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KYRGYZSTAN: Religion Law changes being done "democratically"

By Felix Corley, Forum 18 News Service <<http://www.forum18.org>>

Government-backed changes to Kyrgyzstan's Religion Law have begun passage in Parliament, Forum 18 News Service notes. If eventually adopted, they would ban sending students for foreign religious education without state permission, require religious communities to have 200 founders in one locality, and ban all foreigners exercising freedom of religion or belief without a state license. The amendments do not address the long-standing issue of obstructions or denials of burials according to their own rites to deceased Protestants, Baha'is, Jehovah's Witnesses and Hare Krishna devotees. Mira Karybaeva of the Presidential Administration claimed to Forum 18 that "we're doing all this democratically", insisting that "government and society have reached a consensus". Her claim of "consensus" ignored heavy criticisms by human rights defenders such as the Open Viewpoint Foundation and others, including that the amendments increase the risk of conflict. Meanwhile, Ahmadi Muslims are again challenging state denials of registration and so of permission to exist, and Jehovah's Witnesses have taken state registration denials to the UN Human Rights Committee.

Draft amendments to the Religion Law prepared by the State Commission for Religious Affairs (SCRA) have begun passage in Kyrgyzstan's single-chamber parliament, the Zhogorku Kenesh, Forum 18 News Service notes. If eventually adopted, the government-backed Religion Law amendments would ban sending students to foreign religious colleges without government permission, require each religious community to have 200 local citizen adult founders in one locality, and ban all exercise of freedom of religion or belief by foreign citizens without a state license.

Meanwhile, the Ahmadi Muslim community in the capital Bishkek is preparing to again challenge in court state registration denial and so of permission for them to exist. Because of the re-registration denial, the community has not been able to meet for worship since July 2011. Also, the Jehovah's Witnesses have taken state registration denials in three separate districts of the country to the UN Human Rights Committee in Geneva.

"We're doing all this democratically"

Galina Kolodzinskaia, coordinator of the Inter-religious Council in the Kyrgyz Republic, fears that the Religion Law amendments could be adopted "quickly and quietly", especially if public debate is minimal. "I know that several parliamentary deputies are opposed to them, but if most of them are committed to adopting them this could be done as early as in a month's time," she told Forum 18 from Bishkek on 18 December.

Mira Karybaeva, Head of the Presidential Administration's Ethnic, Religious Policy, and Cooperation with Civil Society Department, claimed to Forum 18 on 3 December that "these new amendments will not be hurried - we're doing all this democratically". The initial text of the draft amendments was made public on the government website on 18 June. Work on the text was completed in late October, after changes described by human rights defender Dmitry Kabak, of the Bishkek-based Open Viewpoint Foundation, on 29 October as "minor".

Karybaeva of the Presidential Administration insisted to Forum 18 that: "Government and society have reached a consensus on this". She declined to discuss the censorship amendments then awaiting presidential signature, or proposed changes to the Code of Administrative Offences. Her claim of "consensus" ignored heavy criticism of the amendments by human rights defenders and civil society activists, as well as some religious communities - including criticism made at an Open Viewpoint roundtable she personally attended (see below).

The Justice Ministry has prepared draft amendments to the Administrative Code, extensively widening the freedom of religion or belief manifestations subject to administrative punishment. The Ministry is currently seeking government approval to present them to the Zhogorku Kenesh (see forthcoming F18News article).

Censorship amendments to the Religion Law were signed by President Almazbek Atambayev on 7 December. State officials have refused to explain how the amendments - which increase state control over religious literature and other materials - will be

implemented (see F18News 13 December 2012 <http://www.forum18.org/Archive.php?article_id=1781>).

Religion Law "is not working"?

On 30 October the latest draft amendments to the Religion Law, prepared by the State Commission for Religious Affairs (SCRA), reached the Zhogorku Kenesh according to its website. The draft was assigned to the parliamentary Education, Science, Culture and Sport Committee, which was behind the tightening of censorship changes (see F18News 29 June 2012 <http://www.forum18.org/Archive.php?article_id=1716>). The Committee is chaired by Kanybek Osmanaliev, former Chair of the State Agency for Religious Affairs (the SCRA's predecessor) under the discredited regime of ex-President Kurmanbek Bakiev.

SCRA Director Abdilatif Zhumabayev presented the draft to the Committee at an 11 December meeting. Committee Chair Osmanaliev complained that the current Religion Law "is not working". Despite repeated calls, Forum 18 was unable to reach Osmanaliev or Zhumabayev on 18 or 19 December to ask why they think the current Law is not working and why they think it needs to be changed. Osmanaliev's aide told Forum 18 he was in meetings.

Osmonaliev also used the meeting to launch an attack on "foreign missionaries". "Kyrgyzstan has turned into a polygon for various religious sects," local news agencies quoted him as claiming. He also complained that "it has reached the point where Baptists are divided on ethnic lines: into Kyrgyz and Russians".

The current Religion Law came into force in January 2009, a year before then-President Bakiev was ousted from power. After Bakiev's departure, Protestant, Catholic, Baha'i, Hare Krishna, Jehovah's Witness, and civil society human rights groups told Forum 18 they wanted it to be abolished or radically changed (see F18News 16 April 2010 <http://www.forum18.org/Archive.php?article_id=1432>). But parliamentary deputies and government agencies have since then repeatedly tried to harshen the Law's restrictive provisions, as with the censorship amendments.

Amendments "do not contradict international norms"?

In his justification of the new amendments, apparently completed by 10 October and published on the parliamentary website, SCRA Director Zhumabayev noted that some of the provisions had emerged from other state agencies during government consultations on the draft text. He insisted that "the norms of this draft Law do not contradict international norms".

As the amendments reinforce the current Law's breaches of the international human rights treaties Kyrgyzstan has solemnly promised to implement (see Forum 18's Kyrgyzstan religious freedom survey at <http://www.forum18.org/Archive.php?article_id=1388>), it is unclear how Zhumabayev could have come to this conclusion.

"No proposals or observations"?

SCRA Director Zhumabayev also claimed that "in the course of public discussion of this draft, no proposals or observations came in". This ignores serious criticism compiled under the auspices of Open Viewpoint, which the SCRA is aware of.

Open Viewpoint head Kabak published a critical analysis of the initial draft amendments on 5 September. In mid-October, Open Viewpoint published further critical reviews by Associate Professor Natalya Alenkina of Bishkek's American University of Central Asia (AUCA), who looked at the amendments from a legal perspective, Dmitry Kabak, and Nurlan Alymbayev (from an anti-corruption perspective) and a joint analysis by Tatyana Vygovskaya and Ikbol Mirsaiitov from local conflict management agency Egalitee (from a conflict-prevention aspect).

Open Viewpoint held a roundtable discussion in Bishkek on 16 October, attended by human rights defenders and people from religious communities, Karybaeva of the Presidential Administration, and Kanybek Mamataliyev of the SCRA. Open Viewpoint also invited seven parliamentary deputies, the General Prosecutor's Office, and the National Security Committee (NSC) secret police, but none of these turned up.

Burials obstructed or banned

At the October roundtable, Protestant pastor Almaz Ryskulov lamented that the Religion Law amendments do nothing to overcome difficulties over burying non-Muslims in communal graveyards. He called for an addition allowing for "any Kyrgyz to be allowed to be buried in any graveyard".

The 2009 Religion Law in a small but crucial sentence - which made it impossible for many non-Muslims to be buried according to their own wishes - state in Article 16, Part 3: "Recognition of regulations of use of confessional cemeteries and regulations of cemetery exactions shall be governed by regulations of local municipalities." Local authorities have long routinely denied non-Muslims the possibility to be buried in a non-Muslim way, which has caused deep distress to the family and friends of the dead and their communities. Attempts to resolve the issue with state officials before the Religion Law was passed failed (see Forum 18's Kyrgyzstan religious freedom survey at <http://www.forum18.org/Archive.php?article_id=1388>).

The amendments now in the Zhogorku Kenesh leave Article 16, Part 3 untouched.

For many years, local people and Muslim leaders have on occasion obstructed or denied burial according to their own rites to deceased Protestants, Baha'is, Jehovah's Witnesses and Hare Krishna devotees - especially those of ethnic Kyrgyz or ethnic Uzbek background - in village graveyards which they insist are only for Muslims. Police often back those obstructing these burials, in some cases actively participating in burial denials (see eg. F18News 10 July 2008 <http://www.forum18.org/Archive.php?article_id=1156>).

The most recent case known to Forum 18 of a non-Muslim being denied burial under their own rites, in a graveyard outside Bishkek, occurred in November 2012.

What else is in the amendments?

The parts of the current amendments thought locally to be most significant are:

- Amendments increase risk of conflict

In their joint analysis, Vygovskaya and Mirsaiitov of Egalitee note that the draft does not comply with Kyrgyzstan's international legal obligations to protect the freedom of religion or belief of all. They warn that, flowing from this, the amendments' restrictions on freedom of religion or belief and expansion of the powers of government - especially local authorities' powers to determine which communities should be allowed to exist - could contribute to a rise in conflicts within society, rather than contributing to social stabilisation.

