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UZBEKISTAN: Restrictions remain in draft new Religion Law

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The draft new Religion Law now in Parliament would, in defiance of Uzbekistan's international human rights commitments, continue to ban all exercise of freedom of religion and belief without state permission, ban teaching about religion without state permission, continue the compulsory prior censorship of all materials about religion and ban sharing of faith. "There's not much difference between the draft Law and the current Law," commented human rights defender Bahodyr Eliboyev.

Uzbekistan's draft new Religion Law – which officials have promised for several years - maintains many of the restrictions in the current Religion Law, Forum 18 notes. In defiance of Uzbekistan's international human rights commitments, it would – if adopted in its current form - continue to ban all exercise of freedom of religion and belief without state permission, ban teaching about religion without state permission, continue the compulsory prior censorship of all printed and electronic materials about religion and ban sharing of faith.

Although the draft Law would reduce the number of adult citizens required to apply for a community to be allowed to exist from the current 100 to 50, it would retain the burdensome registration process, as well as most of the web of restrictions. Registered religious organisations would still need to inform the authorities of any non-worship events they plan to hold away from their registered premises (see below).

"There's not much difference between the draft Law and the current Law," human rights defender Bahodyr Eliboyev from Fergana Region told Forum 18.

"The state must not be afraid of giving full freedom of religion and belief," insisted human rights defender Abduvohid Yakubov from Tashkent. "These are natural rights of each citizen from birth," Yakubov told Forum 18. "The Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights talk about this clearly. As the United Nations Special Rapporteur on Freedom of Religion or Belief, Ahmed Shaheed, stated during his visit to Uzbekistan in 2017, unlawful limitations on freedom of religion and belief must be banned."

Following his October 2017 visit to Uzbekistan, Special Rapporteur Shaheed recommended (A/HRC/37/49/Add.2 (<http://undocs.org/en/A/HRC/37/49/Add.2>)) that: "A new law on freedom of religion or belief should be fully compatible with article 18 of the International Covenant on Civil and Political Rights", as well as that "The new draft law should be open to consultations and comments by the public, especially civil society, religious and belief communities and international partners, including the United Nations system".

Members of religious communities and human rights defenders have expressed their frustration to Forum 18 about the secrecy of the new Religion Law's drafting process, and the regime's apparent lack of willingness to end restrictions violating human rights obligations. Officials' statements about a draft text do not match the concrete changes people in Uzbekistan have said they would like to see in a new Law. (http://www.forum18.org/archive.php?article_id=2576)

The regime has announced no proposed changes to the Criminal and Administrative Code punishments for exercising freedom of religion or belief (see below).

The draft text of the new Religion Law was made public on the parliamentary website in Uzbek and Russian on 19 August "for public discussion". The website gives a parliamentary email address for those wishing to submit comments. However, it gave no deadline for when comments need to be submitted by.

The parliamentary website noted the same day that the draft Law had reached the Legislative Chamber of parliament, the Oliy Majlis.

The draft Religion Law "seeks to regulate the relationship between state bodies and religious organisations to ensure the right of everyone to freedom of conscience, equality of citizens regardless of religion, and inter-ethnic and inter-religious harmony in society", the website claimed.

It remains unclear if assessing any comments from the public and initial consideration of the draft Law will be in the hands of the Legislative Chamber's Committee on Democratic Institutions, Non-Governmental Organisations and Citizens' Self-Government Bodies. This Committee is chaired by Shukhrat Bafayev.

Contradicting Uzbekistan's UPR pledges

Uzbekistan announced in April 2020 its candidacy for membership for 2021 to 2023 of the United Nations Human Rights Council, which oversees the Universal Periodic Review of all UN member states' human rights record. However, many provisions of the current (http://www.forum18.org/archive.php?article_id=2314) and the draft new Religion Law, as well as numerous other laws, contradict Uzbekistan's own promises made during its last UPR in 2018 (http://www.upr-info.org/sites/default/files/document/uzbekistan/session_30_-_mayo_2018/uzbekistan_2rp.pdf).

