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TAJIKISTAN: Restrictive President-backed Religion Law reaches Parliament

By Felix Corley, Forum 18

Tajik human rights defenders have expressed concern to Forum 18 News Service about a new draft Religion Law. If adopted, it would impose sweeping controls on religious activity and religious associations, particularly on mosques. The draft text has been sent to Parliament by President Emomali Rahmon, and work on it should be completed within a month. Hikmatullo Saifullozoda of the Islamic Revival Party complained to Forum 18 that "the authorities want to control Islam in their own way." Similarly, River of Life Protestant Church complained that many Christians would be placed "outside the framework of the law." Nargis Zokirova of the Bureau on Human Rights and Rule of Law pointed out that all registered religious organisations will have to re-register by 1 July 2009. Those that fail to do this or who no longer meet new more restrictive registration criteria will lose their legal status, she warned. The OSCE Office in Tajikistan told Forum 18 that "the OSCE would thus be happy to review the existing Law and share its expertise with the government of Tajikistan prior to any parliamentary vote."

Tajik human rights defenders and members of religious communities have expressed concern to Forum 18 News Service about a new draft Religion Law sent to Parliament by President Emomali Rahmon on 19 November. Some are interpreting this as a signal of the political importance of the draft Religion Law, as most of Tajikistan's draft Laws are sent to Parliament by the government, while the previous draft Religion Law was sent by the government's Religious Affairs Committee.

If adopted, the new Law would bar all but a few mosques – and possibly many places of worship of other faiths – from gaining legal status, restrict religious education, impose compulsory censorship of religious literature and impose wide-ranging state control over the activity of all religious associations.

Nargis Zokirova, who heads the Dushanbe-based Bureau on Human Rights and Rule of Law, told Forum 18 on 17 December that she thinks the latest version of the draft Law is better than earlier versions, but points to many restrictions she thinks should be removed.

She complains of the level of state control that would be imposed on religious life, including state approval for the appointment of imams and the holding of prayers in cathedral mosques, "unfounded restrictions" on who can spread their faith, state censorship of religious literature and the ban on foreign residents from founding religious associations. She thinks the requirement that religious believers have lived in a district for ten years before they can apply for registration "restricts their right to practice their faith fully".

Zokirova also expresses concern that, if the Law is adopted in the current form, all registered religious organisations will have to re-register by 1 July 2009. Those that fail to do this or who no longer meet new more restrictive registration criteria will lose their legal status, she warns.

Hikmatullo Saifullozoda of the opposition Islamic Revival Party (IRP) – which has two deputies in Parliament's lower house – complains that the draft Law is the government's latest method to restrict the growth of Islam. (The IRP is the only legal religiously-based political party in Central Asia.) "The authorities want to control Islam in their own way," he told Forum 18 from Dushanbe on 17 December. "More and more people want to pray each day, but instead of facilitating this, the authorities want to restrict the number of mosques. We should allow people to organise their own mosques."

The River of Life Protestant Church in Dushanbe complained in an open letter of 30 November that if this draft is adopted, "hundreds of Christians in small settlements across Tajikistan will find themselves at a stroke outside the framework of the law".

The Office in Tajikistan of the Organisation for Security and Co-operation in Europe (OSCE) points to some concerns. "The draft Law is vague in many of its articles and details," it told Forum 18 from Dushanbe on 17 December. "If passed, therefore, much will depend on the authorities' interpretation of the law." It pointed out that OSCE commitments which Tajikistan, as one of the 56 participating States of the organisation, has signed up to "are quite clear" when it comes to the issue of religion and freedom of conscience.

"We hope that the respected authorities would be willing to review the existing draft law and thus ensure that its content is more transparent and fully complies with Tajikistan's international commitments," the OSCE Office told Forum 18. It noted that in 2006 and 2007, the OSCE's Office of Democratic Institutions and Human Rights provided the government with reviews of earlier draft Religion Laws. "The OSCE would thus be happy to review the existing Law and share its expertise with the government of Tajikistan prior to any parliamentary vote."

In sending the draft text to the lower house of Parliament on 19 November, President Rahmon said the new Law aims at the "thorough regulation of relations connected with freedom of conscience and faith, as well as the legal position of religious associations".

On 21 November, speaker of Parliament's lower house Saydullo Khairulloev signed a decree passing the draft Law to the Parliamentary Committee on International Affairs, Public Associations and Information, as well as to other unnamed committees and commissions of the lower house of Parliament and to its juridical department for a "legal expert assessment" of the text. Khairulloev instructed the International Affairs Committee to present the draft Law to the lower house's Board "within two months".

