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KYRGYZSTAN: Religious freedom survey, January 2022

By Mushfig Bayram, Forum 18 (<https://www.forum18.org/>), and John Kinahan, Forum 18 (<https://www.forum18.org/>)

Freedom of religion and belief and interlinked human rights are under increasing threat in Kyrgyzstan. Forum 18's survey analysis documents: increasing "legal" restrictions on the freedom of religion and belief; Ahmadi Muslims being prevented from meeting since 2011, and refusal to allow the Falun Gong spiritual movement to exist; state attempts aiming to eventually ban all Jehovah's Witness communities; state officials and imams repeatedly stopping people peacefully burying their dead under their own rites, the most recent case being against a Protestant pastor's family.

Freedom of religion and belief, with the interlinked freedoms of expression, association, and assembly, are under increasing threat in Kyrgyzstan. Serious freedom of religion and belief violations documented by Forum 18 include but are not limited to:

- increasing "legal" restrictions on the freedom of religion and belief and related human rights which are contrary to Kyrgyzstan's legally-binding human rights obligations:
- fear of discussing human rights violations and publicly expressing views the government may dislike;
- direct state control of much of the public expression of the majority religious community, Islam, along with preventing Ahmadi Muslims from meeting since 2011;
- a ban on exercising freedom of religion and belief in association with others without state permission, including both "legal" obstructions to state registration and state refusal to allow the Falun Gong spiritual movement and some Jehovah's Witness communities to legally exist;
- the National Security Committee (NSC) secret police initiating legal cases in 2019 and 2021 aiming to eventually ban all Jehovah's Witness communities as allegedly "extremist";
- state registration with associated obstacles to exercising freedom of religion and belief, such as peacefully and non-coercively sharing beliefs;
- violence against people based on their religion or belief, collusion with this by state authorities, and state failure to bring perpetrators to justice;
- state failure to make any arrests or prosecute officials suspected on good grounds of the torture of people based on their religion or belief, against Kyrgyzstan's legally-binding obligations under the United Nations (UN) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- repeated failures to stop state officials and imams of the state-controlled Muslim Board encouraging or condoning violence and other coercion against people peacefully burying their dead under their own rites;
- state censorship of all religious materials;
- the use of state "expert analyses" of both religious materials and religious communities' beliefs to justify state human rights violations, such as attempting to ban an entire religious community. As one human rights defender put it, "the quality of these analyses is severely lacking";
- and state failures to implement Kyrgyzstan's legally binding international human rights obligations, including the rule of law.

Context

Kyrgyzstan has the fourth largest surface area of the five Central Asia countries. Government statistics indicate that it has around 6 million people, the fourth largest population of the five countries. Government statistics state that over 70 per cent of the population

are ethnic Kyrgyz and around 15 per cent ethnic Uzbeks (both regarded as being of mostly Sunni Muslim background), with significantly smaller percentages of Russians (regarded as being of Russian Orthodox or other Christian background) and other ethnicities. Around three per cent of the population are thought to be of other religious backgrounds.

Human Rights Watch in its January 2022 World Report found an overall decline in Kyrgyzstan's human rights record in 2021 (<https://www.hrw.org/world-report/2022/country-chapters/kyrgyzstan>). Similarly, Freedom House's Freedom in the World 2021 report noted that there was in 2020 "significant political violence and intimidation that culminated in the irregular seizure of power by a nationalist leader and convicted felon [Sadyr Japarov] who had been freed from prison by supporters" (<https://freedomhouse.org/country/kyrgyzstan/freedom-world/2021>).

The January 2021 election of current President Sadyr Japarov was described by OSCE election observers (https://www.osce.org/files/f/documents/7/0/488587_1.pdf) as "dominated by one candidate [Japarov] who benefited from disproportionate financial means and misuse of administrative resources." November 2021 parliamentary elections were described by OSCE election observers (https://www.osce.org/files/f/documents/6/5/505840_0.pdf) as marred by "constitutional changes weakening parliament" and among other things "limitations on civil and political rights and diminished separation of powers and independence of the judiciary."

Fear of discussing human rights violations and publicly expressing views the government may dislike is found in many belief communities. Fears were expressed to Forum 18 before the 2021 Constitution's adoption that it may even more erode the willingness of people in Kyrgyzstan to raise human rights concerns, as well as providing excuses for freedom of religion and belief violations.

Constitution

A new constitution adopted in April 2021 was strongly criticised in a Council of Europe Venice Commission and Organisation for Security and Co-operation in Europe's (OSCE) Office for Democratic Institutions and Human Rights (ODIHR) March 2021 Joint Opinion (<https://www.legislationline.org/download/id/9031/file/Joint%20Opinion%20Draft%20Constitution%20KYRG%20129-2021.pdf>), as well as by Human Rights Watch (<https://www.hrw.org/news/2021/03/05/kyrgyzstan-withdraw-problematic-draft-constitution>) and local and international human rights defenders. The Joint Opinion noted among other criticisms that "certain references to morals, ethical values and the 'public conscience of the people'" are "potential grounds for restricting activities and human rights and fundamental freedoms .. due to the likely wide and inherently subjective interpretation of such terms".

Violations Code and Criminal Code

In 2021, the government began rapidly changing 356 laws in a way that facilitates the violation of human rights, as Human Rights Watch (<https://www.hrw.org/news/2021/11/17/kyrgyzstan-extend-time-massive-review-laws>) and local human rights defenders have stated. Commenting on the rush to change sensitive laws (some of which have already had a "chilling effect"), Syinat Sultanalieva of Human Rights Watch noted in November 2021: "Parliament needs time for effective consultations with the public, for incorporating Kyrgyzstan's international human rights commitments, and in general to make certain that the general public has open access to the process."

A new Violations Code and new Criminal Code came into force on 1 December 2021, replacing earlier Codes which came into force on 1 January 2019.

New Criminal Code Article 330 punishes "Incitement of racial, ethnic, national, religious or inter-regional enmity (discord) conducted by a group of people in a prior conspiracy" with jail terms. It is similar to Article 313 of the old Criminal Code, which is being used in a long-running criminal case launched in December 2019 against Jehovah's Witnesses based on allegedly "extremist" religious materials (see below).

New Violations Code Article 141 punishes "Obstruction of the exercise of the right to freedom of conscience and belief" with fines of 100 Financial Indicators (FIs) on individuals, 280 FIs on organisations, and 150 FIs on officials.

One Financial Indicator is 100 Soms (in January 2022 about 10 Norwegian Kroner, 1 Euro or 1.2 US Dollars). A fine of 100 FIs, 10,000 Soms, is equivalent to about three weeks' average wages for those in formal work.

Violations Code Article 142 punishes violations of the Religion Law, including by conducting unapproved religious education and interference of religious organisations in state affairs.

Part 3 of Article 142 punishes "Distribution of literature, print, audio and video materials of religious nature in public places, as well as by going round homes, state or municipal institutions" with fines of 55 FIs on individuals and 170 FIs on organisations.

Part 4 of Article 142 punishes "Carrying out religious activity without registration at the executive state body for religious affairs" with fines of 75 FIs on individuals and 230 FIs on organisations.

Violations Code Article 477 assigns cases under Violations Code Article 142 to the State Commission for Religious Affairs (SCRA).

SCRA Deputy Director Gulnaz Isayeva defended the continuing punishments for exercising freedom of religion or belief without state permission. "It's in the law," she told Forum 18 in December 2021.

Draft Religion Law

The current Religion Law was adopted in December 2008 and came into force in January 2009.

A draft new Religion Law prepared by the State Commission for Religious Affairs (SCRA) in late 2021 would – if eventually adopted in its current form – make it more difficult to exercise the freedom of religion or belief. Among the problems, the current draft would make registering small religious communities more difficult or impossible, and might also make it impossible to register communities that do not own their own buildings.

Among the draft's many provisions which violate Kyrgyzstan's legally-binding international human rights obligations, state permission is demanded for a religious community to exist and exercise the freedom of religion or belief.

The OSCE / Council of Europe Venice Commission Guidelines on the Legal Personality of Religious or Belief Communities (<https://www.osce.org/files/f/documents/9/9/139046.pdf>) note that under international human rights law: "State permission may not be made a condition for the exercise of the freedom of religion or belief. The freedom of religion or belief, whether manifested alone or in community with others, in public or in private, cannot be made subject to prior registration or other similar procedures, since it belongs to human beings and communities as rights holders and does not depend on official authorization."

The draft Law would continue to require 200 adults to found a religious community and apply for compulsory registration, but would now require them to live in one Region of the country. All would be required to attend the founding meeting in person and have their full personal details notarised. The draft Law would also continue the current ban on meetings for worship and religious education without state permission.

Compulsory state registration and the high membership threshold required to found a religious organisation are among the draft Law's provisions which violate legally-binding international human rights standards. These standards include the International Covenant on Civil and Political Rights (ICCPR), which Kyrgyzstan acceded to in 1994.

Another of the provisions violating human rights is that, for the first time, the draft Law would require individuals or religious communities to gain registration from the SCRA for places of worship that they use, whether owned or rented.

The SCRA prepared the draft text on 2 November 2021, exactly a month after President Sadyr Japarov signed a Concept on State Policy in the Religious Sphere 2021-26. This called for laws "in the religious sphere" to be brought into line with "international human rights standards". At the same time, the Concept called for "a reduction in the number of [religious] associations illegally carrying out their activity".

The Justice Ministry's website of draft laws open for public discussion published the draft text on 13 December 2021, noting that any comments were to be submitted by 12 January 2022. The SCRA has also prepared an Amending Law which would bring the Violations Code and other laws into line with the new Religion Law. This too was open for public consultation until 12 January 2022.

The SCRA's accompanying notes for both draft laws claim that they would not harm a range of topics, including human rights. The SCRA appears to expect these two Laws to be adopted in early 2022.

Manas Muratbekov, head of the SCRA's Legal Department who prepared both draft laws, refused to discuss the texts on 15 December 2021. Forum 18 asked:

- why the proposed new Law would continue to ban exercising freedom of religion or belief without state permission;
- why 200 adults would still be required to apply to register a religious community and why they would all have to live in one region;
- why religious communities would not be able to use a home address as the community's legal address;
- and whether all registered religious communities will have to re-register if the law is adopted.

Many of the current draft Law's provisions (like previous SCRA drafts for a new Religion Law) violate legally-binding international

human rights standards, including the International Covenant on Civil and Political Rights (ICCPR), which Kyrgyzstan acceded to in 1994.

The UN Human Rights Committee's 2014 Concluding Observations (CCPR/C/KGZ/CO/2 (<https://undocs.org/CCPR/C/KGZ/CO/2>)) on Kyrgyzstan's ICCPR record stressed that amendments to the 2008 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".

The Islamic community

The state-controlled Muslim Board (known as the Muftiate) controls public expressions of Islam. In 2014 the Defence Council meeting decided that the Muftiate must appoint imams and approve mosques "with the participation of representatives of state bodies .. after appropriate checks by state agencies of whether they are members of extremist and destructive organisations".

The Defence Council included officials from the State Commission for Religious Affairs (SCRA), the National Security Committee (NSC) secret police, other state agencies, the Presidential Administration, the single chamber Parliament (Zhogorku Kenesh), and other government ministers and officials. Participants insisted that the state has the "full right" to interfere in religious communities' activity.

