

12 March 2021

UZBEKISTAN: "A disguised old Criminal Code with no real changes"

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

Members of religious communities and human rights defenders criticise the draft new Criminal Code due to come into force on 1 January 2022. This would continue to punish those who exercise freedom of religion or belief without state permission. A "disguised old Criminal Code with no real changes", Protestants complain. Muslims describe it as "our government's old tricks". Solmaz Akhmedova of the Human Rights Alliance noted that "they just made some decorative changes, and used less religious terminology."

Those who lead or participate in religious communities that meet for worship, or conduct any other communal exercise of the right to freedom of religion or belief without state permission, would still face prosecution under Uzbekistan's proposed new Criminal Code.

The regime published the text of the draft new Criminal Code on 22 February, inviting comments by 9 March. If adopted by Parliament and signed by President Shavkat Mirziyoyev, the new Code is set to come into force on 1 January 2022 (see below).

Officials at the General Prosecutor's Office in the capital Tashkent – which drafted the proposed new Criminal Code – and other officials refused to discuss it with Forum 18 (see below).

Punishments for some other exercise of freedom of religion or belief – such as meeting for worship, distributing religious literature or sharing faith – are set to be removed from the Criminal Code. However, they would remain punishable under the Administrative Code, with punishment of up to two weeks' imprisonment (see below).

Members of religious communities and human rights defenders have criticised the proposed new Criminal Code. Muslims and Christians also pointed out that "many people are not even aware that a draft new Criminal Code has been published, or that it is being discussed in Parliament" (see below).

Protestants who asked to remain unnamed for fear of state reprisals told Forum 18 that the draft new Criminal Code is "a disguised old Criminal Code with no real changes". Muslims who asked not to be named for fear of state reprisals agreed. "The draft new Criminal Code Law is essentially the same as the current Criminal Code. They just change some phraseology and the numbers of Articles," several commented (see below).

One Muslim described the draft Criminal Code as "the same old, the same old. It is our government's old tricks. They promise they will improve laws and our lives, but in fact they continue as they always do" (see below).

A human rights defender, who asked to remain anonymous for fear of state reprisals, told Forum 18: "The essence of the Code has not changed, but the authors of the text have changed the numbers of the Articles. They have also carefully worded the provisions so that the term religion does not come up so often."

"The draft new Code is as punitive as the current Code," human rights defender Solmaz Akhmedova, of the Human Rights Alliance, told Forum 18. "They just made some decorative changes, and used less religious terminology. But the draft Criminal Code is as open for arbitrary interpretations and punishment for the exercise of freedom of religion and belief as the current Criminal Code" (see below).

Muslims told Forum 18 that "we should be free to teach the Koran to our children and to others without the permission of the government". Similarly, "Muslims should not be punished for reading literature about Islam, or for searching on the internet for literature about Islam. Punishments for this should be totally removed from the law" (see below).

Protestants told Forum 18 that they "would like to have the freedom to distribute our spiritual literature openly without being punished, and to meet for worship without being registered or having to ask permission from the regime" (see below).

An independent legal expert observed that "all punishments for the exercise of freedom of religion and belief and other fundamental human rights must be removed from the Criminal Code". Specifically, the legal expert noted that "no punishments should exist for meeting for worship, for possessing and sharing religious texts, for sharing one's faith with others, or for any other normal, routine, exercise of the freedom of religion and belief" (see below).

Many vaguely-worded Articles would allow prosecutors to use the proposed new Criminal Code to punish a wide range of exercise of freedom of religion or belief. "Inducing" people to take part in the activity of "illegal" religious organisations or "sects" remains punishable (see below).

Although the draft new Criminal Code punishes smuggling "extremist" rather than "religious extremist" material into Uzbekistan, prosecutors could continue to regard, for example, the text of the Koran on a mobile phone as "extremist" literature (see below).

While the regime published the Uzbek-language text of the proposed new Criminal Code on its draft law website on 22 February for public comments, it remains unclear how it will respond to the more than 100 comments that came in by the deadline of 9 March (see below).

On 12 October 2020 the Council of Europe's Venice Commission and the Organisation for Security and Co-operation in Europe (OSCE) Office for Democratic Institutions and Human Rights (ODIHR) published a Joint Opinion on the draft Religion Law (https://www.forum18.org/archive.php?article_id=2609), which found that it "maintains major restrictions and suffers from deficiencies that are incompatible with international human rights standards."

People in Uzbekistan have repeatedly outlined the changes they would like to see in a new Religion Law and the regime's actions (https://www.forum18.org/archive.php?article_id=2609). However, as with the recommendations of international experts - the regime has also ignored these criticisms made by the people it rules.

The Venice Commission told Forum 18 on 9 March that there has been no formal response to the Joint Opinion, and that the regime has not sought a Venice Commission review of the new draft Criminal Code. Similarly, there are no indications that the regime has sought a separate legal review of the draft Criminal Code from the OSCE (see below).

An official who refused to give his name, who answered the phone of First Deputy Chair of parliament's lower chamber and National Human Rights Centre Director Akmal Saidov, when Forum 18 asked why punishments for exercising the freedom of religion and belief had not been removed replied: "You have no competence to ask for such changes" (see below).

Human Rights Watch stated in its 10 March analysis of the draft Criminal Code (<https://www.hrw.org/news/2021/03/10/uzbekistan-draft-criminal-code-offers-little-meaningful-reform>) that it "offers little meaningful reform", noting that it "retains many provisions that violate the rights to freedom of speech, association, and religion. Others fall short of protections to which women, victims of torture, and lesbian, gay, bisexual, and transgender (LGBT) people are entitled under international law."

Proposed new Criminal Code

The regime plans to adopt a new Criminal Code to replace the Criminal Code first adopted in 1994 (https://www.forum18.org/archive.php?article_id=2314) and frequently amended since then. The General Prosecutor's Office in Tashkent prepared the draft.

The text of the draft new Criminal Code in Uzbek was published on the regime's draft law website regulation.gov.uz on 22 February. The website invited comments on the draft by the evening of 9 March. By the time of the deadline for comments on 9 March, 102 comments had been submitted.

One comment asked that the draft be made available also in Russian and other languages used in Uzbekistan.

The draft decree of President Shavkat Mirziyoyev approving the new Criminal Code gives 1 January 2022 as the date of its proposed entry into force.

While the proposed new Criminal Code moves several punishments for exercising freedom of religion or belief from the current Criminal Code (https://www.forum18.org/archive.php?article_id=2314) to the Administrative Code, the regime draft law website regulation.gov.uz contains no text of a draft new Administrative Code.

"A disguised old Criminal Code with no real changes"

Members of religious communities and human rights defenders have criticised the proposed new Criminal Code. Muslims and Christians also pointed out that "many people are not even aware that a draft new Criminal Code has been published, or that it is being discussed in Parliament".

The draft new Criminal Code is "a disguised old Criminal Code with no real changes", various Protestants, who asked to remain unnamed for fear of state reprisals, told Forum 18 on 11 March. They pointed out that it still contains criminal punishments for possessing religious literature, for meetings for worship without state permission, and other normal parts of exercising the freedom of religion and belief.

Muslims who asked not to be named for fear of state reprisals agreed. "The draft new Criminal Code Law is essentially the same as the current Criminal Code. They just change some phraseology and the numbers of Articles," several commented. One Muslim described the draft Criminal Code as "the same old, the same old. It is our government's old tricks. They promise they will improve laws and our lives, but in fact they continue as they always do."

A human rights defender, who asked to remain anonymous for fear of state reprisals, told Forum 18 on 12 March: "The essence of the Code has not changed, but the authors of the text have changed the numbers of the Articles. They have also carefully worded the provisions so that the term 'religion' does not come up so often." However, the human rights defender noted that "it is only a matter of time before the authorities use the new Criminal Code to crack down again on all exercise of the freedom of religion and belief."

Human rights defender Solmaz Akhmedova, of the Human Rights Alliance, told Forum 18 on 12 March: "I do not see any decriminalisation of punishments for violation of the Religion Law. The draft new Code is as punitive as the current Code. They just made some decorative changes, and used less religious terminology. But the draft Criminal Code is as open for arbitrary interpretations and punishment for the exercise of freedom of religion and belief as the current Criminal Code."

An independent legal expert, who asked to remain anonymous for fear of state reprisals, commented to Forum 18 on the draft Criminal Code: "The freedom of religion and belief is established in the International Covenant on Civil and Political Rights and other international conventions, as well as in the Constitution. This is a fundamental human right."

"However," the legal expert commented, "the authorities violate these rights and punish religious believers as 'criminals' or 'terrorists', not for any criminal actions they may have done. The reason for the punishments is that they have religious beliefs, and attempt to exercise their freedom of religion and belief."

People of some faiths, who asked for their names and their faiths to remain anonymous for fear of state reprisals, told Forum 18 on 11 March that "we cannot do anything to change the Criminal Code. Whatever the government decides we will have to obey. There is no other way."

What do those ruled by the regime want?

Muslims told Forum 18 on 11 March that "we should be free to teach the Koran to our children and to others without the permission of the government". Similarly, "Muslims should not be punished for reading literature about Islam, or for searching on the internet for literature about Islam. Punishments for this should be totally removed from the law."

Protestants told Forum 18 that they "would like to have the freedom to distribute our spiritual literature openly without being punished, and to meet for worship without being registered or having to ask permission from the regime".

The independent legal expert observed that "all punishments for the exercise of freedom of religion and belief and other fundamental human rights must be removed from the Criminal Code". Specifically, the legal expert noted that "no punishments should exist for meeting for worship, for possessing and sharing religious texts, for sharing one's faith with others, or for any other normal, routine, exercise of the freedom of religion and belief".

Some people of various faiths declined to make any comments on changes they may want, as "it makes no difference whether or not we say anything to the regime".

No legal review sought

The Council of Europe's Venice Commission told Forum 18 on 9 March that the regime has not sought a Venice Commission review of the new draft Criminal Code. Similarly, there are no indications that the regime has sought a separate legal review of the draft Criminal Code from the Organisation for Security and Co-operation in Europe (OSCE).

On 12 October 2020, the Venice Commission and the OSCE Office for Democratic Institutions and Human Rights (ODIHR) published a Joint Opinion on the draft Religion Law (https://www.forum18.org/archive.php?article_id=2609), which found that it "maintains major restrictions and suffers from deficiencies that are incompatible with international human rights standards". Despite the regime having requested the Joint Opinion, the Venice Commission told Forum 18 on 9 March 2021 that there has been no formal response to the Joint Opinion.

Officials have refused to explain to Forum 18 why the prepared Religion Law text was incompatible with international human rights

standards (https://www.forum18.org/archive.php?article_id=2609) and was sent for review in that knowledge. Oybek Akhmadov, Deputy Chair of the state-controlled National Centre for Human Rights, on 16 October 2020 claimed to Forum 18 that "we will send an e-mail to the Venice Commission and explain the situation".

Why is exercising freedom of religion or belief still punished?

Uzbekistan was on 13 October 2020 elected to the United Nations Human Rights Council (<https://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 Ahmed Shaheed (A/HRC/37/49/Add.2 (<https://undocs.org/en/A/HRC/37/49/Add.2>)) recommended: "Review and revise all provisions relating to freedom of religion or belief in the Criminal Code and the Code of Administrative Offences to conform with article 18 of the International Covenant on Civil and Political Rights and other relevant international human rights standards."

Yet the current and the draft new Criminal Code, as well as numerous other laws (https://www.forum18.org/archive.php?article_id=2314), contradict Uzbekistan's international obligations as well as recommendations it accepted during its last UPR (https://www.upr-info.org/sites/default/files/document/uzbekistan/sesion_30_-_mayo_2018/uzbekistan_2rp.pdf) in 2018.

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 Criminal Code, were from Ghana: "Ensure that the right to manifest one's religion in private or in public is fully protected and realized"; and 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 (<https://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 (<https://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]".

"You have no competence to ask for such changes"

An official who refused to give his name, who answered the phone of First Deputy Chair of parliament's lower chamber and National Human Rights Centre Director Akmal Saidov, refused to put Forum 18 through to Saidov on 11 March. The official refused to explain why the draft new Criminal Code and the current Administrative Code punish exercising the freedom of religion and belief and so violate the international human rights obligations identified in the Venice Commission and OSCE Joint Opinion.

Saidov requested the Joint Opinion of the draft new Religion Law (https://www.forum18.org/archive.php?article_id=2604) now in Parliament.

"It is only in the process of being shaped," the official claimed. When Forum 18 again asked why the punishments had not been removed from the draft new Criminal Code, the official replied in an agitated tone: "You have no competence to ask for such changes." He then put the phone down.

The state-controlled 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.

Various Centre officials, Religious Affairs Committee officials, Presidential Administration officials, and General Prosecutor's Office officials all refused to comment on the draft Criminal Code to Forum 18 on 11 March.

New Religion Law stalled?

The draft of the long-promised new Religion Law – adopted in the first reading in the lower house of parliament on 15 September 2020 – would reduce the minimum number of members of a religious organisation from 100 in the current Law to 50. But, against international human rights law (<https://www.osce.org/files/f/documents/9/9/139046.pdf>), being granted state registration remains a pre-condition for existing. The draft Religion Law would, if eventually adopted in current form (https://www.forum18.org/archive.php?article_id=2596), also remove the Religion Law requirement to have the approval for any registration application from the local mahalla committee, the lowest level of state administration. However, mahallas would still

retain this role under the Law on Prevention of Violations of the Law, as would other local-level bodies under existing detailed regulations on how registration applications can be made (http://www.forum18.org/archive.php?article_id=2314).

The draft new Law – if adopted in current form – would retain almost all existing state restrictions on exercising freedom of religion or belief. It was severely criticised by local human rights defenders, as well as in a Joint Opinion by the Venice Commission and the OSCE ODIHR (https://www.forum18.org/archive.php?article_id=2609).

Since the 15 September 2020 first reading approval, Parliament has given no indication of when the draft new Law might be considered in second reading.

The official who answered the phone of First Deputy Chair of parliament's lower chamber Akmal Saidov also refused to say when Parliament will resume consideration of the new Religion Law.

Compulsory state permission to exist still required

Against international human rights law (<https://www.osce.org/files/f/documents/9/9/139046.pdf>), Uzbek law requires religious communities to have state permission to exist (https://www.forum18.org/archive.php?article_id=2314) before they can exercise freedom of religion and belief.

Shia Muslim, Jehovah's Witness, and Protestant religious communities have all had recent applications to exist refused (https://www.forum18.org/archive.php?article_id=2622). In many cases the excuse used has been refusals by local authorities to provide documents as part of the complex, time-consuming and expensive application process. In some cases registration applications have led to reprisals, such as police demands that Protestant Christians renounce their faith.

The current Religion Law (https://www.forum18.org/archive.php?article_id=2314) and the proposed new Religion Law (https://www.forum18.org/archive.php?article_id=2609) still in parliament both ban religious activity without state permission.

Punishing "illegal" religious activity to continue

Current Criminal Code Article 216 (https://www.forum18.org/archive.php?article_id=2314) punishes "Illegal establishment or reactivation of illegal public associations or religious organisations, as well as active participation in their activities". Punishments are a fine of 50 to 100 base units, or restricted freedom for two to five years, or imprisonment for up to five years.

In 2017 Criminal Code Article 216 was used to fine members of Bukhara's Shia Muslim community (https://www.forum18.org/archive.php?article_id=2365) who had met "illegally" in a cafe. They were also tortured, and one, Jahongir Kulijanov, was jailed for five years – apparently because he was regarded as a leader of the community. Kulijanov was freed on parole in February 2019 (https://www.forum18.org/archive.php?article_id=2477).

In June 2016 four leaders of a Sufi Naqshbandi Muslim community in Bukhara Region were jailed for four years (https://www.forum18.org/archive.php?article_id=2206) under Criminal Code Article 216.

This Article remains unchanged as Article 282 of the proposed new Criminal Code, with unchanged punishments.

Punishing organising "criminal society" to continue

The regime could interpret a religious community without state permission to exist as a "criminal society".

Current Criminal Code Article 242 (https://www.forum18.org/archive.php?article_id=2314) punishes "Organisation of a criminal society". This is punishable by up to 20 years in jail. This remains unchanged as proposed new Criminal Code Article 313.

The authorities do not appear to have used current Criminal Code Article 242 (https://www.forum18.org/archive.php?article_id=2314) in recent years to punish the exercise of freedom of religion or belief.

Punishing "inducing" people to participate in a religious community to continue

Current Criminal Code Article 216-1 (https://www.forum18.org/archive.php?article_id=2314) punishes: "Inducement to participate in the activity of illegal public associations, religious organisations, movements, or sects". This carries penalties of between a fine of 25 base units and three years' Imprisonment.

Article 216-1 appears to have been last used in March 2018 by Parkent Police to prosecute a Jehovah's Witness husband and wife, Yevgeni and Natalya Kupayev, for sharing their beliefs (https://www.forum18.org/archive.php?article_id=2397). In August 2018, at their trial, the court sent the case back to prosecutors (https://www.forum18.org/archive.php?article_id=2414) because of numerous procedural errors.

Current Criminal Code Article 216-1 (https://www.forum18.org/archive.php?article_id=2314) remains unchanged as the draft Criminal Code Article 283 in the same "crimes against administrative order" section.

"Inducing" people to take part in the activities of religious communities which do not have state permission to exist is also already punishable under the current Administrative Code Article 202-1 (https://www.forum18.org/archive.php?article_id=2314) ("inclination to participate in the activity of illegal social and religious organisations"). Punishments are fines of 50 to 100 base units, or imprisonment for up to 15 days. This Article appears to have last been used in 2012 to prosecute a Protestant pastor for possessing "illegal" books and musical instruments (https://www.forum18.org/archive.php?article_id=1680).

Punishing smuggling "extremist" literature to continue

Current Criminal Code Article 246, Part 1 (https://www.forum18.org/archive.php?article_id=2314) punishes "Smuggling, that is carriage through the customs border .. without the knowledge of or with concealment from customs control .. materials that propagandise religious extremism, separatism, and fundamentalism". This is punishable by imprisonment for between 10 and 20 years.

Along with current Criminal Code Article 244-1 (https://www.forum18.org/archive.php?article_id=2314) (see below), Criminal Code Article 246 Part 1 has since 2013 been used to prosecute and jail Muslims carrying the Koran and Islamic sermons on mobile phones (https://www.forum18.org/archive.php?article_id=2241).

Current Criminal Code Article 246, Part 1 (https://www.forum18.org/archive.php?article_id=2314) appears as proposed new Criminal Code Article 321. The word "religious" has been removed, but the Article is otherwise unchanged. It remains unknown whether religious works the authorities deem to be "extremist" – such as the text of the Koran on a mobile phone – will still lead to people arriving in Uzbekistan being prosecuted.

Punishing talking about faith – an "offence", not a "crime"

The current Religion Law (https://www.forum18.org/archive.php?article_id=2314) and the proposed new Religion Law (https://www.forum18.org/archive.php?article_id=2609) still in parliament both ban sharing faith with others.

Current Criminal Code Article 216-2, Part 2 (https://www.forum18.org/archive.php?article_id=2314) punishes: "Attracting believers of one faith to another (proselytism) and other missionary activity, after the application of penalties under the Code of Administrative Offences for similar activities" with punishments of a fine, community service, one to three years' restricted freedom, or up to three years in prison.

This was one of the Articles used to jail prisoner of conscience Imam Khayrullo Tursunov, who was illegally extradited from Kazakhstan by Uzbekistan in March 2013 (https://www.forum18.org/archive.php?article_id=1829), against a direct statement of the UN Committee Against Torture. He was sentenced in June 2013 to 16 years in jail (https://www.forum18.org/archive.php?article_id=1851) for meeting privately with other Muslims without state permission to study the Koran and pray.

In 2016 Tursunov was apparently tortured (https://www.forum18.org/archive.php?article_id=2149), and on 17 April 2019 he was tortured again to extract statements against a distant relative (https://www.forum18.org/archive.php?article_id=2477). Prisoner of conscience Tursunov is in 2021 still not allowed to read the Koran or pray the namaz (https://www.forum18.org/archive.php?article_id=2635).

Although current Criminal Code Article 216-2 would be removed from the proposed new Criminal Code, the activities which it punishes would continue to be "offences" punishable under the Administrative Code (https://www.forum18.org/archive.php?article_id=2314).

Sharing faith is punishable under the current Administrative Code Article 240, Part 2 (https://www.forum18.org/archive.php?article_id=2314) ("Attracting believers of one confession to another (proselytism) and other missionary activity"). Punishments are fines of 50 to 100 base units or imprisonment for up to 15 days.

Punishing meeting for worship without state permission – an "offence", not a "crime"

Current Criminal Code Article 216-2, Part 1 (https://www.forum18.org/archive.php?article_id=2314) punishes "illegal religious activity, evasion of registration of a religious organisation's charter by its leaders, conducting special meetings for young people, work groups, and other circles and groups, unrelated to worship, by religious leaders and members of religious organisations." Punishments range from a fine of between 50 and 100 base units, community service, between one and three years' restricted freedom, or up to three years in prison.

Although Article 216-2 would be removed from the proposed new Criminal Code, the activities which it punishes would continue to be "offences" punishable under the Administrative Code.

Holding meetings for worship without state permission is already punishable under the current Administrative Code Article 201, Part 2 (https://www.forum18.org/archive.php?article_id=2314) ("Violation of the procedure for holding religious meetings, street processions, or other religious ceremonies"). Punishments are fines of 80 to 100 base units or imprisonment for up to 15 days.

This "crime" is also punishable under current Criminal Code Article 216 (https://www.forum18.org/archive.php?article_id=2314) "Illegal establishment or reactivation of illegal public associations or religious organisations, as well as active participation in their activities", which has been taken unchanged into the proposed new Criminal Code Article 282 (see above).

Punishing possessing or distributing religious literature

Uzbekistan imposes total censorship of all printed and electronic religious literature, and police often confiscate books which have passed the state's compulsory censorship. The regime has repeatedly tried to stop followers of religious beliefs from reading their own sacred texts in their own homes.

The current Religion Law (https://www.forum18.org/archive.php?article_id=2314) and the proposed new Religion Law (https://www.forum18.org/archive.php?article_id=2609) still in parliament both ban the production and distribution of religious literature without state permission.

Current Criminal Code Article 244-3 (https://www.forum18.org/archive.php?article_id=2314) punishes "illegal production, storage, import or distribution of religious literature". It carries – if there has been a previous administrative conviction – punishment of a fine of between 100 and 200 base units, or up to three years' corrective labour.

Although Article 244-3 would be removed from the proposed new Criminal Code, the activities which it punishes would continue to be "offences" punishable under the Administrative Code.

On 24 November 2020 human rights defender Doctor Alimardon Sultonov was sentenced to 14 months' restricted freedom under Criminal Code Article 244-5 (https://www.forum18.org/archive.php?article_id=2626) ("Dissemination of knowingly false information about an infectious disease"), and Criminal Code Article 244-3 ("Illegal production, storage, import or distribution of religious literature").

Despite Dr Sultonov's sentence, "there is no social danger in the very purpose of disseminating religious content," the explanatory notes on the proposed new Criminal Code state. "It also does not provide for imprisonment for this crime and is included in the classification of crimes of low social risk. In this regard, it is proposed to transfer to the Administrative Code."

Current Administrative Code Article 184-2 (https://www.forum18.org/archive.php?article_id=2314) already punishes "Illegal production, storage, or import into Uzbekistan, with the intent to distribute or actual distribution, of religious materials by physical persons".

Current Criminal Code Article 244-1 (https://www.forum18.org/archive.php?article_id=2314) punishes the "production, storage, distribution or display of materials containing a threat to public security and public order". Its Part 2 punishes: "Dissemination of materials containing ideas of religious extremism, separatism, and fundamentalism, calls for pogroms or violent eviction, or aimed at creating panic among the population, as well as the use of religion for purposes of breach of civil concord, dissemination of calumnious and destabilising fabrications, and committing other acts aimed against the established rules of conduct in society and public order".

Current Criminal Code Article 244-1, Part 3 (https://www.forum18.org/archive.php?article_id=2314) punishes this "crime" with prior planning or by groups of individuals, Part 3 (b) punishes it by officials, and Part 3 (c) punishes this "with financial or other material aid from religious organisations, as well as foreign states, organisations, and citizens".

From April 2016, Article 244-1, Part 3 (d) has punished (https://www.forum18.org/archive.php?article_id=2189) "criminal" activities "using the mass media or telecommunication networks, as well as the world wide web".

At the same time, Article 244-1's possible punishments were increased to imprisonment of between 5 and 8 years (https://www.forum18.org/archive.php?article_id=2189), instead of the previous up to 5 years' jail or a fine of between 300 and 400 times the minimum monthly wage. It is normally only used against Muslims exercising their freedom of religion and belief.

In three known cases in 2020, groups of men who met in Tashkent to discuss Islam have been arrested and jailed. In all three cases, the men were tortured and agent provocateurs used to bring false charges under various parts of Criminal Code Article 244-1 with other Articles. In the most recent case, seven Muslim men who met in Tashkent to discuss Islam were in January 2021 transferred to various prisons to begin jail terms of between 11 and four years (https://www.forum18.org/archive.php?article_id=2640). Nine men

were given restricted freedom sentences. "It is no use for us to make another appeal as nothing will change," a relative told Forum 18.