Local NGO the Foundation for Tolerance International found in 2009 that citizens think that repressing freedom of religion or belief and other fundamental freedoms boosts the credibility of radical extremist groups as an alternative to the government. The authorities' actions were thought by ordinary Kyrgyz to be motivated by a wish to stay in power against the people's will, and the authorities were said to allege threats to justify restrictions (see Forum 18's Kyrgyzstan religious freedom survey at <http://www.forum18.org/Archive.php?article_id=1388>).

- Need for 200 founders who live in one locality reinforced

The current Religion Law already makes state registration compulsory for a community to be allowed to exist in Kyrgyzstan, against international human rights law. The amendments' addition to the Religion Law, Article 8, Part 3, would require the 200 adult citizens needed to found a new religious organisation and apply for registration to live in one district of the country. The current Religion Law does not specify where the founders must live in Kyrgyzstan.

Professor Alenkina of the AUCA criticises this provision, noting that the current Law does not restrict the activity of registered religious organisations to a specific territory.

- Registration denial possibilities amplified

The amendments also state at several points that submitting applications for registration which contain "violations of the Law" will result in their rejection, though this does not prevent applications being corrected and resubmitted.

Many religious communities have already experienced officials making full use of the existing Law's potential for arbitrary denials of applications for the right to legally exist, including the provision that all applications must be approved by one local authority (kenesh) (see F18News 6 July 2012 <http://www.forum18.org/Archive.php?article_id=1718>).

- SCRA role extended

A new Article 2 of the Religion Law specifies that the SCRA coordinates national policy on religion, while local administrations enact it on a local level.

Vygovskaya and Mirsaiitov of Egalitee warn that the draft amendments increase the powers of the SCRA. "All other state bodies regulating the religious sphere are subject to the SCRA's decisions," they observe. "The SCRA is 'usurping' executive and legislative power and is starting to carry out supervisory and control functions over religious organisations."

- Agreements with foreign educational institutions mandatory

A new addition to Article 6, Part 1 would require religious organisations to have agreements with foreign educational establishments and have state permission before sending local people abroad for religious education.

In her analysis, Professor Alenkina criticises this proposal as contradicting the provision that religious organisations have the right to establish foreign ties. She also notes that it is likely to be ineffective, as individuals have the right to travel abroad.

Kabak of Open Viewpoint notes the proposed provision violates individuals' right to make their own choices over religion and education, as well as violating religious organisations' rights to run their own affairs "including on the question of securing denominational education".

The Religion Law is already hostile to religious communities with international contacts. If a community has "administrative centres located beyond Kyrgyzstan or having foreign citizens in its administrative body" it is classified as a "mission". This must re-register every year and does not have legal status. The Law also requires all religious educational establishments within Kyrgyzstan to be both founded by a registered organisation and to have official - including local authority - permission to exist (see Forum 18's Kyrgyzstan religious freedom survey at <http://www.forum18.org/Archive.php?article_id=1388>).

- Unclearly defined places of worship must have SCRA permission

A new Article 10-1 would require "objects of religious designation (namazkhana [Muslim prayer room], chapel or other form of religious object)" to be registered with the SCRA. Local authorities can only give land to build such places with SCRA permission. If such places are within an institution, the director of the institution must give written permission when they apply for "notification registration". It appears that only registered religious communities can apply for notification registration for such places.

Professor Alenkina criticises the vague and contradictory nature of the term "objects of religious designation". Kabak of Open Viewpoint condemns the provision as a violation of people's internationally-recognised human right to conduct religious activity alone or in association with others.

In his analysis prepared under Open Viewpoint's auspices, Alymbayev warned that vague provisions (such as the required notification registration of "objects of religious designation") and heightened bureaucratic requirements for religious communities to meet might contribute to a rise in corruption. He pointed out that the government is publicly committed to reducing such possibilities.

- New restrictions on foreigners' freedom of religion or belief

A new addition to Article 12, Part 1 declares: "Foreign citizens are banned from engaging in religious activity on the territory of the Kyrgyz Republic without undergoing [personal] notification registration." At present, the Law requires those "who have arrived in Kyrgyzstan with the aim of religious activity" to have personal registration as "missionaries", but is not as explicit in banning all exercise of freedom of religion or belief by foreign citizens without state permission.

International law defends the human rights, including freedom of religion or belief, of all persons within a given state's jurisdiction whether or not they are citizens of that state. In international law, human rights do not require state permission to be exercised.

The current provision in Article 12, Part 2 restricting foreign missionaries to a maximum of three years' residence in Kyrgyzstan would be removed.

A new addition to Article 12, Part 7 would allow the SCRA to apply to the courts to halt the activity of missionaries if their activity "represents a threat to public security and order, inter-ethnic and inter-denominational accord, and the health and morals of the population, as well as in cases of violation of the law".

Refusal by local keneshes to endorse religious communities' lists of founders has already affected communities of a variety of faiths. Such refusals have prevented some of these communities from getting state registration and thus also from being allowed to gain missionary visas for foreigners (see F18News 6 July 2012 <http://www.forum18.org/Archive.php?article_id=1718>).

- Other issues

Other provisions in the amendments are locally thought likely to have less of an impact in practice. Among these is a revised definition of the term "sect", though the term does not appear elsewhere in the current Religion Law or the proposed amendments.

Ahmadi Muslims to challenge SCRA re-registration refusal

Members of Bishkek's Ahmadi Muslim community are preparing to challenge in court the SCRA's decision not to re-register them, and so to deny them permission to exist, they told Forum 18 on 17 December. Because of the re-registration denial, the community has not been able to meet for worship since July 2011 (see F18News 18 January 2012 <http://www.forum18.org/Archive.php?article_id=1657>).

At the same time, the General Prosecutor's Office has brought another case to court to have the Ahmadi community banned as

"extremist". The new attempt follows the failure in June on "technical" grounds of their first attempt (see F18News 6 July 2012 <http://www.forum18.org/Archive.php?article_id=1718>). On 13 July, Judge Madina Davlatbayeva, Deputy Chair of Bishkek City Court, rejected the Prosecutor General's appeal against the lower court decision.

Deputy General Prosecutor Lyudmila Usmanova, who signed the first liquidation suit, refused to explain by telephone why her Office is again seeking to ban the Ahmadi community through the courts. "I won't comment on court decisions and won't give consultations by phone," she insisted to Forum 18 from Bishkek on 18 December. "Write us an official letter," she added, before putting the phone down.

Jehovah's Witnesses take registration denials to UN Human Rights Committee

On 3 September, Jehovah's Witnesses lodged a complaint (seen by Forum 18) to the United Nations Human Rights Committee in Geneva. It outlined their case that the denial of registration to three of their communities in southern Kyrgyzstan is a violation of their rights enshrined in the International Covenant on Civil and Political Rights.

The SCRA rejected Jehovah's Witness registration applications in Osh, Naryn and Jalal-Abad because the local city councils (keneshes) did not approve the list of 200 founding members for each organisation, as required by Article 10 of the Religion Law. "In reality, the local city councils stated in their decisions they did not approve the lists of founding members because there was no government order in place on the process to be followed, a fact admitted by the SCRA," Jehovah's Witnesses complained to Forum 18.

A Chair of one of the local keneshes in January 2012 revealed to Forum 18 that the reason for registration refusal was that "the deputies do not like the Jehovah's Witnesses, and made a decision to refuse to endorse their list" (see F18News 18 January 2012 <http://www.forum18.org/Archive.php?article_id=1657>).

Although the Jehovah's Witnesses won a subsequent case in the lower courts, the SCRA appealed against this. In May 2012 the Supreme Court backed the SCRA, upholding the re-registration denial (see F18News 6 July 2012 <http://www.forum18.org/Archive.php?article_id=1718>).

The Jehovah's Witnesses argued in their complaint to the UN that the Supreme Court decision "insulates the discriminatory actions of the SCRA from judicial review. More importantly, we argue that the requirement to have the list of founding members approved by the local city council is a violation of international law".

Jehovah's Witnesses pointed out to Forum 18 that even the Presidential Administration has admitted that since the amended Religion Law came into force in 2009, no non-Muslim or non-Russian Orthodox community has been able to gain registration (see F18News 6 July 2012 <http://www.forum18.org/Archive.php?article_id=1718>). (END)

For background information see Forum 18's Kyrgyzstan religious freedom surveys at <<http://www.forum18.org/Analyses.php?region=30>>.

More reports on freedom of thought, conscience and belief in Kyrgyzstan can be found at <<http://www.forum18.org/Archive.php?query=&religion=all&country=30>>.

A compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments can be found at <http://www.forum18.org/Archive.php?article_id=1351>.

A printer-friendly map of Kyrgyzstan is available at <<http://education.nationalgeographic.com/education/mapping/outline-map/?map=Kyrgyzstan>>.

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