

# MODERN LEGISLATION OF THE REPUBLIC OF UZBEKISTAN IN THE FIELD OF RELIGION

Ashurov N. B.

University of Economics and Pedagogy

## Abstract

The article deals with the modern legislation of the Republic of Uzbekistan in the field of religion. The article analyzes the main legal documents aimed at preventing and combating the spread of the ideology of radical Islam in the region. The effectiveness of state legislation on religion in relation to existing extremist and terrorist threats in the region is assessed.

**Keywords.** Islam, extremism, terrorism, Uzbekistan, legislation, religion.

## Introduction

Modern legislation of the Republic of Uzbekistan in the field of religion begins to take shape in the early 1990s. On June 14, 1991, Law No. 289-XII “On freedom of conscience and religious organizations” was adopted. Thirty articles contained norms that guaranteed citizens the exercise of their rights to freedom of religion and attitude to religion, social justice and equality, regardless of their attitude and affiliation with religion

In essence, this document largely repeated the fundamental principles of freedom of conscience laid down in the USSR Law of October 1, 1990 No. 1689-1 “On freedom of conscience and religious organizations.”

The Law of the Republic of Uzbekistan on religion in Article 3 secured for citizens their right to profess any religion or not to profess any. No restrictions related to the practice of religion or being in a non-religious state were allowed.

Article 5 established the principle of separation of religion and religious organizations from the state, declaring the equality of all religions before the law. No religion could have any advantages over another. Servants of religious organizations received the right to participate in the political life of the country, in contrast to the religious organizations themselves, whose political activities were prohibited.

The same article pointed out the inadmissibility of using religion for propaganda purposes aimed at inciting interethnic and interreligious discord, enmity and hatred.

Article 6 confirmed the principle of separation of schools from religion and religious organizations. As in the USSR, the impossibility of finding religious education in the public education system was declared. Registered religious organizations had the right to organize their own educational institutions, where they had the right to teach religion centrally, but under a number of conditions. Thus, a person teaching religious doctrine was required to have specialized spiritual education and permission from the spiritual administration to teach. The teaching of religion privately, outside educational institutions or centralized groups, was not allowed.



In light of the activation in Uzbekistan in the early 1990s, religious groups and radical movements attract attention in Chapter II of the law, devoted to various aspects of the existence of religious organizations in the republic. Thus, Article 13 established the procedure for registering such organizations. It is worth paying attention to one of the paragraphs of this article, which stated that there is no need to register with the justice authorities those religious organizations whose head structures are located outside the republic. Using this loophole in the legislation, the Islamic Movement of Uzbekistan, Hizb-ut-Tahrir al-Islami, as well as individual groups related to the Taliban and Al-Qaeda movements subsequently entered the country without any problems.

The Law of the Republic of Uzbekistan “On Freedom of Conscience and Religious Organizations” also established the rights of citizens and religious organizations related to freedom of religion, determined the property status, and the procedure for labor relations in religious organizations.

Article 28 stated that all issues related to the confession of religion and the activities of religious organizations are dealt with by the Committee on Religious Affairs under the Cabinet of Ministers of the Republic of Uzbekistan, as well as regional khokims, endowed with all the necessary powers for this purpose.

Thus, we have before us a document in which, at first glance, an attempt was made to reflect as fully as possible all possible freedoms in terms of the unhindered practice of religion.

However, as practice has shown, the state was not ready to introduce such maximum freedom of religion. This was mainly due to the intensification of the activities of groups and movements representing non-traditional Islam, as well as the growing threat of the spread of the ideology of Islamic extremism.

A year later, on December 8, 1992, the Constitution was adopted in Uzbekistan after two months of popular discussion. On the one hand, the need for its adoption is indisputable, because it is the main legal document on which the entire legal system of a particular state is based. On the other hand, as noted earlier, the increasingly growing threat of the creation of an Islamic state and a change in the current government made it vitally necessary to legally consolidate the state position on the above-mentioned issue.

This position is clearly visible in Articles 7 and 52 of the Constitution of the Republic of Uzbekistan, according to which, in particular, the creation and activities of structures alternative to the state ones were prohibited, as well as the creation of political parties whose activities were aimed at changing the constitutional system, promoting war, enmity, hatred national and religious motives.

Thus, the state made it clear that from now on all groups and movements, be they political or religious, that set themselves goals of political content (which is actually characteristic of extremist associations) are criminal and illegal.

With the adoption of the Constitution, the fight against any manifestations of religious extremism in the republic intensifies, the state establishes control over the activities of Muslim organizations.



As some authors note, in the Constitution the government outlined its strategy for combating non-traditional Islam - the total extermination of extremism and terrorism on the territory of Uzbekistan at any cost.

The further intensification of extremist forces in the region under consideration and the emergence of larger radical Islamic organizations led to adjustments in the legislation on religion, aimed, first of all, at establishing strict state control over the activities of Muslim communities.

On May 1, 1998, a new version of the Law "On Freedom of Conscience and Religious Organizations" was published [1]. Noteworthy are the changes that have occurred in a number of articles. Thus, Article 5 prohibited proselytism - actions aimed at converting believers from one denomination to another. Any missionary activity was also prohibited. Neither the first nor the second norms were previously provided for in the Law. Article 7 prohibited the inclusion of religious disciplines in the educational curricula. Moreover, this ban, which did not receive official comments, was subsequently interpreted not only as a ban in relation to the secular education system, but also in some cases turned out to be applied to certain religious educational institutions, in particular, Muslim ones. This happened in cases where the authorities suspected that followers of radical Islam were being trained within the walls of madrassas and "mektebs".

As we remember, Article 9 contained a ban on private religious instruction. However, previously there was no punishment for violating this norm. With the advent of the 1998 Law, changes were made to the Administrative and Criminal Codes, according to which a primary violation of Article 9 was punishable by 15 days of arrest (Article 241 of the Criminal Code of the Republic of Uzbekistan), and a repeated violation entailed the application of Article 229.2 of the Criminal Code of the Republic of Uzbekistan with a penalty of up to 3 years imprisonment. Already in the early 2000s. Article 19 was subject to serious adjustments, which outlined the conditions for the delivery and sale in the republic of religious products published abroad, as well as those produced directly in Uzbekistan. From now on, its distribution was possible only after an examination of its contents, carried out by the Committee on Religious Affairs under the Cabinet of Ministers of the Republic of Uzbekistan.

Religious materials to be distributed must be marked "authorized by the Committee on Religious Affairs" or "recommended by the Committee on Religious Affairs." The same article specifically stated that the production, storage and distribution of religious products containing ideas of religious extremism, separatism and fundamentalism are not allowed. Violation of this paragraph entails liability under Article 244 of the Criminal Code of the Republic of Uzbekistan. The terrorist attacks that occurred in Tashkent in February 1999 led to the tightening of legislation in the field of religion. On December 15, 2000, the Law "On the Fight against Terrorism" was adopted, in which the legislator tried to take into account, as far as possible, everything that was connected with this terrible phenomenon. Thus, Article 1 outlined the basic concepts used in the document. Among them are hostage, terrorism, terrorist, terrorist group, terrorist organization, terrorist activity, etc.

The concepts of "terrorist" and "terrorist activity" are interesting here. According to the letter of the law, a "terrorist" is "a person who participates in terrorist activities, as well as who



travels abroad or moves through the territory of the Republic of Uzbekistan to participate in terrorist activities.” “Terrorist activity” is understood as “activity that includes the organization, planning, preparation and implementation of a terrorist act, incitement to a terrorist act, the creation of a terrorist organization, the recruitment, training and arming of terrorists, their financing and logistical support” [3]. As we see, in both cases the most versatile interpretation of the above-mentioned concepts is given, which, in our opinion, gives the opportunity for a wider application of this law in practice. Noteworthy is Article 4 of the Law in question. In addition to proclaiming the inevitability of punishment as one of the principles of the fight against terrorism, the possibility of combining public and covert (read - not entirely legal - author's note) methods of combating terrorism is also indicated. The legal document under consideration outlined a fairly extensive line of state institutions whose task is to ensure state security in the field of prevention, prevention and countering the threats of extremism and terrorism in the Republic of Uzbekistan. Among them are the National Security Service (NSB), the Ministry of Internal Affairs, the Ministry of Defense, the Ministry of Emergency Situations, and the Prosecutor General's Office.

In 2003, Uzbekistan joined the Shanghai Convention on Combating Terrorism, Separatism and Extremism. Previously, this document was signed by Russia, China, Kazakhstan, Kyrgyzstan and Tajikistan. Participation in the convention involves cooperation in terms of exchanging information, fulfilling requests for operational-search activities, taking measures to prevent, detect and suppress actions of a terrorist, separatist and extremist nature on the territory of one's state, etc.

Total control over the activities of Islamic religious organizations, strict measures to combat any manifestations of extremism and terrorism in the republic have led to the fact that since 2009, not a single terrorist act has been registered in Uzbekistan. This, of course, was facilitated by the further tightening of state legislation in the field of religion. One of the latest legislative acts related to the fight against radical Islam is the Law “On Combating Extremism,” adopted in the summer of 2018. Noteworthy is the fact that Uzbekistan became the last Central Asian country where a corresponding legal act was adopted. In the territory of the former CIS, such a law was first adopted in 2003 in Tajikistan. An analysis of the above-mentioned document allows us to assert that the law has maximally reflected all the practical experience of successfully countering Islamic extremism in the Republic of Uzbekistan. All wording of the law, its concepts and definitions are extremely precise. Thus, Article 3 gives, in our opinion, the most complete definition of extremism, reflecting Uzbek realities, as an expression of extreme forms of actions aimed at destabilizing the socio-political situation, violent change of the constitutional system of the Republic of Uzbekistan, violent seizure of power and appropriation of its powers, incitement of national, racial, ethnic or religious hostility [4]. The same article defines the concept of “extremist activity”. It turns out to be so broad that it allows the application of both the relevant article and the law as a whole in relation to organizations that arouse any suspicion from government services responsible for national security. As in the case of terrorist organizations, extremist groups and movements are recognized as such only after the relevant court decision has entered into force. However, Article 19 of the Law “On Combating Extremism” separately states that if an organization is recognized as extremist, not



only its activities, but also the presence of foreign citizens and stateless persons on the territory of Uzbekistan as representatives of this organization, the distribution of materials of a banned organization, and the conduct of mass events, as well as the participation in them of representatives of a prohibited organization.

Article 11 of this law prohibits the import, storage, distribution and display of materials with extremist content on the territory of the republic. It is emphasized that if prohibited materials are posted on the Internet, then access to them can be blocked by court decision. Article 14 states that the Ministry of Justice and the Supreme Court on their official pages on the Internet are required to publish a list of organizations in respect of which there is a court decision that has entered into legal force recognizing them as extremist and banning their activities on the territory of the Republic of Uzbekistan.

With the release of the Law “On Combating Extremism,” a number of articles of the Criminal Code were tightened, providing for strict penalties for extremist and terrorist activities. Thus, Article 155 defines the punishment for terrorism. Committing a terrorist act that results in the death of a person or the infliction of serious injuries is punishable by imprisonment from fifteen years to life imprisonment. Failure to report information about a terrorist act being reliably prepared or a crime of a similar nature committed, resulting in the death of a person and other grave consequences, according to Article 155-1, is punishable by imprisonment from five to seven years. Article 155-2 establishes a penalty of imprisonment from five to seven years for undergoing training for the purpose of carrying out terrorist activities (acquiring theoretical and practical skills, training in the use of weapons, explosives and toxic substances, etc.), as well as traveling abroad or moving through the territory of Uzbekistan for the purpose of participating in terrorist activities. This article also contains penalties - from eight to ten years - for recruiting persons for the purpose of subsequently carrying out terrorist activities.

To counter the ideology of radical Islam in terms of inciting national, racial, ethnic or religious hatred, the Criminal Code contains Article 156, which provides for punishment of imprisonment from five to ten years. Any extremist calls for the creation of an Islamic state by changing the existing constitutional system and overthrowing the legally elected president and government, unauthorized seizure of power and the creation of structures alternative to state ones, violation of the law on religion are subject to several articles at once: - Article 159 – Encroachment on the constitutional system of the Republic Uzbekistan (punishment in the form of imprisonment for a term of five to ten years for public calls for a change in the constitutional system, as well as from ten to twenty years for an attempt to seize power); - Article 216 – Illegal organization of public associations or religious organizations and participation in their activities (punishment for up to five years in prison); - Article 216-2 – Violation of legislation on religious organizations (carrying out illegal religious activities, including missionary activities, proselytism can lead to imprisonment for a period of three years); - Article 244-2 – Creation, leadership, participation in religious extremist, separatist, fundamentalist or other prohibited organizations (imprisonment for a term of five to fifteen years; the same actions entailing grave consequences; as well as involvement of a minor, are punishable by imprisonment for a term of five to fifteen years; period from fifteen to twenty years) [5]. An analysis of the legislation in force in the Republic of Uzbekistan in the field of religion allows



us to agree with the conclusions of some authors that at present Uzbekistan is a state pursuing a tough policy towards religion in its most radical manifestations [8, p. 70-71]. Compared to other Central Asian republics, Uzbekistan has managed to formulate much more effective religious legislation, allowing it to quickly respond to emerging threats and take measures against individuals and associations suspected of organizing and carrying out extremist and terrorist activities. However, there is also a downside to this process. In Uzbekistan, there is still an unspoken practice according to which not only those who are directly involved in extremist or terrorist activities are punished, but also their relatives and friends. The use of broad language in the definition of extremism and terrorism and activities related to these concepts creates the basis for repression against individuals and religious organizations that are objectionable to government authorities.

Illegal arrests and imprisonments of relatives of terrorists and extremists, violations of legislation in the field of religion by government agencies lead to the fact that Uzbekistan often appears in analytical reports devoted to monitoring freedom of religion in countries around the world as a country that violates freedom of conscience. Nevertheless, it is worth agreeing with the statement of G.B. Romanovsky that the absence of terrorist activity over the past decade in the difficult socio-economic and political situation in the country indicates the effectiveness of state legislation in the field of religion in preventing and countering the spread of the ideology of radical Islam in the region.

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