Current Criminal Code Article 244-1 (https://www.forum18.org/archive.php?article_id=2314) appears as draft Criminal Code Article 315. The word "religious" has been removed, but the Article is otherwise little changed. The explanatory notes say that "expert analyses" of materials in criminal cases under current Criminal Code Article 244-1 have described materials as being "religious extremist" when they contain no extremism, but are instead "full of fanatical ideas".

It remains unclear whether this change in phrasing will make any difference to the regime's jailing and torture of people who meet to discuss Islam.

Teaching religion still a "crime"

Teaching religion has long been banned without state permission, with religion teachers requiring written permission from the headquarters of a religious community that has state permission to exist.

The current Religion Law (https://www.forum18.org/archive.php?article_id=2314) and the proposed new Religion Law (https://www.forum18.org/archive.php?article_id=2609) still in parliament both ban religious education without state permission.

The regime uses a wide range of tools to target this exercise of freedom of religion and belief (https://www.forum18.org/archive.php?article_id=2589). These include raids by the ordinary police and SSS secret police on those teaching the Koran in their home (https://www.forum18.org/archive.php?article_id=2564).

Current Criminal Code Article 229-2 (https://www.forum18.org/archive.php?article_id=2314) punishes: "Teaching religious beliefs without specialised religious education and without permission from the central organ of a [registered] religious organisation, as well as teaching religious beliefs privately". Punishments range from fines of 50 to 100 base units, community service, corrective labour, restricted freedom or imprisonment for up to three years.

Although Article 229-2 would be removed from the proposed new Criminal Code, the activities which it punishes would continue to be "crimes" if under-18-year-olds are involved under draft Criminal Code Article 180 (see below), as well as "offences" if people of any age are involved under the Administrative Code.

Administrative Code Article 241 already punishes "Teaching religious beliefs without specialised religious education and without permission from the central organ of a [registered] religious organisation, as well as teaching religious beliefs privately". Punishments are fines of 5 to 10 base units or imprisonment for up to 15 days.

Attracting under-18-year-olds into religious organisations an "offence", not a "crime"

Attracting under-18-year-olds into religious organisations is punishable under current Criminal Code Article 145 (https://www.forum18.org/archive.php?article_id=2314). This Article is due to be replaced by draft new Criminal Code Article 180, which would punish attracting under-18-year-olds into religious organisations only if (undefined) coercion or violence is involved.

If no (unspecified) coercion or violence is involved, the explanatory notes state: "It is proposed that the Administrative Code establish liability for attracting under-18-year-olds into religious organisations, and that this act be considered a crime only in cases of coercion or violence." However, teaching under-18-year olds religion against their or their parents' wishes remains a "crime" under draft Criminal Code Article 180, and an "offence" if people of any age are involved under the Administrative Code (see above).

Draft Criminal Code Article 180 also continues the current Criminal Code Article 145 bans on: obstructing the legal activity of state-recognised religious communities or the conducting of (unspecified) religious rituals; teaching under-18-year-olds religion against their or their parents' wishes; (unspecified) religious activities which prevent citizen' exercising their (unspecified) civil rights and responsibilities; forcing people to contribute money to religious communities; forcing people to undergo religious education or to participate in religious rituals; forcing people to adopt or not adopt a religion; and (unspecified) religious activities harming people's (unspecified) honour, dignity, or physical health.

Officials routinely commit some of these crimes with impunity, and the regime has not produced any evidence that these crimes are committed by people associated with religious communities.

The ordinary police and the State Security Service (SSS) secret police routinely watch people who go to mosques, especially during Friday prayers (https://www.forum18.org/archive.php?article_id=2564). They pay particular attention to men and boys under the age of 18. After they are identified, police visit their parents' homes to pressure them into stopping their children from attending mosques.

Current Administrative Code Article 240, Part 1 (https://www.forum18.org/archive.php?article_id=2314) already punishes leaders and members of religious organisations who establish and conduct meetings for young people "not connected with carrying out of worship". Punishments are fines of 50 to 100 base units or imprisonment for up to 15 days.

On 25 December 2019 the Religious Affairs Committee published an updated list of banned Islamic texts. Among the very many imprecise reasons given for the wide-ranging bans are "inviting children and youths under 18 to religious activity" (https://www.forum18.org/archive.php?article_id=2564).

Current Criminal Code Article 216-2, Part 1 (https://www.forum18.org/archive.php?article_id=2314) punishes "conducting special meetings for young people". This Article is to be removed from the new Criminal Code (see above).

Inciting hatred, intolerance, divisions

Current Criminal Code Article 156, Part 2 (https://www.forum18.org/archive.php?article_id=2314) punishes "Deliberate acts intended to humiliate ethnic honour and dignity, insult the religious or atheistic feelings of individuals, carried out with the purpose of inciting hatred, intolerance, or divisions on a national, ethnic, racial, or religious basis, as well as the explicit or implicit limitation of rights or preferences on the basis of national, racial, or ethnic origin, or religious beliefs". This Article has been used against members of smaller religious communities.

Current Criminal Code Article 156, Part 2 (https://www.forum18.org/archive.php?article_id=2314) appears as draft Criminal Code Article 203, with increased minimum punishments.

In November 2015, a court in Fergana Region jailed Davron Komoliddinov, a 24-year old Muslim, for seven years (https://www.forum18.org/archive.php?article_id=2191) on a range of charges, including under Criminal Code Article 156.

No officials are known to have been prosecuted under Article 156.

Punishing violating freedom of conscience – of state-registered communities only?

Current Criminal Code Article 145, Part 1 (https://www.forum18.org/archive.php?article_id=2314) bans: obstructing the legal activity of state-recognised religious communities or the conducting of (unspecified) religious rituals; attracting under-18-year-olds into religious organisations, and teaching them religion against their or their parents' wishes; (unspecified) religious activities which prevent citizen' exercising their (unspecified) civil rights and responsibilities; forcing people to contribute money to religious communities; forcing people to undergo religious education or to participate in religious rituals; forcing people to adopt or not adopt a religion; and (unspecified) religious activities harming people's (unspecified) honour, dignity, or physical health.

Current Criminal Code Article 145 reappears little changed as draft new Criminal Code Article 180. However, punishment for involving under-18-year-olds in religious activity if no (undefined) coercion or violence is involved is proposed to be transferred to the Administrative Code (see above).

However, even communities which have state permission to exist face restrictions which are illegal in international human rights law, and their suggestions to change the proposed new Religion Law (https://www.forum18.org/archive.php?article_id=2604) to bring it into line with international law have been ignored.

The proposed Article 180, Part 1 punishes: "Unlawful obstruction of the lawful activities of a [registered] religious organisation or the performance of religious rites and ceremonies or worship". This appears not to protect the rights of individuals meeting for worship in a home, or members of a religious community which does not want state registration or has been refused state registration.

Part 1 of both the current Criminal Code Article 145 (https://www.forum18.org/archive.php?article_id=2314) and draft new Criminal Code Article 180 appears to allow prosecution only of people who obstruct the freedom of religion and belief of state-registered religious communities, or events they hold which other laws do not specifically ban.

One commentator on the regime's draft law website urged that draft Article 180, Part 1 be amended to specify: "Unlawful obstruction of the lawful activities of a [registered] religious organisation or the performance of religious rites and ceremonies or worship of individuals".

The commentator explained: "Because the freedom of conscience belongs to individuals and the concept of prayer is related to individuals, while a religious organisation is a legal entity that organises prayer."

There are no known cases of any state officials who have violated registered religious communities' freedom of religion or belief who have been prosecuted under current Criminal Code Article 145 (https://www.forum18.org/archive.php?article_id=2314). (END)

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

For more background, see Forum 18's Uzbekistan religious freedom survey (https://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
(https://www.forum18.org/archive.php?article_id=1351)

Follow us on Twitter @Forum_18 (https://twitter.com/forum_18)

Follow us on Facebook @Forum18NewsService (<https://www.facebook.com/Forum18NewsService>)

All Forum 18 text may be referred to, quoted from, or republished in full, if Forum 18 is credited as the source.

All photographs that are not Forum 18's copyright are attributed to the copyright owner. If you reuse any photographs from Forum 18's website, you must seek permission for any reuse from the copyright owner or abide by the copyright terms the copyright owner has chosen.

© Forum 18 News Service. All rights reserved. ISSN 1504-2855.

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

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY