

**United Nations Human Rights Council
Universal Periodic Review
Kyrgyzstan**

Submission of The Becket Fund for Religious Liberty

2 November 2009



1350 Connecticut Avenue NW
Suite 605
Washington, D.C. 20036
T: +1 (202) 955 0095
F: +1 (202) 955 0090

The Becket Fund is a nonprofit, interfaith, public interest law firm protecting the free expression of all religious traditions.

United Nations Human Rights Council Universal Periodic Review of Member-State Kyrgyzstan

The Becket Fund for Religious Liberty, in special consultative status with ECOSOC, submits this analysis of the rule of law and law of religious freedom in Kyrgyzstan as a contribution to the Universal Period Review of UN member-state Kyrgyzstan.

1. Background

Though Kyrgyzstan does not have an official religion, nearly eighty percent of its population is Muslim, the majority of which are Sunni.¹ Russian Orthodox Christians, most of whom are ethnic Russians, make up another eight percent of the population.² The largest Protestant group boasts roughly 11,000 members, forty percent of which are ethnic Kyrgyz.³ Several smaller communities of various faiths, ranging from Baptists to Baha'is, also have an active presence.⁴

While Islam is widely practiced throughout the country, other faiths are prevalent in urban areas. Many who identify themselves as Muslim or Russian Orthodox also reported that they tend not to practice their faith very actively. Traditionally there is a significant correlation between ethnicity and religion, but the number of ethnic Kyrgyz converts to Christianity is rising.⁵

Beginning with Kyrgyzstan's independence from the Soviet Union in 1991 until 2005, Askar Akayev's presidency was marked by an increasingly undemocratic rule.⁶ After the Tulip Revolution of 2005, opposition leader Kurmanbek Bakiyev was appointed acting president (and was later elected). A new constitution was signed in November 2006 in response to mass demonstrations for reform. The parliamentary elections of 2000 and 2005 were not free or competitive, but the 2005 presidential elections were reported by the OSCE as showing "tangible progress." Corruption, however, remains widespread, and political parties continue to be weakly organized around a leading figure.⁷

Over the last decade, Kyrgyztan has generally permitted the free exercise of religion. In 2009, however, the government adopted a major new religion law that significantly restricts religious freedom. Moreover, in response to a perceived threat from radical Islamic groups, the government continues to monitor and restrict some religious groups.

2. Legal Framework

2.1. Constitution

The 2007 Constitution defines the country as a "sovereign, unitary, democratic, social state based on the rule of law with separation of church and state."⁸ Article 8 prohibits political parties based on religious or ethnic identity as well as any activities by a religious group that jeopardizes the

¹ See RELIGIOUS FREEDOM IN THE WORLD (Paul A. Marshall ed., 2008) ("Marshall").

² See *id.*

³ See U.S. Department of State, International Religious Freedom Report 2009 ("IRF 2009").

⁴ Smaller religious communities include Baptists, Lutherans, Pentecostals, Presbyterians, Charismatic Christians, Catholics, Jews, Seventh Day Adventists, Jehovah's Witnesses, Buddhists, and Baha'is. See *id.*

⁵ See *id.*

⁶ See Marshall.

⁷ See *id.*

⁸ See *id.*

constitutional system or state security. Though the constitution does provide for religious freedom, Article 82 grants the constitutional court the authority to determine the constitutionality of the activities of religious organizations.⁹

2.2. The State Agency for Religious Affairs

The State Agency for Religious Affairs (SARA) is responsible for monitoring religious activity.¹⁰ SARA's jurisdiction includes the promotion of religious tolerance, the protection of freedom of conscience, the oversight of laws on religion, and the registration of all religious organizations.¹¹ The president appoints the director of SARA and the Prime Minister appoints the deputies.

Under a 1996 presidential decree, all religious communities must register with SARA, which is a cumbersome process.¹² Until recently, the registration requirement was not strictly enforced.¹³ Foreign missionaries are required to register with SARA, but until recently, they generally operated freely.¹⁴

2.3. 1997 Religion Law

The 1997 Law on Religious Freedom and Religious Organizations—which has been superseded by a new 2009 Law discussed below—provided that the government would not interfere with activities of religious organizations that abide by established laws. It forbade the state from preferring (or disadvantaging) one religious group over another, including financing religious activities or activities that “propagate atheism.” The law provided alternatives to military service for religious conscientious objectors, and prohibited the teaching of religion or atheism in public schools.¹⁵

2.4. The 2009 Religion Law

In January 2009, President Bakiev signed a new religion law—“On Freedom of Conscience and Religious Organizations.”¹⁶ The new law supersedes prior religion laws and makes sweeping changes to the status of religious freedom in Kyrgyzstan. Among other new restrictions, it imposes a ban on proselytizing and distributing religious materials in public and increases the membership requirement for registering as a religious organization from 10 adults to 200.¹⁷ It limits the military service alternative for conscientious objectors to priests and religious laymen. The new law also notably prohibits the conversion of Kyrgyz citizens to another faith and bans children from practicing in religious organizations.¹⁸

⁹ See Marshall.

¹⁰ See IRF 2009.

¹¹ See *id.*

¹² See *id.*

¹³ See *id.*

¹⁴ See *id.*

¹⁵ See IRF 2008.

¹⁶ See Forum 18 August 21, 2009; IRF 2009.

¹⁷ See Forum 18 August 21, 2009; IRF 2009.

¹⁸ See IRF 2009.

2.5. Laws Countering Religious Extremism

Since the 2001 terrorist attacks in the United States, the government of Kyrgyzstan has become increasingly concerned about religious extremism. It has expressed particular concerns about political Islam (Islamists), whose followers the government labels “Wahhabists.”¹⁹

In 2003, the Supreme Court banned four political organizations that have Islamic extremist ties. In 2005, a law “Countering Extremist Activity” was passed to halt the activities of religious extremists. In 2008, Prime Minister Chudinov approved an action plan aimed at preventing the “proliferation of extremism, fundamentalism, and religious conflicts.”²⁰ At the government’s request, and in response to concerns about the spread of Wahhabism, SARA is currently developing a curriculum to teach about various religious groups in schools.²¹

In 1993, the government established the Muftiate (or Spiritual Administration of Muslims of Kyrgyzstan), which oversees all Islamic entities, including mosques, madrassahs, and other Islamic organizations.²² The head of the Muftiate is the Mufti, who is elected by a council of Islamic clerics and scholars. The Muftiate has authority, backed by the government, to ban any Islamic publication that does not meet established standards.

2.6. The Draft Religious Education Law

In addition to the restrictions implemented in the 2009 Religion Law, the government has proposed a new Law on Religious Education and Educational Institutions, which would create new restrictions on institutions that provide religious education. The draft law would implement controls on opening religious institutions, licensing requirements for educational institutions, and a requirement of state approval for religious studies abroad.²³ The proposed law would also prohibit foreigners from founding religious educational institutions, require that at least thirty percent of the curriculum at religious schools be in secular subjects, and outlaw home-schooling and part-time religious education outside of registered organizations.²⁴

Kanybek Osmonaliev, the head of SARA, has explained that this law is necessary because “too many Islamic religious educational institutions with no license exist.”²⁵ The law is intended to reduce the number of Islamic schools. It would give state bodies the authority to oversee religious schools to ensure that they comply with the law. Additionally, the proposed law would define the number of students who could participate in the programs.²⁶ It would prevent minors from traveling abroad for religious education and require that all teachers in religious education programs have at least secondary education.²⁷

The draft law has been submitted to Kyrgyz religious leaders and to the OSCE for comment. Baptist, Lutheran, and Ahmadiyya leaders have expressed concern about the restrictions imposed by the new law. No public discussion of the draft law has yet taken place.²⁸

¹⁹ *See id.*

²⁰ *See id.*

²¹ *See id.*

²² *See id.*

²³ *See* Forum 18 September 7, 2009.

²⁴ *See id.*

²⁵ *See id.*

²⁶ *See id.*

²⁷ *See id.*

²⁸ *See id.*

3. Implementation

Until recently, registration requirements and other restrictions on religious freedom were not necessarily enforced; both registered and unregistered groups generally functioned without much interference.²⁹ In recent years, Mormons and Hare Krishna followers experienced difficulty in registering.³⁰ Under the 2009 Religion Law, however, unregistered groups are now banned.³¹ Groups wishing to import and distribute religious literature must pass an examination “by a state religious expert.”³² Since the 2009 law has been implemented, religious groups have experienced increased difficulty in the registration progress.

Many of the restrictions on religious organizations are directed at Muslims out of fear of religious extremism.³³ In 2006, an Imam from the largest mosque in Karasuu was killed by government security forces for his alleged ties to an extremist group. Other arrests and detentions have been based on alleged links to extremist activity.³⁴ And, until recently, there was a ban on hijab in public schools. Due to protest from parents and NGOs, however, the official ban was changed to a recommendation.³⁵

Tensions between Muslims and Muslim converts, and between Muslims and foreign Christian missionaries, have continued, particularly in the south. Muslim and Russian Orthodox leaders have both criticized the proselytizing activities of other religious groups. Muslim-Christian tensions tend to erupt over burial plots. Although the sites are public, most are overseen by Muslims who actively refuse to allow Christian converts to be buried in them. The Ministry of Internal Affairs has intervened and allocated additional land for non-Muslims, but not enough to meet demand.³⁶

The 2009 Religion Law has also affected religious land use. Article 16 of the new law has been interpreted by SARA to mean that the State Agency for Architecture and Buildings (SAAB) must issue a certificate of permission for the construction or use of buildings for religious purposes. SARA has been accused of encouraging SAAB to deny building certificates. Arbitrary building requirements are used to make it nearly impossible for new groups to obtain permission. New groups must be located at least one kilometer away from a school and at least ten kilometers from a mosque; organizations have had their applications for registration denied on the grounds that they do not have their own electricity substation; landlords are increasingly afraid to rent space to religious organizations; and religious organizations that are not religious communities, such as a three-employee Bible distribution company, have been told they must meet the two hundred-member minimum for registration.³⁷ These restrictions create enormous new hurdles for religious organizations.

²⁹ See Marshall.

³⁰ See IRF 2009.

³¹ Forum 18 August 21, 2009.

³² See *id.*

³³ See Marshall.

³⁴ See IRF 2009.

³⁵ See *id.*

³⁶ See *id.*

³⁷ See IRF 2008.

4. Normative Effects

The increasing hostility of the government toward religious freedom is highly troubling. The 2009 Religion Law and the Draft Religious Education Law represent a serious regression in the status of religious freedom in Kyrgyzstan, effectively changing the atmosphere from one of relative acceptance to one of increasing hostility toward religious activity.

The government's codification of its anxiety over Islamism has a propensity to incite further distrust of the government on the part of many Muslims and fuel the tensions the government sought to eradicate. The new religious education law indicates that the government takes a clear stance against religious education, particularly Islamic education.

At the same time, however, the government has clearly demonstrated that it favors traditional Islam and Russian Orthodoxy over "non-traditional" religions. A 2006 decree, for example, affirmed that Islam and Russian Orthodoxy were "traditional religious groups."³⁸ Prohibitions against conversion, bans on proselytizing, and support of the Muftiate's ban on unsuitable publications show that the government is willing to take measures that favor majority religious groups at the expense of minorities. This can fuel tensions in the more religious south, sending a message to the Muslim majority that the government will look the other way—or even support them—as they stifle minority religions.

5. Recommendations

During the Universal Periodic Review, the UN Human Rights Council should take care to consider religious freedom in its evaluation of Kyrgyzstan. We respectfully recommend that the UNHRC base its evaluation of Kyrgyzstan not only on constitutional assurances of religious freedom and its historically permissive attitude, but also on the recent legislation aimed at stifling free exercise of religion.

The Kyrgyz government should endeavor to address its fears of extremism and terrorism without creating an environment that is hostile to religious practice and religious education. It should investigate the reported abuses of the relationship between SARA and the SAAB in the registration and permitting process for religious organizations. The government should also refrain from favoring majority religious groups at the expense of "non-traditional" religions.

UNHRC should emphasize Kyrgyzstan's obligation, as a member of the OSCE, to protect human rights. And it should urge Kyrgyzstan to reverse the backward steps on religious freedom that the government has taken over the last year.

³⁸ See IRF 2009.