

Table of Contents

- ***'Our authorities never mistake?' Practice of protection of persons accused of extremism***
 - ***Religious censorship, sharing faiths ban?***
 - ***Impunity for body snatching officials***
 - ***Kyrgyz cemeteries to be divided into sectors for various religions groups***
 - ***The Kyrgyz Baptists: A case study in religious persecution in Central Asia***
 - ***No effective punishment for body snatching***
-

'Our authorities never mistake?' Practice of protection of persons accused of extremism

By Valeryan Vakhitov

Fergana News Agency (01.06.2017) - <http://bit.ly/2sJNqM5> - For the past seven years, the number of convicts for extremism and terrorism in Kyrgyzstan has tripled. In 2009, according to the State Penitentiary Service (SSC), 51 people were convicted for such crimes, whereas today 185 people including 7 women are serving their sentences. Among this category of prisoners 22 people are accused of fighting in Syria, 97 - membership in *Hizb-ut-Tahrir*, 84 - committed their crimes for the first time. 38 people are kept in high security prisons. Who are these persons? How did they end up in the dock?

Some of them were clients of our lawyers' association. Communicating with them and their relatives and analysing the trials we came to sad conclusions: the circumstances in which many of these people fell, made them criminals not through their own fault. I will tell you about several cases from my lawyer's practice.

Brought home a book - got a term

At the beginning of this year, one man turned to our office telling his son was detained for possession of extremist materials. I explained to him that under Article 299-2 ("the acquisition, manufacture, storage, distribution, transportation and transfer of extremist materials, as well as the deliberate use of symbols or attributes of extremist or terrorist organisations") of the Criminal Code of Kyrgyzstan, charges we have not had acquittals yet.

In one Soviet film, the investigator interrogating Marshal (highest military rank in Soviet Army - note by Fergana), Tukhachevsky (a period of repressions in 1930s - note by Fergana) possibly, says: "You are a German spy, working for Germany." "You are mistaken," the defendant replies. "Our authorities never make mistakes," the investigator retorts. How it looks like the current situation in Kyrgyzstan, where, if you got into the hands of the law enforcement authorities, it is unlikely that you will get out of them.

In general, I told the man that it is possible to hire at least ten lawyers, such as Fyodor Plevako (the famous Russian lawyer of the pre-revolutionary period - note by Fergana), his son will be convicted anyway. However, I took the case. I met my client in SIZO (pre-trial detention centre - note by Fergana). The young man made a good impression; well spoken, broad-minded, competently speaking about his incident.

My client explained that he attend the mosque. During one of these visits a young stranger approached him and gave him a leaflet to read, which my client took to his home leaving it on the shelf. He did not find a time to read forgetting about it. A few days later the police came showing the sanction of the court to search, and seized this book. According to the conclusion by a specialist of the State Commission for Religious Affairs, the brochure refers to the literature of the banned *Hizb-ut-Tahrir* in Kyrgyzstan.

We talked for a long time. When you listen your client with attention and concern like a doctor, they open all doubts that torment their soul to you . At the end of the conversation, he suddenly asked me: "Is it true, that my cellmates say that the leaflet is 'framing' by the police, they need targets to achieve?" What could I tell him? I'm a lawyer, not a fortune-teller.

The investigation ended and the trial started. The relatives of the young defendant arrived in the courtroom. Everyone looked confused. They talked in a low voice (sometimes there is indignation at the trials, noise). The defendant's wife was sitting with a baby in her arms, nursing him back to the corner of the hall when he was crying. She wiped her tears with the edge of her handkerchief looking at her husband, who was sitting behind the bars.

The prosecutor asked the defendant the same question that I had asked him during the investigation: "Are you a member of *Hizb-ut-Tahrir*?"

The answer is: "I'm not."

"Do you support the ideas of *Hizb-ut-Tahrir*?"

"I do not know what their ideas are, and I do not support them."

The sentence of the court is three years of colony-settlement (which is a light form of imprisonment, sometimes outside the prison territory - note by Fergana).

After the trial, one of his relatives approached me saying that this young man dreamed of working in law enforcement. He asked what would happen to him next? I had to upset him explaining that he can not now work not only in law enforcement agencies, but also in many other state authorities. The man heaved a deep sigh, suddenly saying that the Kyrgyz need to return to Tengrianism (the name of the pre-Islamic and pre-Buddhist religion of the Turkic-Mongolian nomads of the Eurasian steppes - note by Fergana).

The case of Rashod Kamalov

Not so long ago, the case of imam of Al-Sarahsi mosque in Kara-Suu of the Osh region Rashod Kamalov - influential in southern Kyrgyzstan drew a broad response, who was sentenced to ten years in a medium security prison for inciting inter-religious hostility. The imam claimed at his trials that his persecution is the revenge of law enforcement agencies.

According to Mr Kamalov, shortly before his arrest he attended a discussion of the issue of combating extremism with the participation of representatives of law enforcement agencies, local self-government and clergymen. He stated that some police officers turned the fight against extremism into a "personal business" extorting money from the detainees. After such a speech some well-wishers suggested the imam to go abroad, but he refused.

The initial trial of Rashod Kamalov was attended by a large audience. In the early days, the authorities, cordoned off the entire perimeter of the courthouse, apparently fearing unrest. The courtroom was overcrowded during all his trial proceedings; people stood in the aisles, outside the windows and the door, listening attentively.

In Soviet times, on-site trials were conducted to display the justice and for educational purposes letting a lot of people to attend. I do not know if the present audience was convinced of the justice. In any case, it was obvious that they did not sympathise the prosecution.

Immediately after the arrest of Rashod Kamalov, violating Constitutional provisions, the law, presumption of innocence, the press service of the Ministry of Internal Affairs of Kyrgyzstan accused him of "zombieing" people on the basis of appeals from ten citizens who had claimed that the imam was sending their children to Syria. Moreover, "accomplices" who helped the imam in this case were identified. At the same time, neither Mr Kamalov nor his "accomplices" were charged. The "victims" also disappeared.

Revenge for refusing to give up a share

The convicted K., who had a good business selling tires on the Kara-Suu market, also stated that the arrest was a revenge of the police workers. Once, three police officers approached him and hinted that he should share profits with them. He refused. A few days later the police came to the house of K. with a search. Directly at the entrance, a black package with a brochure was found in the corridor of the house, which was recognised by the expert of the State Committee for Religious Affairs as published by *Hizb-ut-Tahrir*.

There was an inscription addressed to a certain person on the leaflet. There was no such name in K.'s house. The underage son of K. explained that he had found this black package at the entrance to the home, and without looking brought it into the corridor, since he was in a hurry to school. The package did not arouse his suspicions, because the neighbours constantly leave them with food waste for their livestock. The search in the house of K. passed with a gross violation of constitutional and criminal procedure norms, and without the sanction of the court. According to our complaint, the court found the search illegal.

This K., we can say, is lucky. The criminal proceedings against him started before August 2016, that is, until the punishment according to the Article 299-2 of the Criminal Code of Kyrgyzstan was tightened, on which it was possible to achieve a suspended sentence. The man pleaded not guilty and did not admit belonging to *Hizb-ut-Tahrir*. He was convicted conditionally.

We appealed, hoping for an acquittal. The case went twice to the Supreme Court and returned to reconsideration. After long litigation, I once asked him how things are going on selling tires. I realised that I had upset him. He was sad. There is no more business, he says. While he was under house arrest, he could not work with his partners, and they stopped cooperating.

"Now I'm buying bulls at the market, raising and selling them," the man sighed. "I need to feed the family somehow."

Trumped up cases on extremism

Or another case from the recent past, when conditional convictions were possible. A young man came to our office, about 30 years old. Frustrated, with tears in his eyes. He was sentenced by the court of first appearance to a suspended sentence for the storage of extremist materials.

