

15 March 2011

TAJIKISTAN: "Legal" restrictions on parents' and children's religious freedom

By Mushfig Bayram, Forum 18

Public consultation on Tajikistan's controversial proposed Law on Parental Responsibility for the Education and Upbringing of Children ends today (15 March), Forum 18 News Service notes. Among the numerous new restrictions the draft imposes is to ban all participation by anyone under the age of 18 in religious activities - apart from funerals. As with the Religion Law, the draft Parental Responsibility Law is in parts extremely unclear, allowing much room for official arbitrary actions. Local religious communities, independent legal experts and human rights defenders have condemned the draft Law, as violating the religious freedom of children and parents among other freedoms guaranteed by Tajikistan's Constitution and international human rights conventions. Mahmatali Vatanov, Chair of the parliamentary Committee on Laws and Human Rights, would not comment when asked by Forum 18 why the Law is needed. Khursandmurod Mirzoyev, Senior Advisor to Tajikistan's President on Legal Policy, refused to explain why Tajikistan plans to ban children from participating in religious activities.

Public consultation on Tajikistan's controversial proposed Law on Parental Responsibility for the Education and Upbringing of Children ends today (15 March), Forum 18 News Service notes. Local religious communities, independent legal experts and human rights defenders have condemned the draft Law, which violates the religious freedom of children and parents, among other freedoms guaranteed by Tajikistan's Constitution and international human rights conventions. Among many violations in the draft Law, Article 7 explicitly obliges parents to prohibit participation of their children in the activity of religious associations and organised religious activities with the exception of funerals. Officials have refused to explain to Forum 18 why they intend to impose such a blanket ban.

The proposed Law was initiated by Tajikistan's President Emomali Rahmon at the end of 2010 and the proposed text was made public in January 2011 in Tajik and Russian.

Main focus is "ban on children's participation in religious activity"

Akbar Turajonzoda, an independent Senator in Tajikistan's Parliament between 2005 and 2010 and the country's Chief Mufti in the early 1990s, described the proposed Parental Responsibility Law as "absurd". "But the government is proud that it will be the first ever such law, and other countries will follow Tajikistan's example," he told Forum 18 from the capital Dushanbe on 11 March. He complained that it is "not a law but a compilation of various demands" to parents. "The main focus in the law is the ban on children's participation in religious activity. The rest of the law is just a cover."

He told Forum 18 that the proposed Law's biggest impact would be on Tajikistan's majority Muslim community. "The government wants to stop children from attending mosques and grow up as Muslims," he insisted. "The government is afraid of the growing interest among the population in Islam."

Several Protestant leaders, who wished to remain anonymous for fear of state reprisals, complained to Forum 18 that the draft Parental Responsibility law violates both children's and parents' rights and freedoms. Separately, a total of 29 Protestant Churches and Christian organisations wrote a joint letter on 1 February to the National Legislative Centre under the President, setting out their concerns. This body is finalising the draft law before it is presented to Parliament.

Copies of the letter, which Forum 18 has seen, were also sent to the state Religious Affairs Committee, the Office in Tajikistan of the Organisation for Security and Co-operation in Europe (OSCE), as well as the Bureau on Human Rights and Rule of Law, an independent Dushanbe-based human rights defender organisation.

"Protestant Christians' major concern is that their members, parents cannot leave their under age children at home without supervision while they attend church. This means that parents will have to stay at home and not attend church, and so their rights to religious freedom will also be violated," the Protestants complain. "Most of those attending our worship services and activities are women, as well as retired people, that is, those who are raising children themselves or are helping to raise children in a family."

Echoing their concerns was Fr Nikolai Golub, a priest of the Russian Orthodox Church in Qurghonteppa in southern Tajikistan, who complained that it is "unacceptable" to ban children from going to church. "Even the authorities in the officially atheist Soviet Union did not impose such harsh restrictions," he told Radio Free Europe/Radio Liberty on 16 February.

