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TAJIKISTAN: Why is a new Religion Law needed?

By Mushfig Bayram, Forum 18 (<https://www.forum18.org>)

Today (27 November), 24 religious organisations in Tajikistan have formally complained about the latest draft of a controversial proposed new Religion Law. Despite the proposals for a new Law having been repeatedly strongly criticised by Tajik organisations and the Organisation for Security and Co-operation in Europe (OSCE), the Secretary of Tajikistan's Public Council is unable to explain why a new Religion Law is necessary. "Well, look at the new draft and you'll understand it yourself," he told Forum 18 News Service. The 24 religious organisations insist that the draft Law directly or indirectly contradicts not only the Tajik Constitution, but also twelve other laws and legal codes of the country. Viktor Kim, who heads an association of ethnic Korean Tajik citizens, told Forum 18 that "this draft Law needs to be totally discarded and a new one written," he maintained. "So many of the articles in the draft Law are in conflict with the Tajik Constitution. There is no overall logic and concept in the draft, so it makes no sense to adopt it or even work on it."

On the day that 24 religious organisations lodged a letter detailing their complaints against the current draft of the controversial new Religion Law, Mavlon Muhtorov, Secretary of Tajikistan's Public Council, is unable to say why Tajikistan needs a new Religion Law. "Well, look at the new draft and you'll understand it yourself," he told Forum 18 News Service from the Tajik capital Dushanbe on 27 November. (The Public Council is an NGO-government forum headed by Tajik President Emomali Rahmon.) Muhtorov – who is also a presidential advisor – is one of the recipients of the joint letter. But he insisted to Forum 18 that the new Law would not be adopted soon. He added that the Commission set up to receive comments on the draft Law from individuals and religious organisations would only consider amendments to the draft "if they do not contradict the laws of Tajikistan".

The comments were sent not only to Muhtorov but to Saidbek Mahmadulloyev of the Religious Affairs Department at the Ministry of Culture. The two are responsible for receiving and incorporating comments from citizens and religious organisations. Mahmadulloyev confirmed to Forum 18 on 27 November that he had received a copy of the letter earlier in the day. However, he said he could not comment since he had just received the letter and needed some time to study the content.

The 24 religious organisations – including Catholics, Baptists, Adventists, Lutherans, Pentecostals and other Protestant denominations, Baha'is, and the New Apostolic Church – drew up their comments to the new draft Religion Law after being presented with the latest official draft. Officials made the draft available at a 21 November roundtable to discuss the proposed new law, held at the Organisation for Security and Co-operation in Europe (OSCE) Centre in Dushanbe. The government gave those present just one week to submit their comments, Protestants in Dushanbe told Forum 18.

One member of the Public Council, Viktor Kim, who heads an association of ethnic Korean Tajik citizens, has strongly criticised the current draft, for example at a 7 November meeting of the Public Council in Dushanbe. That meeting was attended by government officials, parliamentary deputies, civil society groups and religious communities.

Kim told Forum 18 on 27 November that he welcomed the presentation by the 24 religious communities of their comments, but insisted they are missing the point. "This draft Law needs to be totally discarded and a new one written," he maintained. "While the religious organisations give much attention to the details they miss the bigger picture. So many of the articles in the draft Law are in conflict with the Tajik Constitution. There is no overall logic and concept in the draft, so it makes no sense to adopt it or even work on it." He said a new draft needs to be written with the joint and active participation of the religious organisations in the Public Council.

As well as being unable to explain why a new Religion Law is necessary, Tajikistan has also been unable to explain why it has stopped the activity of the Jehovah's Witnesses, Ehyo Protestant Church and the Abundant Life Christian Centre (see F18News 9 November 2007 http://www.forum18.org/Archive.php?article_id=1045).

Hikmatullo Saifullozoda of the Islamic Renewal Party (IRP) – the only legal religiously-based political party in Central Asia – complained to Forum 18 on 27 November that the latest draft does not allow individuals to establish religious organisations easily. He also criticised the broad powers handed to the "competent religious affairs body" to control religious organisations. "The government is going to have a firm grip on religious organisations, while this law is supposed to be about freedom of conscience," he insisted. "We'll have only as much freedom as the religious affairs body will give us." The government is currently refusing to

accept new legal status applications (see F18News 2 July 2007 http://www.forum18.org/Archive.php?article_id=984). Saifullozoda said that the IRP has prepared an alternative draft new Religion Law.

Saifullozoda said he participated in the OSCE roundtable to discuss the new law and asked officials present about the haj pilgrimage. Controls on pilgrims from Tajikistan have been loosened in recent years (see F18News 7 December 2006 http://www.forum18.org/Archive.php?article_id=884). However, Saifullozoda said that "right now it looks as though it will not be the Council of Ulems but the Religious Affairs Department at the Culture Ministry that will oversee the issues of haj pilgrimage, which is not correct," he complained.

The comments by the 24 religious organisations cover more than 25 paragraphs in the articles of the latest draft Law. The comments insist that the draft Law directly or indirectly contradicts not only the Tajik Constitution, but also twelve other laws and legal codes of the country. The articles which the 24 religious organisations most object to are:

Article 6, which attracts particularly strong criticism for making provision for "an authorised state body on religious affairs" to arrange for holding rituals of religious organisations. There is no clarity who this "authorised state body" is, and why should it interfere in the internal rituals and affairs of religious organisations.

Article 9 states that children only older than 7 can be taught religion provided it does not interfere in their formal education in state schools, which explicitly contradicts article 5 of the same draft whereby parents or guardians may educate their children according to their own religion.

Article 9 refers to a "a special licence" for those people teaching religion, without making clear what the licence is for and who is authorised to issue it.

Article 10 refers to state bodies to check and control religious organisations, but does not state which bodies these are or what their responsibilities are.

Article 12 refers to a "standard constitution/charter" - which no religious organisation is aware exists - to define the activity of religious organisations. (Changing the charter of existing religious organisations would result in their having to apply again for legal status.)

Article 17 requires that at least 50 Tajik citizens must sign a registration application, and that at least 10 Tajik citizens must be the official "founders." However, in the Tajik Civil Code only one citizen is necessary to register a legal entity.

Article 19 lists the documents necessary to apply for legal status, including a certificates that applicants have been resident in Tajikistan for at least 10 years. The religious organisations describe this as "an outright contradiction of democratic principles."

Article 19 also states that the competent authority will assess religious communities for possible "contradictions" with undefined cultural and national values. The religious organisations point out that this paragraph in the article directly contradicts the Tajik Constitution.

The draft Law makes no provision at all for unregistered religious organisations. If legal status registration applications are denied, the draft Law provides no means of appeal.

Article 18 of the draft Law refers to but does not define a "member" and a "participant". It is also unclear whether persons under 18 can participate in public worship and other religious rituals.

Article 27 requires permission for missionary activity and "religious propaganda." As well as being in breach of international human rights standards, this Article provides scope for further state interference in the internal matters of religious organisations.

Article 29 makes religious organisations' international links and right to send people to study abroad dependent on the "consent" of the competent state body on religious affairs. This seriously limits organisations' international activity and violates the rights of citizens, described in Articles 24 and 35 of the Tajik Constitution, to move and freely choose profession.

Article 30 describes the taxation of contributions or offerings to religious organisations, but itself contradicts Tajikistan's Tax Code.

It is unknown when the government plans to send the proposed draft Religion Law to Parliament, or when the government intends that the draft Law may enter into force.

Previous drafts of the proposed new Religion Law were also very strongly criticised by Tajik religious communities (see F18News 2 July 2007 http://www.forum18.org/Archive.php?article_id=984), as well as by the OSCE's Advisory Council on Freedom of Religion or Belief (see on the March 2006 draft <http://www.legislationline.org/upload/lawreviews/3f/8a/2e2ebcda04dce962d620711d6be9.pdf>). The June 2007 draft explicitly

banned much legitimate peaceful religious activity (see F18News 2 July 2007 http://www.forum18.org/Archive.php?article_id=985).

Pressure on religious communities of all faiths in Tajikistan has been increasing in recent years. In Dushanbe unapproved mosques have been demolished, and Christian churches and the city's synagogue are under threat of demolition (see F18News 10 October 2007 http://www.forum18.org/Archive.php?article_id=1032). (END)

More coverage of freedom of thought, conscience and belief in Tajikistan is at <http://www.forum18.org/Archive.php?query=&religion=all&country=31&results=50>

For more background see Forum 18's Tajikistan religious freedom survey at http://www.forum18.org/Archive.php?article_id=190

A survey of the religious freedom decline in the eastern part of the Organisation for Security and Co-operation in Europe (OSCE) area is at http://www.forum18.org/Archive.php?article_id=806, and of religious intolerance in Central Asia is at http://www.forum18.org/Archive.php?article_id=815.

A printer-friendly map of Tajikistan is available at <http://www.nationalgeographic.com/xpeditions/atlas/index.html?Parent=asia&Rootmap=tajiki>

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