"I have nothing to do with *Hizb-ut-Tahrir*. This material was planted to me," the man said, "I returned home from South Korea for a week. I work there washing cars. Parents are old, one of them is disabled, four underage children, my wife does not work. I need to feed the family. Now I cannot leave the country."

He asked what the chances are to be acquitted. I frankly told him that the chances are minimal, because "our authorities never make mistakes."

The manuscripts were seized from the other young man in his house, according to the conclusion of the expertise, relating to the activities of *Hizb-ut-Tahrir*. At the trials, the accused was indignant: "I am an avid gambler, everyone in the Kara-Suu district knows this. What a *Hizb-ut-Tahrir* member I am? I was planted with these manuscripts." We asked to conduct a handwriting examination, which concluded that the handwriting is not his.

In another case, the 70-year-old man was conditionally convicted for storing extremist materials. As he explained at the trial, he had been given a brochure to read during his *Hajj* (Muslim pilgrimage to Mecca - note by Fergana). But he never read it - the old man was not enough literate to read it shelving it.

Another criminal case against 21-year-old resident of Kara-Suu Abdullo Nurmatov stirred the public of the southern Kyrgyzstan in late 2015 - early 2016. He was battered by police, tortured, arrested, and then sentenced conditionally to one year of imprisonment for possession of extremist materials. And the young man just liked the photos of the convicted imam Rashod Kamalov in the social network.

Punished for nothing

Recently A. Sh. was convicted for distributing extremist materials. As reported by the press service of the State Committee for National Security (GKNB) in a press release on 24 January this year, during a search in the house of A.Sh. "A large number of DVDs with calls to overthrow the constitutional order in the Kyrgyz Republic were found and seized."

In 2015, working as a janitor while in Sweden, A.Sh. discussed the activities of *Hizb-ut-Tahrir* with two other associates in connection with the marches of protest "Islam Karimov against Islam" organised in the UK and Turkey. This discussion was made on video and posted on the Internet.

At the end of 2015 A.Sh. returned home to the Kara-Suu district, where almost a year and a half after that recording, he was detained by GKNB. The defence at the trial came up with following arguments: First, this video had been distributed not by the defendant; Secondly, even if A.Sh. had committed an offence it belongs to the jurisdiction of the Kingdom of Sweden, from which no instructions were received.

The defendant in response to the questions of the prosecutor if he is a member of *Hizb-ut-Tahrir*, and whether he supports the ideas of this organisation, A.Sh. answered negatively. Nevertheless, the court sentenced him to three years in a colony-settlement.

As for the discovered DVDs allegedly "with calls to overthrow the constitutional order" in Kyrgyzstan, the press service of GKNB somewhat hastened. These disks were not brought to court as an evidence against A.Sh. And according to our information, they had an erotic content.

By the way, in the same press release GKNB accused the staff of the "Bir Duino-Kyrgyzstan" human rights movement in an attempt to prevent the detention of A.Sh. and a search in his house, which was an outright disinformation.

No "Bir Duino-Kyrgyzstan" staff was on the site at this time. In the Pervomaisky District Court of Bishkek, "Bir Duino-Kyrgyzstan" filed a lawsuit in mid-February on the protection of honour and dignity. The case is still under consideration. But this, as they say, is another story.

Law enforcement

At the end of April this year, I had the opportunity to participate in a round table in Bishkek to discuss the Yearbook on Human Rights in the Kyrgyz Republic. The Yearbook begins with an article on the topic of compliance of the legal framework on combating extremism and terrorism in Kyrgyzstan according to international standards. A good article. Much can be learned about international standards for the protection of human rights while countering terrorism. It's a pity that this article does not provide an analysis of how these criteria are observed in Kyrgyzstan, based on examples from domestic law enforcement practice.

For example, Article 299-2 of the Criminal Code, according to which the persons I have indicated above were convicted, has been repeatedly amended tightening punishment. At present, this article is formulated as follows: "The acquisition, production, storage, distribution, transportation and transfer of extremist materials, as well as the deliberate use of symbols or attributes of extremist or terrorist organisations." Each of the word combinations in its name forms a separate part of the crime.

So, if earlier the storage of extremist materials was linked to its spread, then the changes introduced in 2013 made the "storage" a separate body of the crime. If earlier this type of crime provided conditional conviction, then the changes introduced in August 2016 excluded them. Thus, the number of those serving convictions for such acts will now increase.

Is it possible to confine a person only for the storage of extremist materials? The question is debatable. I think that intent must be revealed: why does a person store this material? Storage can be for study, for scientific purposes, random - because someone asked to leave for a while and so on. Such a progress would lead to accusing law enforcement officers who keep extremist literature in their offices.

Once, during a speech by an officer of the Ministry of Internal Affairs of Kyrgyzstan, he described the criminal dynamics in extremism showing the symbols and attributes of extremist and terrorist organisations along with the figures on the slides. I marked that his materials can also be considered as a crime - "possession, distribution and manufacture." Absurd - you will say. But is it not absurd to sentence a young man who liked a photo of a disgraced religious figure in the social network?

Another point. According to Article 13 of the Law on Counteracting Extremist Activity, which was adopted on 17 August 2005 (it is almost identical to the similar law in Russia), information materials are recognised as the extremist by the court at the place of their discovery on the basis of the prosecutor's motion.

The court decision is sent to the justice authorities, and the list of extremist materials is subject to publication in the mass media and on the official websites of authorised state bodies in the field of justice.

More than 11 years after the adoption of this law, a list of several materials found as extremist by courts appeared on the website of the Ministry of Justice of Kyrgyzstan. Also a list of extremist materials seized during criminal proceedings published. However, a material is recognised as extremist according to civil law procedure, in courts of general jurisdiction. It turns out that there are no materials recognised by the court as extremist according to the order established by law, but people are convicted.

As far as I know, there is no criminal liability for the storage of extremist materials in other post-Soviet countries. But we are more advanced. The law in Russia provides only administrative responsibility. And they have a federal list of extremist materials on the website of the Ministry of Justice of Russia - there are more than 4,000 of them.

Who are experts?

The Law on Counteracting Extremist Activity stipulates that a coordinating expert committee shall be established to conduct an expert examination to discover extremist content in information materials and oral statements, while its Regulations and the structure shall be approved by the Government of the Kyrgyz Republic. However, until now no such a body has been established yet.

It is important because the examinations conducted by the experts of the State Commission for Religious Affairs do not meet the criteria set by the legislation on expert activities. A separate issue here is the competence of experts, the availability of special knowledge. Their conclusions are limited to a few sentences, such as "not in accordance with the law," "contrary to the constitution," etc. These experts can give different interpretations on the same material.

So, the main evidence in the criminal case against imam Rashod Kamalov was a disk with records of his sermons, in which an expert of the State Commission for Religious Affairs established calls for inter-religious hostility. However, earlier in September 2014, the same CD with Mr Kamalov's sermons had been confiscated during the search of the house of another convict Dilyor Jumabaev. The investigator, returned it among other seized disks to Djumabayev's relatives, since the same expert of the State Commission for Religious Affairs had not found anything illegal in the sermon recorded on this disk.

The same disc on 25 March 2015 was discovered with a journalist and US citizen Umar Faruk, who claimed that the disk had been planted by police officers. The journalist said, why should he keep this sermon, if it is posted on the Internet. It is noteworthy that this time the expert of the State Commission for Religious Affairs has found calls for inter-religious enmity in it. On 28 March that year, the Osh City Court deported the journalist stating that "there is insufficient data for criminal prosecution."

Of course, the fight against extremism and terrorism requires the most strict punishment for such acts. There is no dispute about this. Extremism and the extreme form of its manifestation - terrorism - present a real threat to the prosperous, civilised existence of human society. But is it possible to counteract this phenomenon only by punitive measures? How to protect innocent people from the risk of falling under the millstone of the power system to combat extremism? This is a very subtle topic that requires in-depth research. After all, as shown by the examples I have cited, the guilt of the convicts on charges of extremism have not been proven.

