

Kyrgyzstan faces increasing religious diversity: Its responses raise concerns

By Willy Fautré, director of Human Rights Without Frontiers (Brussels)[i]

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HRWF (27.03.2018) – After the collapse of the Soviet Union and its fragmentation into a series of independent states, missionary movements of Christian and Islamic origin swept across the newly emerging states to respond to the spiritual needs of peoples who had been force-fed with atheism for decades. The honeymoon for freedom of religion or belief in Central Asia lasted for a few years and then started to fade away. Kyrgyzstan was no exception to this phenomenon.

Religious Statistics: 1991 – 2016 [ii]

In 1991, there were 39 mosques (about one thousand functioned without an official status) and 25 churches and parishes of the Russian Orthodox Church. Islam was then represented by the Spiritual Administration of the Muslims of Kyrgyzstan (Muftiate), uniting over 1725 religious entities, including seven regional kazyats (units), the kazyats in the cities of Osh and Bishkek, one university six institutes, 45 madrassas and Koran classes, three missions of foreign communities, 26 centers and associations, and 1619 mosques.

According to the Concept Paper on State Policy in the Sphere of Religion of the Kyrgyz Republic dated 6 May 2006, the Christian religious communities were represented by up to 343 entities, 46 churches and parishes of the Russian Orthodox Church, including one nunnery, one Orthodox parish school, two Orthodox religious organizations (Old Believers Churches), three Catholic communities, 292 Protestant organizations (including 48 Baptist, 20 Lutheran, 45 Pentecostal, 30 Adventist, 18 Presbyterian, 16 Charismatic, 41 Jehovah's Witnesses, 22 non-denominational Protestant organizations, and 21 new religious movements (including 12 Baha'i communities). There were also 21 missions of foreign churches, 13 educational institutions, seven centres, funds and associations, one Jewish community and one Buddhist community. Since 1996, more than 1137 registered/re-registered foreign citizens arrived to the Republic from 54 countries, including the CIS, to carry out religious activity in the country.

As of the end of 2016, the registered religious groups and organizations reported by the authorities included 2,743 mosques, 10 Islamic higher educational institutions, 89 madrassas, 74 Muslim foundations, centers and unions, 380 Christian organizations and unions, 51 Russian Orthodox churches; four Catholic communities, 50 Baptist communities, 31 Seventh-day Adventist churches, 56 Pentecost communities, 20 Lutheran communities, 38 Presbyterian communities, 43 Charismatic communities, 26 foreign Protestant organizations, 18 non-denominational Protestant organizations, one Jewish community, one Buddhist community, and 12 Baha'i Faith communities.

The total population of Kyrgyzstan is currently estimated at about 5.7 million. According to Kyrgyz Government estimates, approximately 85 % of the population is Muslim. Almost all are Sunnis. Shias make up less than 1 %. There are also about 1000 Ahmadis. Russian Orthodox Christians represent about 5 % of the population. Other Christians are Roman Catholics, Baptists, Lutherans, Pentecostals, Presbyterians and Seventh-day Adventists. Jehovah's Witnesses number about 6000. There are also Jews, Buddhists, and Baha'is.

Restrictions to Freedom of Association

The Law on Freedom of Conscience and Religious Organizations in the Republic of Kyrgyzstan (2008)[iv] requires all religious groups to register with the State Committee on Religious Affairs (SCRA), which is responsible for overseeing implementation. The law prohibits activity by unregistered religious groups. Each congregation of a religious group must

register separately and must have at least 200 founding resident citizens. Foreign religious organizations are required to renew their registration with the SCRA annually.

The SCRA is legally authorized to deny the registration of a religious group if it does not comply with the law or is considered a threat to national security, social stability, interethnic and interdenominational harmony, public order, health, or morality. Unregistered religious groups are prohibited from actions such as renting space and holding religious services. Violations may result in an administrative fine of 500 soms (\$7).

After the SCRA has approved a religious group's registration, the group must register with the Ministry of Justice (MOJ) to obtain status as a legal entity so it may own property, open bank accounts, and otherwise engage in contractual activities. The organization must submit an application to the MOJ, which includes a group charter with an administrative structure and a list of board and founding members.

Some unregistered groups assert that the SCRA purposefully creates artificial difficulties to deny them registration.

Although the Government does not list the Ahmadiyya Community as a banned organization, the SCRA continues to deny it re-registration. The Ahmadiyya community initially registered in 2002, but the SCRA has declined to renew its re-registration since 2012.

Religious groups continue to report that the SCRA registration process is cumbersome, taking anywhere from a month to several years to complete. Unregistered groups continued to report they were able to hold regular religious services without government interference, especially if they had been registered in the past and their annual application for re-registration was pending. Most Muslim groups which have never been registered exercise their freedom of assembly and worship unhindered.

The Government has banned about 20 "religiously oriented" groups they considered to be extremist and arrested hundreds of people they accused of participating in "extremist" incidents: al-Qaida, the Taliban, the Islamic Movement of Eastern Turkistan, the Kurdish Peoples' Congress, the Organization for the Release of Eastern Turkistan, Hizb ut-Tahrir (HT), the Union of Islamic Jihad, the Islamic Party of Turkistan, the Family Federation for World Peace and Unification (Unification Church; Moon San Men Church), Takfir Jihadist, Jaysh al-Mahdi, Jund al-Khilafah, Ansarullah, At-Takfir Val Hidjra, Akromiya, ISIS, Djabhat An Nusra, Katibat al-Imam al-Buhari, Jannat Oshiqdari, and the Jamaat al-Tawhid wal-Jihad. Authorities also continued the ban on all materials or activities connected to A.A. Tihomirov aka Said Buryatsky.

Most of these organizations were Islamist homegrown or international groups using or advocating violence but the Family Federation for World Peace and Unification (Unification Church; Mun San Men Church) is a peaceful movement created by late Reverend Moon from South Korea.

In October 2008, the Venice Commission of the Council of Europe and the OSCE/ODIHR[v] made the following comment with

regard to the Law on Freedom of Conscience and Religious Organizations in the Republic of Kyrgyzstan (2008):

1. c) a ban on all operation and activity without registration is disproportionate and is clearly an unnecessarily broad limitation of freedom of religion or belief, as states may not make acquisition of legal entity status a condition for individuals or groups engaging in religious activity;
1. d) the requirements set forth for registration of religious organizations and associations are not spelled out clearly, leaving considerable confusion;
1. e) the Draft Law fails to provide for the reasons which may lead to refusal of registration of a religious organizations and associations, for the requirement that the grounds for refusal be spelled out in detail and in writing and for the explicit possibility to appeal against refusal in court;
1. f) the Draft Law does not appear to allow religious groups flexibility to organize in accordance with their own doctrines and traditions;
1. g) minimum membership and duration requirements are impermissible for acquiring legal entity status;
1. h) the Draft Law appear to impose undue limitations on

access to legal entity status;

A Questionable Concept Paper on State Policy in the Sphere of Religion of the Kyrgyz Republic[vi]

On 6 May 2006, the Government of the Kyrgyz Republic issued Decree 324 entitled “Concept of State Policy in the Sphere of Religion.”

On 7 February 2014, the President of the Kyrgyz Republic signed the Decree “On the implementation of decisions of the Council of Defense of the Kyrgyz Republic on the state policy in the sphere of religion.” This Decree called for, amongst other actions, a review of the 6 May 2006 Decree.

On 19 March 2014, the Head of the OSCE Centre in Bishkek sent a letter to the OSCE/ODIHR Director requesting an OSCE legal review of the Concept Paper on State.

On 20 March 2014, the OSCE/ODIHR Director responded to this letter, confirming the OSCE/ODIHR’s readiness to prepare a legal review of the Concept Paper’s compliance with OSCE commitments and international human rights standards.

These Comments were prepared in response to the letter of 19 March 2014. They are based on contributions from members of Advisory Panel of Experts on Freedom of Religion or Belief and

have benefited from consultations with the Secretariat of the European Commission for Democracy through Law of the Council of Europe (Venice Commission).

Some comments of the OSCE/ODIHR on the Concept Paper: Religious or Belief Communities New to the Kyrgyz Republic[vii]

In its key recommendations, the OSCE/ODIHR urged Kyrgyzstan to remove from the Concept Paper all generalized references to religious or belief communities which are new to the country:

29. The Concept Paper makes a number of claims about religious or belief communities new to the Kyrgyz Republic. It argues that such communities are “taking advantage of temporary socio-economic difficulties in order to win more followers” (‘Analysis of the Religious Situation’). The Concept Paper goes on to claim that “under the guise of different foundations and public organizations, they have founded illegal religious missionary centers” and that using “big foreign finances”, they “conduct religious propaganda to communicate reactionary and occult doctrines to the youth in regions of the country.” It cites an analysis of literature disseminated by new religious movements as showing that “uncontrolled activities of these groups that are utterly expansionist by their character, cause irreparable harm to human health, violate fundamental human rights, endanger the family, the society and the State (Section VII). Section I also refers to the “spread and penetration of destructive groups and

doctrines, harming health, morals, rights and legal interests of citizens.”

30. The Kyrgyz Republic is a State which recognizes the freedom of religion or belief both in its Constitution and in its international obligations. This means that all those within Kyrgyz jurisdiction (not only Kyrgyz citizens) are free not only to believe what they wish, but also to attempt to convince others of their beliefs through peaceful means[viii]. This includes new emerging religious movements or religions which may be new to the Kyrgyz Republic.

31. As the UN Special Rapporteur on Freedom of Religion or Belief has pointed out, it is not acceptable to identify harmful practices with particular communities or types of communities[ix]. Allegations of harmful practices must always be based on clear empirical evidence and should not be presented as mere conjectures or negative projections, which often turn out to reflect existing stereotypes and prejudices[x]. More generally, the mere fact that religions are newly established should not be a cause to discriminate them[xi].

The references of the Concept Paper to claims of “irreparable harm to human health” and “endangering the family, society and the State” promote a negative and stereotypical view of new religious communities as harmful influences on society. Even where harmful practices do occur, they should not be attributed in a generalized manner to religions as such, but rather to certain individuals who engage in them.

32. In addition, as the European Court of Human Rights has noted, the neutrality requirement “excludes assessment by the State of the legitimacy of religious beliefs or the ways in which those beliefs are expressed[xii].” This precludes the qualification by a State organ of the beliefs of new religious movements, or any other religion as “inadequate ideas and views.”
33. Section I of the Concept Paper also calls for improvements in regulation. It is pointed out here that although improvements in regulation are generally welcome, regulation should not be the norm, but the exception when it comes to religious associations, including those following religions new to the Kyrgyz Republic[xiii]. Regulation should only be contemplated where necessary and proportionate to an enumerated aim in an international human rights instrument[xiv].
34. It is therefore recommended to remove all generalized negative references to religious or belief communities which are new to the Kyrgyz Republic from the opening Section, Section I and Section VII of the Concept Paper, and to make explicit reference to the need to ensure that the regulation of religious associations remains the exception, not the rule, and that any restrictions to freedom of religion or belief needs to be prescribed by law, necessary and proportionate to a legitimate aim.

Jehovah’s Witnesses, a Case Study[xv]

Despite the Comments of the OSCE/ ODIHR four years ago, religious of belief communities that are new to the Kyrgyz Republic have suffered severe state restrictions to their right to religious freedom.

Jehovah's Witnesses have national registration in Kyrgyzstan. Generally, they can meet for worship and share their beliefs without serious interference. No member of their movement has recently been put in prison or been fined for his/her activities.

Registration

As of 1 January 2018, the Witnesses had registered 41 congregations but they have been denied registration in the Southern regions of the country due to some local opposition. The United Nations Human Rights Committee (CCPR) is currently reviewing three complaints against authorities for refusing to register Local Religious Organizations (LROs). Although not legally required, registration of LROs may help to lessen interference with religious activity by local authorities.

On 27 January 2017, Jehovah's Witnesses submitted a complaint to the CCPR regarding the refusal by the SCRA to register LROs in southern Kyrgyzstan.

Since 2010, Jehovah's Witnesses have been attempting to register four LROs in the Osh, Naryn, Jalal-Abad and Batken regions without success. They also applied directly to the SCRA for registration, but their applications were denied in

2011 and again in 2013.

On 4 September 2014, the Constitutional Chamber of the Supreme Court declared Article 10 (2) of the 2008 Religion Law unconstitutional. That provision required that the local city council approve a list of 200 founding members of an LRO before an organization could obtain “record registration” from the SCRA.

In late 2014 and early 2015, Jehovah’s Witnesses again applied to the SCRA for registration of these LROs, submitting that Article 10 (2) of the Religion Law no longer applies because it has been declared unconstitutional.