However, in what appears to be a sign of the determination of the authorities to adopt the new Religion Law quickly, the lower house's Board discussed the draft Law on 24 November, Asia Plus news agency reported the same day. It did not say if the Board approved the text for discussion by the full lower house or whether it sent the text for consideration in committees.

Saifullozoda of the IRP told Forum 18 the lower house's Board approved sending the draft to committee. He said the Board is due to discuss the draft again at the end of December. He added that the text is likely to reach the full lower house of Parliament early in 2009.

Curiously, the spokesperson for the lower house of Parliament, Muhammadato Sultanov, denied to Forum 18 on 17 December that the draft Law had reached Parliament, claiming that it was still with the government.

He said the Board, which consists of the chairs of parliamentary committees, would look at it within 15 days before it went for discussion. He said there may be two readings in the lower house within one month. "Usually they have only one reading, but if there are serious debates then it may take two readings and then it goes to the upper house for approval," he told Forum 18. "Usually they approve it unless they seriously disagree with something, in which case they send it back to the lower house and the lower house may make further amendments or directly send it to the President." He said this should all be done within one month.

Sultanov added that once the President receives it he has to decide within 45 days whether to sign the Law or send it back to Parliament. "Only very rarely does the President send a Law back."

Asked about the strict controls on religious activity set out in the draft Law, Sultanov said he had not yet seen the text. "Anyway, it is just a draft and it would not be acting seriously if the draft was adopted without any changes," he told Forum 18.

The official who answered the phone of the government's Religious Affairs Committee in Dushanbe on 17 December said its deputy head Saidbek Mahmaddulloev was still on the haj pilgrimage and that no other officials were present to comment on the draft Law.

Curiously, given Tajikistan's multi-religious population, the preamble to the draft Law recognises "the special role of the Hanafi school of Islam in the development of the national culture and moral life" of the people, even though Ismaili Muslims have long-standing roots, especially in the mountainous Badakhshan Region of eastern Tajikistan, while Jewish and Christian populations have also long existed.

If adopted, the new Law would impose sweeping controls on religious activity and religious associations, particularly on mosques. Some of the more severe restrictions are highlighted below.

To gain top-level registration as a "religious organisation", ten citizen founders are needed, who have to gain a certificate from the local authorities confirming that adherents of the religious faith have lived in the local area for at least ten years. Under Article 13 part 5, applicants also have to provide an account of their beliefs and religious practices and describe their attitude to education, family and marriage and health of their adherents. This may be a way to obstruct registration of Jehovah's Witness communities, using their rejection of blood transfusions as an excuse (see F18News 9 November 2007 http://www.forum18.org/Archive.php?article_id=1045).

However, the type of organisation specified in Article 10 part 8 as eligible to register as a religious organisation is restricted to "national religious centres, central cathedral mosques, religious educational institutions, churches, synagogues and other forms not contradicting current law". Religious organisations have to specify all the activity they undertake in their charters, and have to report annually on their activity or face being deregistered.

Registering a "national religious centre" requires three registered religious organisations which belong to it.

By contrast, all other religious associations – which specifically include cathedral mosques and mosques where prayers are recited five times per day - are eligible only to become "religious communities". It appears that under Article 13 part 3, such communities must undergo both local and national registration with state religious affairs officials. However, under Article 10 part 4 and Article 13 part 1, these communities do not have legal status. Religious communities have to stick to the "essence and limits of activity" set out in their charters.

For reasons that remain unclear, Article 9 part 3 bans state officials and all members of political parties from being among the ten legal founders of a religious association.

Both "religious organisations" and "religious communities" have to specify the geographic territory of their activity, though it remains unclear why this is necessary. Given that failure to act in accordance with its charter is enough to deregister a religious community, it seems that acting outside the designated territory would be grounds for deregistering such organisations or communities.

For reasons that remain unclear, mosques are singled out for special restrictions in Article 11, restrictions that do not appear to apply to places of worship of other faiths. Article 11 part 2 requires specific approval from state religious affairs officials before associations of citizens can found a mosque. State religious affairs officials also are required to approve locations where Muslim prayers are conducted. Article 11 part 5 restricts central cathedral mosques to one per district in the country. Article 11 part 6 requires official approval for all imams in the country.

