least, what is also shocking in this case is that, after the filing of the complaint in Strasbourg in 2007, [the European Court of Human Rights](#) took 16 years to come to a decision (!) It is only on 17 January 2023, in the context of Russia’s War on Ukraine and far away from the global geopolitical situation in the early 2000 years, that justice was finally but only theoretically done. This very delayed ruling is indeed equivalent to a denial of justice as a year ago it totally remained unnoticed and is unenforceable.

Hizb ut-Tahrir and Others v. Germany (application no. 31098/08)

In January 2003, the German Federal Ministry of the Interior issued a decision prohibiting Hizb ut-Tahrir’s activities in Germany, relying on the provisions of the Law on Associations. It also ordered Hizb ut-Tahrir’s assets to be confiscated. The Ministry considered that Hizb Ut-Tahrir was a foreign private association operating on an international scale and that there existed no sub-organization in Germany.

Germany’s arguments

According to the Federal Ministry of the Interior, the activities of Hizb ut-Tahrir were directed against the principle of peaceful settlement of international conflicts and the movement advocated the use of violence as a means to achieve its political goals.

Basing its decision on a number of their printed publications and leaflets as well as on their website, the Ministry concluded that it denied the State of Israel the right to exist and called for its destruction as well as for the killing of Jews.

In the Ministry's view, Hizb ut-Tahrir was not to be considered a religious or philosophical community because it pursued political objectives, advocating an "active Jihad" targeting Islamic States and calling for the overthrow of their governments.

The Application

The application against Germany's ruling was lodged with the European Court of Human Rights on 25 June 2008.

The first applicant, Hizb ut-Tahrir, was an unincorporated association which did not inform the Court of any registered address. The second applicant, Mr Shaker Hussein Assem, was an Austrian national living in Germany and the third to seventeenth applicants were members or supporters of the first applicant residing in Germany and Romania.

All 17 applicants complained about the ban imposed on Hizb ut-Tahrir's activities and about the confiscation of its assets. They relied on Articles 6 (right to a fair trial), 9 (freedom of thought, conscience and religion), 10 (freedom of expression), 11 (freedom of assembly and association), 13 (right to an effective remedy) and 14 (prohibition of discrimination) of the European Convention on Human Rights and on Article 1 of Protocol No. 1 (protection of property) to the Convention.

The assessment of the European Court

In its ruling on 12 June 2012, [the European Court](#) observed that the German Federal Administrative Court had carefully analysed a substantial number of written public statements made by Hizb ut-Tahrir and its representative in the proceedings before the Court.

It found that Hizb ut-Tahrir called for the violent destruction of the State of Israel and for the banishment and killing of its inhabitants. In particular, its representative, Mr Assem, had repeatedly justified suicide attacks in which civilians were killed in Israel, and neither he nor Hizb ut-Tahrir had distanced themselves from that position during the proceedings before the Court.

In view of those statements, the Court considered that Hizb ut-Tahrir attempted to deflect the right to freedom of assembly and association under Article 11 from its real purpose by employing that right for ends which were clearly contrary to the values of the European Convention, notably the commitment to the peaceful settlement of international conflicts and to the sanctity of human life.

In conclusion, the Court held in particular that under [Article 17](#) (prohibition of abuse of rights) of the European Convention on Human Rights, it was impossible to derive from the Convention a right to engage in an activity aimed at destroying any of the rights and freedoms set forth in the Convention. Hizb ut-Tahrir could therefore not rely on Article 11 (freedom of assembly and association) to complain about the ban on its activities.

For these reasons, the Court by a majority declared the application inadmissible.

Some concluding reflexions

Hizb ut-Tahrir defends a political agenda that is incompatible with the values of the Universal Declaration of Human Rights and the European Convention of Human Rights. In the light of its literature, it is perceived as a potential threat by governments of Muslim-majority countries as well as democratic states although up to now it has not used violence to come to power anywhere but nobody knows how it could change in the future.

Russia, Germany and the United Kingdom have banned or proscribed Hizb ut-Tahrir on security concerns at the specific time of their respective decisions.

Russia in the aftermath of the large-scale 9/11 terrorist attacks starting in the United States and against the background of its wars against separatist forces in the Muslim majority territories of Northern Caucasus.

Germany because of the indelible memory of the Nazi Holocaust, the anti-Israel agenda and the perceived anti-Jewish genocidal intentions of Hizb ut-Tahrir, which might one day awaken the demons of its past.

The United Kingdom because of the rising tide of anti-Israel and anti-Jewish feelings which suddenly emerged in the massive demonstrations in favour of Hamas, as an alleged defender of the Palestinian cause despite its terrorist attack in Israel, against the backdrop of the war in Gaza Strip.

These three countries highlight the fact that nowadays Hizb ut-Tahrir groups do not pursue the same political purposes everywhere. In Russia, notorious human rights organizations like 'Memorial', Nobel Peace Prize in 2022, and others find them harmless in Russia and take sides with them when they are persecuted by Putin's regime.

If Hizb ut-Tahrir activists or groups break the rule of law in Germany, the UK or any other EU country, they can be prosecuted and sentenced in fair trials for their illegal activities.

Is banning, proscribing or prohibiting Hizb ut-Tahrir enforceable and sufficiently efficient? Isn't it counter-productive? Shouldn't vigilance, prevention and prosecution, in accordance with the proportionality principle, be a more efficient way to move forward nowadays? Of course, tomorrow might not be the same as nowadays if a Hizb ut-Tahrir group somewhere is instrumentalized and financed by other forces...

Hizb ut-Tahrir al-Islami proscribed in the United Kingdom (Part I)

Is Hizb ut-Tahrir a political or a religious movement? Is it inciting or justifying terrorism? Is it anti-Semitic?

By Willy Fautré, Human Rights Without Frontiers

HRWF (23.01.2024) - On Thursday 18 January, the UK proscribed the British branch of the Islamist movement Hizb ut-Tahrir al-Islami (Islamic Liberation Party), which the European Court of Human Rights had in previous decisions identified as a political organization and not a (new) religious movement in Islam, as some organizations sometimes did when defending their members arbitrarily or not arrested and imprisoned.

On 15 January, British Home Secretary James Cleverly had submitted an order to parliament to proscribe Hizb ut-Tahrir under the UK's Terrorism Act. The secretary called the group **"an antisemitic organization that actively promotes and encourages terrorism, including praising and celebrating the appalling 7 October attacks."**

The accusations of anti-Semitism and terrorism are rejected by the British Centre of Hizb ut-Tahrir and are not endorsed by all observers of and researchers about Hizb ut-Tahrir.

Hizb ut-Tahrir, the 80th movement proscribed as an international terrorist organization by the UK

Under the Terrorism Act 2000, the Home Secretary may proscribe an organisation if they believe it is concerned in terrorism, and it is proportionate to do. For the purposes of the act, this means that the organisation:

- commits or participates in acts of terrorism
- prepares for terrorism
- promotes or encourages terrorism (including the unlawful glorification of terrorism)
- is otherwise concerned in terrorism

The official [text](#) of the UK's decision says:

"Hizb ut-Tahrir is an international Sunni Islamist political organisation which was founded in Jerusalem in 1953 by Sheikh Taquiddin an-Nabhani. Hizb ut-Tahrir has a footprint in at least 32 countries, with its headquarters and Central Media Office (CMO) based in Beirut, Lebanon. The CMO runs Hizb ut-Tahrir's central propaganda website hizb-ut-tahrir.info.

Hizb ut-Tahrir's stated long-term goal is to unify Muslims worldwide and establish a Caliphate ruled under Islamic (Shari'a) law. Hizb ut-Tahrir Britain is the official branch of Hizb ut-Tahrir in the UK and was established in the UK in the 1980s. The UK government assess that Hizb ut-Tahrir Britain is a component branch of Hizb ut-Tahrir but is afforded autonomy to interpret and approach Hizb ut-Tahrir's global strategy according to its local environment.

The UK government assess that Hizb ut-Tahrir, including its national branches, is currently concerned in terrorism, and meets the 'promotes and encourages' limb of the statutory test. A number of articles were posted online on Hizb ut-Tahrir's central media website (and third party websites), attributed to several of Hizb ut-Tahrir's branches, which celebrated and praised the 7 October 2023 attack by Hamas and associated events. The content of these articles, many of which refer to Hamas as 'heroes' and encourage further terrorist activity, constitute the promotion and encouragement of terrorism."

For the last two decades, Hizb ut-Tahrir had faced the prospect of being labelled and proscribed as a terrorist group in the UK.

Tony Blair and David Cameron threatened to proscribe it when they were in power. But Home Secretary James Cleverly did what many before him in government had failed to do - with [support from all parties](#) and no opposition from MPs or members of the House of Lords during the parliamentary session confirming the ban. Statements and actions of the British branch of Hizb ut-Tahrir about Hamas' terrorist attack against Israel on 7 October offered the Home Secretary an ideal opportunity to get a political consensus.

From midnight on Friday 19 January, the group was classified as a terrorist group and banned from organising in the UK. Belonging to or promoting Hizb ut-Tahrir is now punishable by up to 14 years in prison, according to the official statement.

In the last twenty years, several countries have banned Hizb ut-Tahrir for its ideology, its statements and its positions: Germany, Egypt, Bangladesh, Pakistan, several Central Asian and Middle Eastern countries such as Saudi Arabia, with many members arrested for alleged attempts to instigate coups in Muslim-majority countries.

However, the group is known to be active in Australia, Canada and the United States as well as in dozens of other countries, including Kuwait, Tunisia, Lebanon, India and Kenya.

Some considerations

Concerning the ban of the British branch of Hizb ut-Tahrir, a question arises "Do the ban and possible sentences respect the proportionality principle with regard to the charges related to terrorism?"

Hizb ut-Tahrir was founded in 1953 when Israel was still a young state and has a history of not using or promoting violence but times change and so does the geopolitical environment.

We, at Human Rights Without Frontiers, consider that Hizb ut-Tahrir activists are not eligible for the status of victims of violations of religious freedom when carrying out political activities because it is identified by the ECtHR as a Muslim political movement, not a religious community. In our [Database of FORB Prisoners](#) in Russia and other countries, we do not include their members. While we contend they cannot be considered FORB prisoners (Article 9 of the European Convention on Human Rights), we consider they can be prisoners of conscience or political prisoners if they are arbitrarily arrested and sentenced to prison terms despite non-violent activities and no incitement to violence.

(Part II will be devoted to "Hizb ut-Tahrir and the European Court of Human Rights")

More reading

20 January 2024

Britain bans Hizb ut Tahrir as terrorist group

<https://www.dawn.com/news/1807225/britain-bans-hizbut-tahrir-as-terrorist-group> - Dawn (20 January 2024)

19 January 2024

List of proscribed organisations in the UK

<https://www.gov.uk/government/publications/proscribed-terror-groups-or-organisations-2/proscribed-terrorist-groups-or-organisations-accessible-version> - UK Govt (19 January 2024)

What is Hizb ut-Tahrir, anti-Israel Islamist group banned in UK?

<https://www.al-monitor.com/originals/2024/01/what-hizb-ut-tahrir-anti-israel-islamist-group-banned-uk> - al-Monitor (19 January 2024)

18 January 2024

Hizb ut Tahrir ban: British MPs vote to add Islamist group to terrorism list

<https://www.middleeasteye.net/news/uk-hizb-ut-tahrir-ban-british-mps-vote-add-islamic-group-terrorism-list> - Middle East Eye (18 January 2024)

Analysis: UK Hizb ut Tahrir ban puts Muslim political activism on a 'slippery slope'
<https://www.middleeasteye.net/news/uk-hizb-ut-tahrir-ban-puts-muslim-political-activism-slippery-slope> - Middle East Eye (18 January 2024)

16 January 2024

Home Office to ban Hizb ut Tahrir as terror group
<https://www.bbc.com/news/uk-67984295> - BBC

15 January 2024

Islamist group Hizb ut Tahrir to be banned from organizing in UK
<https://www.theguardian.com/uk-news/2024/jan/15/islamist-group-hizb-ut-tahrir-to-be-banned-organising-uk> - The Guardian (15 January 2024)

Hizb ut Tahrir / Britain condemns the UK government's announcement to proscribe the party – Media Office of Hizb ut-Tahrir in Britain (15 January 2024)
<https://hizb-ut-tahrir.info/en/index.php/press-releases/britain/25658.html>

Britain to designate Hizb ut Tahrir as a 'terrorist' group – Al Jazeera (15 January 2024)
<https://www.aljazeera.com/news/2024/1/15/britain-to-designate-hizb-ut-tahrir-as-a-terrorist-group> - Al-Jazeera (15 January 2024)

UK moves to declare Hizb ut-Tahrir a terrorist group
<https://www.jurist.org/news/2024/01/uk-moves-to-declare-hizb-ut-tahrir-a-terrorist-group/> - Jurist (15 January 2024)

22 October 2023

Army of Egypt! Isn't it time to quench your thirst by freeing al-Aqsa and praying there ?!
- Hizb ut-Tahrir (22 October 2023)
<https://hizb.org.ua/ru/hizb-world/4748-middle-east/egypt/120107-armii-egipta-ne-porali-utolit-zhazhdu-osvobodiv-al-aksu-i-sovershiv-tam-molitvu.html> (Published in Russian by their Ukrainian branch)