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TAJIKISTAN: "Antidemocratic" draft Religion Law

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Tajikistan's latest draft of a proposed new Religion Law has been described to Forum 18 News Service by a Protestant source as "antidemocratic." Religious minorities and human rights activists fear it will be interpreted by officials as banning all unregistered religious activity. The proposed Law bars much legitimate peaceful religious activity, including actions directed at sharing beliefs. Religiously-affiliated political parties are banned, thus apparently banning the opposition Islamic Revival Party. Children younger than 7 are banned from receiving religious education, and young people are forbidden from being "members or participants of religious organisations." All religious education in private houses is forbidden. Only Tajik citizens can lead religious organisations, which causes great concern to the Catholic Church. The main issue concerning religious minorities is legal status, as the draft Law imposes absurdly stringent registration requirements and exceptionally high numbers of signatures to apply for legal status.

If Tajikistan's parliament, the Majlisi Oli, adopts the current version of the proposed new Religion Law, no non-Islamic religious communities will be likely to be able to gain legal status, while the number of mosques allowed to operate will be severely limited, Forum 18 News Service notes. The Majlisi Oli is due to return from its summer recess in mid-August. Although the Law does not specifically declare that religious communities must have registration to be able to function, religious minorities have told Forum 18 that they fear the law will be interpreted to mean that any communities that cannot get registration - or do not wish to get it - will be regarded as illegal and their activity punishable by law.

A group of 22 religious minority communities – mainly Protestants but also including Catholics and Baha'is – signed a joint letter on 28 June to President Emomali Rahmon, to the Majlisi Oli and to the state Religious Affairs Committee expressing "deep anxiety" about the Law. In the letter they complain about many of the provisions and ask for wider consultation before any Religion Law is adopted. The Organisation for Security and Co-operation in Europe (OSCE) is critical of the draft Law's "over-intensive state control on religion and religious activities," as it has been critical of previous drafts (see the OSCE Advisory Council on Freedom of Religion or Belief's comments on a March 2006 draft at <http://www.legislationline.org/upload/lawreviews/3f/8a/2e2ebcda04dce962d620711d6be9.pdf>). The OSCE is working with the government, civil society, and all religious organisations to enable a Law which will meet Tajikistan's international commitments (see F18News 2 July 2007 http://www.forum18.org/Archive.php?article_id=984).

The first ten articles of the draft Law affirms the equality of all faiths before the law, non-interference of the state in religious communities' activity, the rights of religious communities to manage their own affairs and select their own leadership, and the rights of individuals and religious communities to conduct worship, teach religion and use religious literature. Article 30 specifically allows individuals and religious communities to hold worship services in private homes and to establish dedicated places of worship. However, many articles of the draft go on to undermine and contradict all these rights.

Article 7 bans actions directed at converting individuals from one faith to another, as well as "any other charitable or missionary activity having the nature of intellectual, mental or other pressure with proselytising aims."

Contradictorily, Article 18 gives the appearance of allowing "missionary associations," as does Article 13 which allows "religious centres" to establish "missionary organisations" and Article 11 which states that the purpose of "religious organisations" is to "meet the religious needs of citizens to profess and spread beliefs voluntarily and publicly." Article 18 also allows "places of prayers and places of worship." But Article 18 states that "missionary associations, places of prayer and places of worship are religious organisations that do not form a legal entity." This article goes on to state that "for establishing these forms of religious organisations, their founders should submit an application to the local registering body."

Article 8 bans individuals who hold a position of authority in a religious organisation from standing for elected office. It also bans the formation of religiously-affiliated political parties. This appears to bar the opposition Islamic Revival Party (IRP), which is the only legal religiously-based political party in Central Asia.

While Article 10 says that registered religious organisations can set up religious education colleges, it remains unclear if this is banned for non-registered religious organisations. Only religious teachers with "special religious education" - which is undefined - are allowed to teach religion, which activity must be "in accordance with" the government's Religious Affairs Committee.