Among UPR recommendations Uzbekistan claimed to accept but has not implemented in the draft Religion Law or earlier were two from Ghana: to "ensure that the right to manifest one's religion in private or in public is fully protected and realized"; and "Consider removing burdensome and oppressive registration requirements, and rescind intrusive government practices, including monitoring and raiding, which infringe on the right to freedom of religion or belief".

Uzbekistan also claimed to accept but has not implemented in the draft Religion Law or earlier a recommendation from Canada: "Revise provisions in the country's criminal and administrative codes relating to freedom of religion or belief, so as to conform with article 18 of the International Covenant on Civil and Political Rights". This accepted but not implemented recommendation follows the September 2017 recommendation of UN Special Rapporteur Shaheed (A/HRC/37/49/Add.2 (<http://undocs.org/en/A/HRC/37/49/Add.2>)) that: "A new law on freedom of religion or belief should be fully compatible with article 18 of the International Covenant on Civil and Political Rights".

Long delay

Senior government officials have claimed over many years that a new Religion Law will be adopted to replace the current Law (http://www.forum18.org/archive.php?article_id=2576), which mostly dates back to 1998.

On 17 September 2018, Sadyk Safoyev, the first deputy chair of the Senate, the upper chamber of parliament, announced that the Justice Ministry had prepared a draft new Religion Law, which was being discussed with "foreign specialists". He did not explain why the text had not been published in Uzbekistan for public discussion.

Officials gave the only previously-known draft to a small number of people approved by the government in May 2019. This text contained many of the restrictions on the exercise of freedom of religion or belief (http://www.forum18.org/archive.php?article_id=2527) that remain in the August 2020 public draft.

On 20 August 2020, the day after parliament had announced it, the Justice Ministry too announced the new draft on its website. It noted that "experts, specialists and all citizens can present their proposals" about the draft Law.

"The draft Law was prepared by the Justice Ministry together with interested Ministries and Agencies with the aim of fulfilling the Decree of the President of Uzbekistan of 22 June 2020," the Justice Ministry said.

The June 2020 Decree outlines a human rights "Road Map". It gives a date for the Religion Law of 1 October 2020, but does not explain if this is the date by which the Justice Ministry is to produce a draft or if Parliament is to approve it.

The Justice Ministry claimed that in preparing the draft, "the norms of international law, the experience of developed Western countries in the given sphere were studied, analysed and used, while the views of international experts were also taken into account".

Officials stated during a meeting in the Oliy Mejlis building on 20 May that they expected the new Religion Law to be adopted by the end of 2020 (http://www.forum18.org/archive.php?article_id=2576).

State control over exercise of freedom of religion or belief to continue

Despite provisions in Article 5 and Article 9 of the August 2020 draft Law that religion is separate from the state, human rights defenders and religious communities complain about the proposed continued role for the state to restrict and interfere in the exercise of freedom of religion or belief (http://www.forum18.org/archive.php?article_id=2314).

"Article 9 of the Draft Law declares the principle of separation of religion and state on the basis of mutual non-interference in the affairs of each other," human rights defender Bahodir Eliboyev from Fergana Region told Forum 18 on 21 August. "Even the title of the Article sounds ridiculous. Why does the state interfere in the activity of religious organisations if it does not interfere?"

Human rights defender Abduvohid Yakubov from Tashkent expressed similar concern about the proposed continuing role for state officials. "The Religious Affairs Committee is given so many responsibilities that there is no doubt that it will directly interfere in the affairs of religious communities," he told Forum 18 on 21 August.

The draft Law "lacks logical sense", Yelena Uralyeva who chairs the Human Rights Alliance told Forum 18. "Under the Constitution, religion is separate from the state, yet religious communities must be registered by state agencies. Religious communities are bound to the state by having to register, by paying taxes, and by the possibility of being liquidated by the state under this Law," she said on 21 August.

Religion Law part of web of state controls

While the Religion Law is the main legal text setting out the state's control over the exercise of freedom of religion or belief, it is by no means the only one.

The Criminal and Administrative Codes include numerous provisions punishing the exercise of freedom of religion or belief (http://www.forum18.org/archive.php?article_id=2314).

Other laws which remain in force also include restrictions. The 2014 Law on Prevention of Violations of the Law gives wide-ranging powers to state bodies, including committees which run mahallas [local districts], as well as non-state and non-commercial public organisations and ordinary citizens (http://www.forum18.org/archive.php?article_id=2314). The Law requires individuals punished for exercising freedom of religion or belief to be placed on the Preventive Register and be subjected to close control.

The Prevention Law also gives mahalla committees wide powers in co-operation with the police. These include the requirement to "take measures to prevent the activity of unregistered religious organisations, ensure observance of rights of citizens to religious freedoms, not allow forced propagation of religious views, consider other questions related to observance of the Religion Law".

While the August 2020 draft Religion Law makes no mention of any role for mahalla committees in restricting freedom of religion or belief in their local districts (unlike in the current Law), the Prevention Law still requires mahalla committees them to restrict freedom of religion and belief.

In addition to the registration obstacles in the Prevention Law and the draft Religion Law if passed, detailed regulations on how registration applications can be made, and matters such as the censorship procedures for all religious materials (http://www.forum18.org/archive.php?article_id=2314), provide more barriers to exercising freedom of religion and belief.

Alongside published legal texts, official attitudes also play an important role in restricting the exercise of freedom of religion or belief. After years of autocratic rule in Uzbekistan, police and secret police officers, prosecutors, courts and other officials and state bodies are used to denying individuals' rights, including to freedom of religion or belief (http://www.forum18.org/archive.php?article_id=2314).

Suspicion of exercise of freedom of religion or belief remains

The August 2020 draft new Religion Law – like the current 1998 Law – is framed with a deep suspicion of the exercise of freedom of religion or belief, alongside the unspoken assumption that exercise of the right needs to be controlled.

Such an approach is evident in the definitions in Article 3 of "missionary activity", "proselytism" and "illegal religious activity". Article 11 bans "any forms of missionary activity and proselytism capable of destroying inter-religious accord and religious tolerance in society" (see below).

Article 10 describes one of the state's aims in enacting policy on freedom of religion and belief: "to counter the implanting and spread of various religious ideas and views threatening public order, health and the morals of individuals".

Article 11 also bans, among other things, "the use of religion with the aim of violent change to the constitutional order, violation of territorial integrity, Uzbekistan's sovereignty, the denigration of the Constitutional rights and freedoms of citizens, propaganda of war and national, racial, ethnic or religious hatred, causing harm to the health and morals of citizens, violation of civil accord, the spread of slanderous fabrications destabilising the situation, the creation of panic among the population and the carrying out of other actions directed at the person, society and the state".

The Article also bans use of religious organisations for criminal or mercenary aims.

Article 13 bans registered religious organisations from "carrying out forcible financial collections and levies on believers, as well as conducting other measures harming the honour and worth of the individual".

It remains unclear why these explicit bans are included in the draft Religion Law when these bans are already included in laws of general applicability which cover such actions by anyone.

Exercise of freedom of religion and belief without state permission still to be banned

Article 3 of the August 2020 draft, which defines concepts in the proposed Law, identifies "illegal religious activity" as "the carrying out of activity by religious organisations without undergoing registration under the established procedure or outside the territory of [their legally allowed] activity, and the undertaking of educational activity on a private basis".

Drawing on this definition, Article 11 of the draft declares that "illegal religious activity" is not allowed.

Council of Churches Baptists – who refuse on principle to seek state permission to exercise freedom of religion or belief and have been frequently raided and punished for meeting for worship (http://www.forum18.org/archive.php?article_id=2314) – told Forum 18 on 24 August that the proposed new Law fails to respect their internationally-recognised right to exercise freedom of religion or belief without state permission.

Exercise of freedom of religion or belief at home still to be limited

Article 13 of the August 2020 draft specifies where registered religious communities are allowed to conduct "religious rites and ceremonies". These include in registered places of worship, places of pilgrimage, cemeteries and "in cases of ritual necessity" in homes at individuals' request.

This provision – which repeats the wording of the current Religion Law - appears to ban individuals from organising meetings for worship or other religious activity in their own homes.

Religious teaching without state permission still to be banned

Article 3 of the August 2020 draft, which defines concepts in the proposed Law, identifies "illegal religious activity" as including "the undertaking of educational activity on a private basis".

Drawing on this definition, Article 11 of the draft declares a ban on "the teaching of religious beliefs on a private basis, with the exception of education in the basics of religious practice and the ethics of behaviour given to their own children by parents and those in their place".

Article 3 defines a "religious educational establishment" as "an institution created by a central organ of administration [registered centralised religious organisation] to prepare clergy and necessary religious personnel, belonging to a particular confession".

Article 34 states that only centralised religious organisations registered by the Justice Ministry can establish religious educational establishments. Before applying to register such institutions, a centralised religious organisation needs an approval letter from the Religious Affairs Committee.

Article 19 allows religious educational establishments to function only after the Justice Ministry has registered them and the Religious Affairs Committee has given them a state licence. Only adults would be allowed to study in such institutions. Everyone teaching a religious subject in such institutions "must have professional religious education".

This means that religious communities which have been unable to register centralised religious organisations, or do not have communities in at least 8 of the country's 14 regions making them ineligible to apply, cannot try to register a religious educational establishment. Nor could several communities of different religious communities set up a joint religious educational establishment.

Nor, it seems, could a religious educational establishment offer education to individuals who want to learn more about their own or other faiths without this leading to a specific role in that registered religious community.

Human rights defender Yakubov calls for all religious organisations to be allowed to offer religious education, not only those which have been able to gain state recognition as "centralised religious organisations".

Article 15 hands to the regime's Religious Affairs Committee the organisation of local people going to study in religious educational establishments abroad, and people coming from abroad to study in religious educational establishments in Uzbekistan.

Human rights defender Yakubov calls for this Religious Affairs Committee role to be abolished.

Sharing faith still to be banned

Article 3 of the August 2020 draft, which defines concepts in the proposed Law, identifies "missionary activity" as "activity for

spreading religious teaching and the implanting of religious views of an individual religious association by means of the purposeful deployment of ideological pressure on an individual (or group of individuals) with the aim of their turning to membership of the given association".

Article 3 then defines "proselytism" as "one of the forms of missionary activity by religious organisations having as the goal the turning of representatives of other religious to their own religion".

Drawing on these definitions, Article 11 of the draft declares a ban on "any forms of missionary activity and proselytism capable of destroying inter-religious accord and religious tolerance in society".

Religious censorship to continue

The August 2020 draft continues the prior, compulsory state censorship (http://www.forum18.org/archive.php?article_id=2314) of all "materials of religious content". Article 3 defines these as all printed and electronic materials, including on the internet, as well as signs and symbols, "expressing the dogmatic bases, history and ideology of the teaching and commentary on it, the practice of rituals of different religious faiths, as well as an evaluation from a religious position of individual personalities, historical facts and events".

Article 14 declares that the Cabinet of Ministers sets out the procedure for individuals and legal entities to be allowed to produce, import or distribute materials about religion.

"Production, import or distribution of materials of religious content on the territory of the Republic of Uzbekistan is carried out after receiving a positive conclusion of a religious studies expert analysis with the aim of suppressing in society ideas capable of destroying inter-religious accord and religious tolerance and calling for violence and outrages on a religious basis."

Article 15 identifies the regime's Religious Affairs Committee as the body that enforces this state censorship by conducting "expert analyses" of all materials on religion.

Restrictions on religious leaders to continue

Article 29 of the August 2020 draft declares: "The leader of a religious organisation can be an individual having appropriate religious education." However, having religious education appears to be a requirement for the leader of a registered religious organisation, not a choice.

Article 34 requires applications to register a centralised religious organisation or a local religious organisation to include "a document on the presence of religious education" of the leader.

The draft Law does not explain why religious leaders need state approval for their religious qualifications, nor define what level of religious education is sufficient to satisfy officials, nor whether it matters where this religious education was obtained.

Article 29 requires leaders or employees of a registered religious organisation who are foreign citizens to be accredited by the Justice Ministry. The current Law requires leadership candidates who are foreign citizens to be approved by the Religious Affairs Committee.

Burdensome registration approval to continue

Article 32 specifies that the Justice Ministry registers centralised religious organisations and religious educational establishments. Local Justice Departments in the 14 regions register local religious organisations.

However, applications for registration of any level of religious organisation require an approval letter from the Religious Affairs Committee. It remains unclear how the Committee decides whether to approve an application or not, nor what a community can do if the Committee refuses to give its approval.

Compulsory approval from the Religious Affairs Committee "must be removed", says human rights defender Yakubov. "The Committee has always abused its powers against religious communities and particularly mosques since 1998. It always created numerous obstacles in order not to register local mosques."

Yakubov noted that only about 2,000 mosques have been allowed across the country for a Muslim population he estimates at over 30 million. "Thousands of local mosques were closed down with the excuse that they had been built without the Committee's approval."

Yakubov pointed to Fergana Region, where he says "you can travel for tens of kilometres" with no mosque. "Scores of mosques are ready for registration but cannot get it because of the obstacles created by the Committee."

Another religious community which has faced numerous registration denials pointed to the Religious Affairs Committee's role in

arbitrarily rejecting applications.

Local religious organisations also need to include a "letter of guarantee" from their regional Hokimat (administration) or, in the case of Karakalpakstan, its Council of Ministers, accompanied by "a conclusion on the appropriateness of the immovable property of a religious organisation which it proposes to use as its postal address, with the demands of town-planning norms and the fire-safety rules and sanitary-hygienic norms".

Applications also need to include information about the organisation's founders, and the founding meeting, and – for centralised and local organisations – a document confirming that the leader has appropriate religious education (see above).

Enforced liquidation still to be possible

Officials will under Article 43 of the draft Law still be able to seek the liquidation of registered religious organisations, though now this must be done through the courts, not by the Justice Ministry or Justice Department as under the current Law.

Reasons for liquidating a registered religious organisation include "violating legislation by the religious organisation". A court can, at the request of the Prosecutor's Office or Justice Ministry or Justice Department, suspend a registered religious organisation for six months for "activities contradicting the aims in its statute" or failing to correct "violations" pointed out by these bodies.

Suspension or liquidation of a registered religious organisation means that any activity by members of such communities become illegal and punishable under the Criminal or Administrative Codes.

Independent mosques banned or not?

The August 2020 draft Law – like the current Law – contains no provisions that specifically ban Muslim communities outside the framework of the state-controlled Muslim Board (Muftiate) from seeking state registration. However, officials have always refused to register such communities without giving any valid reason why independent mosques or mosques of non-Muslim Board affiliation cannot exist (http://www.forum18.org/archive.php?article_id=2314).

The last provision of Article 30 – which specifies which documents must accompany registration applications - declares: "Statutes of religious organisations which have centralised organs of administration must be agreed by these organs."

Officials might interpret this provision in a way that prevents any mosque without the approval of the Muslim Board (or Orthodox church without the approval of the Russian Orthodox Church's Tashkent diocese) from seeking state registration.

Notification of off-site religious events still needed

Article 22 of the draft Law, which sets out obligations of registered religious organisations, requires them "to notify the [Religious Affairs] Committee on the conducting of events (conferences, seminars, training sessions, meetings, events, round table meetings, symposia, with the exception of events by religious organisations in the form of prayers, religious rites and rituals) for a timely decision by the organs of state power in the places of the organised events".

While maintaining the current requirement for notification of all aspects of proposed events away from a registered religious community's registered premises, the draft Law would contradict the requirement under a 1 June 2018 Justice Ministry Decree. This specifies notification to the Justice Ministry or local Justice Departments, not to the Religious Affairs Committee. No plans have been announced to amend or abolish the Decree.

At present, under the 2018 Decree, non-commercial organisations (including religious organisations) must inform the Ministry or the local Justice Department of plans to hold events such as seminars or conferences away from their registered premises (http://www.forum18.org/archive.php?article_id=2589). They must give 10 days' notice or – if any foreign citizens are involved – 20 days' notice.

A religious community the state allows to exist must give the reasons for any event, the address, date and time, how many people are due to attend, what type of people they are (students, women, children), sources of finance, and provide copies of any literature or audio-visual material that will be used at the event. Any foreign citizens attending have to be named, with information on their citizenship and date of birth.

The Decree says religious communities do not have to give such notice for "religious rituals", but they do if the events are of any other nature.

Justice Ministry officials can ban such events if religious communities fail to submit full information or if the proposed event is not in line with the law. If religious events go ahead without notifying the Justice Ministry or in defiance of a Justice Ministry ban, the organisers can face punishment.

"We hope that according to the new Law we will not be required to give advance notice of our meetings and spiritual exercises of our believers, including information about the participants and topics discussed," Bishop Jerzy Maculewicz, head of the Catholic Church in Uzbekistan, told Forum 18 in June 2020 (http://www.forum18.org/archive.php?article_id=2576).

Religious Affairs Committee approval for building places of worship

Article 24 of the draft Law requires the Religious Affairs Committee to approve the granting of land for building to any registered religious organisation. Presumably, such permission would be required in addition to any permission on planning grounds from local administrations.

Human rights defender Yakubov describes this provision as "a mechanism for the Committee to control religious communities".

The current Religion Law requires such permission from the Cabinet of Ministers and regional administrations.

Minor restrictions eased

The August 2020 draft eases some of the restrictions in the current Law. Most notable is the reduction of the number of adult citizens living in one town or district needed to apply to register a local religious community from 100 to 50.

However, even with this number of founders, officials have many possibilities to find reasons to reject applications from communities they do not like, as frequently happens at present.

This also means that no community with fewer than 50 adult citizen members would be able to exercise freedom of religion or belief collectively.

The January 2009 OSCE ODIHR Comment on Kazakhstan's proposed Religion Law Amendments (http://www.legislationline.org/download/id/3350/file/125_REL_KAZ_2009_eng.pdf) described a threshold of 50 members for a community to be able to gain legal entity status as "excessive".

Article 39 of the draft reduces the maximum time the Justice Ministry or regional Justice Departments are allowed to consider registration applications from three months in the current Law to one month.

Under Article 37, registered religious organisations must notify any changes to their postal address, bank details or ruling body to the Justice Ministry or regional Justice Departments electronically within one month. Under the current Law, such changes require the full re-registration of the organisation, with all the burdensome requirements this entails.

The draft does not continue the bizarre provision in Article 14 of the current Religion Law which bans people who are not registered clergy from appearing in public wearing religious clothes.

Electronic documentation

Article 51 of the draft Law notes that the registration process (which it describes as a "state service") is to be done online. Applications for registration are to be submitted electronically and registration certificates are held online in a registered religious community's online account.

However, although religious organisations seeking registration will have to submit documentation electronically, such documents will still be considered by officials. Whether they continue to use arbitrary criteria for rejecting applications from communities they do not like remains unclear.

The draft Law does not say if registered religious communities' compulsory annual reports on their activity to the Justice Ministry or regional Justice Departments are to be submitted electronically.

No mention of compulsory re-registration

The August 2020 draft makes no mention of whether or not religious communities that have state registration now will be required to re-register under the terms of the new Law. All registered religious communities were required to re-register the last time Uzbekistan adopted a new Religion Law in 1998 (http://www.forum18.org/archive.php?article_id=105).

After Religion Law changes in other countries – including Kazakhstan (http://www.forum18.org/archive.php?article_id=2409) and Azerbaijan (http://www.forum18.org/archive.php?article_id=2429) – registration of existing communities was annulled and re-registration for those which wished to retain legal status was compulsory. Many religious communities failed to get such re-registration. Such re-registration requirements are often set out in transitional measures at the end of new Laws. (END)

Full reports on freedom of thought, conscience and belief in Uzbekistan
(<http://www.forum18.org/archive.php?query=&religion=all&country=33>)

For more background, see Forum 18's Uzbekistan religious freedom survey (http://www.forum18.org/archive.php?article_id=2314)

Forum 18's compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments
(http://www.forum18.org/archive.php?article_id=1351)

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