Fr Golub and some of his parishioners fear that if the draft law is adopted, many Russian Orthodox Christians "will leave Tajikistan". One parishioner said that she will also leave as she wants her children to "grow up as good Christians".

Independent legal review condemns draft Law

A group of independent legal experts, including one from the Bureau on Human Rights and Rule of Law, set out their concerns in an analysis of the draft text produced after a 1 February roundtable to discuss the proposed Law.

The analysis, seen by Forum 18, says that a number of prohibitions and limitations on the rights of children in the draft Law contradict principles stipulated by Articles 3 and 12 of the United Nations Convention on the Rights of the Child, to which Tajikistan has acceded. Among the points it makes are:

- The ban on children attending religious services violates Article 26 of Tajikistan's Constitution, which says "each person has the right independently to determine their attitude toward religion, separately or together with others confess any religion or not to confess any religion, participate in performance of religious rites, rituals and ceremonies," it notes. The ban also violates the similar provisions of Article 18 of the International Covenant on Civil and Political Rights.

- "The United Nations Convention on the Rights of the Child provides that a child has the right to profess his/her religion and perform its ceremonies (Article 30). Also, part 3 of Article 13 of the International Covenant on Economic, Social and Cultural Rights binds member states to respect the freedom of parents and guardians to ensure religious and moral education of their children in accordance with their own beliefs."

The analysis also points out that the draft Law does not have mechanisms for how it will be implemented after its adoption.

Why?

Mahmadali Vatanov, Chair of the parliamentary Committee on Laws and Human Rights, did not want to comment on why Tajikistan needs to adopt such a Law. He said the draft Law was initiated by President Rahmon, and Forum 18 should address its questions to Presidential Legal Advisors. "The time given for public discussions is until 15 March," he told Forum 18 on 11 March. Presidential legal experts will make changes to the draft law after the public discussions are over and then submit it to Parliament, where it will have to pass its two chambers, he said. Vatanov said that he does not know when Parliament will discuss it.

Khursandmurod Mirzoyev, Senior Advisor to Tajikistan's President on Legal Policy, asked by Forum 18 on 10 March why such a Law is needed, said that "during the Soviet times parents did not think much about education of their children and the state took care" of it. The State "made sure" that children received education. "Now is a different time, there are so many different schools, including private schools, and the issues of education are not regulated," he stated. "Many children are missing school."

He stated that the National Legislative Centre under the President has received "more than 30,000 comments on the new Law from practically all the state agencies and ministries, international organisations in Tajikistan, religious communities and the wider public."

Mirzoyev refused to explain why Tajikistan plans to ban children from participating in religious activities: "This is only a draft law - we will take into account the opinion of religious communities. The draft law will substantially change."

Asked why the state should decide what kind of education parents give their children, and whether this was unjustifiable state interference in family matters, Mirzoyev responded: "Call me in 30 minutes, I have a roomful of people here with me." Called later the same day and on the following day, Mirzoyev's telephones went unanswered.

Tajikistan's diplomats have tried to rebut criticism of the proposed Law with bland assurances. In response to specific criticism of it in the OSCE Permanent Council in Vienna on 3 March, Nuriddin Shamsov, Tajikistan's Permanent Representative to the OSCE, claimed that "Tajikistan is characterised by high level of tolerance, religious co-existence and the climate of religious harmony which prevails at the societal life. Tajikistan's Constitution provides for freedom of religion, and the Government respects this right in practice." His statement was subsequently posted on the Foreign Ministry website.

The controversial proposed Law comes after the harsh 2009 Religion Law, as well as increased punishments for religious activity under 2009 and 2011 changes to the Code of Administrative Offences. The Salafi school of Islamic thought and Jamaat Tabligh Islamic movement, two Protestant organisations, and the Jehovah's Witnesses have been banned in recent years. Mosques and other places of worship have been demolished, closed down and confiscated. Religious education is under tight state scrutiny and in 2010 the state ordered hundreds of students studying religion abroad to return to Tajikistan (see Forum 18's Tajikistan religious freedom

survey at http://www.forum18.org/Archive.php?article_id=1553).

"A sacred mission of parents"?

The draft Parental Responsibility Law claims in Article 4 that "the education of children is a sacred mission of parents" - but the Law applies restrictions of many kinds on this "sacred mission". Like some other laws, such as the Religion Law, the draft Law is in parts extremely unclear, allowing much room for official arbitrary actions.

Many restrictions on religious education already exist in the Religion Law. For example, Article 8 Part 4 requires state permission for religious education. Article 8 Part 5 requires parents to give written permission for their children between the ages of 7 and 18 to be given religious education, which is allowed only in free time and outside the framework of state education. This Article implies but does not state both that only officially registered religious organisations can give religious education, and that it cannot be given to children younger than 7.

The draft Law's many restrictions

The draft Parental Responsibility Law imposes many more restrictions on all forms of education, as well as on children's and teenagers' behaviour. For example, jewellery and tattoos are banned.

Article 6 of the draft Law says that parents can "choose forms and methods of instruction and upbringing of their children, on condition that these forms and methods do not negatively affect their physical and moral state". However, "negatively affect" is undefined, allowing this to be interpreted to mean religious education by religious communities officials dislike.

Parents' new obligations

Article 7 of the draft Law, among many other obligations, imposes obligations on parents to:

- "give a worthy name to the child according to national values."

The phrase "national values" is undefined. Former Senator Turajonzoda said this provision may stop Muslim parents giving Muslim religious names to their children. "The new official trend is for old Tajik names from Zoroastrian times," he told Forum 18, "and the authorities do not like parents giving names like Muhammad, Abu-bakr and so on to children." Turajonzoda added that he is not against Zoroastrian names, but "people should have freedom to name their children."

Non-Muslims have also told Forum 18 that they fear that people – especially converts from Islam - may not be allowed to give their children non-Muslim names.

- "educate the child in the spirit of respect for the homeland, national and universal values". The Law, however, does not clarify whether religious values can be taught to children.

- ban "the encouragement of children to receive education in illegal schools and education institutions as well as from individual persons who do not have permission for such activity";

- "not to allow the education of adolescent children abroad without the permission of appropriate state agencies";

- "not to allow the participation of adolescent children in the activity of religious associations and organised religious activities with the exception of funeral rituals";

- ban adolescent children from reading, watching, or distributing materials "containing violence, extremism, terrorism and other manifestations against morals".

These terms are undefined, and could be arbitrarily interpreted as banning children from such religious activities such as reading religious books, or for older children helping with religious instruction or activities for other children.

- "provide for children a school uniform at all levels of education and to control the wearing of it within the bounds of etiquette."

This could be interpreted by officials as banning the Islamic hijab (headscarf), Jewish kippa (skullcap) and other forms of religious clothing not part of school uniforms.

Who is responsible for implementation?

Among very many other state agencies, the Religious Affairs Committee is given power to regulate the implementation of this Law. Article 9 states that these state agencies are obliged "to stimulate children contributing to prevention of violations of the Law,

materially and morally stimulate parents in successfully fulfilling their rights and responsibilities for the instruction and upbringing of children, and plan activities for the prevention of crimes and other lawbreaking by adolescents".

Article 9 also obliges state agencies to bring violations to the attention of law-enforcement agencies.

For parents, Article 12 Part 1 states that "in cases of failure to fulfil or inadequate fulfilment of parental responsibilities defined by this Law and other laws", parents shall be legally liable. Part 2 of this Article stresses that even parents who live separately from a child will be held responsible under the law for its implementation. (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=1553.

A compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments can be found at http://www.forum18.org/Archive.php?article_id=1351.

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

© Forum 18 News Service. All rights reserved. ISSN 1504-2855.

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

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY