

1. Ahead of the UN Human Rights Council May 2010 Universal Periodic Review of Kyrgyzstan, Forum 18 News Service has found that the country continues to violate its commitments to implement freedom of religion or belief for all. State limitations on this fundamental freedom and other human rights have increased – in both law and practice - since President Kurmanbek Bakiev took power in 2005. A harsh new Religion Law was adopted despite international protests in 2009. This has been followed by continuing repressive state actions. A similarly harsh new Law on Religious Education and Educational Institutions is also being drafted.

Decline in freedom of religion or belief since 2005

2. When President Bakiev took power both registered and unregistered religious communities were able to function freely, despite a 1996 Presidential Decree by then President Askar Akaev requiring religious communities to register. Believers of all confessions stated that they were able to manifest their religion or belief freely, problems that occurred from time to time – for example pressure against schoolgirls wearing hijabs - being ascribed to the attitudes of local officials. The exceptions to this were the Falun Gong movement, banned under Chinese pressure in February 2005, and social pressure – including violent attacks - against non-Muslims manifesting their beliefs in southern Kyrgyzstan.

3. However, in January 2009 a highly restrictive new Religion Law came into force, amid strong international criticism. It broke the Constitution's guarantee that "No laws restricting freedom of speech and freedom of the press may be adopted," as well as breaking the guarantee of freedom of "thought, speech and press, as well as to unimpeded expression of those thoughts and beliefs" in Article 14 paragraph 6 of the Constitution. Some of the Religion Law's restrictions – for example the wide-ranging bans on "proselytism" and the distribution of religious literature - restrict both freedom of speech and freedom of the press. A legal challenge in the Constitutional Court was dismissed on 24 July by Judge Chinara Musabekova with the claim that the "concrete constitutional rights of the applicants have not been violated."

4. Many features of the Law replicate parts of a proposed Presidential Decree, with attached Regulations, which was withdrawn in early 2008. For some years, the previous 1991 Religion Law and Decree had been under threat of further restrictions from officials, although they were reluctant to say why. For example Kanat Murzakhilov, Deputy Head of the then State Agency for Religious Affairs (SARA), characterised then existing legislation as "too liberal," adding that it did not "meet the requirements of reality." On 5 November 2008, as the current Law was going through parliament, he told Forum 18 that "we are not toughening the law but are bringing some orderliness to the relations between the state and religious organisations, which is missing in the current law." Denial of the reality of the law has been a standard feature of officials' responses to questions and criticism.

Lack of openness

5. Excessive secrecy surrounded the preparation of both the withdrawn 2008 Decree and the preparation and passage of the 2009 Religion Law. Religious communities frequently complained about the secrecy surrounding the various proposed texts, and the absence of meaningful public consultation. They complained that some were not invited to roundtables, and that criticisms of the proposed Law were ignored. This lack of openness extended to international observers. Deputy Zainiddin Kurmanov, Chair of the parliamentary Committee on Constitutional Law, State Structure, Legality and Human Rights, denied to a European Parliament delegation – contrary to statements of Kyrgyz religious communities and human rights defenders – that the full text had not been available. He also wrongly claimed that the proposed law's restrictions – such as a requirement for 200 people to register communities - would be changed before the Law passed through parliament. Indeed, Kurmanov himself went on to vote for this provision in the Law's final parliamentary reading, in which the Law was passed unanimously.

6. Echoing the views of many, a Hare Krishna devotee told Forum 18 that it was "pointless" to

write to the President to call for the new Law to be amended or abolished. "It would be stupid – the government machine has simply imposed this." The numerous unclear formulations in the Law give great scope for officials to take arbitrary and severe action against organisations they dislike. This, along with the persistent lack of transparency in the drafting and legislative process, suggests that Kyrgyzstan is both uninterested in and distrustful of the views and fundamental freedoms of its citizens, and may be highly committed to the restrictions it has imposed.

7. This official hostility to freedom of religion or belief causes great frustration among religious believers. As a Baha'i put it to Forum 18 in March 2008: "Our country has so many urgent problems - poverty, the lack of medicine, AIDS, crime, corruption. Why don't officials work on these instead of making life harder for religious believers?"

Registration – a means to ban religious communities?

8. The 2009 Law requires all religious communities to re-register with the SARA by 1 January 2010; bars communities not registered by the SARA and the Justice Ministry from receiving legal status, for which a SARA certificate is necessary; and bars those with fewer than 200 members from registering with the SARA. All the 200 must be adult Kyrgyz citizens. Even assuming that a community has 200 members willing to act as founders – which many do not – the 200 are to supply their full name, full date of birth, home address, place of work and job title and passport number. The application also needs to include information about the organisation's religious faith, form of rites, history in Kyrgyzstan, attitude to marriage and the family, attitude to education, and attitude to military service. Finally, the application needs written permission from the local authorities for use of premises where it meets.

9. On 26 October 2009, by presidential decree, the State Agency for Religious Affairs (SARA) was transferred from being under the authority of the government to being directly under the President and renamed the State Commission for Religious Affairs (SCRA). President Bakiev confirmed Kanybek Osmonaliev as director of the new Commission. Osmonaliev claimed to Forum 18 on 28 October 2009 that – despite the Law's requirements - existing religious communities would not need to re-register as the Law was, he claimed, not retroactive. However, he would not reply when asked how this claim matches the Law's requirement that Charters of existing recognised religious communities must be “re-aligned”.

10. The 2009 Law also imposes unclear reasons why activity can be banned, registration may be refused or the activity of an organisation suspended. These include organisations 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 Kyrgyzstan's international human rights commitments; 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.

11. Religious organisations must also provide financial information to: the State Agency for Statistics; tax authorities; the SARA and its territorial divisions; and the Public Prosecutor's Office. If this is not completely complied with in the view of the officials concerned, the SARA or its territorial divisions can seek a court order to close down the religious organisation.

12. Even when the registration requirements are clear and communities want to register, the conditions are often unreasonable and break international human rights standards. As a Baha'i observed to Forum 18: "How can we gather 200 people to sign official papers for the SARA, and then get them to go to local keneshes [local authorities] with their passports to be identified? People are usually reserved about signing official papers." One Protestant church in the north-west told Forum 18 that they had been unsuccessfully trying for two years to register. As they complained, “How can we collect 200 signatures if we are not allowed to function normally?” Similarly, the capital's Hare

Krishna community stated that “under this new Law, we won't have the right to function at all as we don't have the necessary 200 members. We're not alone – all small religious communities will have to go underground.” Asked by Forum 18 in August 2009 about what would happen to religious communities who have fewer than 200 members, and so cannot be registered, Kumar Dushenbayev of the SARA replied: “Why should religious communities such as the Presbyterians try to open a branch in every corner of the country? Why can't they come together in one place, where they would not have a problem gathering 200 people?” When Forum 18 repeated the question, he said that “we will not fight with them. There is a Law, and we will deal with them accordingly.”

Ban on sharing beliefs, restrictions on religious literature

13. The 2009 Law, like the withdrawn 2008 Decree, states that all “actions directed to proselytising of the faithful from one denomination to another (proselytism), as well as any other illegal missionary work, are prohibited”. Typically, the Law does not define what constitutes “illegal missionary work”. As the joint Council of Europe Venice Commission / Organisation for Security and Co-operation in Europe (OSCE) Advisory Council on Freedom of Religion or Belief legal review – made public in October 2008 - noted, “numerous provisions of the Draft Law inappropriately restrict freedom of expression and rights to disseminate religious and other materials”.

14. The 2009 Law requires state examination of all imported religious materials, as well as those distributed or placed in a library. It also targets distribution, banning 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 for this purpose.

Religious education and religious activity of minors

15. Echoing provisions of the withdrawn 2008 Decree, the 2009 Law requires all religious educational establishments – universities, institutes, madrassas, seminaries, Sunday schools and orphanages – to gain official registration. These establishments can only be founded by registered organisations, and must - among numerous other requirements – have local authority permission to exist. All children are also banned from being active in religious organisations, and no religious organisations are permitted in any educational institute – apart from in religious education institutions. This prevents even secondary school and university students from organising religious groups in their place of education.

16. Since the Religion Law was enacted, the SARA and its successor the SCRA have been drafting a new Law on Religious Education and Educational Institutions which, if adopted in its current form, would impose further restrictions on the activities of religious organisations and educational institutions. The draft seen by Forum 18 in autumn 2009 would impose sweeping controls on who could open religious educational institutions, would ban all but approved and licensed institutions, limit the numbers of students in such institutions and ban individuals from seeking religious education abroad without state approval. Explaining in August 2009 what he sees as the need for such a Religious Education Law, SARA head Kanybek Osmonaliev complained that “too many Islamic religious educational institutions with no licence exist”. The Kyrgyz authorities passed the draft Law to the OSCE for review. SCRA officials told Forum 18 in November 2009 that the Law would go to Parliament within two months.

Hostility to other international contacts

17. The 2009 Religion Law is hostile to religious communities with foreign 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. It can be refused registration if it poses “a threat to the state and social security, the

interethnic and ecumenical concord, health and morality of the population, or in other cases anticipated by legislation". Similarly, foreign religious workers must register with the State Agency before they can engage in religious activities. This can be denied "if this may endanger public safety, social order, interethnic and ecumenical consensus, social health and morality." The authorities have, in several cases known to Forum 18, compelled foreign missionaries to leave the country or have denied them permission to extend visas.

Use of property restricted, non-Muslim burials made exceptionally difficult

18. The 2009 Law states that organisations can "own only buildings, constructions, ceremonial objects, objects of production, social, and charity functions, monetary funds, and other property necessary for provision of their activities." However, the Law does not define what is meant by "necessary" or who decides on necessity. Religious events outside a community's own premises can, in the 2009 Law, "be performed in the procedure stipulated by the legislation of Kyrgyz Republic." However, no such procedure is specified in the Religion Law.

19. In a small but crucial sentence – which will make it impossible for many non-Muslims to be buried according to their own wishes – the Law states that "Recognition of regulations of use of confessional cemeteries and regulations of cemetery exactions shall be governed by regulations of local municipalities." Local authorities have 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 discuss the issue – including a meeting at the SARA - have not led to a solution. Asan Saipov of the Muftiate told Forum 18 in July 2008 that they had decided "not to allow the burial of non-Muslims in Muslim cemeteries" - even though these are run by local authorities and are usually the only local cemeteries. Discussing one example of the distress caused by this, Saipov insisted that villagers – backed by the authorities - made the right decision in May 2008 in stopping the family of a deceased 14 year old Baptist from burying him with Christian rites.

Hostility to international human rights standards, no sign of changes to Law

20. The 2009 Law claims that: "If there exist other conditions defined within international agreements signed by the Kyrgyz Republic, different from those stated in the legislation of the Kyrgyz Republic related to freedom of religion and religious organisations, then the conditions of the international agreements shall prevail." However, so many provisions of the Law contravene international human rights standards – as the Law's drafters were well aware, not least following the joint Council of Europe Venice Commission / OSCE legal review - that it is difficult to accept that this claim is meant to have any force.

21. Since the Law came into force in January 2009, Kanatbek Murzakhalilov, Deputy Head of the SARA, told Forum 18 in May 2009 that a high-level Commission had been set up to resolve these issues in the new Law before regulations to implement the Law were prepared. The three issues identified were: the ban on sharing beliefs, severe restrictions on distributing religious literature, and the 200 founder threshold required before religious communities can register and thus function legally. Murzakhalilov avoided stating whether there would be any substantive changes. No comment was made on whether other parts of the Law which break international human rights standards would also be examined. No changes had been made by late 2009.

State actions since the Law came into force

22. Despite the fact that regulations to implement the Law are not yet in place, officials of the Prosecutor's Office, Police, NSS secret police, local Executive Authorities and the SARA have visited many non-Muslim religious communities across the country. Jehovah's Witnesses in Maili-Suu faced raids and summonses in April 2009. "The Police told our members that in the light of the new Law they have no rights to distribute or to keep any religious literature at their homes," their lawyer Mikhail Kokhanovsky told Forum 18. Police told Forum 18 they had to confiscate the literature to

check if it is "legally permitted". In some regions branches of Protestant Churches, which were officially registered in Bishkek, were ordered by the local authorities in March-April 2009 to stop their worship meetings saying their "registration in Bishkek does not cover their activity" outside Bishkek. Some communities have been ordered to bring their charters into line with the new Law – which would force them to re-register.

23. Religious communities have often faced difficulty in recent years in gaining state registration, with many complaining that none of their new communities have been registered in this time. Bishkek's Hare Krishna community – which has been told a "secret instruction" bans it from registering – fears it will never be able to gain legal status. Officials of the SARA told some communities in 2009 that no further registrations could take place until regulations implementing the new Law are promulgated. Religious organisations which are not communities also face problems registering. An example of this is the Bible Society, which is facing demands that it must register as a religious organisation. The Religion Law requires all religious organisations to have no fewer than 200 members, yet as Valentina An, Chair of the Bible Society, explained to Forum 18 "we have only 3 employees."

24. Some religious communities are facing problems in registering as they cannot get a certificate from the State Agency for Architecture and Buildings. In some cases religious communities are told that, on the instructions of the SARA, their building must be 1,000 metres away from any school building, and 10,000 metres away from any mosque. In another case, an organisation was asked to build an electricity substation to obtain a certificate. Officials have evaded answering Forum 18's questions about these problems.

Impact on charitable work

25. The bans on sharing beliefs and the Law's statement that "charitable activities shall not facilitate dissemination of doctrine or religious beliefs" may have a negative impact on charitable work, even if a religious community has no intention of using this to attract followers. Brother Damian Wojciechowski of the Catholic parish of Blessed Mother Teresa in Jalalabad in southern Kyrgyzstan told Forum 18 in May 2009 he is not sure how the new Law will work, but the ban on sharing of faith "may effectively stop our charity work". Asked what would happen if an individual from one faith who received help decided to accept the helper's faith, Shailibek Orkunbaev, Secretary of the SARA, told Forum 18: "All that will be made clear in the regulations to come. The Justice Ministry is at the moment working on the regulations." He added that the "courts would ultimately decide" whether or not an individual had been forced to convert to a religion.

Repression boosts extremism

26. A Kyrgyz NGO, the Foundation for Tolerance International (FTI), has found that participants – from both the state and civil society - in a series of workshops run across Kyrgyzstan have stated that repressing freedom of religion or belief and other fundamental freedoms boosts the credibility of radical extremist groups as an alternative to the present government. The authorities' actions are thought by ordinary Kyrgyz to be motivated by a wish to stay in power against the people's will, and are said to allege threats to justify restrictions and even to obtain funding from foreign donors.

Need to implement existing human rights commitments

27. Kyrgyzstan shows little sign of being willing to implement its UN or other human rights commitments in practice, and shows little sign of understanding that genuine security depends on genuine respect for human rights. Rather, the evidence of its actions against Kyrgyz religious believers and communities indicates that it has little intention of implementing its commitments to respect freedom of religion or belief, or other fundamental freedoms. (END)