

13 December 2012

KYRGYZSTAN: Censorship amendments to Religion Law signed

By Felix Corley, Forum 18

New censorship amendments to Kyrgyzstan's Religion Law were signed by President Almazbek Atambayev on 7 December, officials have told Forum 18 News Service. They came into force on official publication on 11 December. State officials have refused to explain how the amendments – which increase state control over religious literature and other materials - will be implemented. "This is not censorship," Kanybek Mamataliyev of the State Commission for Religious Affairs (SCRA) insisted to Forum 18 from Bishkek on 11 December. "Procedures will be adopted to implement this, but I can't say who will adopt them." He was also unable to explain what the censorship categories of "extremism", "separatism", and "fundamentalism" mean. Political analyst Ivan Kamenko of Egalitee told Forum 18 that "implementation is likely to be chaotic, selective and arbitrary". He went on to state that: "No one will check Muslim Board or Russian Orthodox literature, but faiths deemed 'non-traditional' could face problems." Also, a Dutch film "I am gay and Muslim" was banned on 28 September. An appeal against the ban is continuing.

New censorship amendments to Kyrgyzstan's Religion Law were signed into law by President Almazbek Atambayev on 7 December, officials have told Forum 18 News Service, although it appears this was not publicly announced on the presidential website. They came into force on official publication on 11 December in the government newspaper "Erkin Too". State officials have refused to explain how the amendments – which increase state control over religious literature and other materials - will be implemented. However, a political analyst in the capital Bishkek, Ivan Kamenko of conflict management agency Egalitee, told Forum 18 on 11 December that "implementation is likely to be chaotic, selective and arbitrary".

In an instance of censorship under the Anti-Extremism Law, the Dutch film "I am gay and Muslim" has been banned throughout Kyrgyzstan. A legal appeal against the ban is continuing (see below).

The previously existing censorship – like other parts of the Religion Law including the latest changes – already broke Kyrgyzstan's international human rights commitments. Lawyers from various religious communities, who wished to remain anonymous for fear of state reprisals, told Forum 18 in June that the new amendments would have the effect of imposing total censorship on all religious literature and similar material (see F18News 29 June 2012 http://www.forum18.org/Archive.php?article_id=1716).

Yet more proposed amendments

Further new government-proposed amendments officially reached the Zhogorku Kenesh on 30 October. If eventually adopted, these would ban sending students to foreign religious colleges without government permission, require each religious community to have 200 local citizen adult founders in one locality and ban foreigners from conducting any religious activity without being licensed by the state. Previous amendments have, if adopted, taken many months to go through the Zhogorku Kenesh (see F18News 18 December 2012 http://www.forum18.org/Archive.php?article_id=1784).

Censorship amendments

The censorship amendments to the Religion Law were approved by the single-chamber parliament, the Zhogorku Kenesh, on 15 November. A total of 66 out of 120 deputies voted in favour with none against, the parliamentary website states. The amendments were sent to President Atambayev for signature on 28 November.

The Religion Law amendments add a new provision, Article 22, Part 9: "Control on the import, production, acquisition, transportation, transfer, storage and distribution of printed materials, film, photo, audio and video productions, as well as other materials containing ideas of religious extremism, separatism and fundamentalism is conducted by the plenipotentiary state organs for religious affairs, national security and internal affairs."

The draft being considered in the summer did not include transportation and transfer in the list of controls.

An addition to Article 22, Part 3 says that registered religious organisations, at the request of national and local government agencies, "have the right to give an explanation of the presence of elements of religious extremism" in such printed and digital materials.

Deputy Tursunbay Bakir uulu, one of the initiators of the Religion Law changes, told Forum 18 in June that he intended to give this censorship role in the initial draft to the state-backed Muslim Board and the Russian Orthodox Church. In the parliamentary process the role was given to a new Co-ordinating Expert Committee, but references to this Committee have now been deleted (see F18News 29 June 2012 http://www.forum18.org/Archive.php?article_id=1716).

Already existing censorship

The 2009 Religion Law did not impose prior compulsory censorship of all religious literature. But it allows state examination of any religious literature and requires state examination of all religious materials placed in a library. It also bans all distribution of religious literature, print, audio-video religious materials in public places, on the streets, parks, and distribution to homes, children's institutions, schools and higher education institutions. Such distribution is permitted only within the confines of a religious organisation's legally owned property, or in places allocated by local authorities (see Forum 18's Kyrgyzstan religious freedom survey at http://www.forum18.org/Archive.php?article_id=1388).

Discriminatory state censorship is already applied against all religious communities apart from the Muslim Board and the Russian Orthodox Church (see F18News 29 June 2012 http://www.forum18.org/Archive.php?article_id=1716).

"This is not censorship"

"This is not censorship," Kanybek Mamataliyev of the State Commission for Religious Affairs (SCRA) insisted about the censorship changes to Forum 18 from Bishkek on 11 December. "Procedures will be adopted to implement this, but I can't say who will adopt them."

Anarbek Ismailov, Head of the Legal Department of the Presidential Administration claimed that: "No one will have the power to check every single religious book". He told Forum 18 on 3 December that an "ad hoc expert group" would be created, to assess each book thought to contain material contradicting the new amendments.

"Chaotic, selective and arbitrary" implementation?

Political analyst Kamenko of Egalitee told Forum 18 that "implementation is likely to be chaotic, selective and arbitrary". He added: "No one will check Muslim Board or Russian Orthodox literature, but faiths deemed 'non-traditional' could face problems."

Kamenko expressed concern that books from one religious community could be given to members of another community to be assessed. "I don't know who they'll give Jewish or Buddhist materials to," he told Forum 18.

Kamenko thinks that Protestant Christians and Muslims outside the framework of the state-backed Muslim Board are most likely to face problems. "They are already described as 'non-traditional' and regarded with suspicion by many," he told Forum 18. Many religious communities, some of whom did not wish to be named for fear of state reprisals, told Forum 18 in June that total censorship is already applied to all imported religious literature and materials (see F18News 29 June 2012 http://www.forum18.org/Archive.php?article_id=1716).

Several religious leaders, who asked not to be identified, told Forum 18 that they think the Religion Law amendments are unlikely to be targeted at them. However, they expressed concerns, given the arbitrary way many laws are often applied in Kyrgyzstan.

Kamenko of Egalitee pointed out that the 2009 Religion Law already grants the authorities extensive censorship powers, while religious literature can also be scrutinised under the 2005 Anti-Extremism Law. "The Interior Ministry and the National Security Committee (NSC) secret police already had these powers, so the new amendments simply add the SCRA," he told Forum 18. "But the SCRA is not a professional organisation, and without help from the other two won't be able to do anything."

How will censorship be implemented?

Mamataliyev of the SCRA repeatedly refused to explain in detail how the new censorship provisions will be implemented. Asked if all religious literature and other materials will require prior SCRA approval, he refused to answer specifically. "This is not a ban on printing religious literature," he kept insisting. "We will only check a work if state organs ask for it."

Asked how officials can know whether a work contains "ideas of religious extremism, separatism and fundamentalism" unless they check them first, Mamataliyev refused to explain.

What is "extremism", "separatism" and "fundamentalism"?

Asked by Forum 18 to explain what "ideas of religious extremism, separatism and fundamentalism" were, Mamataliyev blustered, responding: "Don't you have people with higher education? Don't you know what 'extremism', 'separatism' and 'fundamentalism' "

mean?" But he himself was unable when asked for specific examples to provide any examples of what these wide-ranging terms might mean. When Forum 18 then put specific examples of types of literature to him, which might be banned under such unexplained provisions, he refused to respond.

State desire to control

Political analyst Kamenko insists that the government "wants to control all religious books and materials", but believes in practice that it will struggle to do so. "The SCRA doesn't have the resources to check all books," he told Forum 18. "So use of the new powers will be selective." He also complained that no standards have been set out for those who conduct "expert analyses", nor how they should go about the analyses. "A SCRA analysis doesn't need to justify its findings."

Organisations associated with banned literature to be banned themselves?

Kamenko warned that if particular religious literature is found to be "extremist", the religious organisations the literature is associated with could also be declared "extremist" and banned under the Religion Law (see Forum 18's Kyrgyzstan religious freedom survey at http://www.forum18.org/Archive.php?article_id=1388). "Religious organisations will then have to prove a particular item isn't theirs."

"I am gay and Muslim" film seized, festival organiser warned

The film "I am gay and Muslim" had been scheduled to be shown as the closing entry at the Bishkek Bir Duino (One World) human rights film festival on 28 September. The film, by Dutch filmmaker Chris Belloni, follows the life of several gay Moroccans who discuss their reflections on their orientation and Islam.

The film festival organisers state that the NSC secret police "stole" a disc of the film between 11 and 12 on the morning of 27 September. At lunchtime that day, Kyrgyzstan's General Prosecutor Aida Salyanova telephoned the main organiser of the film festival, Tolekan Ismailova of the group Citizens Against Corruption, warning her not to show the film as it insults the feelings of Muslims.

Citizens against Corruption aims to increase the transparency and accountability of the state and to protect political, economic, social and cultural rights. It also works on women's rights and ecological issues. Ismailova has been interrogated by the police and faced threats following her monitoring of violence in 2010 against ethnic Uzbeks in south Kyrgyzstan.

Film "extremist" under the Anti-Extremism Law.

After a protest to the NSC from acting chief mufti Rakhmatullo Haji Egemberdiyev, the NSC's Investigative Directorate wrote to the SCRA on 27 September asking it to conduct an "expert analysis" of the film. The NSC asked specifically if the film is "religious extremist", whether it is associated with a "religious extremist organisation", if it calls for Kyrgyzstan's Constitution to be changed and whether it incites "ethnic, racial or religious hatred".

That same day, according to the analysis seen by Forum 18, SCRA "experts" Denis Pyshkin and Asylbek Mambetov viewed the 58-minute disc of the film provided by the NSC secret police, as well as two accompanying brochures, reached their conclusions and typed up the three page analysis.

The SCRA analysis subjects to criticism eight statements made during the film. Commenting on the statement by one man that God had created him as he was, Pyshkin and Mambetov declare: "Here the question of fate is shown in contradiction to the understanding of true Islam, where an individual is given the right of choice in carrying out this or another action." It criticises one individual who describes himself as a direct descendant of the Muslim prophet Muhammad, "thus showing a homosexual's kinship with the personality of the prophet Muhammad".

The film "shows Islam in distorted and offensive tones and completely contradicts the canons of Islamic doctrine" and "it is clear that the aim of the film is to incite religious intolerance and provocative actions on the part of the Muslim population". The analysis concluded that the film was therefore "extremist" under the terms of Article 1, Part 1 of the 2005 Anti-Extremism Law.

Neither Mamataliyev of the SCRA nor any other official there was prepared to discuss Pyshkin and Mambetov's "expert analysis" with Forum 18.

Banned

Armed with this "expert analysis", on 28 September four NSC secret police officers led by Iskender Soodanbekov arrived with an official warning – seen by Forum 18 – to festival organiser Ismailova of Citizens Against Corruption. It warned her not to show the film, otherwise she would face possible prosecution under Article 299 of the Criminal Code. Ismailova signed the warning, adding that she disputed its assertions. She wrote that the SCRA analysis "contradicts civil rights and Kyrgyzstan's Constitution".

That same day, Judge Almaz Kalybayev of Bishkek's Pervomaisky District Court upheld a suit from the General Prosecutor's Office banning the film throughout Kyrgyzstan as "extremist". The film festival had to withdraw the film from the final day of its programme.

The General Prosecutor's Office also on 28 September ordered the State Communications Agency to take "urgent measures" to block access to the film on the internet from within Kyrgyzstan, according to a statement on the General Prosecutor's Office website.

Court challenges

Citizens Against Corruption challenged the Pervomaisky District Court ban on the film. This appeal is due to be heard in Bishkek City Court on 26 December.

Ismailova also tried to challenge in court the legality of the NSC secret police warning. However, on 27 November Bishkek Inter-District Court rejected her suit, arguing that the challenge should be not to the warning, but to the NSC conclusion on which the warning was based. However, the NSC official told the court the conclusion was an internal NSC document and could not be revealed. Ismailova had asked the court to summon the two SCRA "experts" to be questioned on their analysis, but the court did not do so.

Ismailova then wrote a letter of complaint to the NSC chair, Beishenbai Zhunusov. (END)

For background information see Forum 18's Kyrgyzstan religious freedom surveys at <http://www.forum18.org/Analyses.php?region=30>.

More reports on freedom of thought, conscience and belief in Kyrgyzstan can be found at <http://www.forum18.org/Archive.php?query=&religion=all&country=30>.

A compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments can be found at http://www.forum18.org/Archive.php?article_id=1351.

A printer-friendly map of Kyrgyzstan is available at <http://education.nationalgeographic.com/education/mapping/outline-map/?map=Kyrgyzstan>.

© Forum 18 News Service. All rights reserved. ISSN 1504-2855.

If you need to contact F18News, please email us at:
f18news @ editor.forum18.org

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY