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UZBEKISTAN: "The draft Religion Law is only an advertisement"

By Felix Corley, Forum 18 (<https://www.forum18.org>)

A Venice Commission and OSCE ODIHR opinion on the draft Religion Law has been welcomed by human rights defenders and members of religious and belief communities. Officials have not explained why a draft which they knew seriously failed to implement human rights was sent for review. "We need to understand that the draft Law is only an advertisement for Uzbekistan aimed at international organisations and foreign states," one Muslim noted to Forum 18. "If the authorities wanted real freedom for the people, then the draft Law would have been very different."

A Joint Opinion of the Venice Commission and the OSCE Office for Democratic Institutions and Human Rights (ODIHR) on Uzbekistan's draft Religion Law was published on 12 October. The Joint Opinion finds that the draft Law "maintains major restrictions and suffers from deficiencies that are incompatible with international human rights standards". It also repeats many points which have previously been made in 2017 by UN Special Rapporteur on Freedom of Religion or Belief Ahmed Shaheed; made to and accepted by Uzbekistan in 2018 during the UN Universal Periodic Review Process; and made in May 2020 – before the draft Law was published and sent for review - by the UN Human Rights Committee.

Many of these points have also already been previously made by human rights defenders and others the regime rules (see below).

The Joint Opinion has been welcomed by human rights defenders and others. "I totally agree with all of it," a human rights defender who wished to remain anonymous for fear of state reprisals told Forum 18 on 13 October. "The Religion Law must change significantly, and I do not see this change in the draft Law" (see below).

A Muslim who asked to remain anonymous for fear of state reprisals told Forum 18 on 14 October: "We need to understand that the draft Religion Law is only an advertisement for Uzbekistan aimed at international organisations and foreign states. If the authorities wanted real freedom for the people, then the draft Law would have been very different from what it actually is", the Muslim observed (see below).

A Protestant who wished to remain anonymous for fear of state reprisals told Forum 18 that the draft Law is "not much different from the current Law. We do not understand why a new Religion Law is needed if the current Law is not going to be improved in any of its essential points" (see below).

In contrast to people the regime rules, regime officials did not welcome the Joint Opinion. Forum 18 asked the state-controlled National Human Rights Centre, the Presidential Administration, the Religious Affairs Committee, and the Parliament why the regime sent the draft Religion Law for review knowing that the draft seriously failed to implement legally binding human rights obligations. Forum 18 also pointed to the specific implementation recommendations made in 2017 by UN Special Rapporteur on Freedom of Religion or Belief Shaheed, in 2018 during the UN Universal Periodic Review Process, in May 2020 by the UN Human Rights Committee, and by human rights defenders and others in Uzbekistan (see below).

Oybek Akhmadov, Deputy Chair of the state-controlled National Centre for Human Rights, refused to explain why the prepared text was incompatible with international human rights standards and was sent for review in that knowledge, claiming that "we will send an e-mail to the Venice Commission and explain the situation". Its Director is Akmal Saidov, who requested the review and claimed to the UN Human Rights Committee in March 2020 that the new Religion Law "would reflect the standards enshrined in the Covenant [International Covenant on Civil and Political Rights]" (see below).

The Religious Affairs Committee (which is criticised in the Joint Opinion) also refused to explain to Forum 18 why the prepared text was incompatible with international human rights standards and was sent for review in that knowledge. Religious Affairs Committee Chair and State Security Service (SSS) secret police Colonel Abdugafur Akhmedov and his deputies were all claimed to be "on a business trip" (see below).

Afzal Artykov, Head of the International Relations Section of the Senate, when asked why the Oliy Majlis failed to implement legally binding human rights obligations claimed that "88 per cent of the population are Uzbeks. We need to take into account their wishes and desires first of all, and our historical context and the national mentality." He then quickly added that "of course, we are

also taking into account the international recommendations, which is why we were recognised and honoured by being elected to the United Nations Human Rights Council". He did not explain why his claim to "take into account" the alleged "wishes and desires" of some of the population led to ignoring human rights defenders and members of religious and belief communities, as well as not holding free and fair elections (see below).

People in Uzbekistan have repeatedly criticised restrictions on the exercise of freedom of religion or belief in the current Religion Law, 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. They have also outlined what changes they would like to see in a new Religion Law and the regime's actions, but – as with the opinions of international experts - the regime has also ignored these criticisms made by the people it rules (see below).

"Incompatible with international human rights standards"

A Joint Opinion of the Venice Commission and the OSCE Office for Democratic Institutions and Human Rights (ODIHR) on the draft Religion Law ([http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2020\)002-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2020)002-e)) was published on 12 October.

The Joint Opinion identifies relevant international human rights obligations which Uzbekistan is legally and politically bound to implement. The Joint Opinion also repeats many of the points noted above which have previously been: made in 2017 (<http://undocs.org/en/A/HRC/37/49/Add.2>) by UN Special Rapporteur on Freedom of Religion or Belief Shaheed; made to and accepted by Uzbekistan in 2018 (http://www.upr-info.org/sites/default/files/document/uzbekistan/sesion_30_-_mayo_2018/uzbekistan_2rp.pdf) during the UN Universal Periodic Review Process; and made in May 2020 (<http://undocs.org/CCPR/C/UZB/CO/5>) – before the draft Law was published and sent for review - by the UN Human Rights Committee. Many of the Joint Opinion's points have also already been previously made by human rights defenders and others the regime rules Uzbekistan.

The October 2020 Joint Opinion finds that the draft Religion Law "maintains major restrictions and suffers from deficiencies that are incompatible with international human rights standards" Among the Joint Opinion's identification of the draft Law's numerous flaws, the Joint Opinion especially notes that the draft Law:

- "still bans unregistered religious or belief activities and communities"
- "imposes stringent and burdensome registration requirements"
- "provides various prohibitions or strict limitations regarding the exercise of the right to freedom of religion or belief, such as on religious education, authorized places for worship and the production, import and distribution of religious materials"
- "still prohibits [...] missionary activities"
- "does not provide for strong guarantees of the autonomy for religious organizations and continues to subject fundamental elements of the freedom to manifest religion or belief to some forms of state control or state authorization, such as the organization of events or the participation in pilgrimages outside the country"
- and "the grounds that may justify the suspension or dissolution of a religious organization are vague and broad, and give too wide a discretion to public authorities, without providing an effective remedy."

Numerous other problems are identified by the Joint Opinion, which states that "the Draft Law should be substantially revised in order to ensure its full compliance with international human rights standards and OSCE human dimension commitments."

The many recommendations the Joint Opinion makes include:

- "remove the definition of "illegal religious activity" and expressly state that religious or belief groups may exist and carry out their activities without registration";
- "remove the prohibition of "engaging in religious educational activities in private";
- remove the state censorship requirement "prior to producing, importing and distributing religious or belief materials";
- "to more strictly circumscribe and specify the grounds for refusal to register a religious or belief organization in compliance with the limitation grounds permissible under Article 18 of the ICCPR [International Covenant on Civil and Political Rights]";
- "to remove the obligation to notify the Committee of Religious Affairs about events";
- and "to remove vague and overbroad wording, which give too wide discretion to those public authorities tasked with

implementation, thus potentially leading to arbitrary application/interpretation and undue restriction to the right of freedom of religion or belief".

In relation to consultations on such a draft Law, the Joint Opinion ([http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2020\)002-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2020)002-e)) states: "Given the potential impact of the Draft Law on the exercise of the right to freedom of religion or belief, it is essential that the development of legislation in this field be preceded by an in-depth regulatory impact assessment, including on human rights compliance, completed with a proper problem analysis using evidence-based techniques to identify the most efficient and effective regulatory option."

"I totally agree with all of it"

The Joint Opinion has been welcomed by human rights defenders and others. "I totally agree with all of it," a human rights defender who wished to remain anonymous for fear of state reprisals told Forum 18 on 13 October. "The Religion Law must change significantly, and I do not see this change in the draft Law."

The human rights defender particularly highlighted four issues identified by the Joint Opinion:

- the use by the authorities of state registration as an instrument of pressure against religious and belief communities. The human rights defender noted for example pressure against Shia Muslims and refusals to register Shia mosques (http://www.forum18.org/archive.php?article_id=2527);
- the ban on private teaching of religion to children by anyone other than parents (http://www.forum18.org/archive.php?article_id=2527);
- the new compulsory requirement to notify the Religious Affairs Committee of events and participants;
- and the many broad and unclear definition of such concepts as 'religious extremism', 'actions aimed at insulting the feelings of religious believers', etc., which facilitates arbitrary interpretation by the authorities and courts leading to punishments for people exercising their freedom of religion and belief.

"If the authorities wanted real freedom for the people .."

A Muslim who asked to remain anonymous for fear of state reprisals told Forum 18 on 14 October: "We need to understand that the draft Religion Law is only an advertisement for Uzbekistan aimed at international organisations and foreign states."

"If the authorities wanted real freedom for the people, then the draft Law would have been very different from what it actually is", the Muslim observed. "This Law and others consequently end up as just pieces of paper. Who needs them?"

The Muslim drew attention to the regime's current violations of freedom of religion and belief, noting that "there is active suppression of Islam among young people". They noted that from 2109 onwards "many young and active imams with a good reputation among young people were replaced by older imams known as close collaborators with the authorities (http://www.forum18.org/archive.php?article_id=2451)". This has the effect that "young people have no respect for them, do not listen to them, and instead look for information about Islam on the internet. This can sometimes mislead these youths into becoming vulnerable to extremist organisations (http://www.forum18.org/archive.php?article_id=2604)."

The regime is using police informers to frame people looking for information about Islam and discussing their faith online, using false evidence of involvement in terrorism to jail people. In some cases those framed by police have also been tortured (http://www.forum18.org/archive.php?article_id=2599), and against international human rights law the officials involved have not been arrested and put on criminal trial for torture.

A Protestant who wished to remain anonymous for fear of state reprisals told Forum 18 that the draft Law is "not much different from the current Law. We do not understand why a new Religion Law is needed if the current Law is not going to be improved in any of its essential points."

Member of UN Human Rights Council, yet ignores human rights obligations

Uzbekistan was on 13 October elected to the United Nations Human Rights Council (<http://www.hrw.org/news/2020/09/17/reality-check-human-rights-uzbekistan>), which oversees the Universal Periodic Review (UPR) of member states' implementation of their legally-binding human rights obligations.

The Venice Commission OSCE ODIHR Joint Opinion is the latest opinion to identify successive failures on the part of the regime to implement its binding international human rights obligations, or act on recommendations to do this. In September 2017, UN Special Rapporteur on Freedom of Religion or Belief Shaheed (A/HRC/37/49/Add.2 (<http://undocs.org/en/A/HRC/37/49/Add.2>))

recommended: "A new law on freedom of religion or belief should be fully compatible with article 18 (<http://www.refworld.org/docid/453883fb22.html>) of the International Covenant on Civil and Political Rights".

Yet 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 international obligations as well as recommendations it accepted during its last UPR in 2018 (http://www.upr-info.org/sites/default/files/document/uzbekistan/sesion_30_-_mayo_2018/uzbekistan_2rp.pdf).

Among UPR recommendations Uzbekistan claimed to accept at the end of the review of its human rights record in 2018 but has not implemented in the draft Religion Law or earlier were two from Ghana: "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 (<http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>)".

Similarly, among the May 2020 Concluding Observations of the UN Human Rights Committee (CCPR/C/UZB/CO/5 (<http://undocs.org/CCPR/C/UZB/CO/5>)), the Committee stated that Uzbekistan should: "Guarantee the freedom of religion and belief and refrain from any action that may restrict such freedoms beyond the narrow restrictions permitted in article 18 of the Covenant [on Civil and Political Rights]", and should "Expedite the adoption of the new draft Act on Freedom of Conscience and Religion, ensuring its conformity with article 18 of the Covenant, including through the decriminalization of proselytism and other missionary activities, as well as of any religious activity by unregistered religious organizations".

"We will send an e-mail to the Venice Commission"

In contrast to people the regime rules, regime officials did not welcome the Joint Opinion.

Forum 18 asked the state-controlled National Human Rights Centre, the Presidential Administration, the Religious Affairs Committee, and the Parliament why the regime sent the draft Religion Law for review knowing that the draft seriously failed to implement legally binding human rights obligations. Forum 18 also pointed to the specific implementation recommendations made in 2017 by UN Special Rapporteur on Freedom of Religion or Belief Shaheed, in 2018 during the UN Universal Periodic Review Process, in May 2020 by the UN Human Rights Committee, and by human rights defenders and others in Uzbekistan.

Oybek Akhmadov, Deputy Chair of the state-controlled National Centre for Human Rights, on 16 October claimed that "we are only involved in preparing the texts but the Oliy Majlis is responsible for laws. And it is considering the draft Law at the moment." Akhmedov refused to explain why the prepared text was incompatible with international human rights standards and was sent for review in that knowledge, claiming that "we will send an e-mail to the Venice Commission and explain the situation". He then asked Forum 18 to call the Oliy Majlis before putting the phone down.

The National Human Rights Centre's Director is Akmal Saidov, who in his capacity as First Deputy Chair of the lower Oliy Majlis chamber requested the review (http://www.forum18.org/archive.php?article_id=2604). He claimed to the UN Human Rights Committee in March 2020 that the new Religion Law "would reflect the standards enshrined in the Covenant [International Covenant on Civil and Political Rights]" (http://www.forum18.org/archive.php?article_id=2576).

The National Human Rights Centre is not accredited with the Global Alliance for National Human Rights Institutions (GANHRI), which rules on whether such institutions meet the requirements of competence, independence from governments, and adequate powers of investigation set out in the Paris Principles.

Officials at the Presidential Administration on 16 October also refused to explain to Forum 18 why the prepared text was incompatible with international human rights standards and was sent for review in that knowledge. An official who refused to give her name in President Shavkat Mirziyoyev's Press Service kept repeating to Forum 18 that she "cannot hear well" when the phone line was quite clear. She then put the phone down and did not answer subsequent calls.

The Religious Affairs Committee also refused to explain to Forum 18 why the prepared text was incompatible with international human rights standards and was sent for review in that knowledge. An official who refused to give her name who answered the phone of Religious Affairs Committee Chair and State Security Service (SSS) secret police Colonel Abdugafur Akhmedov (http://www.forum18.org/archive.php?article_id=2515) claimed he is "on a business trip". When asked which of the Colonel's deputies Forum 18 could speak to, she claimed that "all his deputies are with him on a business trip". The Committee's Chief Specialist Begzod Kadyov also refused to explain to Forum 18 why the prepared text was incompatible with international human rights standards and was sent for review in that knowledge.

"Why we were recognised and honoured by being elected to the UN Human Rights Committee"

No Oliy Majlis deputy or official was willing to explain to Forum 18 why the prepared text was incompatible with international human rights standards and was sent for review in that knowledge.

Numerous calls between 15 and 16 October to deputies and officials were either not answered or met with refusals to answer questions. Among the refusals Atamurat Kabulov, assistant to Batir Matmurov, Chair of the Senate Judiciary and Anti-Corruption Committee, claimed it was a "wrong number" as soon as Forum 18 asked about the draft Religion Law.

Afzal Artykov, Head of the International Relations Section of the Senate, the upper chamber of Parliament, told Forum 18 that he does not know when the draft Law will reach the upper chamber.

Forum 18 asked why the Oliy Majlis failed to implement legally binding human rights obligations, and the specific implementation recommendations made in 2017 by UN Special Rapporteur on Freedom of Religion or Belief Shaheed, in 2018 during the UN Universal Periodic Review Process, in May 2020 by the UN Human Rights Committee, and by human rights defenders and others in Uzbekistan. Artykov replied by claiming that "88 per cent of the population are Uzbeks. We need to take into account their wishes and desires first of all, and our historical context and the national mentality."

Artykov then quickly added that "of course, we are also taking into account the international recommendations, which is why we were recognised and honoured by being elected to the United Nations Human Rights Council (<http://www.hrw.org/news/2020/09/17/reality-check-human-rights-uzbekistan>)". He then claimed that "we will slowly take into account the other recommendations".

Artykov did not explain why his claim to "take into account" the alleged "wishes and desires" of some of the population led to ignoring human rights defenders and members of religious and belief communities, as well as not holding free and fair elections (<http://www.osce.org/odihr/elections/uzbekistan>).

When Forum 18 asked why the Oliy Majlis passed the draft Religion Law on its first reading despite it being incompatible with human rights standards (http://www.forum18.org/archive.php?article_id=2604), Artykov claimed, "I am not a specialist in this area, and not familiar with the text, but I can say that the Parliament will do the best in the interests of Uzbekistan." He then refused to discuss the issue further.

What changes do people in Uzbekistan want?

People in Uzbekistan have repeatedly criticised restrictions on the exercise of freedom of religion or belief in the current Religion Law (http://www.forum18.org/archive.php?article_id=2314). Members of religious communities and human rights defenders have expressed their frustration (http://www.forum18.org/archive.php?article_id=2576) 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.

For example, as Yelena Uralyeva who chairs the Human Rights Alliance has noted (http://www.forum18.org/archive.php?article_id=2596), the Religious Affairs Committee still interferes in the activity of religious communities, including by censoring what Muslims can and cannot read (http://www.forum18.org/archive.php?article_id=2564).

Among the many changes the people the regime rules would like to see in a new Religion Law (http://www.forum18.org/archive.php?article_id=2576) are:

- an end to compulsory state registration as a requirement for religious communities to exist (http://www.forum18.org/archive.php?article_id=2314) and the intrusive controls it brings, in line with the regime's international human rights obligations (<http://www.osce.org/files/f/documents/9/9/139046.pdf>);
- an end to the requirement for communities allowed to exist to give advance notice of meetings and the participants and topics discussed;
- an end to the ban on Muslim women wearing the hijab or other religious head scarf;
- an end to the ban on Muslim men wearing beards at work place or places of education;
- an end to the ban on teaching religion privately, an end to the ban on private teaching of Islam to children or opening new madrassahs [religious schools];
- an end to the ban on opening mosques which not run by the state-controlled Spiritual Administration of Muslims (the Muftiate) (http://www.forum18.org/archive.php?article_id=2314);
- an end to the ban on praying with others outside state-registered places of worship in private homes.

Human rights defender Shukhrat Ganiyev from Bukhara told Forum 18 on 5 June that "we have noticed a temporary reinforcement of the control over the exercise of freedom of religion and belief (http://www.forum18.org/archive.php?article_id=2576). For example, the government still seriously limits the freedom of expression of one's own religious beliefs and public criticism of government religious policies" (http://www.forum18.org/archive.php?article_id=2564).

Ganiyev also noted that both people in Uzbekistan and international organisations have strongly criticised the use of "vague concepts of 'extremism', 'anti-constitutional acts', and 'participation in banned religious groups' to punish Muslims".

"Civil society is expecting systemic changes in human rights from the government. Only this and real reforms can guarantee no return to the repressive past," (http://www.forum18.org/archive.php?article_id=2576) Ganiyev commented.

"The state must not be afraid of giving full freedom of religion and belief," insisted human rights defender Abduvohid Yakubov (http://www.forum18.org/archive.php?article_id=2576) 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".

On 15 September Uzbekistan's parliament, which has never faced free and fair elections (<http://www.osce.org/odihr/elections/uzbekistan>), passed the draft Religion Law on its first reading, yet without genuine public discussion (http://www.forum18.org/archive.php?article_id=2604). The Venice Commission has published its own 9 September English translation of the draft Law ([http://www.venice.coe.int/webforms/documents/?pdf=CDL-REF\(2020\)065-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-REF(2020)065-e)).

"Not much different from the current Religion Law"

Independent Muslim blogger Dr Alimardon Sultonov told Forum 18 "even the so-called improvements are not a solution (http://www.forum18.org/archive.php?article_id=2604)". Similarly, Protestants who wish to remain anonymous for fear of state reprisals have told Forum 18 that "the draft Religion Law is not much different from the current Religion Law (http://www.forum18.org/archive.php?article_id=2604)".

Deputy Shukhrat Bafayev, Head of the lower chamber's Committee on Democratic Institutions, Non-Governmental Organisations and Citizens' Self-Government Bodies, refused to explain to Forum 18 why the first reading of the draft Law was passed before the Oliy Majlis has received an expert opinion by the Council of Europe's Venice Commission and the Organisation for Security and Co-operation in Europe's (OSCE) Office of Democratic Institutions and Human Rights (ODIHR) (http://www.forum18.org/archive.php?article_id=2604)

Deputy Bafayev also refused to explain why the draft ignores UPR recommendations and UN Special Rapporteur recommendations. He claimed however that "we are still ready to accept their opinion"

On 25 September the regime invited only religious communities with state permission to exist to a meeting to discuss the draft Religion Law. No members of religious communities without state permission to exist were invited (http://www.forum18.org/archive.php?article_id=2604). A member of a registered community which participated in the 25 September meeting told Forum 18 that those present raised concerns with the authorities over several key points of the draft Law. These included continuing the current compulsory registration of communities to exist with a membership threshold which particularly affects small communities, censorship and other restrictions on religious literature and its import into Uzbekistan, as well as literature production and distribution in the country under the strict control of the Religious Affairs Committee, and the ban on missionary activity. (http://www.forum18.org/archive.php?article_id=2314)

"All religious communities wish to share their faith with others, but this very easily can be evaluated as banned missionary activity," the community member told Forum 18 on 30 September. "And one of the ways to share one's faith is through religious literature, which also is under strict state control."

Akmalkhan Shakirov, Head of the state-controlled Muftiate's (http://www.forum18.org/archive.php?article_id=2314) International Relations Department, refused to say on 30 September why the regime did not consult Muslims who do not work for the Muftiate.

"When the bill was submitted for public discussion, more than 500 proposals were received from individuals, educational and religious institutions, and representatives of various religious organisations," the parliament website claimed. "Most of them

approved the amendments to the new version of the bill." (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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