The SCRA refused to apply the 4 September 2014 judgment of the Constitutional Chamber, insisting that until the law is amended by Parliament, Article 10(2) of the Religion Law is still in force and an LRO must obtain “approval” from the local city council of a list of founding members. On 15 July 2015, the appeal by Jehovah’s Witnesses was rejected by the Bishkek Inter-district Court and later by the Bishkek City Court. A further appeal was heard by the Supreme Court on 15 February 2016. The Supreme Court denied the appeal, leaving in force the negative decisions of the trial and appeal courts.

Abuses and Restrictions of Religious Freedom

On **30 May 2017**, the Supreme Court dismissed the latest appeal from the prosecution in the trial of Oksana Koriakina and her mother, Nadezhda Sergienko accused of defrauding local

residents while engaged in their religious activity. The prosecutor had appealed the decision of the lower court declaring the women innocent of the charges against them and ruling that they should be compensated. However, in dismissing the appeal the Supreme Court concluded that since the women agreed to the expiration of the limitation period, they had confessed to committing the crime. This is false. The women never admitted guilt. Jehovah's Witnesses have filed an update to the CCPR, explaining the Supreme Court's misinterpretation and the true reason for the women's request to apply the limitation period in their case. Mrs. Koriakina and Mrs. Sergienko spent more than two and a half years under house arrest based on the false charges brought by the Osh Ministry of Internal Affairs (MIA).

The trial court concluded that investigators had mistreated Oksana and Nadezhda "for being members of the religious organisation of Jehovah's Witnesses." On 29 October 2015, the Osh Regional Court upheld the trial court decision and confirmed that both women were innocent of the charges and entitled to compensation. However, the Osh City Prosecutor relentlessly resorted to appeals to keep the two women under house arrest. On 24 February 2016, the Supreme Court of Kyrgyzstan sent the case back for a new trial before a different judge. The new trial, scheduled to begin on 25 April 2016, exceeded the three-year limitation period. Attorneys for the women requested that the case be terminated on that basis. The judge agreed, giving force to the original decision. The so-called victims filed a supervisory appeal to the Supreme Court.

Interference in Religious Services

Kemin. On **11 January 2017**, authorities raided a religious meeting in Kemin. They began recording the meeting and taking photos. After the meeting, the officials demanded permission documents from those who took part in the meeting and drew up protocols for signature. Three elders were summoned to court and charged with administrative violations. On 19 May 2017, the court dismissed the case against the elders, but a representative from the State Committee on Religious Affairs (SCRA) told the local Witnesses that they would now monitor all religious meetings in the country.

Osh. On **24 January 2017**, officials from the SCRA and local police raided a meeting and charged one of the elders with an administrative violation: religious activity without local registration.

Osh. On **1 June 2017**, the Prosecutor General of Kyrgyzstan (GPO) asked the Osh District Prosecutor to consider an appeal in a case concerning police brutality. Despite repeated attempts by the Witnesses' lawyers, the Osh District Prosecutor has repeatedly refused to file criminal charges against police officers who brutally attacked a group of Witnesses peacefully meeting for worship on 9 August 2015. The victims of this brutal attack filed a criminal complaint against the police. However, the Osh City Prosecutor's Office has refused to initiate a criminal case, even though it acknowledges that the officers behaved unethically. For the past two years, the victims have filed a number of appeals with the GPO. Each time, the GPO has directed the Osh City Prosecutor to investigate the policemen, and each time, the Osh City Prosecutor has refused to open a criminal case.

Censorship of Religious Literature

On **6 February 2017**, the Supreme Court of Kyrgyzstan upheld a decision that denied Jehovah's Witnesses permission to import one of their religious publications.

On **4 November 2015**, the SCRA refused to allow Jehovah's Witnesses to import the November 2015 issue of the Awake! magazine. This was the first time that the SCRA had denied a request for import since the enactment of Kyrgyzstan's Religion Law in 2008, The Religious Centre of Jehovah's Witnesses in the Kyrgyz Republic filed a claim in the Bishkek Inter-district Court against the SCRA's censorship of the magazine. On **29 March 2016**, the trial court rejected the claim. This decision was upheld by the Bishkek City (Appeal) Court on **13 July 2016**.

Conclusions

The future of religious freedom is uncertain in Kyrgyzstan. Last year in October, a new president was elected, Sooronbay Jeenbekov. He took office for a single six-year term on 24 November. His position on the management of religious diversity is not known.

A new draft law on religion meant to replace the one from 2008 would require 500 founding members instead of the 200 currently requested to be eligible for registration. This would lead to the deregistration of numerous Christian and Muslim organizations, and fuel deep resentment.

The Opinion of the Venice Commission and the OSCE/ ODIHR concerning both the 2008 Law on Religion currently in force and the Concept Paper on State Policy in the Sphere of Religion of the Kyrgyz Republic was not taken into consideration.

Jehovah's Witnesses have filed four complaints with the UN Committee on Human Rights.

Foreign forms of Islam have been introduced in the country and have provided a fertile ground for the recruitment of Jihadists for the battlefields of Syria and Iraq.

Around 20 religious groups (mainly Muslim) have been banned and numerous so-called "extremists" have been arrested but such measures are inefficient at best, if not counterproductive.

State and human security are at stake, as in many other countries, but new more restrictive laws, especially about registration, will not contribute to a solution.

However, a number of positive measures are being taken to protect the population and the state against radicalization and violent extremism. Classes on religions are organized to thwart the religious illiteracy of the youth and make them less vulnerable against to the narratives of violent Islamic groups. Programs are put in place to counter violent extremism, to improve the qualifications of religious teachers and imams, and to urge greater religious tolerance.

On 28 September 2017, former President of Kyrgyzstan Almazbek Atambayev opened an international conference in Bishkek entitled “Islam in Modern Secular State”, which led to a Declaration[xvi] sponsored by the participants reasserting their will to promote peace and tolerance while decisively fighting against “persons or groups holding radical and extremist ideas and inciting to commit terroristic and violent actions.”[xvii]

The Kyrgyz Republic, led by a new President, is at a cross-road, either to restrict the religious freedom of all faiths in the name of security and the fight against violent Islamic groups, or to open the space of religious freedom for all peaceful movements whilst educating their youth about religion in a spirit of tolerance and fighting any initiative inciting to violence.

[i] The author was in Kyrgyzstan from 18 to 24 March 2018.

[ii]Source: Concept Paper on State Policy in the Sphere of Religion of the Kyrgyz Republic. Approved by Decree Nr 324 of the Government of 6 May 2006. See <https://www.osce.org/odihr/118672?download=true> (Annex)

[iii]<https://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm#wrapper>

[iv][http://www.venice.coe.int/webforms/documents/?pdf=CDL\(2008\)117-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL(2008)117-e)

[v] Joint Opinion on Freedom of Conscience and Religious Organizations in the Republic of Kyrgyzstan by the Venice Commission and OSCE/ODIHR Advisory Council on Freedom of Religion or Belief adopted by the Venice Commission at its

76th Plenary Session, (Venice, 17-18 October 2008)

[http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2008\)032-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2008)032-e)

[vi] <https://www.osce.org/odihr/118672?download=true>

[vii] Ibid.

[viii] See Kokkinakis v. Greece, ECtHR judgment of 25 May 1993, appl. no. 14307/88.

[ix] Report of the Special Rapporteur on freedom of religion or belief, Heiner Bielefeldt, A/HRC/19/60, par 36, available at

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/175/41/PDF/G1117541.pdf?OpenElement>.

[x] Ibid.

[xi] (25) United Nations Human Rights Committee, General Comment 22, The right to freedom of thought, conscience and religion (available at

[http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/9a30112c27d1167cc12563ed004d8f15?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/9a30112c27d1167cc12563ed004d8f15?OpenDocument): par 2.

[xii] (26) Freedom of Religion or Belief Guidelines, par B 4, Metropolitan Church of Bessarabia and Others v. Moldova, ECtHR judgment of 13 December 2001, appl. no. 45701/99, par 117.

[xiii] (27) Copenhagen 1990, par 24.

[xiv] (28) Article 18 ICCPR, Article 9 ECHR, Copenhagen 1990, par 9.4.

[xv] Submission of Jehovah's Witnesses to the OSCE/ODIHR Human Dimension Implementation Meeting (HDIM) in Warsaw on 11 September 2017.

[xvi] <http://www.eias.org/wp-content/uploads/2016/03/Declaratio>

[n_Conference_Islam_Politics_Bishkek.pdf](#)

[xvii]http://www.eias.org/wp-content/uploads/2016/03/Declaration_Conference_Islam_Politics_Bishkek.pdf

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