

19 February 2018

TAJIKISTAN: Amendments impose even tighter state control

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

Religion Law amendments allow the state to restrict freedom of religion or belief on illegitimate grounds, increase religious communities' reporting obligations, require state approval for all imams, and increase state control on religious education. "The Law represents total control and is unjust", human rights defender Faizinisso Vokhidova stated.

Tajikistan's latest amendments adding more restrictions to the already restrictive Religion Law came into force on 10 January. "Instead of improving the Law, the amendments worsened it and made it more restrictive," human rights defender Faizinisso Vokhidova told Forum 18. "The Law represents total control and is unjust."

The amendments: allow the state to restrict manifestations of freedom of religion or belief on a wide range of grounds not permitted under international human rights obligations; increase religious organisations' requirements to report all their activity to the state; require state approval for the appointment of all Imams; and increase state control both on religious education at home, and on those travelling abroad for such education (see below).

People from a variety of religious communities, who asked not to be identified for fear of state reprisals, told Forum 18 they already have to submit to the state full details of all their activity and this seems set to increase still further. "We are afraid to give more personal details of our members and religious activity," one community leader said (see below).

But parliamentary deputy Muradullo Davlatov – a former state religious affairs official - defended the new restrictions. "We do not need to be afraid of control," he told Forum 18. "In all normal countries of the world religious organisations are controlled" (see below).

Unfair elections, state control

President Emomali Rahmon has ruled the country since 1992 and his rule has been marked by multiple human rights violations, little sign of the rule of law, and hostility to democracy including electoral fraud. His People's Democratic Party (PDPT) has 51 out of the total of 63 deputies in the lower house of parliament, while the now-banned opposition Islamic Renaissance Party (IRP) has no deputies. The IRP was Central Asia's only legal religious-based political party. Secular civil society organisations, even those not working on political or human rights issues, spoke to a human rights defender known to Forum 18 of a climate of fear before March 2015 parliamentary elections. All exercise of the freedom of religion and belief and related rights is subject to tight state control, with Muslims being targeted by especially severe restrictions (see Forum 18's Tajikistan religious freedom survey http://www.forum18.org/archive.php?article_id=2138).

The Religion Law changes are the latest of a series of restrictions mainly targeting Muslims exercising the freedom of religion and belief. In September 2017 celebrations of the Muslim festival of Id al-Adha (Sacrifice) were seriously restricted, and officials banned haj pilgrimage returnees from holding the normal celebratory meals. Changes to the Traditions Law also, among other restrictions: obliged individuals, including officials, to respect "national dress" (a de facto ban on wearing the hijab (Islamic headscarf) or other "non-traditional" religious clothing; banned offering food on the third, seventh or fortieth day after a funeral as is usual in Central Asia; and gave the complete control of organising participation from Tajikistan in the haj or umra pilgrimages to Mecca. Increased fines for breaking the Traditions Law came into force at the same time (see F18News 12 September 2017 http://www.forum18.org/archive.php?article_id=2315).

Entry into force

Parliament's Lower Chamber adopted the Religion Law amendments on 6 December 2017 and the Upper Chamber endorsed them on 21 December. President Emomali Rahmon signed them on 2 January 2018 and they entered into force on publication on 10 January in the state newspaper "Jumhuriyyet" (Republic).

The amendments were to the Religion Law which came into force in April 2009. This made all exercise of freedom of religion or belief with others without state permission illegal. The Law broke the country's international human rights commitments. Its passage

was marked by a lack of public consultation, parliamentary debate or explanations of the reasons for its introduction. Among the restrictions imposed by the Law were: a ban on religious activity without state permission and obstacles to gain state registration; restrictions on the number and type of permitted mosques; tight controls on religious education; and the imposition of censorship (see Forum 18's Tajikistan religious freedom survey http://www.forum18.org/archive.php?article_id=2138).

The latest amendments to the Religion Law came into force as the State Committee for Religious Affairs and Regulation of Traditions, Ceremonies and Rituals (SCRA) announced that the authorities had closed nearly 2,000 unapproved mosques across the country in 2017, with several hundred more at risk of enforced closure. And conscientious objector prisoner of conscience Daniil Islamov is preparing his final appeal to the Supreme Court against his prison term for refusing to do compulsory military service (see F18News 27 February 2017 http://www.forum18.org/archive.php?article_id=2357).

