

1. Kyrgyzstan continues to limit freedom of thought, conscience and religion. A particular concern for Kyrgyz religious communities and human rights defenders such as Open Viewpoint is the Religion Law and its continued implementation – especially its banning of the exercise of freedom of religion or belief without state permission. Long-standing state promises that the Law would be changed to partially meet international human rights standards have not been implemented.

Fear of expressing views the government dislikes

2. Fear of publicly expressing views the government may dislike is widespread. Many religious communities are also reluctant to publicly associate with advocacy groups expressing views the government may dislike – even if the communities agree with those views. This fear is fuelled by recent raids on some religious communities and warnings from the NSC secret police that these communities should reduce literature distribution. For example, Bishkek's Russian Orthodox cathedral was raided by the NSC secret police, Interior Ministry, Sanitary Epidemiological Inspectorate as well as the Financial Police during a meeting for worship on 4 March. The raid was one of many nationwide raids between January and April. Nearly 700 mosques were identified as carrying out "illegal" activity because they are unregistered.

A “mistake”?

3. In February President Almazbek Atambayev described as a "mistake" the constitutionally-enshrined "distancing state bodies from regulating processes in the religious sphere". He claimed that in allowing freedom of conscience, "the authorities have allowed the religious sphere to take its own course". "All these omissions, we now feel acutely," he claimed, particularly among the Muslim population. Following a closed meeting of the Defence Council, a presidential Decree ordered increased state control over the Muslim Board and legal changes, potentially the most significant of which are to the Religion Law.

Increased control of Islam

4. The Muslim Board was told to, among other things, "bring order to the system of electing imams and the Mufti, the conducting of attestation of imams and mosques and other forms of qualifications and exams for clergy with the participation of representatives of state bodies, and the creation of a system of material encouragement of its results, as well as the appointment of imams of mosques and imam-hatibs after appropriate checks by law-enforcement agencies of whether they are members of extremist and destructive organisations".

5. Terms such as “extremist”, “destructive” or “fundamentalist” are often used by officials, normally without clear definitions so promoting arbitrary state actions. No official has ever been able to clearly define to Forum 18 what exactly these terms mean.

6. The Muslim Board was also told to revert to its pre-2009 Statute, under which "the appointment of leaders of religious organisations is agreed with local authorities with the aim of preventing the taking up of appointments as imams of mosques and regional imam-hatibs by persons holding extremist views". It was also choose the Mufti, imams, regional imams, religious judges and members of the Council of Ulems "only from among adherents of the Hanafi school traditional for Kyrgyzstan's Muslims".

Religion Law to be harshened?

7. The government informed the UN Human Rights Committee on 17 January 2014 that it will revise the Religion Law. It said that a particular focus would be on the numbers of founders – 200 - needed for religious communities to apply for registration, or state permission to exist. Article 8, Part 2 of the Religion Law bans the unregistered exercise of freedom of religion or belief. It also states that individuals face punishment if they exercise this human right without state permission in association with others.

8. No specific information has been made public of what legal changes are now planned, or if they will be available for public discussion before submission to the Zhogorku Kenesh (Parliament). An official of the State Commission for Religious Affairs (SCRA) confirmed to Forum 18 on 31 March that only changes to the Religion Law are being considered. However, the official refused to state whether a draft has been completed or a deadline been set.

9. New SCRA Head Orozbek Moldaliyev told journalists in February that legal changes would focus on state registration of religious organisations. "There are religious organisations which are unregistered. All this must be put right," local news agency Akipress quoted him. He also complained about an influx of "pseudo-Christian, pseudo-Orthodox religious ideas" after the country's independence – without explaining what exactly he meant. He expressed backing for the Hanafi school of Islam and the Russian Orthodox Church.

10. President Atambayev's government has so far made one change to the Religion Law, to tighten censorship in December 2012 (see below). Apart from that change, the government under President Atambayev has a record of preparing legal changes to further restrict freedom of religion or belief – but which then fail to be adopted.

11. Lack of re-registration has prevented communities from exercising rights such as establishing local communities. Uncertainty relating to gaining registration makes it very difficult for religious communities to abide by the law – and Kyrgyzstan's international human rights obligations make it impermissible for the authorities to demand that groups of people be registered to exercise their freedom of religion or belief together.

12. Registration is very difficult to obtain, and members of the Baha'i and other religious communities have stated that many people are afraid to identify themselves to the authorities as founders, as the Law requires. Others including Hare Krishna devotees, Jehovah's Witnesses and Catholics have noted that many smaller communities do not have the minimum 200 members required by the Law, and so have no possibility of legally existing. No community that is not either Muslim or Russian Orthodox has succeeded in gaining registration or re-registration since 2009 and officials have given contradictory statements about whether pre-2009 registration was still valid. However, such communities that had pre-2009 registration are now listed on the SCRA website among "religious organisations".

13. Many communities who tried to register or re-register post-2009 have found this very difficult, or have faced what appears to be deliberate obstruction by the authorities. Many keneshes (local authorities) have claimed that they cannot notarise lists of founders' because the SCRA has not issued Regulations to implement the Law. But this has not stopped some keneshes from notarising the founders' lists of state-backed Muslim organisations, and Russian Orthodox churches.

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<http://www.forum18.org/archive.php?query=&religion=all&country=30>

14. The Law imposes unclear reasons why activity can be banned, registration may be refused or the activity of an organisation suspended. These include engaging in activity which are thought to be "religious fanaticism and extremism, actions directed to opposition and aggravation of relations, rousing of religious hatred between different religious organisations"; engaging in "coercion to family fragmentation leading to family disruption"; "endangering state security"; encouraging "persecution"; and "refusal to provide medical support to persons whose life or health are in danger." The unclear formulations and reasons given break international human rights obligations; under the International Covenant on Civil and Political Rights (ICCPR) for example, "national security" is not a permissible reason to limit freedom of religion or belief.

15. Some disfavoured communities such as Jehovah's Witnesses think they may have been targeted by the authorities after applying to register. Criminal charges of "swindling" were lodged against a Jehovah's Witness mother and daughter in Osh in March 2013, and they were given two months' house arrest, after their community lodged a fresh registration application. They and their fellow-believers strongly deny the charges. During multiple raids police and NSC secret police officers warned meeting participants that meetings were illegal as local communities had no state registration. These warnings were repeated in two written 1 April warnings from the SCRA. After exhausting all legal avenues in Kyrgyzstan, Jehovah's Witnesses lodged two complaints to the UN Human Rights Committee over registration denials in four places.

Ahmadi Muslims banned

16. One religious community – the Ahmadi Muslims – had its registration stripped from it in 2011 on theological grounds. Because of the re-registration denial, the Ahmadi community has not been able to meet for worship since July 2011. Attempts to challenge re-registration denials in court failed in January 2013. In addition, the General Prosecutor's Office brought a suit claiming they are "extremist", but a Bishkek court rejected this in June 2012 on a technicality. The Ahmadi Muslims were also again denied registration by the SCRA. "If we met for worship or carried out any religious activity, the registration we do still have with the Justice Ministry would be finally liquidated," a community member who asked not to be identified told Forum 18. "Everything we did would then become illegal."

UN Human Rights Committee criticism

17. The UN Human Rights Committee commented on 25 March 2014, in Concluding Observations (CCPR/C/KGZ/CO/2) to its consideration of Kyrgyzstan's record under the ICCPR, on both the current Religion Law and the plans to amend it. It noted that "the Committee is concerned about the restrictions incompatible with provisions of the Covenant [ICCPR] contained in the current law, including with respect to missionary activities, registration procedure and dissemination of religious literature".

18. The Committee stressed that planned amendments to the Religion Law should "remove all restrictions incompatible with article 18 of the Covenant, by providing for a transparent, open and fair registration process of religious organizations and eliminating distinctions among religions that may lead to discrimination".

Conscientious objection

19. Conscientious objection to military service is restricted to young men who are "members of registered religious organisations whose beliefs do not allow the use of weapons or service in the Armed Forces", according to the Law on Military Obligations. In its 2014 Concluding Observations the Human Rights Committee repeated earlier statements going back to 2000 that Kyrgyzstan "should ensure" that any amendments "provide for conscientious objections in a manner consistent with articles 18 and 26 of the Covenant [ICCPR], bearing in mind that article 18 also protects freedom of conscience of non-believers, and stipulating periods of military and alternative service on a non-discriminatory basis".

20. Proposed amendments to the Law retain the limitation the Human Rights Committee criticised, though they alter an "alternative service" payment from the Defence Ministry to "the state body which handles social issues" which Jehovah's Witness conscientious objectors have welcomed. But the Zhogorku Kenesh Education Committee unanimously rejected the draft in March 2014, claiming it "contradicts Kyrgyzstan's Constitution and that many religious movements of the like of the Jehovah's Witnesses could use this draft law to fill up their ranks". The draft is now with Defence Committee. If it rejects the draft, it cannot be considered by the full parliament for another year.

Harassment, violence, authorities' inaction or complicity

21. The UN Human Rights Committee on 25 March also condemned "reports of religious intolerance with respect to converts from the majority religion, including incidents of hate speech". It said Kyrgyzstan should publicly condemn "any act of religious intolerance and hatred" and "investigate all cases of violence based on religion, prosecute perpetrators and compensate victims".

22. Law-enforcement and other state agencies have repeatedly failed to stop violent attacks on people exercising freedom of religion or belief, or even appear sympathetic to such attacks. Forum 18 is aware of violent attacks against members of smaller religious communities and places where they meet for worship, but the victims of such attacks normally do not wish to discuss them for fear of further attacks.

23. One example of this problem is the government's long-continued failure to ensure that people may bury their dead with the religious ceremonies and in the cemeteries they would wish. Protestants, Baha'is, Jehovah's Witnesses and Hare Krishna devotees have all for many years complained that the authorities have not resolved this problem, which causes great distress to the families and friends of the dead. Relatives and friends are frequently afraid to raise this problem, for fear of reprisals aided by state indifference.

24. The most recent publicly documentable 2014 failures by the authorities to ensure people may exercise their rights concern Protestants. In one case an imam blocked the burial of a Protestant woman and forced her grieving husband to convert to Islam to get her buried. The authorities allow local imams to control who is buried in state-owned cemeteries not owned by religious communities. Complaining to local authorities about the violations is "useless", Pastor Kapar Yusup uuly – who was stopped from participating in his brother's funeral - told Forum 18.

25. The 2009 Religion Law made the problem worse, by passing the responsibility to local authorities. This in practice made it impossible for many people to bury their dead in the way they would wish. Since the 2010 fall of ex-President Kurmanbek Bakiev, repeated complaints about this problem have been made. Yet the authorities have taken no detectable action to ensure that people can exercise their freedom of religion or belief in these distressing circumstances

26. SCRA Head Moldaliyev insisted to Forum 18 in June 2014 that the problem had already been "resolved", stating that "cases like those are simply not possible in Kyrgyzstan". An April 2014 draft of Kyrgyzstan's Concept on State Policy in the Religious Sphere 2014-20 acknowledges that the problem exists. But even a Presidential Administration official involved in drafting the Concept admits that any solutions that might be included "may not resolve all future burial problems". Bishkek-based religious expert Galina Kolodzinskaya told Forum 18 that solving the problem requires both political will "on the higher level" and new laws. "At the moment I don't see such political will on the higher level."

Censorship

27. President Atambayev's government has so far made one change to the Religion Law, in December 2012 increasing censorship of religious literature and other materials. A new Article 22, Part 9 states: "Control on the import, production, acquisition, transportation, transfer, storage and distribution of printed materials, film, photo, audio and video productions, as well as other materials containing ideas of religious extremism, separatism and fundamentalism is conducted by the plenipotentiary state organs for religious affairs, national security and internal affairs."

28. Asked to explain what "ideas of religious extremism, separatism and fundamentalism" were, SCRA lawyer Kanybek Mamataliyev was unable to explain what these wide-ranging terms mean. When Forum 18 put specific examples of types of literature to him, which might be banned under these provisions, he refused to respond.

29. The Religion Law already allowed state examination of any religious literature and requires state examination of all religious materials placed in a library. It also bans all distribution of religious literature, print, audio-video religious materials in public places, on the streets, parks, and distribution to homes, children's institutions, schools and higher education institutions. Such distribution is permitted only within the confines of a religious organisation's legally owned property, or in places allocated by local authorities. If religious literature is found to be "extremist", the religious organisations the literature is associated with can also be declared "extremist" and banned. Discriminatory state censorship is already applied against all religious communities, apart from the Muslim Board and the Russian Orthodox Church. Since the 2012 censorship changes, other religious communities have not experienced additional problems to those which already exist.

30. The most high profile freedom of religion or belief censorship case has involved the film "I am gay and Muslim", scheduled to have been shown in 2012 at the Bishkek Bir Duino (One World) human rights film festival. The film follows the life of several gay Moroccans who discuss their orientation and Islam. After acting Chief Mufti Rakhmatullo Haji Egemberdiyev protested to the NSC secret police, the NSC "analysed" the film as "extremist" under the 2005 Anti-Extremism Law. No official was prepared to discuss this "expert analysis" with Forum 18.

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31. The NSC confiscated the film before it could be shown, warning film festival organiser Toleskan Ismailova that if the film was shown she would face possible prosecution under Criminal Code Article 299 (“Incitement of national, racial, or religious hatred”). General Prosecutor Aida Salyanova telephoned Ismailova warning her not to show the film, brought a court action banning the film as "extremist", and ordered the State Communications Agency to take "urgent measures" to block access to the film on the internet.

32. Attempts to challenge the film ban have failed.

Need to implement human rights obligations

33. The Constitution's Article 16 states: “Rights and freedoms are inalienable and belong to everyone from birth. Human rights and freedoms are the supreme value. They directly determine the intent and actions of the legislative, executive and local authorities .. No one can be discriminated against on grounds of gender, race, language, disability, ethnicity, religion, age, political or other beliefs, education, origin, property or other status, and other circumstances.”

34. This indicates a way that is right both in principle and in practice to ensure the security and flourishing of Kyrgyz society in line with international human rights standards. As the Bakiev-era and its legacy demonstrates, obstructing the exercise of human rights is both wrong in principle and promotes intolerance and violent instability. (END)