Collective Muslim prayers on Fridays and on festivals would, under Article 11 part 7, require permission from state religious affairs officials.

Religious education would be placed under tight government scrutiny. Article 8 part 4 requires state permission and permission from religious affairs officials for religious education to take place. Parents have to give written permission for their children to be given religious education (which is allowed only in free time and outside state education).

Article 12 implies (but does not actually state) that only registered "religious organisations" can found religious educational institutions. The "conditions and teaching arrangements" of such institutions require "agreement" with state religious affairs officials under Article 12 part 3. Licences are also required. Education offered in such institutions must be at the same level as in state educational institutions, though what this means in practice is not made clear.

Under Article 17, the state religious affairs agency is authorised to conduct expert analyses of a association's religious teaching, the veracity of information supplied on its teaching and rituals, as well as of its literature and religious objects. Article 19 requires religious associations to provide any information the religious affairs agency seeks and to allow state religious affairs officials to attend any of their events.

Religious literature remains under tight government censorship: Article 22 part 3 explicitly requires state approval for the production, import, export, sale and distribution of it. While individuals are permitted to "own and acquire" such literature, only registered religious associations are specifically authorised to produce, import and distribute such literature (with state permission) and only "in an appropriate quantity". Only top-level registered religious organisations are authorised to set up publishing and printing houses to produce religious literature. The religious literature they produce must identify the full name of the organisation that published it.

Article 21 puts the state in charge of organising Muslims' participation in the haj and umra pilgrimages to Mecca.

While several Articles guarantee the right to spread one's faith, Article 23 part 4 bans "agitation and informational activity by religious associations" not only in state-run nurseries and schools, but also "in citizens' flats and homes". Article 5 part 5 and several other articles ban "propaganda of the superiority of a religion", even though asserting the merits or demerits of particular beliefs is an essential part of religious freedom.

Article 32 allows courts to liquidate or ban religious organisations at the request of prosecutors or the government's religious affairs agency if they break the Constitution or any laws, or if they conduct activity not specified in their charter.

Some religious communities were quick to express concern about the heightened secrecy surrounding the latest draft text. The River of Life Protestant Church in Dushanbe complained in their open letter that participation of religious communities in drawing up the Law had been "kept to a minimum".

It pointed out that in 2007 a roundtable in Dushanbe on the then draft Law had allowed many religious communities to present their views publicly, even if the authorities had barely listened (see F18News 27 November 2007 http://www.forum18.org/Archive.php?article_id=1052). "However, as in 2007 so in 2008," the church complained, "all the work on the draft Law is going on secretly." It added that this year, communities "have not even been able to see the text".

The new Law is due to replace the current Religion Law, first adopted in 1994 and amended in 1997, 1999 and 2001. Although Tajikistan's government has long sought to introduce further legal controls on religious activity through a new Law, developments have taken place largely behind the scenes after vigorous criticism by many religious communities of earlier drafts (see F18News 27 November 2007 http://www.forum18.org/Archive.php?article_id=1052).

In September the Tajik delegation to the OSCE Human Dimension Implementation Meeting in Warsaw tried to sidestep discussion of a new Religion Law, insisting that work was "still at the discussion stage" (see F18News 8 October 2008 http://www.forum18.org/Archive.php?article_id=1200).

The authorities "temporarily" suspended the activities of two Protestant communities, while all activity by the Jehovah's Witnesses was banned. Similarly, Dushanbe's Jewish community has not received land in recompense for its bulldozed synagogue, a Protestant church is also facing the loss of its church building. Tajik officials denied this to the OSCE Human Dimension Implementation Meeting in September (see F18News 8 October 2008 http://www.forum18.org/Archive.php?article_id=1200).

However, it was only in the wake of the OSCE conference that one of the two Protestant communities – Ehyo Church in Dushanbe – was officially able to resume its activity, Protestants told Forum 18.

Many mosques have also been demolished in recent years (see F18News 10 October 2007 http://www.forum18.org/Archive.php?article_id=1032). Tajik Muslims have complained to Forum 18 that a large number of mosques and prayer halls throughout the country are being closely monitored by the government and local administrations, and may be under threat of closure or demolition (see F18News 20 January 2009 http://www.forum18.org/Archive.php?article_id=1242).

The government is also - along with the state-favoured Council of Ulems (Islamic theologians) - continuing to try to stop the wearing of the hijab by Muslim women. (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>.

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>.

If you need to contact F18News, please email us at:
f18news @ editor.forum18.org

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY