FORUM 18 NEWS SERVICE, Oslo, Norway
https://www.forum18.org/
The right to believe, to worship and witness
The right to change one's belief or religion
The right to join together and express one's belief

29 May 2015

KYRGYZSTAN: Draft Religion Law still repressive, Alternative Service Law stalled?

By Mushfig Bayram, Forum 18 (https://www.forum18.org)

In producing a draft new Religion Law Kyrgyzstan's State Commission for Religious Affairs (SCRA) seems to be ignoring civil society and UN Human Rights Committee criticism and a Constitutional Chamber of the Supreme Court ruling that some of the Law's restrictions are unconstitutional, Forum 18 News Service notes. The draft is now with the Prime Minister's Office but officials are refusing to say when it might be ready or if it will be made public. Galina Kolodzinskaia of the Inter-religious Council thought that the authorities do not plan to change the Law in 2015. Changes to the law to allow conscientious objection to military service in line with a Constitutional Court decision and UN Human Rights Committee recommendations also seem unlikely soon. Officials are making contradictory statements as to whether a revised draft has reached the Zhogorku Kenesh (Parliament). Also, the authorities are still seeking to confiscate the building of Protestant Jesus Christ Church in Bishkek. When Forum 18 asked whether the SCRA is supposed to help religious communities, SCRA Deputy Head Tabyldy Orozaliyev replied: "We are not telling Norway what its Religious Affairs Ministry should or should not do, so mind your own business."

In producing a draft new Religion Law, Kyrgyzstan's State Commission for Religious Affairs (SCRA) seems to be ignoring civil society and UN Human Rights Committee criticism and a Constitutional Chamber of the Supreme Court ruling that some of the Law's restrictions are unconstitutional, Forum 18 News Service notes. The draft is now with the Prime Minister's Office and it seems unlikely to go through the Zhogorku Kenesh (Parliament) soon. Officials are also making contradictory statements as to whether a revised draft has reached the Zhogorku Kenesh.

Also, the authorities are still seeking to confiscate the building of Protestant Jesus Christ Church in Bishkek.

SCRA ignoring criticism of draft Religion Law?

The SCRA is still working on the draft text of a new Religion Law, which aims to harshen existing restrictions on freedom of religion or belief and give even more power to the SCRA. Proposals suddenly announced in October 2014 caused great concern to human rights defenders and religious and belief communities (see F18News 24 October 2014 http://www.forum18.org/archive.php?article_id=2008).

The government proposals include: increasing the number of founders required for registered religious organisations to be founded from 200 to 500 and all such organisations to be re-registered; requiring anyone working in any capacity in any religious organisation to have an annually renewed SCRA licence; and requiring every institution offering religious education to have an SCRA licence.

The government also proposes that existing punishments in the Administrative Code for exercising freedom of religion or belief be increased to up to the rough equivalent of 14 months' average salary.

The proposals go directly against the United Nations (UN) Human Rights Committee's March 2014 recommendation that planned changes to the Religion Law should "remove all restrictions incompatible with article 18 of the Covenant [on Civil and Political Rights]" (see F18News 24 October 2014 http://www.forum18.org/archive.php?article_id=2008).

In September 2014, the Constitutional Chamber of the Supreme Court decision legally removing two major obstacles to the registration of religious or belief communities: a restriction that a religious organisation is limited to carrying out its activity only in the place where it has its legal address; and a requirement that local keneshes (councils) must approve a list of 200 founding members of a religious organisation before it can apply for legal status.

Yet officials are refusing to follow this decision. "We are observing the present Religion Law until the Constitutional Chamber's decision is integrated into it," SCRA Deputy Head Tabyldy Orozaliyev told Forum 18 on 15 May. "You need to ask Parliament about changes to the Law."

Copyright Forum18 News Service 2015

However, Judge Mukambet Kasymaliyev, Chair of the Constitutional Chamber, told Forum 18: "Everyone must abide by the Court's decisions as they become part of the law immediately after they are passed." Asked what he thinks of local officials and the SCRA ignoring this, Judge Kasymaliyev replied, "I cannot evaluate the actions of those officials. But it seems to me that they do not know Kyrgyzstan's laws and must study them." (see F18News 22 May 2015 http://www.forum18.org/archive.php?article_id=2064).

Two Jehovah's Witnesses, Nadezhda Sergienko and Oksana Koryakina, have been under house arrest and facing prosecution since March 2013 in what their co-believers think is a reprisal for a Jehovah's Witness community applying for registration (see F18News 22 May 2015 http://www.forum18.org/archive.php?article_id=2064).

The SCRA website had a comparative table of the current Law and proposed changes until mid-January 2015, when it was "taken down from it after receiving too many negative comments from the religious Communities and human rights organisations", Galina Kolodzinskaia of the Inter-religious Council told Forum 18 on 21 May. She also noted that "in the column where the current Religion Law was, the parts determined to be unconstitutional by the Constitutional Chamber were removed".

The SCRA's website today (29 May) has the text of the Religion Law before the Constitutional Chamber's changes. The website also has a statement from 2 March stating that, having taken into consideration comments received, the draft Religion Law was sent to a Defence Council working group for what it describes as "improvement". This working group, which includes SCRA Head Orozbek Moldaliyev, was tasked by Almazbek Atambayev in a February 2014 Defence Council meeting with preparing changes to laws affecting freedom of religion or belief (see Forum 18's Kyrgyzstan religious freedom survey http://www.forum18.org/archive.php?article_id=2013).

The Education Committee of the Zhogorku Kenesh (Parliament) will be responsible for the Religion Law when it is sent to the Zhogorku Kenesh. A Committee staff member, Shamir Duysenbayev, told Forum 18 on 29 May that no draft has reached the Zhogorku Kenesh yet and that it is now with the Prime Minister's Office. The Committee has asked for the text to be sent to them soon. The Chair of the Committee is Kanybek Osmonaliev, who is a former head of the State Agency for Religious Affairs (the SCRA's predecessor) under the discredited regime of ex-President Kurmanbek Bakiev.

No-one at the Prime Minister's Office was available to talk about the draft Law on 29 May.

Asked when the draft of changes to the Religion Law for the Zhogorku Kenesh will be completed, and whether criticism from religious or belief communities, human rights defenders and the UN Human Rights Committee will affect the draft, both SCRA Head Moldaliyev and Deputy Head Orozaliyev replied on 27 May: "I cannot talk to Forum 18. That can only be done through the Foreign Ministry" - even though they have both previously talked to Forum 18.

It is also unclear whether the new draft will be made available for public comment, and if so when that will be.

"Perhaps the law is not ready, and that’s why they [the SCRA] did not want to talk," Kamilla (who refused to give her last name) of the General Section of the Foreign Ministry told Forum 18 on 27 May. She refused to answer further questions and asked that they be put in writing.

Kolodzinskaia of the Inter-religious Council thought that the authorities do not plan to change the Religion Law in 2015, and that if there are any changes they will occur after the autumn 2015 Zhogorku Kenesh elections. She noted that the authorities are at present primarily interested in harmonising Kyrgyzstan's laws with those of other Eurasian Economic Union states, Armenia, Belarus, Kazakhstan and Russia. Kyrgyzstan joined the Union on 8 May.

Constitutional Chamber also ignored on conscientious objection

No Central Asian state apart from Kyrgyzstan allows conscientious objection to compulsory military service. But this right is restricted to young men who are "members of registered religious organisations whose beliefs do not allow the use of weapons or service in the Armed Forces".

Article 32 of the current Law on General Obligations of Citizens, on Military and Alternative Service imposes a financial penalty (described as "alternative service") on young men who do not perform the one-year military service between the ages of 18 and 27 without a valid exemption (such as family or medical circumstances or membership of a registered religious community which opposes military service) (see Forum 18's Kyrgyzstan religious freedom survey http://www.forum18.org/archive.php?article_id=2013).

In November 2013 the Supreme Court's Constitutional Chamber declared unconstitutional three provisions of the current Law on General Obligations of Citizens, on Military and Alternative Service, effectively annulling them: that the "alternative service" fee goes to the military; that conscientious objectors during this period are under military supervision; and that when completed individuals are assigned to the military reserve. It said these deficiencies of the Law needed to be remedied. Following this decision, 13 Jehovah's Witness conscientious objectors had their criminal convictions and fines overturned (see F18News 25 February 2014 http://www.forum18.org/archive.php?article_id=1931).

Copyright Forum18 News Service 2015

The UN Human Rights Committee in its 25 March Concluding Observations repeated its concerns going back to 2000 over Kyrgyzstan's "limiting conscientious objection to military service only to members of registered religious organizations whose teaching prohibits the use of arms and stipulating a shorter period of military and alternative service for persons with higher education".

In its 2014 concluding observations the Human Rights Committee noted Kyrgyzstan's intentions to amend the Law on General Obligations of Citizens, on Military and Alternative Service. It again insisted that Kyrgyzstan "should ensure" that any amendments "provide for conscientious objections in a manner consistent with articles 18 and 26 of the Covenant [ICCPR], bearing in mind that article 18 also protects freedom of conscience of non-believers, and stipulating periods of military and alternative service on a non-discriminatory basis" (see F18News 25 February 2014 http://www.forum18.org/archive.php?article_id=1931).

Proposed 2014 changes to the Law would have transferred the recipient of the "alternative service" payment from the Defence Ministry to "the state body which handles social issues". Although the draft amendments were assigned to the Zhogorku Kenesh Defence Committee for consideration, they were also sent to the Education Committee.

On 26 March 2014 the Education Committee unanimously rejected the draft, claiming it "contradicts Kyrgyzstan's Constitution and that many religious movements of the like of the Jehovah's Witnesses could use this draft law to fill up their ranks". It also claimed the draft would "lead to the destruction of Kyrgyzstan's security". The statement was signed by Committee Chair Osmonaliev (see F18News 1 April 2014 http://www.forum18.org/archive.php?article_id=1944).

The Zhogorku Kenesh on 5 November 2014 rejected the draft changes to the Law on "Universal military obligation of Kyrgyzstan citizens, military and alternative services" proposed by the parliamentary Defence Committee. Its website indicates that the draft Law was initiated by Deputy Almazbek Baatyrbekov, Chair of the Defence Committee, but that rejection of the draft was initiated by Deputy Osmonaliev of the Education Committee.

Temir Kasimov, an Assistant to Deputy Mairamkul Tlenchiyeva who was one of four deputies who initiated the draft Law, told Forum 18 on 29 May that it was rejected by a majority in the Zhogorku Kenesh first reading. He said that "some deputies stated that it’s too early to adopt such a law, and others asked why such a law is needed if neither Kazakhstan nor Uzbekistan have one".

Is draft with Zhogorku Kenesh or not?

Ernest Moldoshev, Deputy Head of the Defence Committee's secretariat claimed on 28 May 2015 that he did not know why the draft was rejected. He stated that a new draft can only be considered six months from the day deputies or the authorities put it on the Zhogorku Kenesh agenda.

Molodoshev stated that no new draft is currently on the agenda. Yet Deputy Tlenchiyeva's assistant stated that at the end of 2014 the Defence Ministry prepared a new draft. He then claimed that "the Government proposed it to the Zhogorku Kenesh, but Deputy Tilenchiyeva and ourselves are not involved in the process any longer, and do not know what the latest developments are". He referred Forum 18 to the Defence Committee.

Reached on 28 May, the secretary of Defence Committee Chair Baatyrbekov (who did not give her name) claimed she "cannot hear well" - but only after she heard and wrote down Forum 18's name and questions. She then put the phone down and subsequent calls went unanswered.

Tologonay Stamaliyeva, Zhogorku Kenesh Press Secretary, also refused to comment on anything to Forum 18 on 28 May.

No-one at the Defence Ministry was willing to talk about the draft Law on 29 May.

Authorities still trying to confiscate church building

The State Property Fund has been seeking since May 2009 to confiscate the building of the Protestant Church of Jesus Christ in Bishkek. In a long-running legal battle, including violations of due legal process, and with contradictory court decisions the Fund and the SCRA have repeatedly intervened against the Church.

Church members, and members of other Protestant churches in Bishkek, suggested to Forum 18 that the authorities' legal moves to seize the building may be motivated by their dislike of the Church's activity and its members spreading their faith, or by the possibility of selling the property – which is in a sought-after location in Bishkek. One construction company told Forum 18 it already has plans for the site, but officials have refused to comment on this (see F18News 30 October 2014 http://www.forum18.org/archive.php?article_id=2011).

The legal struggles still continue. On 17 March 2015 the Supreme Court upheld Bishkek’s Inter-District Economic Court’s decision of 24 January 2014 cancelling the property rights of the Church and ordering the building to be given to the state. The panel was

Copyright Forum18 News Service 2015 - Page 3/4

chaired by Judge Antonina Rybalkina with Judges Dilara Mulyukbayeva and Azamat Alybayev. The appeal case was brought by the State Property Fund, and participating as a third party was SCRA lawyer Zhanibek Botoyev.

Judge Rybalkina claimed that the Church "did not follow the condition in the sales contract to keep the social profile of the building". She argued that this meant that there was no obligation to bring a claim within three years – a time limit the state broke (see F18News 8 April 2014 http://www.forum18.org/archive.php?article_id=1945). She also ruled that social projects in the Church building are "carried out not by the Church but by persons who have no relationship to the defendant [the Church]".

Aida Jumayeva, Assistant to Judge Rybalkina, on 27 May declined to comment on the decision. She stated that Judge Rybalkina is attending a seminar in Germany and will not be available for a week. Asked if Forum 18 could talk to either Judges Mulyukbayeva or Alybayev, she asked to be given 20 minutes to find out. When Forum 18 called back she said that the Judges will not give any comments, and their arguments can be read in the Court decision.

The Church's lawyer Andrey Piankov disputed Rybalkina's decision, stating that the contract does not say that only Church staff or members must lead social work. He described the appeal trial as "full of procedural violations and unjust" and stated that on 19 May the Church appealed against the Supreme Court decision.

Other religious communities are also facing pressure on their property from the authorities. One such community, which did not want to be named for fear of state reprisals, told Forum 18 on 29 May that in 2015 they face an enormous increase from previous years on the rent and land tax the authorities are demanding from them. They have gained the impression that the authorities are bargaining with them for some unspecified goal. The community is also concerned that the authorities have refused to legalise the building and land documents they have in their name. The building is still in the name of a previous owner.

"We are not telling Norway what its Religious Affairs Ministry should or should not do"

Asked why the SCRA keeps intervening against the Church, SCRA Deputy Head Orozaliyev responded to Forum 18: "The Court invited us as a third party, and why should we defend the Church which violates the law?"

When Forum 18 asked whether the SCRA is supposed to help religious communities, Orozaliyev angrily replied: "We are not telling Norway what its Religious Affairs Ministry should or should not do, so mind your own business." He then refused to talk to Forum 18 further. (END)

For more background information see Forum 18's Kyrgyzstan religious freedom survey at http://www.forum18.org/archive.php?article_id=2013.

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.

Follow us on Twitter @Forum_18 (http://twitter.com/forum_18)

Follow us on Facebook @Forum18NewsService (http://www.facebook.com/Forum18NewsService)

All Forum 18 text may be referred to, quoted from, or republished in full, if Forum 18 is credited as the source.

All photographs that are not Forum 18's copyright are attributed to the copyright owner. If you reuse any photographs from Forum 18's website, you must seek permission for any reuse from the copyright owner or abide by the copyright terms the copyright owner has chosen.

© 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