Children younger than 7 are banned from receiving religious education, even with their parents' permission in writing. In this context, Article 10 specifically states that religious education in private houses is forbidden. Children older than 7 cannot be taught religion against their will, even if their parents give permission. The religious education of children is only permitted "if it does not interrupt the education process and takes place in special premises."

Article 17 includes further restrictions on religious education, specifying that "religious centres and cathedral mosques" can set up such education institutions, which must be approved by a government licence. A "religious centre" is defined in Article 13 as "a free and independent form of religious organisation established as a legal entity for organising and implementing non-cult religious activities." It is unclear what is meant by "free and independent."

Article 11 allows only adult citizens to found religious organisations. "Only citizens of the Republic of Tajikistan who have [undefined] special religious education can be heads of religious organisations," it adds, declaring that legally-resident foreigners can only be members of or participants in such organisations. The Catholic Church is particularly worried by this article, as all Tajikistan's Catholic clergy are foreign nationals.

"Minors cannot be members or participants of religious organisations," Article 11 also states. It remains unclear if this, along with Article 10 (see above), bans young people from attending worship or other religious activities.

Article 12 limits the activity of registered religious organisations to the geographical territory specified in their statutes, in a potentially similar way to Belarus' Religion Law (see the F18News Belarus religious freedom survey http://www.forum18.org/Archive.php?article_id=888). It remains unclear if officials would allow religious organisations to specify that they function in the whole of the country.

However, it is the issue of legal status that most religious communities are worried about. Article 14 allows only one small mosque, described as a "five-time mosque" from the numbers of times Muslims pray each day, for each village of up to 2,000 people. This figure rises to 3,000 residents in a bigger town, to 20,000 in districts of cities away from the capital Dushanbe, and 30,000 in districts of Dushanbe. Larger mosques, known as "cathedral mosques", require up to 20,000 people in a district, rising to 40,000 in cities away from Dushanbe, and 60,000 in Dushanbe itself. No justification is given for these restrictions. The draft does not specify how many residents of any location are required to sign a mosque's registration application.

For non-mosques, Article 15 restricts the formation of "churches" (it remains unclear if this applies to non-Muslim and non-Christian religious communities as no other category of worshipping community is listed). Unlike mosques, it specifies that these "churches" are "a form of religious organisation established as a legal entity on the basis of centralised administration for implementing cult and non-cult activities, which has a historically established system of governing the way of living, activities and behaviour of believers." No indication is given of how such terms as "centralised administration" and "historical" are defined.

To gain legal status, Article 15 states that a "church" requires 400 adult members in a district, 800 in a city away from Dushanbe and 1,200 in Dushanbe itself. Again, no justification is given for these restrictions.

Article 16 requires 2,000 supporters to sign a registration application to found a monastery.

Even if a religious community can meet the exceptionally high number of signatures required to apply for legal status, Article 20 also requires a large number of documents – from both the state and the religious community - to be appended to the registration application. Crucially, as well as the statutes and official record of the founding meeting, all the founding members have to give their full names, addresses, dates of birth and confirm that they are Tajik citizens. They also have to submit a copy of their official identity document. Amongst the numerous documents that must be submitted are a "confirmation from the local government body of the size of the population and address of location of the religious organisation." and a "positive legal opinion of the judicial bodies on the founding documents of the religious organisation." This article gives ample opportunity for officials to "legally" refuse legal status applications, and also for official and unofficial intimidation of people who sign registration applications.

After giving five reasons why legal status applications can be refused, including that "the name of the religious organisation offends the morals, national and religious feelings of citizens," Article 21 declares: "It is not permitted to deny registration of a religious organisation on the ground of inexpediency of its establishment." Religious minorities have told Forum 18 that they fear that the draft law makes it very easy for officials to deny legal status - even to any religious communities who manage to meet the Law's absurdly rigorous requirements.

Article 43 forces the re-registration of all existing religious communities, by stipulating that they must gain re-registration under the new Law by 1 July 2008. Existing legal religious communities that fail to meet the new requirements, or fail to gain re-registration will have their legal status annulled.