"The Law represents total control and is unjust"

Faizinisso Vokhidova, an independent human rights defender from the capital Dushanbe, criticised the lack of public consultation over the latest Religion Law amendments. "The public found out about the changes to the Religion Law only after they were signed into Law by the President and were published," she told Forum 18 on 16 February. "There were no public debates or hearings."

Vokhidova criticised the new restrictions. "Instead of improving the Law, the amendments worsened it and made it more restrictive," she told Forum 18. "The Law represents total control and is unjust."

The amended Religion Law, together with the Law on Regulation of Traditions, Ceremonies and Rituals (Traditions Law) first adopted in June 2007, "totally control the doctrinal issues and practical life of Tajikistan's Muslims", Vokhidova stated. "Can you imagine a Muslim not being able to read the Quran and interpret it for themselves? Can you imagine not being able to follow the traditions of your ancestors who have observed rituals for more than a thousand years, for instance for burying the dead, receiving people and treating them to meals over the funeral period? It is all unjust and nonsense."

Vokhidova added: "When peaceful believers who only want to read their Quran and enjoy their free worship cannot do so, they go underground and some of them end up in the traps of radical and extremist movements."

A leader of a religious community, who asked that neither they nor their community be identified for fear of state reprisals, told Forum 18 that "the Law was already oppressive. Now we will have to give the state all kinds of information about our members and our activity," they stated. "The authorities keep heaping pressure on religious communities so that we cannot function normally."

Other people from a variety of religious communities, who asked not to be identified for fear of state reprisals, told Forum 18 that before the latest changes to the Law, they already had to fill out detailed questionnaires given them by the SCRA each year.

The SCRA questionnaire, seen by Forum 18, asks about the number of employees, number of founders' meetings yearly, number of worship meetings, what magazines or newspapers they subscribe to, with which foreign organisations the community co-operated during the year, the sum of money it gave for charity, the amount of money the community received and exactly what it was spent on.

"Now there will be more questions and more details, which will make it very difficult for us to work," the communities told Forum 18 of their fears. "We are afraid to give more personal details of our members and religious activity."

Why no public consultation?

No official at the SCRA in Dushanbe was available or willing to discuss the restrictions in the new amendments with Forum 18 between 15 and 16 February. The phones of the Chair Sulaymon Davlatzoda, First Deputy Chair Jumokhon Giyosov and other officials went unanswered both days. Asked on 15 February about the amendments, the SCRA's Legal Expert Abdurakhmon Mavlanov asked Forum 18 to call back in 20 minutes. He did not answer his phones again between 15 and 19 February.

The General Section of Parliament referred Forum 18 to Imomali Nasriddinzoda, Head of the Committee on Legislation and Human Rights. On 15 February, Nasriddinzoda through his Secretary (who would not give her name) asked Forum 18 to call back on 16 February. However, when called back, the Secretary told Forum 18: "We can talk to you only after the Foreign Ministry endorses your written questions."

Olim Salimzoda, Head of Parliament's International Relations Committee, recommended Forum 18 to discuss the amendments with committee member and Lower Chamber Deputy Muradullo Davlatov, a former head of the SCRA. "He is a theologian and is more competent in these issues to talk to you," Salimzoda told Forum 18 on 15 February.

Asked why no public debates or discussions were held and why civil society was not given a chance to participate in preparing the amendments, Deputy Davlatov told Forum 18 on 16 February: "Parliament, which represents the will of the people of Tajikistan, is capable of preparing the Law."

Asked why concerns of religious communities as well as of the wider public about restrictions on freedom of religion or belief were not taken into account, Davlatov again claimed that "Parliament, which represents the will of the people of Tajikistan, is capable of preparing the Law."

Tajikistan has never held an election found to be free and fair by Organisation for Security and Co-operation in Europe (OSCE) Election Observation Missions (see Forum 18's Tajikistan religious freedom survey http://www.forum18.org/archive.php?article_id=2138).

Forum 18 pointed out that the United Nations had several times called on Tajikistan to improve the Religion Law and to abolish the restrictions to religious freedoms, as well as to provide for more freedoms, such as a civilian alternative to compulsory military service (see Forum 18's Tajikistan religious freedom survey http://www.forum18.org/archive.php?article_id=2138).

Asked why Tajikistan did not integrate any of these recommendations into the Law, Deputy Davlatov replied (wrongly, as UN recommendations are based on binding international legal obligations): "Those are only recommendations but not obligations," he told Forum 18. "You need to understand that we have our own specific situation."

Told that Jehovah's Witness Daniil Islamov was jailed in 2017 for refusing to take up arms and asking to perform alternative service instead (see F18News 5 December 2017 http://www.forum18.org/archive.php?article_id=2337), and asked what he means by "specific situation", Deputy Davlatov claimed: "The people of Tajikistan do not want alternative service, and Parliament represents the will of the people."

The United Nations Human Rights Committee has twice urged Tajikistan to recognise the right to conscientious objection and to provide alternative civilian service. But the government has failed to do this (see F18News 31 August 2017 http://www.forum18.org/archive.php?article_id=2312)

Illegitimate restrictions

Religion Law Article 4 was amended to say that "Restriction of the right of freedom of conscience and faith is permitted only for the purpose of ensuring the rights and freedoms of others, public order, as well as protection of the constitutional order, security of the state, defence of the country, public morality, public health and territorial integrity of the country".

Some of these criteria (such as protecting the constitutional order, security of the state, defence of the country and the country's territorial integrity) are not legitimate grounds for restricting the manifestation of freedom of religion or belief.

Article 18 ("Freedom of thought, conscience and religion") paragraph 3 of the International Covenant on Civil and Political Rights (ICCPR) specifies the only grounds on which manifestations of the freedom of thought, conscience and religion may be limited: "Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others."

United Nations Human Rights Committee General Comment No. 22 paragraph 3 notes that ICCPR Article 18 "is to be strictly interpreted: restrictions are not allowed on grounds not specified there, even if they would be allowed as restrictions to other rights protected in the Covenant, such as national security. Limitations may be applied only for those purposes for which they were prescribed and must be directly related and proportionate to the specific need on which they are predicated. Restrictions may not be imposed for discriminatory purposes or applied in a discriminatory manner" (see http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f21%2fRev.1%2fAdd.4&Lang=en).

More arbitrary restrictions on and control of religious activity

Amended Religion Law Article 6 says that the "authorised state religious affairs organ carries out control of the activity of religious organisations in performing religious rituals" as well as "prepares and adopts by-laws aimed at realisation of state policy on religion in accordance with its competences."

Amended Article 10 says that "A religious organisation is obliged yearly, by 31 December of each year, to inform the authorised state religious affairs organ on the continuation of its activity, providing data which are entered into the State Registry of organisations. Failure to do so can be a reason for halting the activity of the organisation."

Article 16, in addition to the name, address, and other technical details, demands that a religious organisation provides information on all its activity throughout the year, to enter into the State Registry.

Amended Article 19 demands that religious organisations "provide the SCRA on request with information on the sources of income, inventory of its property, expenditure of its resources, number of its employees, salaries paid, the sums of taxes paid and other

necessary information".

Article 19 also demands that religious organisations "assist the representative of the authorised State Religious Affairs organ to familiarise with the organisation's appropriate activity for reaching its goals and compliance with the laws".

Forum 18 pointed out to parliamentary deputy Davlatov that the Religion Law became more restrictive and clearly indicates that the state controls religious organisations by annually obtaining all kinds of information about their members and activities, that Article 4 in particular is vague and provides for arbitrary state restrictions, and asked why the state restricts and controls individuals as they exercise their right to freedom of religion or belief.

Deputy Davlatov replied: "It's all normal. We do not need to be afraid of control. In all normal countries of the world religious organisations are controlled. We need to stop extremism and terrorism." When Forum 18 repeated the question, Davlatov claimed: "We need to make sure that they are peaceful."

State does "not appoint but only endorses Imams"?

Amended Religion Law Article 5 says that a religious organisation "elects, appoints and substitutes its servants and employees according to its religious beliefs and requirements of Tajikistan's laws". However, the amended Article 11 states that "the election of sar-hatyps, imam-hatyps and imams of mosques is conducted with the agreement of the authorised state religious affairs organ".

Asked whether this is not interference in the internal affairs of mosques, Davlatov insisted to Forum 18 that this does "not mean that the State appoints those Imams, but only endorses the Imams elected by their communities". Asked what will happen in cases where the authorities do not endorse an elected Imam, he responded: "I do not know. We have to see in a specific situation when it happens."

Where can non-Hanafi Muslims attend mosque?

Muslims have long been targeted by especially tight restrictions on their freedom of religion and belief, with state-imposed Sunni Hanafi Islam being almost the only permitted form of Islam (see Forum 18's Tajikistan religious freedom survey http://www.forum18.org/archive.php?article_id=2138). The one limited exception is for followers of the Ismaili branch of Shia Islam, who live mainly in Mountainous Badakhshan Autonomous Republic in eastern Tajikistan.

Amendments to Religion Law Article 5 state: "In accordance with Tajikistan's Constitution the ideology of no political party, public or religious association, movement or group can be recognised as state ideology." However, the preamble to the Religion Law says that it "recognises the particular role of the Hanafi school of Islam in the development of the national culture and spiritual life of people of Tajikistan".

Asked why the Law recognises the particular role of Hanafi Islam while it clearly states that the ideology of no religious movement can be recognised as state ideology, Deputy Davlatov insisted that "this is only to recognise Hanafi Islam's historic role in the spiritual development of Tajik people." He claimed that this would have "no legal consequences".

Forum 18 noted that under Article 11 elected Imams of mosques will have to gain endorsement by the state authorities, and that these Imams (who have received state salaries since 2014) will have to abide by the teachings of Hanafi Islam. Forum 18 then asked where Muslims who want to follow other forms of Islam than Hanafi Islam can attend mosques. Deputy Davlatov replied: "Those Muslims can ask the state to register their mosque according to their beliefs."

Forum 18 also noted that the SCRA had claimed to have closed over 2,000 mosques in 2017, claiming that "too many exist" and that they were closed at the request of local people (see F18News 26 February 2018 http://www.forum18.org/archive.php?article_id=2356). Forum 18 then asked whether registering mosques independent of the state is possible, ex-SCRA head and current parliamentary Deputy Davlatov claimed: "Yes, why not? We are a democratic state."

A former Imam of a mosque in Isfara forcibly closed in 2017 stated on 21 February 2018 that Muslims from his district now have to go to a mosque in a neighboring mahalla (residential area). "Many of the Muslims from my mosque are old and some are ailing. It is hard for them to walk several kilometres on unlit streets, especially in the early morning and late evening." The Mosque had existed since Soviet times (see F18News 26 February 2018 http://www.forum18.org/archive.php?article_id=2356). Very large numbers of mosques and Muslim prayer rooms have been forcibly closed by the state in recent years (see eg. F18News 6 May 2016 http://www.forum18.org/archive.php?article_id=2175).

Khuseyn Shokirov, SCRA official responsible for work with Mosques, insisted to Forum 18 on 19 February that "Hanafi Muslims have no more privileges than other Muslim communities". Asked who else can have a registered Mosque other than Hanafi Muslims and a limited number of Ismaili communities, he could not answer.

Asked whether Ahmadi Muslims for instance can register a community, Shokirov responded: "Their beliefs must correspond to our

laws." He did not explain what he meant. He refused to answer any further questions.

Religious education under total state control

All non-state-controlled Islamic religious education is banned, with all madrassahs (Islamic religious schools) being forcibly closed down by the state. The last madrassah was forcibly closed down in July 2013 (see Forum 18's Tajikistan religious freedom survey http://www.forum18.org/archive.php?article_id=2138).

Amended Religion Law Article 7 authorises the SCRA to "control the procedure for religious education for the purpose of preventing illegal teaching, propaganda and spread of extremist ideas, religious hatred and enmity".

Amended Article 8 states that "Receiving religious education in foreign countries as well as foreign institutions of religious education is permitted only after receiving religious education in Tajikistan with written permission of an authorised state religious affairs organ. The order of receiving religious education in foreign countries is determined by Tajikistan's government."

Asked why individuals must receive state permission to study religion and in particular for study abroad, Deputy Davlatov told Forum 18: "We need to control for instance those who want to study Islam. There have been too many extremists who studied in some of those schools abroad." Asked why Protestants, Jehovah's Witnesses or Russian Orthodox, for instance, must ask the state's permission for religious education, he retorted: "It's not permission but only endorsement." Asked what the difference is he could not answer. (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=2138.

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.

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

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY