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KYRGYZSTAN: Second UN finding over registration denials

By Felix Corley, Forum 18 (<https://www.forum18.org>)

The UN Human Rights Committee has again found that the authorities violated the rights of Jehovah's Witnesses by arbitrarily refusing their communities in Naryn, Osh and Jalal-Abad state registration. The State Commission for Religious Affairs must review the denials, provide "adequate compensation", "take all steps necessary to prevent similar violations from occurring", and inform the UN of what it has done within 180 days. The SCRA ignored a similar 2019 UN decision. Deputy Director Gulnaz Isayeva refused to say why it continues to deny these Jehovah's Witness registration applications, and whether Ahmadi Muslims, who were earlier told they could not register, would succeed in any new application.

For a second time, the United Nations (UN) Human Rights Committee has found that the authorities violated the rights of Jehovah's Witnesses by arbitrarily refusing their communities in Naryn, Osh and Jalal-Abad state registration. The decision – made public on 7 December – orders that redress and compensation be paid to the applicants.

Although the initial registration denials date back to 2010, the State Commission for Religious Affairs (SCRA) in the capital Bishkek – which handles registration applications – has failed to register any of the Jehovah's Witness communities which were the subject of the two United Nations decisions. There were no "reasonable and objective grounds" for this, the Human Rights Committee found, which led to discrimination "on the basis of their religious belief" (see below).

The Human Rights Committee also found that under the International Covenant on Civil and Political Rights Kyrgyzstan must: "review the refusal by the SCRA of the registration application by the local religious organizations of Jehovah's Witnesses of the Jalal-Abad, Naryn and Osh regions," provide "adequate compensation", and "take all steps necessary to prevent similar violations from occurring in the future".

Kyrgyzstan must also within 180 days inform the Committee what it has done to implement its legal obligations, and is requested to publish the decision and ensure it is "widely disseminated in the official languages of the State party" (see below).

A third complaint by Jehovah's Witnesses over continuing denials of registration to communities in Osh, Batken, Naryn and Jalal-Abad is still with the UN Human Rights Committee (see below).

A Deputy Director of the State Commission for Religious Affairs, Gulnaz Isayeva, refused to say why it continues to deny these Jehovah's Witness registration applications. "There've been cases in the Supreme Court," she told Forum 18 (before the latest UN decision was made public). "It's a question of not full documentation, as well as the question of buildings" (see below).

Isayeva refused to say if another religious community, Ahmadi Muslims, who were earlier told it could not register, would succeed in any new registration application (see below).

No SCRA official was available after 7 December to discuss what steps it might take to implement the latest UN Human Rights Committee decision.

An association of the Falun Gong spiritual movement was registered in July 2004, but - under Chinese pressure - was liquidated as "extremist" in February 2005. On 26 January 2018 a Falun Gong association was registered, yet less than eight weeks later on 20 March 2018 the Justice Ministry cancelled its registration (see below).

The Jehovah's Witness applications from 2010 stalled because local keneshes (councils) would not approve the list of founders before the application could be sent on to the State Commission for Religious Affairs. The Constitutional Chamber of the Supreme Court ruled in 2014 that this requirement was unconstitutional, but Parliament did not amend the Religion Law to remove this requirement until December 2019 (see below).

The Constitutional Chamber of the Supreme Court ruled in September 2020 that similar requirements for local keneshes (councils) to approve the list of people requesting registration for a foreigner to be able to conduct religious work in Kyrgyzstan, as well as to approve the list of founders of a religious educational establishment, were also unconstitutional. Parliament amended the Religion

Law to remove these requirements in May 2021 (see below).

Zhanara Askar kyzy, a Protestant Christian and lawyer who brought the second Constitutional Chamber case, says it has brought improvements. The State Commission for Religious Affairs (SCRA) has registered several Protestant educational institutions "after the Constitutional Chamber decision and without even waiting for the legal amendments" (see below).

Askar kyzy also said the SCRA has granted registration to several foreigners to conduct religious work at the invitation of local religious communities. However, she noted that communities have been waiting some two months in several recent applications, when the Religion Law requires a response within one month (see below).

Court rejects book ban suit, but will prosecutors appeal?

On 2 December, Judge Venera Aydaraliyeva of Bishkek's Pervomaisky District Court rejected a suit from the General Prosecutor's Office (https://www.forum18.org/archive.php?article_id=2700) to ban 13 Jehovah's Witness publications and six videos as "extremist". The General Prosecutor's Office's representative in the case, Azatbek Temirbayev, told Forum 18 on 7 December that it had received the court decision in writing that morning and had not yet decided whether or not to appeal (https://www.forum18.org/archive.php?article_id=2706).

The literature banning suit was backed by the National Security Committee NSC secret police, which is also urging that Jehovah's Witnesses be banned as an organisation (https://www.forum18.org/archive.php?article_id=2700) in Kyrgyzstan. The NSC secret police also initiated a criminal case against unnamed Jehovah's Witness representatives in December 2019. NSC Investigator Kubanychbek Toktaliyev refused to give Forum 18 any information on progress in the case (https://www.forum18.org/archive.php?article_id=2706) on 6 December 2021.

Further restrictions planned in draft new Religion Law

The current Religion Law already bans unregistered religious activity (https://www.forum18.org/archive.php?article_id=2013) and requires a religious community to have 200 adult founders before it can apply to the State Commission for Religious Affairs (SCRA) to get registration. Getting such registration is set to become more difficult if the November 2021 draft new Religion Law is adopted in its current form.

The current draft new Religion Law (https://www.forum18.org/archive.php?article_id=2705) would require a religious community's 200 adult founders to live in one city or region of the country. It would also require religious communities' legal address to be the place they meet, removing the possibility of using a home address of one of the founders. Some fear this would prevent communities which rent premises for worship from registering.

Second UN finding over registration denials

For a second time, the United Nations (UN) Human Rights Committee has found that the authorities violated the rights of Jehovah's Witnesses by arbitrarily refusing their communities in Naryn, Osh and Jalal-Abad state registration. The exercise of freedom of religion and belief without state registration is illegal (https://www.forum18.org/archive.php?article_id=2013).

On 14 July 2021 – in a decision (CCPR/C/132/D/2659/2015 (https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f132%2fD%2f2659%2f2015&Lang=en)) made public on 7 December 2021 – the Committee found that the registration denials had violated their rights and ordered redress and compensation to be paid to the applicants.

The keneshes (city councils) in Naryn, Osh and Jalal-Abad rejected the Jehovah's Witness lists of founders in 2010. The State Commission for Religious Affairs (SCRA) had refused to consider the applications without kenesh approval and Jehovah's Witnesses had failed to overturn this refusal in subsequent suits to court.

The applicants took their complaint to the UN Human Rights Committee in September 2012. Even after then, Jehovah's Witnesses continued to try to challenge the denials through the courts, without success. There were no "reasonable and objective grounds" for the denials, the Human Rights Committee found, which led to discrimination "on the basis of their religious belief".

The UN Human Rights Committee found that the Kyrgyz authorities' refusal to register the applicants' communities was a limitation of their "right to manifest their religion" under Article 18 of the International Covenant on Civil and Political Rights (ICCPR) "for which the State party has not demonstrated that [it] is necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others". It stressed the "significant consequences of a refusal of registration, namely the impossibility to carry out religious activities".

The UN Human Rights Committee concluded that the registration process, "although neutral on its appearance as all religious organisations have followed the same procedure, has led to a disproportionately negative impact" on Jehovah's Witness

communities.

The Committee also considered the Jehovah's Witnesses' complaint that 200 adults are needed to apply to found a religious community which, the Committee noted, "is allegedly designed to prevent small religious organizations from obtaining registration".

The UN Human Rights Committee finding noted that the Kyrgyz authorities failed to send responses to its requests. "The Committee regrets the State party's failure to provide any information with regard to the admissibility or the substance of the [Jehovah's Witnesses'] claims."