Under Article 24, registered religious organisations are obliged to tell the registering body on request what decisions they have taken "related to" their goals as set out in their charter, and to report their activities to the state every year. Religious organisations have to

allow officials from the registering body as well as from unspecified "supervising and controlling agencies" to attend events they hold.

This may relate to the "supervising and controlling agencies" described in Article 37. This states that: "surveillance over precise and uniform enforcement of laws by religious organisations" is carried out by the Public Prosecutor's Office; financial and tax matters, "including control over sources of income," and "financial expenditure" is carried out by the state Religious Affairs Committee; and that other controls are carried out by the Ecological, Fire Safety, Sanitary and Epidemiological agencies, "and other bodies of state control." Such catch-all control mechanisms are frequently used in formerly Soviet states to harass and suppress religious communities officials do not like.

Article 40 specifies that if a religious community breaks Tajik law, does anything not specifically set out in their statutes, or "abuses the legitimate interests of legal and natural persons," the Public Prosecutor or the state body which registered the community can give its leadership a written warning. If the religious community does not "rectify the abuse" and notify the state agency which warned it of this within a month, the state Religious Affairs Committee can suspend the religious community's activity. No grounds of appeal against decisions under this article are specified in the draft Law.

Article 31 says that citizens and religious organisations have the right to buy and use religious literature and other objects, but specifies that religious organisations can publish, distribute and import such literature with religious content "in accordance with" Tajik law. It remains unclear if unregistered religious communities and individuals also have these rights, or whether the permitted literature includes that which could be argued to have "proselytising aims" under Article 7.

Article 29 imposes state control of the haj (compulsory for Muslims) and umrah (non-compulsory for Muslims) pilgrimages to Mecca. These can be "organised and controlled" solely by the state Religious Affairs Committee.

According to Article 33, the Religious Affairs Committee must agree before a religious organisation can invite foreigners for religious work in Tajikistan, or before a religious organisation sends a local citizen abroad for religious education. It is not clear from the ambiguously-worded article whether other links with co-religionists abroad need state approval.

The 2006 version of the draft Law specifically banned unregistered religious activity (see F18News 7 June 2006 http://www.forum18.org/Archive.php?article_id=795). However, this latest version does not include a specific ban, even if it allows many grounds for officials to bar peaceful legitimate religious activity. Many religious communities and human rights activists have told Forum 18 that they fear officials will interpret the Law as banning all unregistered religious activity

The Religion Law currently in force does not ban unregistered religious activity, despite officials' widespread belief that it does. It requires only ten adult citizen members to register a religious organisation. A ban on religiously-affiliated political parties was removed from the Religion Law in 1999. However, the current religion law already bans teaching religion to children under seven.

The Islamic Revival Party has complained to Forum 18 about the limits on the number of mosques (see F18News 2 July 2007 http://www.forum18.org/Archive.php?article_id=984).

Religious minorities warn that the numerical thresholds to gain legal status make it all but impossible for their communities to retain legal status after the re-registration deadline. They point out that many congregations are small, especially outside the capital Dushanbe. Several Protestants told Forum 18 that many church members would be afraid to supply their personal details on a registration application, for fear of intimidation. This reduces the number of adult church members prepared to put their names on an application.

"The main antidemocratic thought of the present draft is the impossibility to register religion minorities," one Protestant who did not wish to be identified told Forum 18. The Protestant added that many of their congregations - and of communities of other faiths - have only 10 to 30 members. Even in Dushanbe or other cities they might have only 100 to 300 members. "The total of Protestants in the whole country is about 3,000 to 4,000. Other religions apart from Islam also have very few adherents. So adopting the new Law would cause almost the complete absence of legal organisations of all religion minorities in Tajikistan, as well as preventing religions other than Islam from developing."

Some religious minority leaders have speculated that even the Russian Orthodox Church, probably the largest single Christian Church, might find it hard to gain registration for its handful of parishes. Forum 18 was unable to reach Fr Sergei Klimenko, who leads the Orthodox Church in Tajikistan, to discuss the draft Law. (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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