The Muslim Board was also told to choose the Mufti, imams, regional imams, religious judges and members of the Council of Ulems (Islamic scholars) "only from among adherents of the Hanafi school traditional for Kyrgyzstan's Muslims".

One Kyrgyz observer noted in 2014 that freedom of religion or belief violations linked to burials of the dead from 1996 onwards (see below) appear to be linked to Kyrgyz Imams educated in Saudi Arabia, Qatar or Egypt. The observer suggested that such violations started with the return to Kyrgyzstan of foreign-educated imams, who taught local people that so-called "infidels" should not be buried in the same cemeteries as Muslims.

The observer noted that such teachings are also found in madrassahs (Islamic religious schools) and mosques funded from countries such as Saudi Arabia, where teaching a certain curriculum is linked to generous financial assistance. This has led to some incidents of violence by Kyrgyz Muslims against Kyrgyz Muslims who do not share Saudi approaches to Islam.

In a 2014 discussion with the observer over the ability of foreign-backed mosques and madrassahs to operate without state permission to exist, unlike other religious communities, the Chief Imam of one region stated that "this is normal, because we are the majority religion and we need to be privileged".

In July 2011 the SCRA refused to re-register the Ahmadi Muslim community after the National Security Committee (NSC) secret police told the SCRA that Ahmadi Muslims are a "dangerous movement and against traditional Islam". Ahmadi Muslims have not met together for worship since July 2011 (see below).

Permission to exist

It is illegal to exercise freedom of religion and belief in association with others without state permission. Individuals and communities who violate this ban face fines under the Violations Code (see above).

Despite mandating re-registration after the Religion Law came into force in January 2009, for many religious communities gaining such re-registration was impossible.

After many years of arbitrary delays, in 2019 the SCRA finally gave many religious communities who applied for it state registration and therefore permission to exist. These communities included various Christian churches, Baha'i communities, and some but not all Jehovah's Witness communities. However, Ahmadi Muslims have been unable to meet since 2011 and are still unable to get registration due to official hostility to them.

The experience of communities seeking registration is that decisions are arbitrary. 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, according to the Justice Ministry register of legal entities.

In contrast, Protestants found that "it was not difficult to [in 2019] receive registration as none of the communities had to gain approval of their lists of founders from local keneshes," a Protestant who wished to remain unnamed for fear of state reprisals stated in June 2019. They said that "the SCRA told communities that this is because the Constitutional Chamber in 2014 denied that such approval is necessary".

The Protestant added that "SCRA officials also stated that the 200 founders needed can be anyone sympathising with our community, and do not all need to be members. That is why so many communities were able to register."

One of the obstacles to registration is that the Religion Law demands that religious communities must have at least 200 adult permanent resident citizens as founders. Article 10.2, as originally framed, demanded that those wishing to found a religious organisation – which Article 8.3 demands should have at least 200 adult permanent resident citizens as founders – must among other documents: "present notarised lists of citizens endorsed by the local keneshes [councils] as founders, who are the initiators of establishment of the religious organisation or mission, and who are responsible before the Law within the frame of the organisation's charter."

All 200 founders must provide their full name, date of birth, citizenship, place of residence, with their passport number, date of issue and issuing authority. Many religious communities of a variety of faiths have pointed out that people are afraid to identify themselves to the authorities as founders, and that many smaller communities do not have 200 founders and so have no possibility of legally existing.

Many keneshes claimed that they could not notarise lists of founders because the SCRA did not issued Regulations to implement the Law – but this did not stop some keneshes from notarising the founders' lists of state-controlled Muslim organisations and Russian Orthodox churches. This claim enabled the SCRA and keneshes to keep evading responsibility for granting registration applications.

Officials have prevented many Jehovah's Witness communities – especially in the south – from gaining state registration. Of the 41 communities the SCRA has allowed to register, 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.

However, in September 2014, the Constitutional Chamber of the Supreme Court ruled in a case brought by Jehovah's Witnesses that a religious organisation is not limited to carrying out its activity only in the place where it has its legal address, and that it is unconstitutional for local keneshes to have to approve the list of 200 founding members of a religious organisation required for a legal status application. Yet the SCRA and other state authorities repeatedly refused to implement the ruling.

The requirement for local kenesh approval was removed from the Religion Law only in December 2019.

The Jehovah's Witnesses Community in Osh was given registration in early 2019, not as an independent community but as a branch of their community in the capital Bishkek. This came after 10 years of attempting to gain registration. 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.

In the course of the protracted legal battle National Security Committee (NSC) secret police and ordinary police officers repeatedly tried to stop the two women's lawyers participating in the appeal hearing, 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 (see below). Officials refused to tell Forum 18 if the rule of law would be defended and official perpetrators punished. Hearings in the prosecution's attempt to reopen the case against the women continued into 2017.

However, as of 13 January 2022 Jehovah's Witness communities in Batken Region still do not have registration, despite rulings from the United Nations Human Rights Committee in March 2019 (CCPR/C/125/D/2312/2013 (<https://undocs.org/CCPR/C/125/D/2312/2013>)) and in December 2021 (CCPR/C/132/D/2659/2015 (https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f132%2fD%2f2659%2f2015&Lang=en)).

In July 2019 the head of the SCRA section responsible for religious organisation registration claimed to Forum 18 that the communities would be registered "if their documents are in order". Yet the SCRA has multiple times rejected registration applications with a variety of excuses, including in January 2020 that registration would be "a threat to social stability, interfaith harmony and public order".

In December 2019 and in July 2021 the NSC secret police initiated cases aiming to eventually ban Jehovah's Witnesses. The July 2021 civil case ended in December 2021, but the December 2019 criminal case has not yet reached court. Syinat Sultanalieva of Human Rights Watch, who was present at the December 2021 hearing, commented that she regarded the case as a "very dangerous sign" (see below).