Religious censorship, sharing faiths ban?

All religious literature would be subject to censorship, sharing beliefs would be banned, adults wanting to study faith abroad would have to notify Religious Affairs officials, and 500 adult citizens in one location would be required to apply for registration if parliament adopts Religion Law amendments.

By Felix Corley

Forum 18 (31.05.2017) - <http://bit.ly/2rX6khO> - Full state censorship of all religious literature published, distributed or photocopied in Kyrgyzstan or imported into the country, as well as a ban on sharing beliefs in public – particularly from door to door – could soon become law. Proposed amendments to the 2009 Religion Law are due to have their first reading in the Zhogorku Kenesh (Parliament) in the capital Bishkek tomorrow (1 June).

The amendments were prepared by the State Commission for Religious Affairs (SCRA), which has been headed since 13 February by Zaiyrbek Ergeshov.

Other provisions in the proposed amendments include a rise in the number of adult citizens living in one place required before a religious community can apply for registration from 200 to 500, as well as a requirement that even adults who travel abroad for religious education have to inform the state where they are studying.

Punishments have not yet been set out for those violating all these provisions.

In addition to the new proposed restrictions, the amendments do not propose removing any of the restrictions on exercising freedom of religion or belief in the current Law. Existing provisions which violate Kyrgyzstan's international human rights commitments include a ban on exercising freedom of religion or belief without state registration.

Deputies told Forum 18 the amendments could be adopted before parliament's summer break, or after parliament returns in September.

Many provisions of the proposed amendments are close to provisions proposed in 2014. They were strongly criticised by the United Nations Human Rights Committee.

The SCRA's amendments

The proposed amendments were prepared by the SCRA. They were approved by the government on 11 April and sent to Parliament. The text of the draft was published in April on several government websites, including those of the Justice Ministry and the SCRA.

On 16 May Parliament's International Affairs, Defence and Security Committee approved the proposed amendments.

At a hearing on 29 May, the Social Affairs, Education, Science, Culture and Health Committee also approved it. SCRA's Director Ergeshov spoke up in the Committee in support of the amendments.

In a demonstration of the wide backing for the proposed new restrictions, the Committee invited to the hearing the Interior, Justice, Foreign, Education and Culture Ministers, the head of the secret police and the General Prosecutor.

Also invited were Chief Mufti Maksat Toktomushev and Russian Orthodox bishop Daniil (Kuznetsov). (The Chief Mufti gained religious education in Pakistan and the bishop in Russia.)

Muftiate representatives backed the amendments, according to the parliamentary website. "Everyone must adhere to their own faith," one insisted. "Cases arise when there are followers of different movements in one family, Muslims and Baptists. This leads to conflicts."

Committee member Ryskeldi Mombekov "supported the amendments in Committee and will speak up in support of them tomorrow in parliament", his assistant told Forum 18 from parliament on 31 May.

Three Committee members opposed the amendments, Committee member Yevgeniya Strokhova told Forum 18. One of them, Tazabek Ikramov, described the draft as "unfinished" and called on it to be sent back for further work, according to the parliamentary website.

The proposed amendments have been included in Parliament's agenda for a first reading on 1 June, according to the parliamentary website. The draft will require three readings in parliament before being adopted. It would then be sent to the President to be signed into law.

How soon?

Many previous proposed laws or amendments about religion have failed to be adopted or have been approved by Parliament but not signed into law. Many observers therefore remain unsure whether these amendments will be adopted and, if so, when.

Religious studies expert Galina Kolodzinskaya acknowledges that deputies could adopt the amendments before Parliament's summer break at the end of June, particularly as she believes they have strong political support from leading state figures and agencies.

"If there is no unified voice from civil society and religious communities, the amendments might move through parliament quickly," Kolodzinskaya told Forum 18 from Bishkek on 31 May. "Sadly, religious communities are fragmented and are unlikely to work together on this."

"But it's quite possible they will be postponed until after the presidential elections now scheduled for 15 October," Kolodzinskaya added. "If that is the case, all will depend on what attitude the new president will take, as religious policy is in the hands of the president."

Parliamentary deputy and Social Affairs, Education, Science, Culture and Health Committee member Natalya Nikitenko, who has concerns about some provisions in the draft amendments, says that ten days should separate the three readings at minimum. "But the initiators could speed up the adoption of the amendments," she told Forum 18 from Bishkek on 31 May.

Nikitenko hopes consideration of the draft will not be rushed. "There must be time to consider this properly, hopefully in the autumn after parliament has had a proper chance to listen to people's views in public hearings."

Proposed new restrictions: religious censorship

A proposed amendment to Religion Law Article 22 would introduce full state censorship of all religious literature produced, copied or distributed in Kyrgyzstan or imported into the country. Only registered religious organisations are identified as being allowed religious literature and only "commensurate with their needs" (which are undefined).

Individuals would be allowed to acquire only "individual copies" of religious books and materials and only "in line with procedures established by the government".

All religious literature in print or digital form and other materials would be subject to compulsory prior state censorship by the SCRA. The amendments specifically ban the printing or publication of any works without its express permission.

SCRA Deputy Director Zakir Chotayev denied that this would represent censorship. "It is the same as in the current Law," he claimed to Forum 18 from Bishkek on 31 May. However, while the current Law allows the SCRA to censor religious literature it does not mandate it.

Parliamentary deputy and Social Affairs, Education, Science, Culture and Health Committee member Strokova supported the religious censorship. "I'm not against freedom," she claimed to Forum 18. "But there must be limits."

But fellow Parliamentary deputy and Social Affairs, Education, Science, Culture and Health Committee member Nikitenko warned that the proposed state religious censorship would increase the powers of the SCRA. "There is no control over what the SCRA does," she complained to Forum 18. "It's not a transparent organisation."

Proposed new restrictions: ban on sharing faith

A proposed amendment to Religion Law Article 5 widens the ban on sharing faith. "Illegitimate proselytism, going round flats or homes with the aim of spreading religious views is banned, as is any illegal missionary activity. Those guilty of violating this provision bear responsibility under the Code of Administrative Offences."

A proposed amendment to Religion Law Article 3 defines "illegitimate proselytism" as "actions directed at attracting to one's own faith followers of other faiths by means of psychological and physical pressure, threats and violence".

The current Article 5 bans only "insistent actions" aimed at sharing faith, though it does ban "illegal missionary activity".

Parliamentary deputy and Social Affairs, Education, Science, Culture and Health Committee member Strokova defended this restriction. She complained that "religiously illiterate people" share their faith and argued that this has to be stopped.

"Anyone could say they are doing this, but there's no guarantee they're professing the faith that they should profess," she told Forum 18. "You don't allow unqualified people to talk about medicine – the same goes for religion. We need to prevent spiritual violence." Asked whether adults are incapable of making up their own mind about any views they hear on religion, she responded: "You're deliberately twisting my words."

Proposed new restrictions: Further registration obstruction

Religious communities which want to gain state registration will find it even harder if the amendments are adopted. A proposed amendment to Religion Law Article 8 would require not 200 adult citizens as at present but 500 to apply to register a religious community. The amendment also implies that these 500 adult citizens must live in one region of the country.

SCRA Deputy Director Chotayev insisted to Forum 18 that the suggestion for 500 adult citizen members in one location came from a "public consultation". He declined to say who had proposed this or why it had been included.

Parliamentary deputy and Social Affairs, Education, Science, Culture and Health Committee member Nikitenko told Forum 18 she sees no need for the number of required members to be increased. She fears this could harm "law-abiding religious communities", including smaller communities such as of Jews or Buddhists. Fellow deputy Strokova told Forum 18 of her similar concerns.

However, another proposed amendment to Article 8 would allow the creation of a centralised religious organisation to religious organisations from a minimum of seven of the country's nine regions. Under the current Law, organisations have to be present and registered in all nine regions before they can apply for a centralised religious organisation.

The proposed amendments – at least in theory – remove one of the obstacles for local communities to apply for formal registration (known in Russian as "uchetnaya registratsia"). Previously this required local keneshes (councils) to approve such applications, but the Constitutional Chamber of the Supreme Court ruled in September 2014 that this was illegal. However, officials have so far ignored this ruling and many local communities struggle to get such registration.

Proposed new restrictions: State notification to study religion abroad

A proposed amendment to Religion Law Article 6 requires anyone wishing to study in a foreign religious educational establishment to notify the SCRA of where they intend to study. The amendments do not say whether the SCRA is empowered to withhold permission for an individual to study their faith abroad.

Another proposed amendment to Article 6 would ban private teaching of religion. The current Law bans the private teaching of "religious studies".

Proposed new restrictions: SCRA's warning, liquidation powers

A proposed amendment to Religion Law Article 26 would allow the SCRA greater powers to warn, halt or seek to liquidate religious organisations that conduct activity "contradicting the goals" of an organisation or "not specified in the statute". A warned or halted religious organisation can challenge the SCRA's decision in court. The SCRA would have to seek liquidation of an organisation through the courts.

The SCRA is empowered to conduct inspections of religious organisations to ensure that they are abiding by the law either at its own initiative, at the initiative of state agencies or in response to complaints.

UN comments ignored

The United Nations (UN) Human Rights Committee commented on the Religion Law and possible plans to amend it in March 2014 Concluding Observations (CCPR/C/KGZ/CO/2) to its consideration of Kyrgyzstan's record under the International Covenant on Civil and Political Rights (ICCPR). 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".

The Committee stressed that the then 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".

However, many provisions of the current proposed amendments are similar to those proposed in 2014.

SCRA Deputy Director Chotayev dismissed the UN's stated views. "We live in Kyrgyzstan and have our own procedures," he told Forum 18. "We're an independent state." When Forum 18 reminded him that Kyrgyzstan is a member of the UN and has acceded to the ICCPR he put the phone down.

Religious communities – mostly no comment

While Muftiate leaders have been vocal in their support for the proposed restrictions, leaders of most other faiths have remained silent. Forum 18 could find no leaders of other faiths prepared to express their views publicly.

Parliamentary deputy and Social Affairs, Education, Science, Culture and Health Committee member Nikitenko said she had seen no comments from other communities. "Our Committee was not given any comments," she told Forum 18.

Nikitenko acknowledged that many communities are afraid to come forward with comments. "There is fear among the population, which is a limit on freedom of speech. But

parliament must hear the voice of the people – that's why we are calling for public hearings in parliament on the proposed amendments."

Privately, a number expressed concerns over at least parts of the draft. One spoke of the "onerous registration requirements which make registration for minority religions virtually impossible", adding that the "total ban" on sharing faith is also a concern.

"After the SCRA published the draft in April, most religious leaders preferred not to lodge official comments," a religious activist told Forum 18 from Bishkek. "This was because of the negative response last time around, when their comments were used to make the draft even harsher. In effect they were revealing their Achilles heel."

Impunity for body snatching officials

Out of around 70 people in mobs incited by officials who twice exhumed a deceased Protestant's body in Kyrgyzstan, only four were given suspended sentences. None were given the jail sentences of between three and five years the law requires. No officials were tried.

By Mushfig Bayram

Forum 18 (22.03.2017) - <http://bit.ly/2n8vnb4> - The criminal cases brought after two mobs incited by officials in October 2016 twice exhumed the body of Kanygul Satybaldiyeva have ended, with just four suspended sentences and one acquittal. No officials have been tried or convicted and no further criminal cases or investigations are underway.

The deceased Satybaldiyeva was a member of the Isa Mashiyakh (Jesus Christ) Protestant Church, in the south-western Jalal-Abad Region's Ala-Buka District. Her family still do not know for certain where she is buried, officials having claimed that she has been buried secretly in open countryside.

On 27 February 2017 Judge Gulmira Kodjobekova of Ala-Buka District Court gave three-year suspended prison sentences to two Ala-Buka residents – not the jail sentences of between three and five years the law requires. Judge Kodjobekova also presided over the first trial in January, which ended with one acquittal and two suspended sentences.

Judge Kodjobekova has now been promoted to a new judicial post in the capital Bishkek.

The February convictions brought the total number of convictions to four people out of about 70 possible defendants. No officials have been either tried or convicted for their part in the events, including those named by witnesses and human rights defenders as inciting the events. Contrary to the law, no jail sentences have been imposed.

Officials have either refused to answer questions about their role, or claimed that officials who witnesses state incited mobs are innocent of any crime.

Satybaldiyeva's daughter told Forum 18 that "mobs dug up the body of my mother in two villages. Many officials witnessed the exhumations and did nothing to stop it. And the end result is that four people received suspended sentences".

Record of impunity

Kyrgyzstan has a record of impunity for officials committing serious crimes, for example named police officers who tortured seven Jehovah's Witnesses who met for worship. The United Nations (UN) Subcommittee on Prevention of Torture and other Cruel, Inhuman or

Degrading Treatment or Punishment (SPT) found in 2012 during a visit that "torture and ill-treatment is prevalent in the country", caused by among other factors "the impunity and general lack of accountability of officials".

Coercion, mob violence, impunity

Satybaldiyeva died of natural causes on 13 October 2016 and on 14 October a small group of family and friends tried to have her buried. However the village imam and a mob prevented them from doing so. This was even though her daughter tried to obtain her mother's burial by, under coercion from state-appointed District Chief Imam Shumkar Chynaliyev, claiming that her decision to become a Christian had been a mistake. But the mob still refused to allow the burial and dug the body up, and Imam Chynaliyev and other officials did nothing.

On 15 October Satybaldiyeva's family and friends buried her in a different cemetery with respect and according to her own Christian burial rites. But on 17 October a mob of 30 people – in the presence of ordinary police, the National Security Committee (NSC) secret police, and Ala-Buka District Administration officials - dug up Satybaldiyeva's body. Officials then took the body away to an undisclosed location, without the family's presence or consent.

Sonunbek Akparaliyev, the Akim (Head of Administration) of Ala-Buka District, was stated by witnesses to have incited this second mob. Human rights defenders, some of whom wished to remain anonymous for fear of state reprisals, also stated that state-appointed imams Chynaliyev and Tynchtyk Orozmatov (of Sary-Taala village where Satybaldiyeva lived) also incited mobs in the two villages to dig up the body. None of these officials have been put on trial.

After the second mob exhumation, officials then claimed that Satybaldiyeva's body had been buried secretly in open countryside. With great reluctance they eventually showed her daughter where they claimed to have buried the body. But her daughter saw no evidence that her mother's body was in the place where officials claimed it was.

No officials, and only three out of around 70 possible defendants were put on trial in January 2017. Of the three put on trial, one was acquitted. The two convicted were given only suspended sentences, and not jail sentences as Criminal Code Article 263 (which they were tried under) requires.

Judge Kodjobekova of Ala-Buka District Court refused to tell Forum 18 why she did not act according to the law. Human rights defenders and the family condemned the trial and punishments as "not appropriate and not effective".

Long-standing and continuing problem

The government has long failed to ensure that people may exercise their right to 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 complained about this problem, which causes families and communities great distress.

These freedom of religion and belief violations still continue throughout Kyrgyzstan in 2017.

"An attitude of intolerance"

An Ahmadi Muslim, who wished to remain unnamed for fear of state reprisals, told Forum 18 on 17 March that one contributory factor may be "public hate speeches against the so-called 'non-traditional' religions".

The individual noted that after the December 2015 murder of Ahmadi Muslim Yunusjan Abdjalilov, "the village imam warned people not to attend the funeral. Because of this many villagers did not attend it". However, Ahmadi Muslims and other villagers did attend the funeral.

"An attitude of intolerance against members of other religious communities is encouraged by the likes of former Chief Mufti Chubak azhy Zhalilov," the Ahmadi Muslim noted. The former Chief Mufti called for people to "totally boycott Ahmadis and isolate them from society by: not marrying them; not allowing them to be buried in cemeteries; and not employing them". No action has been taken against him, the Ahmadi noted.

The authorities have repeatedly ignored or even encouraged such hostility to people exercising their freedom of religion and belief.

Judge breaks the law

On 27 February Judge Kodjobekova of Ala-Buka District Court gave three-year suspended prison sentences to Syrgabek Turgunbay uuly and Maksatbek Koychumankulov. Both men are from Ala-Buka District.

The two men were tried under Criminal Code Article 263 ("Defilement of the body of a deceased person or a place of burial"), Part 2, which specifies only one possible punishment for those convicted: "deprivation of liberty for between three and five years".

Turgunbay uuly and Koychumankulov "will report to police for one year during which they must not violate the law. If they commit any violations during that period they will be imprisoned," Nurlan Orozbekov, Chief of Ala-Buka District Court's Chancellery, told Forum 18 on 14 March. Asked why they were not jailed for between three and five years as the law requires, Orozbekov replied "you need to talk to the Judge".

Another official of the Court (who would not give her name) claimed to Forum 18 on 14 March that Judge Kodjobekova "is busy in a hearing" and did not know when the Judge might be available. Further calls to the Judge's phone that day went unanswered.

Another Judge of the Court, Kambarbek Beysheyev, refused to say on 17 March whether more people will be tried for the crime, claiming that he cannot give details of the case. He also said that Judge Kodjobekova was recently appointed as the new Chair of a court in Bishkek.

No officials put on trial

During the 27 February trial, defendant Koychumankulov told the District Court that Ala-Buka Akim (Head of Administration) Akparaliyev and state-appointed District Chief Imam Chynaliyev "provoked the crowd to dig up the body", Satybaldiyeva's daughter Zhyldyz Azayeva, who was at both the 12 January and 27 February trials, told Forum 18 on 14 March. Koychumankulov also stated that neither official warned those who dug up the body that they were committing a crime.

Azayeva complained to Forum 18 that the "investigation of the case is over and the main responsible persons in the case, Akparaliyev and Chynaliyev were not punished or even fired from their jobs".

She noted that "mobs dug up the body of my mother in two villages. Many officials witnessed the exhumations and did nothing to stop it. And the end result is that four people received suspended sentences."

No actions after repeated complaints

Azayeva on 18 January filed a complaint to Ala-Buka Prosecutor's Office. "I asked for two things to be done," she told Forum 18. "We want the authorities to punish all those responsible for the exhumations, including both those who incited the mobs and asked them to dig up the body and those who did the exhumations. We also want my mother to be buried with all dignity in Ala-Buka's central cemetery".

No answer has been received to her previous complaints to the Interior Ministry and the Prosecutor-General's Office.

Ala-Buka's Chief Prosecutor Arslanbek Boybosunov on 18 January referred the complaint to Mirbek Isagaliyev, Chief of Jalal-Abad Regional Police Investigations Division.

Isagaliyev told Forum 18 on 14 March that Akim Akparaliyev and Imam Chynaliyev had both been questioned and "are not guilty". Asked how the two men had justified their conduct, he replied: "I do not remember the details. Call me back later today". Police Chief Isagaliyev did not answer any subsequent phone calls.

Asked by Forum 18 on 14 March why Akim Akparaliyev and Imam Chynaliyev were not held responsible for their actions, Chief Prosecutor Boybosunov replied: "Send your questions in writing". He then put the phone down.

Orozbekov of Ala-Buka District Court's Chancellery claimed to Forum 18 that both officials "were questioned as witnesses by the police and the Court. The Court did not find them guilty". Yet witnesses from the hearings state that Akim Akparaliyev did not attend any of the court hearings.

"Why should we punish them?"

Bakhtybek Anarkulov, Deputy Head of Jalal-Abad Regional Administration, told Forum 18 on 14 March: "Why should we punish them [Akim Akparaliyev and Imam Chynaliyev]? They are not guilty of the crime."

Anarkulov claimed in October 2016 of the secret reburial without the family's presence or consent that he was "overseeing the whole process", and that "we buried her with all dignity".

Anarkalov then claimed of Akim Akparaliyev "why should he be responsible when he asked people not to dig up the body but they did not listen to him?". Asked how Akparaliyev can continue his responsibilities as the chief official of the District when the local people apparently do not respect him and the law-enforcement agencies apparently do not obey his orders, Anarkalov did not respond. He then put the phone down and did not answer subsequent calls.

What steps are being taken on a national level?

Almas Kulmatov, Head of the Presidential Administration's Ethnic, Religious Policy, and Cooperation with Civil Society Department, on 17 March claimed to Forum 18 he has sent a written reply to questions put to him on 18 January. Forum 18 asked:

- When will responsible state officials or imams be brought before the law in the Satybaldiyeva case?
- Will the authorities hand down more serious punishments against those who block the burials?
- What other measures are the central authorities taking to resolve burial problems?

Kulmatov had refused to answer these questions when they were originally put to him on 18 January.

Forum 18 told him that as of 17 March it had not received the written answers he claimed to have sent, and asked him to resend them. Kulmatov promised to resend them "before Monday" (20 March). He then refused to discuss burial problems, or any other freedom of religion and belief questions, with Forum 18 over the phone.

As of the end of the working day in Bishkek on 22 March, Forum 18 had not received the answers Kulmatov claimed to have written and sent.

Baha'is who wished to remain anonymous for fear of state reprisals told Forum 18 on 17 March: "The authorities promised us that they would allocate a plot of land for our burials half a year ago. But we still do not have our own cemetery. We continue our talks with the authorities."

Protestants who wished to remain unnamed for fear of state reprisals told Forum 18 on 17 March that the state is not resolving the burial issue, and is not willing to allocate cemetery plots to them.

Kyrgyz cemeteries to be divided into sectors for various religions groups

Interfax Religion (13.03.2017) - <http://bit.ly/2mn5mFH> - Osh, March 13, Interfax - The Kyrgyz State Commission for Religious Affairs (SCRA) has decided to divide the country's cemeteries into sectors depending on the religion of the deceased.

The decision was made in order "not to infringe on the rights of citizens who during their lifetime adhered to different religious views," the SCRA told *Interfax*.

"According to a study, 90% of the population, by ethnicity and religious views, profess Islam, therefore, a bigger part of a cemetery will be allocated for it, division into Islamic as well as other religions is envisaged," the SCRA representative said.

Cemeteries will be divided based on local community applications, the dividing itself will be marked either naturally - trees or bushes - or by artificial fences, he said.

Niyazaly Aripov, a theologian, told *Interfax* that such a decision was made because disputes over which religion the person being buried belonged to have been occurring more and more recently in Kyrgyzstan.

In late 2016 one woman was re-buried three times, because during her lifetime she became a Baptist, Aripov recalled. The woman was buried at a common cemetery but local residents dug her body up and demanded that her relatives collect it. The conflict was only resolved after law enforcement authorities stepped in. Eventually, the woman was buried in the mountains and the exact location of her grave is kept secret to prevent its desecration by locals.

At present, burials are performed at common cemeteries divided into nominal sectors.

The Kyrgyz Baptists: A case study in religious persecution in Central Asia

The troubling treatment of converted Baptists highlights the growing problem of radicalization in Central Asia.

By Uran Botobekov for The Diplomat

The Diplomat (06.02.2017) - <http://bit.ly/2mLB4An> - The International Crisis Group (ICG), in its annual report "Kyrgyzstan: State Fragility and Radicalization," (*) noted that "the radicalization of the Islamic religion is growing in Kyrgyzstan." The report emphasizes, "In the absence of political pluralism, a reliable state and economic opportunities, growing numbers of citizens are taking recourse in religion. Islam has become a central factor in public life since the end of the Soviet era... Increasingly families opt to have even crimes dealt with by local or religious leaders rather than the police and courts."

The critical assessment by ICG of the religious situation in the region usually causes discontent among governmental authorities in Central Asian states. Yet this time some foreign researchers wrote a group letter to ICG, in which they have expressed their disapproval of the report. The open letter "Understanding Islamic Radicalization in Central Asia" from Central Asia scholars to the International Crisis Group was published in *The Diplomat*.

I do not intend to dispute the main causes of Islamic radicalization with the ICG and authors of the group letter; however, it should be emphasized that international organizations and research scientists analyzing the religious situation in the region usually emphasize only the Islamic radicalization in Central Asia. In this context, the critical state of other religious minorities subjected to persecution and pressure from the authorities and the Islamic Jamaat (Islamic society) remains underexamined. In this context, Kyrgyzstan faces a barbaric and terrifying situation that is a vivid example of the growing intolerance in the country and animosity of the Islamic majority toward the Christian minority.

For instance, 76-year-old Kanygul Satybaldieva, a resident of Ala-Buka district in southern Kyrgyzstan, died on October 13, 2016, after a long illness. She and two of her daughters had converted to Christianity a few years ago and have become regular members of the Christian Baptist Church. However, Satybaldieva's husband remained a practicing Muslim. A unique and multicultural environment with coexisting religions had thus been created within a single Kyrgyz family.

The religious views of the deceased have caused intolerable problems related to her funeral. The local government and villagers that belong to the Hanafi branch of the Sunni Islam have not allowed her family members to bury Satybaldieva's body at a local cemetery, arguing that the deceased had become an apostate of Islam and had followed Christianity till her death.

Her daughter, Jyldyz Azaeva, said that she appealed to the local administration and local counselors after the Muslim majority prohibited the burial of her mother at the local cemetery. A mullah (Muslim spiritual leader) of the district, Shumkar aly Chynaliev, was the first to stand against the burial of the deceased at the Muslim cemetery. On October 14, he gathered villagers and demanded that Jyldyz Azaeva should abjure Christianity and convert to Islam again. Also, there have been calls for punishing the woman by stoning. According to her telling of the situation:

They demanded that I should abjure the Christianity and convert to Islam. They have recorded video of the meeting. I had to agree for the sake of my mother. They have forced

me to. They have wanted me to serve as a lesson for everyone else. They have forced me to say surahs from the Quran to convert to Islam. I have failed, and the imam has laughed at me in front of the people. Then I have repeated the surah from the Quran and converted to Islam for the sake of my mother. I have asked them if they allow me to bury my mother. My mother's body has started smelling after two days. But the crowd of Muslims has said no to me. They have said to bury my mother in my garden. I wouldn't wish this situation on my worst enemy. The imam has said they 'have saved me from the alien faith,' or else I would be stoned.

According to her, no one in the crowd has tried to stop other Muslims from harassing her. The representatives of the local government and police have simply watched the situation unfold. Jyldyz Azaeva expanded on her account, speaking to radio Azattyk:

My mother used to read the Bible, the Old Testament, the New Testament, the Book of Psalms. These books have caused no harm. These holy books say 'Do not kill, do not steal, do not commit adultery, do not covet, do not lie, fear the Lord', etc. What's bad in it? My parents have lived together for 50 years; my father has always prayed Namaz. The Muslim villagers could at least have compassion on my father. People get buried regardless of their status and religion. Criminals and terrorists get buried. Even animals get buried. My mother was an ordinary citizen of Kyrgyzstan, an ordinary person. Has she killed anyone? Or stolen anything? We haven't caused any harm to anyone. We have been an obedient family. My mother's body has been disinterred and thrown away twice just for her faith in God.

The district's mullah, Shumkar aji Chynaliev, called his talk with Jyldyz Azaeva "an explanatory talk." "The deceased Kanygul Satybaldieva and both of her daughters have happened to adopt Christianity. We have conducted explanatory work with them. But the villagers still refused to give permission to bury her mother. Then we have visited other villages with Christian cemeteries. But they have refused, too. As we can see, the earth does not accept those who betray the Islam and she cannot rest in another peace," Mullah Shumkar aji Chynaliev has said.

During the conflict, the head of Ala-Buka district government Sonunbek Akparaliev strongly opposed Christianity. He stated, "What will happen with the Kyrgyz if everyone starts abjuring Islam and converting to other religions?" His words have become a clear and strong signal for local Muslims prompting them to abuse the body of the deceased Satybaldieva on the basis of religious animosity.

According to *RFE/RL*, with no prospects of changing the imam's mind, Azaeva said her family accepted an alternative offer by local officials to arrange for her mother's burial in the nearby village of Oruktu. But after her body was interred, the Muslim leadership there, too, objected to Satybaldieva's presence in the cemetery and ordered the body exhumed.

The increasingly desperate family then accepted a proposal by local officials to bury Satybaldieva in the municipal cemetery of the district capital, Ala-Buka. But after her mother's burial, Azaeva said both local Muslim and Christian leaders in the town agreed she must be dug up again and removed. The problem? Satybaldieva was a Baptist and thus outside of many Kyrgyz citizens' traditionally accepted notions of Christianity, which begins and ends with the Russian Orthodox Church. Finally, Satybaldieva was buried in a secret location known only to local officials and the family.

Thus, the body of Kanygul Satybaldieva has been buried three times due to the pressure from the local Muslim Ummah. Local Muslims have unburied the body twice and thrown it away as if it were garbage, hoping it would serve as a lesson for those who would dare abjure Islam and convert to Christianity. After numerous incidents, Satybaldieva has been buried for a third time, but this time police officers haven't reported the place of burial to the representatives of the Christian Baptist religion.

After international public outcry and criticism by human rights organizations, Kyrgyz authorities investigated this incident. Currently, the case of objection to the burial of Kanygul Satybaldieva at a local cemetery is being reviewed by the Ala-Buka District Court of Kyrgyzstan. The district police and prosecutor's office have initiated a criminal case under article 263, on the "Abuse of bodies of the deceased and their places of burial." The penalty under this article is either a heavy fine, or imprisonment for three to five years. Five persons have been charged in relation to this case.

The heads of local authorities and leaders of the Muslim clergy pleaded not guilty at a court session. One of the suspects, Maksat Koichumankulov, 30, has said that about 70 people had exhumed the body, among them the head of the district government and the leader of the local Muslim clergy. "But I am the only one facing the charge. This is unjust," he added.

Another alleged offender, Bektur Kulchunov, has confessed that he was simply following the decision of the Muslim jamaat. "It's unfair that only five persons are being judged. Other participants have been police officers, heads of local governments, who have supported us morally. Now they have made us scapegoats," he has said.

Azaeva has also said that the five men, aged between 27 and 34, were only "carrying out someone else's instructions" to dig up the body in their village cemetery. She is demanding authorities prosecute those they say ordered it, including the local mullah, imam, and governor. As of now, the representatives of the local government have laid the blame on the ordinary people. According to *BBC's Kyrgyz Service*, the court convicted two of the men on three years' probation (meaning they will not serve their sentences in prison). The court acquitted the remaining suspects.

This hasn't been the first case in Kyrgyzstan where the Islamic majority has persecuted deceased Christian Baptists due to religious animosity. On October 22, 2016, the residents of Teploklyuchenka Village in Issyk-Kul region didn't allow the burial of 60-year-old Christian Baptist Sydykbekova. A land plot on the village's edge, separate from the local cemetery, was allocated for the burial of the "betrayer of Islam." It serves as a vivid reminder to those who have abjured Islam and converted to another religion.

Another similar incident that was widely discussed occurred nine years ago in the Naryn Region of Kyrgyzstan. On May 17, 2008, local Muslims didn't allow the burial of the body of a 14-year-old boy, Amanbek, whose father Alymbek Isakov and mother Saken Tumenbaeva had abjured Islam and become Christian Baptists.

When Baptists wanted to bury the teenager at the protestant cemetery, nearly 30 Muslims came and prohibited the digging of a grave by saying that "Baptists have no place in this life and afterlife." They forced the father of the deceased teenager to abjure Christian Baptism and convert to Islam. However, he flatly refused to change his religion. Failing to get help from the police and the prosecutor's office, the father buried his son right in the front yard of his house.

According to the State Committee for Religious Affairs of the Kyrgyz Republic, the activity of Baptists in Kyrgyzstan started back in 1907-08, when the first German families moved to Kyrgyzstan. Currently Kyrgyzstan has nearly 3,000 followers of this religion and 50 houses of worship. The persecution and harassment of Baptists has become more frequent in Kyrgyzstan recently. There have been cases where Muslims have beaten Baptists and even burned down their houses of worship. In December 2005, in the Kyrgyz village of Jety-Oguz, a local villager who had converted to Christianity was killed. The killer has not been found to date, but the residents of the village of the murdered protestant have no doubt that he suffered for his religious views.

In practice, these threats and offenses have served to only strengthen the Christian faith and distance its followers from Islam. The problem of proselytism is usually brought up by the leaders of Muslim jamaats, while the authorities covertly support the radical actions of Muslims. Kyrgyz President Almazbek Atambaev has turned a blind eye to the problems faced by Baptists because he doesn't want to lose Muslim support during elections. He has used religious support to strengthen and centralize his power.

Even the Russian Orthodox Christian church, the second largest religion in Kyrgyzstan, ignores the Baptists and has called them "lost dissidents." Punishments of these "renegades" and missionaries have also occurred in other states in Central Asia. In 2004, in the Tajik city of Isfara, protestant pastor Sergey Bessarab, who was an active missionary among the Muslims, was shot and killed. The investigation found that Bessarab had been killed by Muslim fanatics. Moreover, cases of beating of Muslims who have converted to Christianity have been reported in Uzbekistan and Kazakhstan.

The Muslim majority justifies its actions toward the Christian Baptists by the canons of Islam, which prescribes execution for anyone abjuring their religion. Central Asian governments turn a blind eye to the radical actions of local Muslims toward these Christian Baptists, thereby creating a favorable environment for the development of *takfir* in future. *Takfir* in Islam refers to the practice of accusing other Muslims of non-belief or apostasy. According to the Carnegie Endowment for International Peace, today the Islamic State group widely distributes the practice of *takfir*, which has been promoted to the level of political ideology in its so-called Caliphate. The militants of the Islamic State kill innocent Muslims, slaughter Yazidis and Kurds, and commit terrorist attacks in the West, all under the guise of *takfir*. If government do nothing to stop Islamic radicals, then Christian Baptists in Central Asia may repeat the sad fate of the Syrian Yazidis in the future.

In Central Asia, the problem of Islamic radicalism keeps growing. The critical situation with Christian Baptists in Kyrgyzstan proves that there is a real threat. There's one thing I'd like to say to the ICG and international researchers studying the topic: Islam in Central Asia only manages to grow radical amid the strengthening of authoritarian regimes and political repression in all five regional states.

(*) Kyrgyzstan: State Fragility and Radicalization

<https://www.crisisgroup.org/europe-central-asia/central-asia/kyrgyzstan/kyrgyzstan-state-fragility-and-radicalisation>

Uran Botobekov has a PhD in political science and is an expert on political Islam.

No effective punishment for body snatching

Only three people prosecuted from 70, including imams and officials, who twice dug up a deceased Protestant's body. The three were not given the jail sentences the law requires. Human rights defenders and the family condemned the punishments as "not appropriate and not effective".

By Mushfig Bayram

Forum 18 (20.01.2017) - <http://bit.ly/2jS6D9P> - In October 2016 officials co-operated with mobs who twice dug up the body of deceased Protestant Kanygul Satybaldiyeva in Kyrgyzstan's south-western Jalal-Abad Region. After prolonged delays, the authorities put on trial three men out of the more than 70 people – including state officials and two imams – who either dug up the body twice, buried it in an unknown location without the family's knowledge or consent, or did nothing to prevent the crime.

On 12 January 2017 the three men brought to trial – none of whom are officials or imams - were convicted and given suspended jail sentences. However, the Criminal Code requires jail sentences with deprivation of liberty, not suspended sentences, for this type of crime. A human rights defender, who wished to remain anonymous for fear of state reprisals, commented: "The authorities will not prosecute their own people. But of course they will prosecute simple citizens. Obviously those who were prosecuted could not have done it on their own; they carried out the orders of the imams and officials".

In early November 2016 a police officer showed Zhyldyz Azayeva, Satybaldiyeva's daughter, a patch of open grassland 15 kilometres (10 miles) from the nearest settlement in Jalal-Abad Region. He insisted the authorities had buried her mother there. The land was not a cemetery. He did not explain why police officers allegedly buried her there, nor gave any proof that he is telling the truth.

As of 20 January 2017, officials have still not told Azayeva or other family members what exactly they did with her mother's body.

The government has long failed to ensure that people may exercise their right to 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 complained about this problem, which causes families and communities great distress.

These freedom of religion and belief violations still continue in 2017.

Interrogations, charges

On 11 January 2017 Judge Gulmira Kodjobekova of Ala-Buka District Court told Forum 18 that five individuals were being interrogated by police. However, she said that only three people were being tried. She said that the three were charged under Criminal Code Article 263, but refused to give their names or more details of the case.

Article 263 ("Defilement of the body of a deceased person or a place of burial")

Part 1

Defilement of the body of a deceased person, or the destruction, damaging, or desecration of a place of burial, gravestone, as well as stealing items from inside or on top of the grave shall be punished by:

- community service (public works) for between 180 and 200 hours;
- or deprivation of liberty for up to three years.

Part 2

If the same actions are carried out by a group of persons or repeatedly, they shall be punishable with deprivation of liberty for between three and five years.

Trial, sentences "not appropriate and not effective"

The trial began in Ala-Buka District Court on 29 December 2016 of Emilbek Zhanayev and Kubanych Erkavlianov, both of whom are 28 years old, as well as 35 year old Bekturgan Kulchunov, a resident Ala-Buka village.

At the conclusion of the trial on 12 January 2017, the three men were convicted and each given three year suspended jail sentences – not jail with deprivation of liberty as Criminal Code Article 263 requires. Maksat Koychumankulov was also interrogated by police, but was not committed for trial.

The three men on trial were part of a mob of about 70 people who participated in the second of two exhumations of Satybaldiyeva's body in Ala-Buka in Jalal-Abad Region.

On 14 October 2016, a mob prevented Satybaldiyeva's burial. The 76-year old was a member of the Jesus Christ Protestant Church. On 14 and 17 October, mobs in the nearby village of Oruktu and then in the central cemetery of Ala-Buka District twice exhumed her body. Their objections were to a non-Muslim being buried in state-run village cemeteries.

Police and National Security Committee (NSC) secret police officers, as well as local and regional officials, observed the exhumations but did nothing to stop them. They also failed to take action when individuals called on members of Satybaldiyeva's family to be killed.

Human rights defenders and Satybaldiyeva's daughter Azayeva told Forum 18 on 16 January that the punishments are "not appropriate and not effective".

Judge Kodjobekova did not answer when asked by Forum 18 why she gave only suspended sentences to the convicted criminals, and not jail sentences as Criminal Code Article 263 requires. On 19 January she claimed: "We already mailed the verdict to the Plaintiff [Azayeva, Satybaldiyeva's daughter], you can ask them about the details." The Judge then put the phone down. Subsequent calls to her phone on the same day went unanswered.

As this was a criminal case and the prosecution was brought by the state, Azayeva was not the Plaintiff in the case, Forum 18 notes.

However, as of 19 January Azayeva had not received a copy of Judge Kodjobekova's verdict.

On 18 January Forum 18 asked Aripzhan Sulaimanov, Deputy Prosecutor of Ala-Buka District who represented the prosecution in the trial, whether the punishments are effective. However, he too did not answer. He then claimed to Forum 18 that "I am busy" and put the phone down. Subsequent calls were not answered.

Why were only three out of 70 people put on trial?

Human rights defenders, some of whom wished to remain anonymous for fear of state reprisals, also complained that the prosecution did not indict Shumkar Chynaliyev (Chief Imam of Ala-Buka District), or Tynchtyk Orozmatov imam of Sary-Taala village where Satybaldiyeva lived, who incited mobs in two villages to dig up the body.

The human rights defenders also state that Sonunbek Akparaliyev, Akim (Head of Administration) of Ala-Buka District, ordinary police, and NSC secret police officials who watched the exhumations and filmed them, but did nothing to stop them, should also be brought to trial for their actions. Witnesses also stated that Akim Akparaliyev incited the mob.

The convicted Kulchunov and questioned suspect Koychumankulov told Radio Free Europe/Radio Liberty on 6 January that Akim Akparaliyev, Imams Chynaliyev and Orozmatov, police, and other state officials were present during the second exhumation in Ala-Buka village.

Koychumankulov stated that the "body was dug up by about 70 people. I also took out a few shovels of soil, which was filmed". He condemned the trial of only a few people as "unfair". He said that Akim Akparaliyev "was there also and was angry and shouting why the body was buried inside the cemetery and not outside it as he had ordered."

Kulchunov also complained that he was "disappointed" that the police, the District Akim, and other officials who were present were not also put on trial. He stated that "they did not stop us and did not even warn us that there is a responsibility under the law for digging up a grave".

"The authorities will not prosecute their own people"

On 4 January 2017 the Court questioned Imams Chynaliyev and Orozmatov, Gulnara Umarova, Head of Ala-Buka village administration, and lower rank police officials as witnesses. "They all denied to the Court that they were part of the exhumation," Azayeva told Forum 18. "They told the Court that they were there to 'give an explanation to the people that they should not exhume the body'."

Azayeva complained that the Court "did not make them responsible as I had asked in my complaints to the Interior Ministry and the Prosecutor-General's Office in October".

Azayeva also complained that Akim Akparaliyev was "not summoned at all by the Court and questioned."

A human rights defender, who asked not to be named for fear of state reprisals, told Forum 18 on 17 January: "I am not surprised that neither the Akim of the District nor the Imams were prosecuted. The authorities will not prosecute their own people. But of course they will prosecute simple citizens." They elaborated that "Obviously those who were prosecuted could not have done it on their own; they carried out the orders of the imams and officials."

"The authorities "could have made this prosecution a lesson for others"

"I do not think that the punishments will be effective since burial problems have existed for years and incidents of burial obstruction have occurred repeatedly," Galina Kolodzinskaya of Kyrgyzstan's Interfaith Council told Forum 18 on 16 January. The authorities "must resolve this issue within a legal framework, and allocate plots of land to non-Muslims for cemeteries".

Kolodzinskaya also observed that the authorities "could have made this prosecution a lesson for others to demonstrate that they want to stop similar future cases. But obviously they did not do that."

A Jehovah's Witness, who wished to remain unnamed for fear of state reprisals, pointed out to Forum 18 the unfairness of the authorities prosecuting "our believers on fabricated charges" while not "seriously prosecuting those who participated in the exhumations".

One example of such fabricated charges is the case of Jehovah's Witnesses Nadezhda Sergienko and Oksana Koriakina, who have faced house arrest for months and an ongoing legal battle, despite many violations of due process and strong evidence of their innocence – including a judge describing it as a "a fabricated case". The next hearing is due on 1 July 2017, and at present the mother and daughter are not under house arrest.

"Let the relatives ask the Prosecutor's Office"

Asked on 11 January why she did not ask the imams or police officials she questioned why they did not stop the mobs from twice exhuming the body, Judge Kodjobekova replied "I will not give an account to you of my actions". Asked why no officials or imams were brought to trial she replied: "Let the relatives ask the Prosecutor's Office to bring a lawsuit against whoever else they think is responsible".

Prosecutor Sulaimanov claimed that Imams Chynaliyev and Orozmatov, Akim Akparaliyev, and other officials "were only witnesses". He further claimed that "other witnesses told the

Court that the Imams and Akim are not guilty because they tried to stop the people but could not."

When Forum 18 noted that that the police could have stopped the mobs but did not, that the imams incited the mobs, and that Akim Akparaliyev ordered the body to be buried outside the Ala-Buka cemetery, Prosecutor Sulaimanov claimed: "We only brought the case before the Court after the preliminary investigation. You need to ask the police who opened the case about this."

Lieutenant Colonel Manas Amanbayev of the Interior Ministry's 10th Department claimed to Forum 18 on 18 January that "we have not stopped the investigation of this case", but that "I cannot answer some of these questions over the phone".

Told that both Prosecutor Sulaimanov and Prosecutor-General's Office officials referred Forum 18 to the police for answers as to why no imams and officials had been brought to court, Amanbayev replied: "That is not correct. The police simply open criminal cases and lead the preliminary investigation. But Prosecutor's Office officials evaluate it before bringing to court."

On 18 January Forum 18 asked Asylbek Akhmatov, head of the International Section of Prosecutor-General Indira Joldubayeva's office, why the Prosecutor-General's Office did not bring state officials or imams to legal responsibility for their actions. He responded that the case was referred to Jalal-Abad regional Prosecutor's Office. When Forum 18 observed that those officials had not brought other officials to trial for crimes, he referred Forum 18 back to the same Jalal-Abad regional officials.

Asked whether the Prosecutor-General's Office was interested in an investigation of the case, and what steps are being taken to end such burial violations, Akhmatov replied "why are you calling us, call the Interior Ministry".

New complaint to Ala-Buka Prosecutor's Office

Azayeva told Forum 18 on 18 January that she had filed a new complaint to Ala-Buka Prosecutor's Office. "I asked for two things to be done," she explained. "We want the authorities to punish all those responsible for the exhumations, including both those who incited the mobs and asked them to dig up the body and those who did the exhumations. We also want my mother to be buried with all dignity in Ala-Buka's central cemetery."

No answer has been received to her previous complaints to the Interior Ministry and the Prosecutor-General's Office.

Burial problems continue

Since Satybaldiyeva's body was twice exhumed by mobs and her body apparently secretly buried somewhere by the authorities, burial problems have continued.

In one of the examples known to Forum 18, a Protestant woman was refused burial in a village cemetery in the north-eastern Issyk-Kul [Ysyk-Kol] Region. "A group of young men were against her being buried in the village cemetery," Elchibek Zhantayev, acting Head of Ak-Suu Administration told Forum 18 on 18 January. "As we did not want any conflict in the village, and after consultation with the District Imam, we decided that she should be buried in the old cemetery just outside the village."

A Protestant from the woman's church, who wished to remain unnamed for fear of state reprisals, told Forum 18 that "her body was buried on a hilltop near the village, inside an old grave in an old, unattended cemetery".

Asked why the woman was not buried in a new grave in the village's maintained cemetery, and why no action was taken against those who blocked the burial, Zhanbayev replied: "We did not want any conflicts."

Resolving burial problems?

Asked what steps the Interior Ministry is taking to end such violations, Lieutenant Colonel Amanbayev told Forum 18: "We to talk to local people in the regions and peacefully resolve the burial issues".

Asked what steps the central government authorities are taking to resolve burial problems, Almas Kulmatov, acting Head of the Presidential Administration's Ethnic, Religious Policy, and Cooperation with Civil Society Department, on 18 January refused to answer questions. He asked for questions in writing, and so was asked:

- When will responsible state officials or imams be brought before the law in the Satybaldiyeva case?
 - Will the authorities hand down more serious punishments against those who block the burials?
 - What other measures are the central authorities taking to resolve burial problems?
 - No answer had been received as of the end of the working day in the capital Bishkek on 20 January.
-