

Needless Lawmaking in Tajikistan

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In the midst of crisis, authorities seem to be prioritising unnecessary, bad laws.

A leading campaigner for human rights in Tajikistan has expressed concern about a range of new legislation that she believes is irrelevant as well as unconstitutional.

In an interview for IWPR, **Oinikhol Bobonazarova**, head of the human rights NGO Perspektiva Plus, said that non-essential and sometimes harmful bills were being given priority over urgent matters like the rights of migrant workers.

In 2013, Bobonazarova stood as a joint opposition candidate against long-time president Imomali Rahmon. She dropped out of the race before the election took place.

The president recently signed off on a number of pieces of legislation including amendments to the Criminal Code and Family Code. Isn't there a sense that recent lawmaking has been about matters of secondary importance?

That's true. There used to be a feeling that Tajikistan was passing good laws which we welcomed and for which we received praise. There were some advances on human rights. But recently, there has been marked movement backwards. Note that the president's last address to parliament didn't contain a word about human rights, democratisation or civil society. That's generally indicative of state policy on fundamental human rights and democratisation.

In recent years, a number of laws have been passed that fundamentally contravene not only the various international conventions, pacts and treaties that Tajikistan has ratified, but also its constitution and domestic laws.

Let's take the law on parental responsibility for the education and upbringing of children. We don't actually need such a law because we already have the Family Code, which clearly states that parents have an obligation to bring up their children and be responsible for children until they reach adulthood. A special, separate law wasn't needed.

The constitution states that as a democratic welfare state, Tajikistan bears responsibility for the upbringing of each generation. So the new law goes against the constitution by placing the entire responsibility on parents.

Many parents unfortunately have to leave Tajikistan and become labour migrants. If the state is unable to provide its citizens with decent jobs and wages, it should at least set out standards to help families while fathers are abroad earning a living.

A recent amendment to the Criminal Code makes parents responsible for the upbringing of minors, and includes the unfortunate penalty of two years' imprisonment for anyone who violates this clause.

Where is the human rights violation here?

Bringing up children is not a matter for the law. After all, it comes down to whether parents have the means to do it in the right way; it depends on their income, on the environment where they live, and on the schools. It depends on the state.

In the majority of families, one parent is abroad, most often the father. So you can imagine a mother with five children who's left on her own. The father doesn't pay alimony or help out in any way – we know there are many divorces these days involving migrants in Russia. Her children don't go to school, and she works all day at the market to earn a living and feed them. How is she supposed to work on bringing up her children if she doesn't have a job and doesn't get alimony?

When so many people are living below the poverty line, how can they pay fines? If a boy isn't going to school, his mother gets fined but he still doesn't attend, then the mother will be fined a second time and after that imprisoned for two years. Who brings up and feeds her children then? Who will look after them?

So I don't believe people can be forced to do things through laws, especially to love and bring up their children.

It's been reported that disabled children are being checked to see whether their parents are close relatives.

That is totally illegal. The authorities say people should not marry close relatives as their children will be born with disabilities. I can cite dozens of cases where parents who are not related have children with disabilities.

It's also been reported that all couples planning to get married will have to undergo a medical examination, and that civil registries will not grant marriage certificates without proof of this.

Yes, that is true. It was first proposed by registry office staff in Khatlon region, followed by parliamentarian Saodat Amirshoeva. I raised the planned legislation on prenuptial medical checks in October 2014, when I spoke at an OSCE Human Dimension implementation meeting in Poland. There was also talk of brides-to-be undergoing virginity tests.

At the meeting, government representatives insisted that no such law had been considered. But in his March 8 Women's Day address, the president floated the idea of introducing mandatory medical tests before marriage. It is obvious that anything the president says will get done. So it was the official view even though they denied it.

Imagine having to undergo a medical examination for the civil registry, and it turns out the bride has some illness. The test results will go to the groom's relatives as well as the bride's. Do you think it will remain confidential? Even if the bride's relatives keep it to themselves, the groom's relatives will surely discuss it. Everyone will wonder why they broke off their engagement.

And they might legalise virginity testing?

It's still under discussion. But I'm afraid the test will be introduced.

There is another side to this. Many young men who are infected with HIV while working as migrant labour in Russia conceal this from their bride-to-be, who will then contract the virus. Perhaps this law is meant to prevent this from happening?

I get your point, but the fact is that they aren't thinking about HIV/AIDS when they talk about this new law; they are focusing on marriages between relatives. I don't think that forcing people to disclose their HIV status will resolve the problem or reduce infection rates. We need other mechanisms. There are organisations working in this sector that should explain to the man how he can protect his wife from infection. No one has a right to force him to disclose his status. That would be a violation of human rights in itself.

In our society, this [prenuptial medical exam] law will be discriminatory against women. This society doesn't condemn men; it always condemns women. These girls will be unable to get married, and this will increase the number of prostitutes in Tajikistan and abroad.

If these laws don't comply with international law and contradict our constitution, how do they get passed?

I think it's a matter of general policy. The government hasn't yet decided what direction it's going in - towards democracy or towards authoritarian rule.

There are many problems in the country that need to be addressed. Take, for example, the bill on migration which has been drafted by a working group over the past five years. After several years, the law hasn't been passed.

The government seems to want to absolve itself of responsibility for migrants. Part of the law says that if the state cannot provide jobs at home, it must do everything to protect its citizens' interests abroad.

In his March 8 address, the president said it was unacceptable for women to wear hijab [Islamic dress]. Immediately, all the public broadcasters began putting out propaganda programmes that argued that hijab was not part of our tradition.

We have massive economic problems, the problems with our migrants, and the current [financial] crisis. But everyone is suddenly concerned about women's clothing. Apparently that is the most pressing concern. Personally, I don't think a woman's clothes are important.

All this shows the way crucially important issues are being left unresolved as the government tries to divert people's attention in an entirely different direction.

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Topic: [Human rights](#)

[Migrants](#)

[Women's rights](#)

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