The Committee stressed that the Kyrgyz authorities are under an obligation to provide an "effective remedy" for the applicants. "This requires it to make full reparation to individuals whose Covenant rights have been violated." This includes "to review the refusal by the SCRA of the registration application by the local religious organizations of Jehovah's Witnesses" of Jalal-Abad, Naryn and Osh Regions, and to provide "adequate compensation" to the applicants. "The State party is also under an obligation to take all steps necessary to prevent similar violations from occurring in the future."

Kyrgyzstan must also within 180 days inform the Committee what it has done to implement its legal obligations, and is requested to publish the decision and ensure it is "widely disseminated in the official languages of the State party".

No implementation of last Human Rights Committee decision

In March 2019, the UN Human Rights Committee issued a similar ruling (https://www.forum18.org/archive.php?article_id=2491) about the repeated denial of registration to the Jehovah's Witness community in Batken (CCPR/C/125/D/2312/2013 (<https://undocs.org/CCPR/C/125/D/2312/2013>)).

Jehovah's Witnesses lodged new registration applications after the UN decision was issued, but the State Commission for Religious Affairs (SCRA) repeatedly rejected the applications with various different excuses, including in January 2020 that registration would be "a threat to social stability, interfaith harmony and public order". Jehovah's Witnesses failed to overturn these rejections in court.

Speaking before the latest UN Human Rights Committee decision was made public, SCRA Deputy Director Gulnaz Isayeva refused to say why it continues to deny these Jehovah's Witness registration applications. "There've been cases in the Supreme Court," she told Forum 18 from Bishkek on 30 November. "It's a question of not full documentation, as well as the question of buildings." She did not give details of the cases.

Refusal to register communities violated human rights

The UN Human Rights Committee stated that it notes that "by refusing to register the authors' religious organization, the State party denied their rights to jointly manifest their religious beliefs, including the right to conduct religious meetings and assemblies, to own or use property for religious purposes, to produce and import religious literature, to receive donations, to carry out charitable activity and to invite foreign citizens to participate in religious events."

The Committee considered that "these activities form part of the authors' right to manifest their beliefs", and noted that the Religion Law (https://www.forum18.org/archive.php?article_id=2013) makes "'unregistered' religious activity .. a criminal offence".

"Considering the significant consequences of a refusal of registration, namely the impossibility to carry out religious activities," the Human Rights Committee concluded that "refusal to register the authors' religious organizations" is a limitation on freedom of religion or belief for which Kyrgyzstan has demonstrated no legally valid reason. "The Committee therefore concludes that the authors' rights under article 18 (1) of the Covenant [the ICCPR] have been violated."

Third Jehovah's Witness complaint still with UN

Jehovah's Witnesses lodged a third complaint to the UN Human Rights Committee (https://www.forum18.org/archive.php?article_id=2491) on 27 January 2017 against the SCRA over continuing registration denials in Osh, Batken, Naryn and Jalal-Abad.

The UN Human Rights Committee is yet to make a decision on this third complaint.

Long-running obstruction to registering Jehovah's Witness communities

Officials have prevented many Jehovah's Witness communities – especially in the south – from gaining state registration. Jehovah's Witnesses say they have 86 communities across the nine Regions of the country, but only in four Regions have they been able to register communities in large numbers.

Of the 41 communities the State Commission for Religious Affairs (SCRA) has allowed to register as independent communities,

only one is in Jalal-Abad Region, only one is in Naryn Region and none are in the city of Osh, Osh Region or Batken Region.

In March 2019, the Jehovah's Witnesses Community in Jalal-Abad was given registration, not as an independent community but as a branch of their national centre in the capital Bishkek.

On 30 November 2018 the Osh community was registered - not as an independent community but as a branch of the Jehovah's Witness national centre in Bishkek (https://www.forum18.org/archive.php?article_id=2491).

This came after 10 years of the Osh community attempting to gain registration as an independent community. In the course of their attempts, two Jehovah's Witnesses, Nadezhda Sergienko and her daughter Oksana Koryakina, were placed under house arrest for many months after their March 2013 arrest for alleged swindling but in reality apparently because of the Osh community's attempts to gain registration (https://www.forum18.org/archive.php?article_id=1819). Judge Sheraly Kamchibekov acquitted the two women of all charges, telling Forum 18 in November 2014 that "it was a fabricated case" (https://www.forum18.org/archive.php?article_id=2015). After a long legal battle the case was closed in 2016, but hearings in the prosecutions attempt to reopen the case continued into 2017 (https://www.forum18.org/archive.php?article_id=2248).

In the course of the protracted legal battle NSC secret police and ordinary police officers repeatedly tried to stop the two women's lawyers participating in the appeal hearing (https://www.forum18.org/archive.php?article_id=2116), and then invaded the judges' deliberation room when they realised that the women might be set free. Under international law some of the police should not have been at liberty, as they were involved in torturing Jehovah's Witnesses who met for worship in Osh (https://www.forum18.org/archive.php?article_id=2112). Officials refused to tell Forum 18 if the rule of law would be defended and official perpetrators punished.

Would Ahmadi Muslims be able to register?

In July 2011 the State Commission for Religious Affairs (SCRA) refused to re-register the Ahmadi Muslim community after the NSC secret police told it that Ahmadi Muslims are a "dangerous movement and against traditional Islam". The General Prosecutor's Office then sought in 2012 to have the community included on a list of banned organisations (https://www.forum18.org/archive.php?article_id=2013) as "extremist". Despite multiple serious violations of due legal process, on 10 July 2014 the Supreme Court rejected an appeal against two lower courts' support of the SCRA's refusal to give state registration (https://www.forum18.org/archive.php?article_id=1977) to the Ahmadi Muslim community.

Ahmadi Muslims have not met together for worship since July 2011.

Forum 18 asked SCRA Deputy Director Isayeva on 30 November whether the SCRA would register any application it might receive from Ahmadi Muslims. However, she would not answer the question, insisting that she could not discuss a situation that had not yet happened (https://www.forum18.org/archive.php?article_id=2700).

Of the 2,968 registered Muslim organisations listed on the SCRA website, 2,960 are Sunni Muslim. One – in the capital Bishkek – is Shia. Seven foreign Muslim organisations have registered local representations.

Falun Gong organisations registered, de-registered

An association of the Falun Gong spiritual movement was registered in July 2004, but - under Chinese pressure - was liquidated as "extremist" in February 2005.

On 26 January 2018 the Chui-Bishkek Justice Department in the capital Bishkek registered a Falun Gong association. However, on 20 March 2018, less than eight weeks later, the Justice Department issued a decree cancelling the registration (https://www.forum18.org/archive.php?article_id=2700), according to the Justice Ministry register of legal entities.

Removing local authority registration vetoes, in law but not in practice?

In successive moves, and after decisions by the Constitutional Chamber of the Supreme Court, parliament has removed from the Religion Law requirements that a kenesh (local council) must authorise any application (https://www.forum18.org/archive.php?article_id=2013):

- to register a religious community;
- to register a foreigner invited to conduct religious work in the country;
- or to register a religious educational establishment.

In September 2014, the Constitutional Chamber upheld a suit by Jehovah's Witness representatives

(https://www.forum18.org/archive.php?article_id=2064) that then requirements in the Religion Law for religious communities to gain kenesh approval for the list of founders for a religious organisation before it could submit an application to the State Commission for Religious Affairs (SCRA) was unconstitutional.

However the ruling, seen by Forum 18, rejects the Jehovah's Witnesses' contention that both the ban on the unregistered exercise of freedom of religion and belief, and the requirement to have at least 200 citizens to apply for registration for a religious community were both unconstitutional.

It was not until 21 December 2019 that Parliament, the Zhogorku Kenesh, amended Article 10 of the Religion Law to remove the words "with the agreement of local keneshes" from the requirements for applying to register a religious community.

The amendment seems to have made no difference to the treatment of Jehovah's Witness applications for registration for their communities. Jehovah's Witnesses have still not been able to register religious communities, especially in the five southern Regions of the country (see above).

Removing local authority vetoes on foreign invitees, religious educational establishments

Foreign citizens invited by registered religious communities to conduct religious work in the country for more than a 10-day period require personal registration as "missionaries". Registered religious communities need to renew such registration for those they have invited from abroad every year. Registration will be denied if the foreigner has committed an offence in the country.

A religious community that wants to invite a foreigner for religious work on a short-term visit (up to 10 days) needs to get permission from the State Commission for Religious Affairs (SCRA), informing it in advance of all the activity the foreigner is due to undertake.

On 30 September 2020, in a ruling seen by Forum 18, the Constitutional Chamber of the Supreme Court upheld a suit by Protestant Christian Zhanara Askar kyzy that a Religion Law provision (https://www.forum18.org/archive.php?article_id=2013) was unconstitutional. This provision required kenesh approval for a registration application for a foreigner invited to conduct religious work before the religious community could submit it to the SCRA.

The Full Gospel Church that Askar kyzy belongs to had tried to invite foreigners with higher religious education to come to teach Church members in the country, as well as to found their own educational establishment. Bishkek city officials had refused permission, claiming no mechanism for such approval existed. The Church lost its suit in Bishkek Inter-District Court in July 2012. She eventually lodged a case to the Constitutional Chamber.

Religion Law Article 12 had required a local kenesh to approve the list of founders who had invited the foreigner before the religious community could submit an application to the SCRA.

Askar kyzy also argued that a provision requiring kenesh approval before a religious community could submit an application to the State Commission for Religious Affairs to establish a religious educational establishment was similarly unconstitutional.

Religion Law Article 13 had required a local kenesh to approve the list of founders of a religious educational establishment before the religious community could submit an application to the SCRA.

In a written intervention, the NSC secret police argued that requirements for kenesh approval of the founders of religious educational establishments "pursue the goal of protecting national security, including the security of the population from religious extremism".

The Presidential Administration and the Justice Ministry backed Askar kyzy's case. Although the head of the SCRA Legal Department Kanybek Niyazbayev, had initially backed Askar kyzy's arguments, he told the Constitutional Chamber hearing that it had changed its mind.

"In his view," the court decision quotes Niyazbayev as saying, "the norms relate solely to the procedure connected with registration, and do not restrict the religious freedoms of missionaries and citizens of Kyrgyzstan." He argued that the requirements for kenesh approval "are directed at strengthening national security".

The Constitutional Chamber upheld Askar kyzy's suit. It observed that "freedom of religion implies the creation by the state of legal conditions that exclude the possibility of any obstacles in the exercise by citizens of their right to freely choose and have religious convictions, since this right belongs to the category of rights that are not subject to any restriction".

On 22 May 2021, Parliament, the Zhogorku Kenesh, amended the Religion Law to remove the words "with the agreement of local keneshes" from the requirements for applying to register a foreigner undertaking religious work and applying to register a religious educational establishment before the religious community could submit an application to the SCRA.

Askar kyzy told Forum 18 that the Constitutional Chamber decision brought improvements. The SCRA has registered several Protestant educational institutions "after the Constitutional Chamber decision and without even waiting for the legal amendments", she told Forum 18 from Bishkek on 9 December.

Askar kyzy also said the SCRA has granted registration to several foreigners to conduct religious work at the invitation of local religious communities. However, she noted that communities have been waiting some two months in several recent applications, when the Religion Law requires a response within one month. (END)

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

More reports on freedom of thought, conscience and belief in Kyrgyzstan (<https://www.forum18.org/Archive.php?query=&religion=all&country=30>)

Forum 18's compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments (https://www.forum18.org/Archive.php?article_id=1351)

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