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TAJIKISTAN: Decree bans funerals for alleged "terrorists", denies relatives bodies

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

President Emomali Rahmon has signed a Decree denying the families of those killed in alleged "anti-terrorism operations" the possibility of, among other things, burying their dead with the religious or other rites they would have chosen or even knowing where they are buried. A human rights defender said this is to "publicly threaten that people who protest against the government will die and will not be buried as Muslims". Another human rights defender, journalist Anora Sarkorova, noted that "the authorities are enforcing the Decree violently".

A new Procedure denies the families of those killed in what the regime calls "anti-terrorism operations" the possibility of burying the dead in a place they want, knowing where the dead are buried, investigating how the death occurred, and burying the dead with the religious or other rites the dead or the family would have chosen.

On 28 April, Emomali Rahmon (who has ruled Tajikistan since 1992 without facing a free and fair election) signed into law a Decree imposing the Procedure for "burying the bodies of terrorists neutralised in the course of a counterterrorism operation" (see below).

The Procedure says that state authorities "determined by the organs of the initial investigation" are to bury such individuals at a place the states chooses, "and the place of burial must not be revealed to anyone." Burial records must not give the name of the individual, and the dead are to be transported to the place of burial in closed coffins which must not be examined (see below).

The most immediate targets of the Procedure are Ismaili Muslims and others in the Mountainous Badakhshan Region who have been killed by regime forces in a so-called "anti-terrorism operation" since November 2021 (see below).

A human rights defender who wished to remain anonymous for fear of state reprisals told Forum 18 that "I think the authorities want to punish the relatives of those they killed, as well as publicly threaten that people who protest against the government will die and will not be buried as Muslims. This is all done to scare the public" (see below).

Regime officials in the Presidential Administration, Ombudsperson's Office, Interior Ministry, and State Committee for Religious Affairs and Regulation of Traditions, Ceremonies and Rituals (SCRA) have all refused to explain to Forum 18 why the regime has banned families of those killed from burying their dead according to Islamic or other religious rites, and why the regime does not respect its human rights obligations relating to deceased people, their families and friends (see below).

"The authorities are enforcing the Decree violently," human rights defender and journalist Anora Sarkorova told Forum 18. She knew of a case in early May 2023 when the NSC secret police tortured the relative of a protestor killed in May 2022 after the relative put the deceased's name on the gravestone. The torture took place in the NSC's office in Rushan. The NSC did not answer its phones when Forum 18 called to question officials (see below).

Human rights defenders Sarkorova and Farhod Odinaev both told Forum 18 that the NSC secret police and Interior Ministry have also both recently warned relatives of protestors killed in 2022 not to put up gravestones with the names of the deceased. "If relatives will not listen to the warnings and decide to put up grave stones with names, they threatened the relatives with imprisonment," Sarkorova told Forum 18 (see below).

The regime has also been removing gravestones which relatives of the dead have put up, a human rights defender, who asked to remain anonymous for fear of state reprisals, told Forum 18 (see below).

Tajikistan's legally-binding international human rights obligations condemn such regime actions. In separate rulings on Tajikistan relating to men executed earlier under the death penalty, the UN Human Rights Committee used almost identical language to condemn refusal to notify relatives of the circumstances of the death, hand over the body of the deceased, and identify the place of burial. The UN Committee also stated that Tajikistan "is also under an obligation to prevent similar violations in the future" (see

below).

The regime's "security" forces have killed many people in Mountainous Badakhshan Region during "anti-terrorism" operations since November 2021. Families were not allowed to conduct an Islamic ritual washing of the body themselves, to prevent them from seeing the injuries individuals had sustained, human rights defender Sarkorova added (see below).

At the end of May 2022, Rushan District officials summoned parents from the village of Derzud to a meeting with police and NSC secret police officers after their children visited the graves of the dead. "They were threatened with criminal prosecution if their children visit the graves and read prayers there," Sarkorova stated (see below).

The regime has long imposed severe restrictions nationwide on how all Muslims bury and mourn their dead. After nationwide intrusive restrictions were imposed in 2017, a human rights defender noted that the "authorities are radicalising Muslims by such actions". They also commented: "This is stupidity! Instead of finding real terrorists they punish innocent people" (see below).

Decree bans funerals for alleged "terrorists", denies relatives bodies

On 28 April, Emomali Rahmon (who has ruled Tajikistan since 1992 without facing a free and fair election (<https://www.osce.org/odihr/elections/tajikistan>)) signed into law a Decree imposing a Procedure for "burying the bodies of terrorists neutralised in the course of a counterterrorism operation". The authority for the Decree is Article 29 of the 2021 Counterterrorism Law, which states that the government sets out the burial procedure in such cases.

The Procedure denies the families of those killed in what the regime calls "anti-terrorism operations" the possibility of burying the dead in a place they want, knowing where the dead are buried, investigating how the death occurred, and burying the dead with the religious or other rites the dead or the family would have chosen.

The Procedure covers individuals who have died for whom "criminal prosecution has been halted in connection with their death connected with participation in terrorist activity, or as a result of the carrying out of a terrorist act, as well as in cases of preventing a terrorist act".

The Procedure says that state authorities "determined by the organs of the initial investigation" are to bury such individuals at a place the states chooses, "and the place of burial must not be revealed to anyone". Burial records must not give the name of the individual, and the dead are to be transported to the place of burial in closed coffins which must not be examined.

The Decree came into force immediately on 28 April 2023, and along with the Procedure were published on the Justice Ministry's legal database on 5 May. The National Security Committee (NSC) secret police (https://www.forum18.org/archive.php?article_id=2625) and other regime ministries and agencies oversee implementation of the Procedure.

The most immediate targets of the Procedure are Ismaili Muslims and others in the Mountainous Badakhshan Region (https://www.forum18.org/archive.php?article_id=2782) who have been killed by regime forces in a so-called "anti-terrorism operation" since November 2021. The Region has seen increasing repression by the regime since a local resident was killed by "security" forces.

"This is all done to scare the public"

Tajik Muslims consider it to be an important religious duty to bury the dead according to Islamic rites, which local people insist includes having the names of the dead on gravestones, exiled journalists and human rights defenders Anora Sarkorova and Farhod Odinaev told Forum 18 on 7 June. It is also an important religious duty to visit the grave and pray at various times after the death.

A human rights defender who wished to remain anonymous for fear of state reprisals told Forum 18 on 6 June that "I think the authorities want to punish the relatives of those they killed, as well as publicly threaten that people who protest against the government will die and will not be buried as Muslims. This is all done to scare the public."

"I have not even heard of such a Decree"

Sodik Shonazarov, Senior Advisor of the Legal Policy Section of the Presidential Administration, refused to discuss the Decree with Forum 18. He also refused on 7 June to explain why the regime has banned Muslims burying their dead according to Islamic rites, and why the regime does not respect its human rights obligations relating to deceased people, their families and friends. "Talk to the Ombudsperson's Office," he replied.

Hamrokhon Davletov, Assistant to Ombudsperson Umed Bobozoda, on 7 June noted Forum 18's questions on why Emomali Rahmon signed the Decree, and what the Ombudsperson's Office is doing to guarantee the human rights the Decree violates. He then put the phone down and did not answer any subsequent calls. The Ombudsperson is not independent of the regime and does not fully

comply with the Paris Principles (<https://ganhri.org/paris-principles/>) for National Human Rights Institutions.

Sanobar Baratzoda of the Interior Ministry's General Section claimed to Forum 18 on 7 June that "I have not even heard of such a Decree by the President." When Forum 18 pointed out that the Decree had been officially published, she asked Forum 18 to send a letter to the Foreign Ministry and refused to talk further.

The Assistant to the First Deputy Chair of the State Committee for Religious Affairs and Regulation of Traditions, Ceremonies and Rituals (https://www.forum18.org/archive.php?article_id=2625) (SCRA), Orzu (who refused to give his last name), on 7 June refused to discuss the Decree or human rights violations related to it. SCRA spokesperson Avshin Mukim did not answer his phone on 7 June.

"The authorities are enforcing the Decree violently"

"The authorities are enforcing the Decree violently," human rights defender Sarkorova told Forum 18. She knew of a case in early May 2023 when the NSC secret police tortured the relative of a protestor killed in May 2022 after the relative put the deceased's name on the gravestone. The torture took place in the NSC's office in Rushan.

The NSC did not answer its phones when Forum 18 called to question officials on 7 June.

Regime officials have impunity for torture, and suspect torturers have not been arrested and put on criminal trial for torture (https://www.forum18.org/archive.php?article_id=2625), as binding legal obligations under the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment require.

Human rights defenders Sarkorova and Odinaev both told Forum 18 that the NSC secret police and Interior Ministry have also both recently warned relatives of protestors killed in 2022 not to put up gravestones with the names of the deceased. "If relatives will not listen to the warnings and decide to put up gravestones with names, they threatened the relatives with imprisonment," Sarkorova told Forum 18.

The regime has also been removing gravestones which relatives of the dead have put up, a human rights defender, who asked to remain anonymous for fear of state reprisals, told Forum 18 on 6 June. The prices of gravestones vary between roughly 2 million and 11 million Somonis, depending on the quality of the photo and inscription. One month's local average wage for those in formal work is about 600 Somonis.

The human rights defender observed that "often the families of the dead are poor, and cannot afford to pay for such gravestones. So relatives and friends help with the cost of this." The regime offers no compensation for gravestones it destroys.

Human rights defender Odinaev cited the cases of five men he knew who were killed during 2015 "anti-terrorism" operations, whose families wished to remain anonymous for fear of state reprisals. "Relatives who managed to obtain the bodies from the authorities in 2015 still in 2023 cannot put up gravestones or state the names of the dead on the graves," he told Forum 18 on 7 June 2023.

Baratzoda of the Interior Ministry claimed that Muslims have not been stopped from putting up gravestones with names, visiting graves, or been tortured if they do so. "No such things have happened," she claimed to Forum 18.

A prominent example of attacks on gravestones was the destruction and removal of the gravestone with photo of local unofficial opposition politician Muhammadboqir Muhammadboqirov, who was killed in May 2022. The gravestone had strong foundations, so considerable effort would have been needed to remove it. Local people suspect the regime is responsible for this, and no state agencies have attempted to find the criminals responsible.

International standards

On 29 October 2012 the United Nations (UN) Human Rights Committee found in a Belarusian case (http://www.forum18.org/archive.php?article_id=1997) (CCPR/C/106/D/2120/2011 (<http://undocs.org/CCPR/C/106/D/2120/2011>)) that "refusal to hand over the body for burial in accordance with the religious beliefs and practices of the executed prisoner's family have the effect of intimidating or punishing the family by intentionally leaving it in a state of uncertainty and mental distress."

The Committee ruled that this was inhuman treatment in violation of the International Covenant on Civil and Political Rights (<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>) (ICCPR) Article 7 ("Freedom from torture and cruel, inhuman or degrading treatment or punishment").

In separate rulings on Tajikistan relating to men executed earlier under the death penalty, the Human Rights Committee has also found violations of ICCPR Article 7. It used almost identical language to condemn refusal to notify relatives of the circumstances of the death, hand over the body of the deceased, or identify the place of burial.

For example, in the case of Valichon Aliboev, executed in July 2001, the Committee stated in November 2005 (CCPR/C/85/D/985/2001 (<http://undocs.org/CCPR/C/85/D/985/2001>)): "it notes that the law then in force did not allow for a family of an individual under sentence of death to be informed either of the date of execution or the location of the burial site of the executed prisoner. The Committee understands the continued anguish and mental stress caused to [the deceased's wife] by the persisting uncertainty of the circumstances that led to his execution, as well as the location of his gravesite. It recalls that the secrecy surrounding the date of execution, and the place of burial, as well as the refusal to hand over the body for burial, have the effect of intimidating or punishing families by intentionally leaving them in a state of uncertainty and mental distress."

The Human Rights Committee added that, under the ICCPR, Tajikistan "is also under an obligation to prevent similar violations in the future".

The UN Standard Minimum Rules for the Treatment of Prisoners (known as the Mandela Rules - A/C.3/70/L.3 (https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf)) require governments to respect the freedom of religion and belief and other human rights of prisoners, including anyone detained regardless of whether or not they have been formally sentenced.

Rule 73 states that dead bodies: must be treated "with respect and dignity .. should be returned to his or her next of kin as soon as reasonably possible, at the latest upon completion of the investigation," and that the authorities "shall facilitate a culturally appropriate funeral .. and shall keep a full record of the matter."

Tajikistan is a participating State of the Organisation for Security and Co-operation in Europe, whose Guidance Document on the Nelson Mandela Rules (<http://www.osce.org/odihr/389912>), based on international law, states that the requirement for a full record of funerals "is important to ensure that the family are notified and to guard against the possibility that bodies are disposed of without proper investigation".

The OSCE Guidance also states that "necessary investigations .. should proceed swiftly so that there is no unreasonable delay in returning the body of a deceased prisoner to the next of kin. This is particularly important because of the distress a delay can cause to the family/friends, in particular in cultures where funerals normally take place quickly. [Tajik funerals normally happen within 48 hours of death.] Usually, there is no justification for keeping a body after an autopsy has been performed."

Many killed in "anti-terrorism" operations

The regime's "security" forces have killed many people in Mountainous Badakhshan Region during "anti-terrorism" operations (https://www.forum18.org/archive.php?article_id=2782) since November 2021. Officials in some cases refused to return bodies, "but there was then a big scandal and they returned the bodies to families," human rights defender Sarkorova told Forum 18 on 25 May 2023.

Sarkorova and human rights defender Odinaev are in touch with relatives of some of those killed, and Forum 18 has also spoken to one relative.

Families were not allowed to conduct an Islamic ritual washing of the bodies themselves, to prevent them from seeing the injuries individuals had sustained, Sarkorova added. Only the faces were visible, and many bodies which were returned were unrecognisable, and relatives have insisted that those killed had not committed any crime (<https://www.rferl.org/a/tajikistan-gorno-badakhshan-bloody-crackdown/31914045.html>).

"Burials took place under tight control of the NSC secret police and the ordinary police," human rights defender Sarkorova noted. Mourners were banned from taking photos and videos at the funerals.

At the end of May 2022, Rushan District officials summoned parents from the village of Derzud to a meeting with police and NSC secret police officers after their children visited the graves of the dead. "They were threatened with criminal prosecution if their children visit the graves and read prayers there," Sarkorova stated.

Abdunazar Abdunazarzoda, Deputy Head of the Regional Administration for ideological issues, refused to discuss these human rights violations with Forum 18 on 7 June, and then put the phone down. Later calls were not answered.

The Prosecutor of Mountainous Badakhshan Region, Avazjon Nazarzoda, also refused on 7 June to discuss the human rights violations with Forum 18. "I am newly appointed as the Prosecutor here and I do not know the details you are speaking about," he claimed. He then refused to talk more.

On 3 August 2022, Muzaffar Davlatmirov, a 59-year-old Ismaili religious leader, was jailed for five years for alleged "public calls for extremist activity". "Davlatmirov is not an extremist, and did not call for 'extremist' activity," a local person who knows him told Forum 18.

Human rights defender and journalist Sarkorova commented that the regime did not like the fact that Davlatmirov was respected in the region, and that he could influence people. She thought it was possible that prisoner of conscience Davlatmirov was jailed because he said the janaza (funeral) prayers (https://www.forum18.org/archive.php?article_id=2782) at the funeral in May of three local informal leaders killed during the regime's violent suppression of peaceful protests. Mountainous Badakhshan regional government spokesperson Gholib Niyatbekov refused to comment when Forum 18 noted that prisoner of conscience Davlatmirov did not violate the law by praying at funerals.

The regime also in 2022 closed all Ismaili prayer houses (https://www.forum18.org/archive.php?article_id=2782) in Mountainous Badakhshan, and the Ismaili Education Centre in Khorugh.

In 2023 at least two Ismaili home owners in Mountainous Badakhshan have been fined one month's average wage each (https://www.forum18.org/archive.php?article_id=2811) for hosting prayer meetings in their homes. The regime banned such meetings in late 2022. Officials told elders on 14 January in Khorugh not to allow prayers in homes, that local people must remove portraits of Ismaili spiritual leader the Aga Khan, and that study at the London-based Institute of Ismaili Studies is no longer allowed. The regime also banned voluntary lessons for children based on a course from the Aga Khan Foundation.

Long-standing severe restrictions on funerals and grieving

The regime has long imposed severe restrictions nationwide on how all Muslims bury and mourn their dead (https://www.forum18.org/archive.php?article_id=2625). Changes to the Traditions Law introduced numerous new restrictions on freedom of religion and belief and interlinked human rights, including: banning the customary offering of food on the 3rd, 7th and 40th days after a funeral; and making the SCRA responsible for defining what procedures should be followed for funerals and the subsequent mourning period.

Also in September 2017, the SCRA and the state-controlled Council of Ulems (https://www.forum18.org/archive.php?article_id=2625) issued Mourning Regulations imposing a procedure that all ceremonies mourning dead Muslim people and expressing grief must follow. These include:

- Only very close relatives and children of the deceased can stay in the same house with the deceased overnight. Close relatives can only publicly mourn for three days;
- Wearing black clothes during mourning is banned;
- After the burial it is "not recommended" to stay in the house of the deceased for many hours.

A human rights defender, who wished to remain anonymous for fear of state reprisals, told Forum 18 in October 2017 (https://www.forum18.org/archive.php?article_id=2625) that the "authorities are radicalising Muslims by such actions." They noted that "the authorities say that they are for national values, but these regulations are actually getting rid of Tajik traditions which have existed for centuries." They also commented: "This is stupidity! Instead of finding real terrorists they punish innocent people."

The 2023 Decree formalises the regime's long-standing human rights violations against the family and friends of dead protestors or bystanders. For example, after people were killed in 2015 during protests the regime refused to return bodies to relatives. Relatives who did secure the bodies found that "the authorities tried to hinder people from attending the funerals", human rights defender Odinaev told Forum 18. "Some time after they were buried, the gravestones of some of the dead were removed by police."

In November 2018, around 50 prisoners killed as regime forces suppressed a riot in Khujand's high-security Labour Camp 3/3 in the northern Sughd Region were not allowed to be buried according to Muslim rites. Bodies were returned in sealed packages (https://www.forum18.org/archive.php?article_id=2439), which relatives were not allowed to open. In at least some cases, police officers insisted on burying the dead prisoners themselves. They did not allow washing of the bodies or any Islamic prayers.

Officials denied that the killed prisoners had been denied religious burials, or refused to discuss the issue. Lieutenant Colonel Anvar Rakhmonov, Deputy Head of Sughd Police, claimed that statements that families were not allowed to bury their dead according to Muslim rites were untrue. "Whoever says that is lying!" he told Forum 18 (https://www.forum18.org/archive.php?article_id=2439). When Forum 18 pointed to credible witness claims that Muslim funeral rites were not allowed, he refused to discuss the issue further. (END)

More reports on freedom of thought, conscience and belief in Tajikistan (<https://www.forum18.org/archive.php?country=31>)

For background information, see Forum 18's Tajikistan religious freedom survey (https://www.forum18.org/archive.php?article_id=2625)

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

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