NSC secret police claim Ahmadiis "a dangerous movement"

In July 2011 the SCRA refused to re-register the Ahmadi Muslim community after the National Security Committee (NSC) secret police told the SCRA 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 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 to the Ahmadi Muslim community.

A non-Ahmadi Muslim religious leader in Kyrgyzstan, who asked not to be named for fear of state reprisals, told Forum 18 that the ban on the Ahmadis is "a political decision". The leader suggested that the government imposed the ban "to do a service for the [state-controlled] Muslim Board and foreign Muslim investors, who dislike Ahmadis".

Ahmadi Muslims have not met together for worship since July 2011. "We consulted with our world leaders and local leaders, and decided that we should not be publicly active for the time being and not meet for worship as a community," an Ahmadi Muslim, who wished to remain anonymous for fear of state reprisals, told Forum 18 in June 2019. "If we see goodwill towards us from the authorities, of course we would love to register again and meet for public worship. At the moment we only pray individually in our private homes."

Asked on 30 November 2021 if the SCRA would register an Ahmadi Muslim community if it applied, Gulnaz Isayeva of the SCRA told Forum 18 that she could not discuss a situation that had not yet happened.

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.

"Registration only gives you permission to exist"

However, state registration does not remove many obstacles to exercising freedom of religion and belief. The Religion Law states that all "actions directed to proselytising of the faithful from one denomination to another (proselytism), as well as any other [undefined] illegal missionary work, are prohibited". The Religion Law also imposes state censorship of religious material (see below).

Members of a variety of communities throughout the country, all of whom wished to remain anonymous for fear of state reprisals, pointed out in July 2019 that "communities cannot have public meetings outside their registered addresses unless they receive prior permission for each event from the authorities, and our experience is that the authorities do not normally give permission".

Others commented that "the authorities have punished people for sharing their beliefs in public places with adults, and young people under 18 cannot even share their beliefs with others in their schools".

Under the Religion Law, all religious educational establishments – universities, institutes, madrassahs, seminaries, Sunday schools and orphanages – must have state registration. These establishments can be founded only by registered organisations. Until May 2021, they were also required to have kenesh permission to exist.

All under-18-year-olds are also banned from being active in religious organisations, and no religious organisations are permitted in any educational institute – apart from in religious education institutions. This prevents even secondary school and university students from organising religious groups in their place of education.

"So practically speaking, registration only gives you permission to exist," one person commented. "Registration does not give you the freedoms one should expect."

Another Protestant, who also wished to remain unnamed for fear of state reprisals, commented that "registration does not mean that all of our problems were solved". They stated in June 2019 that "although there have been no attacks since February [2019], and no new burial problems as no-one from our community has recently died, there is no guarantee that attacks and burial problems will not reoccur in the future".

A human rights defender, who wished to remain unnamed for fear of state reprisals, stated in June 2019 that "the authorities are playing a game. They kill two birds with one stone, and show the international community that there is democracy. By giving registration they want to silence these communities, as many of them have been vocal critics of the authorities' policies in the past."

"There is an atmosphere of fear in the country," they commented. "The fact that I am afraid to give you my name, and that leaders of registered communities would not discuss registration and other problems relating to freedom of religion and belief, demonstrates this."

"The authorities have not yet taken serious steps to resolve the problems of burials and attacks on people exercising their freedom of religion and belief," the human rights defender said. "They did not imprison those who have attacked Protestants, Jehovah's Witnesses, and others, or who have committed arson against their community buildings."

Violence and collusion by state authorities

On 25 March 2014 the UN Human Rights Committee, in Concluding Observations (CCPR/C/KGZ/CO/2) (<https://undocs.org/CCPR/C/KGZ/CO/2>) to its consideration of Kyrgyzstan's record under the International Covenant on Civil and Political Rights (ICCPR), condemned "reports of religious intolerance with respect to converts from the majority religion, including incidents of hate speech". It said Kyrgyzstan should publicly condemn "any act of religious intolerance and hatred" and "investigate all cases of violence based on religion, prosecute perpetrators and compensate victims."

Police and other state agencies have repeatedly failed to stop violent attacks on people exercising freedom of religion or belief, or even appear sympathetic to such attacks. The victims of such attacks normally do not wish to discuss them for fear of further attacks.

Despite medical evidence, officials have initiated no arrests or prosecution (as required by the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (<https://www.ohchr.org/en/professionalinterest/pages/cat.aspx>)) of police who tortured seven Jehovah's Witnesses during a 9 August 2015 raid on an Osh meeting for worship. Officers beat one man for filming the raid and "his screams of terror and pain could be heard throughout the building", Jehovah's Witnesses stated. At the police station, officers strangled three Jehovah's Witnesses "to the point that they passed out".

Asked by Forum 18 why Prosecutors will not prosecute torturers but prosecuted their victims meeting for worship, Deputy Osh Prosecutor Mirlan Kongaytiyev claimed: "We just want the law and justice to be fulfilled."

The impunity which the authorities give perpetrators of violence against people exercising freedom of religion or belief is long-standing. This may have been a factor in the December 2015 murder of Ahmadi Muslim Yunusjan Abdujalilov in the village of Kashkar Kyshtak in Osh Region. In 2017, a court convicted six men and gave them long jail terms.

An independent human rights defender who wished to remain unnamed for fear of state reprisals stated at the time of the murder that "the authorities turn a blind eye to hate speeches on TV, other mass media, and mosques about Ahmadi Muslims and other vulnerable religious groups". They also noted that, in addition to attacks by Muslim Board imams, the Ahmadis were refused state registration. "All of this created a tense situation and hatred against the Ahmadis."

An Ahmadi in July 2019 declined to discuss the murder. But they stated that "I heard that former Chief Mufti Chubak azhy Zhalilov [who resigned in July 2012 amid corruption allegations] was warned by the authorities not to give hate speeches, and I have not heard him making public hate speeches recently".

In January 2018 a Baptist Church in Kaji-Sai, in the north-eastern Issyk-Kul Region, was burned down in an arson attack. Baptists found bottles filled with petrol nearby, and although police claimed to be investigating the crime, local Baptists did not think this was the case. Baptists are convinced that the arson attack happened because the police have done nothing to find and punish the perpetrators of a series of violations of human rights, including of freedom of religion and belief, that have taken place in the Region since 2010.

After one such incident, police summoned Baptists to meet their attackers in Karakol Police Station. After police officers expressed sympathy for the attackers, police then ordered the Baptists and their attackers "to write statements that they forgave each other and will have peace between themselves in future". The Baptists found the atmosphere of the meeting intimidating and coercive, and for fear of state reprisals did not wish to name the police officers who were present.

"An amicable solution between themselves"?

Concern has also been expressed at the impunity the authorities appear to give such attackers, as happened in an October 2018 case involving a serious violent attack on a Christian, Eldos Sattar uuly.

On the night of 15-16 October 2018, three young men broke into a house in the village of Tamchi to attack the householder because he is a Protestant. They attacked Sattar uuly "hitting him and kicking him until he fell on the floor. They shouted at him that he is a 'Kafir', and that he had betrayed Islam. Then they kicked his head while on the floor, breaking several of his front teeth and his jaw-bone," a villager stated. "They threatened that they would come back to kill him if he had not left the village by the morning."

Sattar uuly needed immediate surgery at the National Hospital in Bishkek. His attackers were not arrested after the crime, and were able to threaten Sattar uuly in hospital with death if he did not withdraw complaints to the authorities.

During a formal police questioning of witnesses to the case – held in a police station in the capital Bishkek because of fears for Sattar uuly's safety - Sattar uuly and his lawyer Zhanara Askar kyzy were both verbally attacked by the attackers' lawyer and police investigator. Askar kyzy was physically violently attacked resulting in her needing two days' hospitalisation. Police threatened her with criminal prosecution. Police also stopped her being taken to hospital by ambulance.

A human rights defender told Forum 18 that if police take the side of violent attackers (whatever the motivation for the attack is),

they often threaten victims with criminal charges if they do not co-operate with their attackers.

The attackers' families put Sattar uuly's family under pressure. During the formal police questioning, the attackers' lawyer, former police chief Bakyt Abirov, also threatened Sattar uuly that "if any of the three attackers get arrested Sattar uuly and his family will be in real trouble with the villagers".

Sattar uuly's lawyer told Forum 18 that "the authorities dropped the criminal case against Eldos Sattar uuly's attackers using the excuse of Sattar uuly's absence. He fled the country because he received threats from his attackers during the police cross-questioning in Bishkek." She said that Sattar uuly's relatives also wrote to the authorities stating that they have no complaints against his attackers.

Akylbek Sydykov, Chair of Issyk-Kul Court, told Forum 18 in July 2019 that Judge Toktogul Jumayev terminated the criminal case about the attack on Sattar uuly on 15 May "because the two sides came to an amicable solution between themselves. The Court can terminate prosecutions in such cases." Court Chair Sydykov denied the evidence that Sattar uuly was attacked and left in need of surgery because of his beliefs. "That is not true. The charges against the perpetrators were for hooliganism. It was not because of Sattar uuly's religion."

Kanat Aydakeev, Issyk Kul Regional Police Chief, told Forum 18 in July 2019 that "we finished our investigation and referred the case to Issyk-Kul District Court." Asked why the case was dismissed, he claimed: "We did our job and what the Court decides does not concern us." Asked why the Police or other authorities did not object to the Court's decision when much evidence exists of the attack against Sattar uuly, he replied: "Please talk to the Court."

In one case, "10 people violently attacked a Muslim friend of the family" a local person who wishes to remain anonymous for fear of reprisals told Forum 18. The Muslim was attacked "just because they are a good friend of Sattar uuly's family, and refused to stop being friends with them".

In another violent attack, a Protestant was in December 2018 stopped in a local market by a local drunk man who demanded that he give him money. When he refused he was attacked by the drunk and others who shouted "we know you are a Christian and we will punish you". As a result of the attack the Protestant had "a swelling on his head and headaches for a couple of weeks", the local person told Forum 18.

None of the victims of the attacks wanted to complain to the authorities as they were afraid of reprisals against themselves and other local people. "The state does nothing," the local person stated.

"The attacks were widely condemned by society"

A Protestant, who knows Sattar uuly and members of his church in Tamchi, and who asked not to be named for fear of state reprisals, told Forum 18 in June 2019: "There have been no new attacks on Christians or their families or friends in recent months."

Asked why there have been no further attacks, the Protestant commented: "The authorities did not punish the attackers of Eldos or the other attackers in the village. But the issue was widely discussed in social media and the attacks were widely condemned by society, including many who identified themselves as Muslims. Many said that the attackers should be seriously punished." The Protestant added: "People are very active in social media and pay attention to what is being expressed there. This is what I think may have influenced the residents of Tamchi."

Members of smaller vulnerable religious communities have expressed concern to Forum 18 that such violent attacks may recommence if they discuss their fears publicly. The victims of such attacks normally do not wish to discuss them for fear of further attacks.

Violence and threats around burials

Cemeteries and funerals have in the past been locations for attacks and threats. In such contexts the state has repeatedly failed to stop state officials and imams of the state-controlled Muslim Board encouraging or condoning violence and other coercion against people peacefully exercising their human rights, such as burying their dead under their own rites.

The Religion Law states: "Recognition of regulations of use of confessional cemeteries and regulations of cemetery exactions shall be governed by regulations of local municipalities." Local people, with the connivance of local authorities, have long used mob violence to obstruct or deny burials according to their own rites to deceased Protestants, Baha'is, Jehovah's Witnesses and Hare Krishna devotees – especially those of ethnic Kyrgyz or ethnic Uzbek background – in village graveyards they insist are only for Muslims.

The authorities allow local imams to control who is buried in state-owned cemeteries. Police often back this, in some cases actively participating in burial denials. The authorities' failure to ensure people may bury their dead in the way they would wish causes deep distress to the family and friends of the dead. Women trying to bury their dead husbands have been coerced into changing their faith for the burial to go ahead.

In March 2017, out of around 70 people in mobs incited by officials who twice exhumed a deceased Protestant woman's body in Jalal-Abad Region, only four people were given three-year suspended sentences – even though the law requires jail sentences of between three and five years. No officials or police named by witnesses as inciting the events were put on trial, and no police were held to account for having buried her body somewhere unknown in open country. The judge involved refused to state why she did not act according to the law, and was subsequently promoted to a post in the capital Bishkek. That the trial took place at all was due to the bravery of the dead woman's daughter, Zhyldyz Azayeva, who refused to stop demanding justice.

This is the only known case where there has been a serious legal attempt to hold officials to account for cases where mob violence, with official complicity, stops people burying their dead with non-Muslim ceremonies.

Smaller vulnerable communities still experience problems in carrying out burials in their own way and in accordance with the wishes of relatives and the deceased. The most recent known case was on 14 December 2021, when state-appointed Muslim clergy in Karakol in Issyk-Kul Region prevented the family of Protestant Pastor Kanatbek Junushaliyev from burying him in the local authority controlled cemetery.

"When our people began digging the ground in the city cemetery on 14 December, some men approached and told them to stop digging," the family told Forum 18. "They said that they acted on the instruction of the local Islamic clergy, and that they will not allow my father's burial there."

The family complained to Karakol city authorities, but the authorities refused to act to protect the family's right to bury its dead in the city cemetery where ethnic Kyrgyz like Pastor Junushaliyev are normally buried. The burial then took place on 15 December. "We did this since we had no other choice," the family told Forum 18. "We did not want to bury him there, since normally all Kyrgyz are buried in the city cemetery and those who are buried in the Orthodox cemetery are Orthodox Russians."

Relatives and friends are frequently afraid to publicly discuss burial problems, for fear of reprisals and mob violence aided by state officials' lack of willingness to defend people's human rights.

"Taking no effective action against the perpetrators"

Kanybek Niyazbayev of the State Commission for Religious Affairs (SCRA) claimed in July 2019 to Forum 18 that "we demand that law-enforcement agencies investigate the cases [of violence against followers of smaller vulnerable religious beliefs] and punish the violators." He also claimed that "we hold educative talks with the local population in the regions." Asked to give a concrete recent example he could not. "I need to think about that. I cannot say right now when we did this."

Asked about publicly condemning violent attacks in the media and social media and promoting freedom of religion and belief for all, Niyazbayev responded: "We can think about it." He then claimed that "we had in Bishkek a 'subbotnik' [volunteer neighbourhood rubbish clean-up on Saturday] with participation of various religious communities". However, he could not say what the SCRA did in the case of the attacked Protestant Sattar uuly (see above).

"We do not impede them from advertising themselves, all religions and religious communities are equal in Kyrgyzstan," Shamil Dyushenbayev of the staff of Parliament's Social Affairs, Education, Science, Culture and Health Committee, replied when asked about taking proactive steps against violence and for freedom of religion and belief for all. When Forum 18 pointed to the known cases where both individuals and the authorities have initiated and been complicit in violence, Dyushenbayev claimed: "You are deliberately dividing Kyrgyzstan into Muslim and non-Muslim people. We do not have such divisions. If you have any complaints against the state authorities, please write to us and we will investigate the cases."

"By not punishing the perpetrators, the authorities encourage attacks against non-Muslims," a human rights defender who wished to remain anonymous for fear of reprisals stated in July 2019. "I think this is done to make people afraid to share or make public their beliefs, particularly in the regions. In this context giving registration does not guarantee that people can exercise their freedom of religion and belief."

A Protestant, who asked not to be named for fear of state reprisals, stated that "I think that the central authorities, by not punishing the perpetrators of violent physical attacks and of burial problems, by not punishing the local authorities for taking no effective action against the perpetrators, and by not taking serious steps to prevent such violations in future, send a message that they quietly agree with attacks and do not want people to exercise their freedom of religion and belief in the regions."

The human rights defender stated that "the authorities must also be proactive in creating an atmosphere of good-will towards members of non-Muslim communities". The Protestant stated that the "authorities must publicly in all kinds of mass and social media condemn violent attacks against Christians and followers of other beliefs. They should have meetings with the public and the local authorities in the regions to strongly affirm the equality of majority Muslims and all other religious communities and mutual respect, and about freedom of religion and belief for all."

Independent religious expert Galina Kolodzinskaya pointed out that "our authorities have declared that they are fighting against violent extremism. If the authorities do not deal seriously with this and the other cases which are examples of violent extremism", she told Forum 18, "Kyrgyzstan will be in a deplorable situation which threatens national security."

Impunity for officials and perpetrators sends a signal to society, which undermines even social traditions which can grant a kind of limited protection for women. Hours before a church in north-eastern Kyrgyzstan was in January 2018 burned down in an arson attack, three young men publicly insulted and threatened older Baptist women. In patriarchal Kyrgyz society, any insult or attack on women is seen as far more serious than a similar insult or attack on men. Independent religious expert Galina Kolodzinskaya told Forum 18 that compared to men, women are much less subject to public attacks or insults. "Even in the Kyrgyz-Uzbek interethnic conflict in 2010 in the south of Kyrgyzstan, the assailants spared women. It is a question of honour in our society. However, it is obvious that these women were insulted because they are Baptists."

Some communities think that contributory factors to violence against them and their followers has been the blocking of registration applications by the SCRA, the NSC secret police, and local authorities, the banning of the unregistered exercise of freedom of religion or belief by communities, and the impossibility for those with fewer than 200 founders of gaining legal status. This lack of registration deprives communities of possible social status and so, they think, makes them vulnerable to attack.

However, the 2018 arson attack noted above was on a Baptist Church registered since 1994. In 2012 Baptists from this Church told Forum 18 that they thought gaining state registration may help minimise attacks. After the series of incidents culminating in the arson attack, they have told Forum 18 that they no longer think this.

Censorship

The Religion Law also requires state examination of all imported religious materials, as well as those distributed or placed in a library. It also bans all distribution without state permission 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 for this purpose. Those who distribute religious materials in locations which have not been approved by the state face fines under the Violations Code (see above).

"Religious literature can be imported only after passing compulsory state censorship, and the authorities also demand that they censor and give permission for any text we want to give out in open public places. This is a significant obstacle to sharing one's beliefs," one person who wished to remain anonymous told Forum 18 in 2019.

Censorship, including against loosely-defined "extremist" material, is conducted by the State Commission for Religious Affairs (SCRA). However, since November 2015 Jehovah's Witnesses have been able to import texts unimpeded, after they have passed censorship.

Censorship also affects films. The film "I am Gay and Muslim" was scheduled to be shown in September 2012 at the Bishkek Bir Duino (One World) human rights film festival. The film, by Dutch filmmaker Chris Belloni, follows the life of several gay Moroccan men who reflect on their orientation and Islam. After a protest from the then-acting Chief Mufti to the NSC secret police, the NSC asked the SCRA to conduct an "expert analysis" of the film.

The same day the SCRA concluded that the film was "extremist" under the 2005 "Anti-Extremism" Law, and later that day the NSC confiscated the film before it could be shown, and gave film festival organiser Toleskan Ismailova a warning that if she showed the film she faced possible prosecution under Criminal Code Article 299 ("Incitement of national, racial, or religious hatred").

General Prosecutor Aida Salyanova also telephoned Ismailova the same day to warn her not to show the film, and the next day the film was banned, and the State Communications Agency was ordered to block internet access to the film. Attempts to challenge the ban on the film and the warning issued to Ismailova failed.

As of 13 January 2022, the film remains on the list of banned "extremist" materials on the Justice Ministry website.

"Expert analyses" have in 2021 been used to censor religious materials, and to potentially open the way to ban an entire religious community (see below).

NSC secret police criminal case attempt to ban religious community

On 4 December 2019, the NSC secret police opened a criminal case against so far unspecified members of the Jehovah's Witness national centre in Bishkek under the then Criminal Code's Article 313, Part 2, Point 2. This punishes "Incitement of racial, ethnic, national, religious or inter-regional enmity (discord) conducted by a group of people in a prior conspiracy" with jail terms.

Old Criminal Code Article 313 is similar to new Criminal Code Article 330 which came into force on 1 December 2021. Any trial would take place under the Criminal Code in force at the time the "crime" was committed.

Jehovah's Witnesses fear that any guilty verdict would have wider consequences. "A guilty verdict would likely lead to closing the centre, dissolving its activities, likely confiscating its assets, and subsequent prosecutions and imprisonment of anyone who was deemed to be continuing those activities," they told Forum 18.

As part of the criminal case, the NSC secret police raided the Jehovah's Witness national centre in Bishkek and the adjoining residence on 25 March 2021. Officers seized documents and electronic equipment from both. "After protests they returned the confiscated materials within one day," Jehovah's Witnesses told Forum 18.

Acting on an NSC secret police request, a General Prosecutor's Office suit in a second case aiming to ban 13 Jehovah's Witness publications and 6 videos as "extremist" (see below) notes that four "expert analyses" of Jehovah's Witness publications and videos were commissioned as part of the criminal case.

On 7 July 2021, Jehovah's Witnesses contacted the Ombudsperson's Office in Bishkek to express concern about the continuing criminal investigation. The Ombudsperson's Office then contacted the General Prosecutor's Office. On 1 October 2021, the Deputy Ombudsperson responded to the Jehovah's Witness national centre saying that the criminal case is still open.

Asked what steps the Ombudsperson's Office had taken or would take to protect the rights of Jehovah's Witnesses to exercise freedom of religion or belief, it told Forum 18 on 2 December 2021 that it had given Jehovah's Witnesses a "legal consultation", while stressing that it could not get involved in legal cases. It added that it had told Jehovah's Witnesses they could request an observer from the Ombudsperson's Office at any legal hearings.

As of 13 January 2022, prosecutors had not stated that they had identified any individual suspects in the long-running criminal case. No case has yet reached court, and there is no indication of when or if this may happen.

NSC secret police civil case attempt to ban religious community

In a second but linked civil case, on 29 July 2021 Kamchybek Tashiyev, the head of the NSC secret police, sent a letter (seen by Forum 18) to the General Prosecutor Kurmankul Zulushev making various allegations against Jehovah's Witnesses. Tashiyev asked the General Prosecutor "in order to forestall [unspecified] negative consequences from the illegal activity" of Jehovah's Witnesses as well as "to prevent damage to national security" not only to ban items of their literature, but to consider a ban on the entire organisation. He attached 142 pages of "non-secret" material.

Under Kyrgyzstan's legally binding international human rights obligations, neither "to forestall [unspecified] negative consequences" nor "national security" are legitimate reasons to restrict the exercise of freedom of religion or belief. The United Nations Human Rights Committee has, in General Comment 22 on International Covenant on Civil and Political Rights Article 18 (<https://undocs.org/CCPR/C/21/Rev.1/Add.4>) ("Freedom of thought, conscience and religion"), stated: "restrictions are not allowed on grounds not specified there [in ICCPR Article 18], even if they would be allowed as restrictions to other rights protected in the Covenant, such as national security."

NSC secret police head Tashiyev claimed, without giving evidence, that Jehovah's Witnesses "at various times and in various countries have been accused of rape, child kidnapping, murder, incitement to murder and suicide, desertion, fraud, theft, racism, extortion, bodily harm, prostitution, etc. The activity of Jehovah's Witnesses is banned in Russia, China, Turkmenistan, Tajikistan, Iran, Iraq and in a number of other countries."

"Expert analyses"

Citing "expert analyses" of Jehovah's Witness materials undertaken as part of the separate but linked criminal investigation, Tashiyev insisted that these publications incite "religious hatred (discord) and propaganda of exclusivity, superiority or inferiority of citizens on the basis of their religious views", a "hostile attitude" towards people of other faiths, and calls for individuals to refuse to perform civic duties prescribed by law.

The four "expert analyses" were conducted by the Justice Ministry's Judicial Expert Analysis Centre: two on 30 December 2019 (one of 3 pages, the other of 5 pages); one on 8 April 2020 (of 17 pages); and the fourth on 6 May 2021 (of 33 pages). The "experts" included a list copied from a Russian blog of 63 things Jehovah's Witnesses are supposedly unable to do. These include laughing at

obscene jokes, getting fat, attending rock concerts, and throwing rice at weddings.

An official of the Justice Ministry's Judicial Expert Analysis Centre, who refused to give her name, refused to discuss the "expert analyses" with Forum 18 on 29 November 2021.

A human rights defender, who wished to remain anonymous, noted that many prosecutions for "extremist" literature depend on such "expert analyses". "The main issue is that for any arrests or bans to be legitimate, there has to be a court-based decision that finds this literature 'extremist' – which is what the General Prosecutor's Office is apparently trying to do [in the Jehovah's Witness case]," the human rights defender told Forum 18 on 30 November 2021. "They have to base their decision on a linguistic and semantic analysis, which is where the problem lies, as the quality of these analyses is severely lacking." When such "expert analyses" have been placed before a court, courts have often allowed their use to suppress the exercise of human rights.

NSC secret police head Tashiyev also claimed that "according to doctors, negative psychological changes may be caused by being a member of this organisation". He also mentioned a demonstration outside the Jehovah's Witness national centre in Bishkek on 14 February 2021 which included "victims", as well as "citizens' collective appeals to state agencies about the need to take measures against the uncontrolled [Jehovah's Witness] activity".

The NSC secret police have refused to answer Forum 18's questions about Tashiyev's letter to the General Prosecutor seeking the banning of Jehovah's Witness literature and asking for a ban on the organisation to be considered, or about why the NSC is conducting a criminal case.

NSC secret police civil case heard in court

Following NSC secret police head Tashiyev's 29 July 2021 request, on 17 November 2021 Deputy General Prosecutor Kumarbek Toktakunov sent a suit to Bishkek's Pervomaisky District Court asking it to ban 13 Jehovah's Witness books (3 in Kyrgyz and 10 in Russian) and 6 videos as "extremist". The General Prosecutor's Office suit asked the Court to assign enforcement of any ban to the NSC secret police, the ordinary police, the State Commission for Religious Affairs (SCRA), and the Digital Development Ministry's Communications, Regulation, and Oversight Service.

The 16-page General Prosecutor's Office suit – seen by Forum 18 – notes that it draws on allegations by the NSC secret police. The suit – quoting word for word a claim by NSC secret police head Tashiyev - claims that Jehovah's Witness teaching "is contradictory and oriented towards people who don't know the fundamentals of religion and the Bible", and that it is based on "the personal views of the founders of the organisation who misinterpret the Bible".

The OSCE / Council of Europe Venice Commission Guidelines on the Legal Personality of Religious or Belief Communities (<https://www.osce.org/files/f/documents/9/9/139046.pdf>) note that under international human rights law: "states should observe their obligations by ensuring that national law leaves it to the religious or belief community itself to decide on its leadership, its internal rules, the substantive content of its beliefs .. In particular, the state should refrain from a substantive as opposed to a formal review of the statute and character of a religious organization."

The General Prosecutor's Office suit also points to the criminal case opened against so far unspecified representatives of the Jehovah's Witness national centre in December 2019, the March 2021 NSC secret police raid on the centre, and the "expert analyses" conducted by the Justice Ministry's Judicial Expert Analysis Centre (see above). No one at the General Prosecutor's Office in Bishkek would discuss the banning suit with Forum 18.

Jehovah's Witnesses told Forum 18 that they only learnt of the General Prosecutor's Office suit on 23 November 2021. This allowed them little time to prepare for the hearings. Only at 4 pm on Friday 26 November did officials tell them that the first hearing would be on Monday 29 November.

As well as the Prosecutor's Office representative, who a court official identified as Azatbek Temirbayev, representatives of "interested parties" – the NSC secret police, the Interior Ministry, and the State Commission for Religious Affairs (SCRA) – were also present in court. SCRA lawyer Aybek Iminov (who participated in the case) refused to comment to Forum 18 on 7 December 2021 about his involvement in the case, and whether the SCRA considers the Jehovah's Witness books and videos "extremist".

"We believe that the General Prosecutor's Office initiated the civil case to declare some publications 'extremist' primarily to strengthen the criminal investigation (see above), and pave the way for an eventual claim to liquidate the national headquarters and ban the peaceful worship of Jehovah's Witnesses," Jehovah's Witnesses added.

The Court assigned the case to Judge Venera Aydaraliyeva. Jehovah's Witness representatives asked for an adjournment to allow them to study the documentation, which was only made available to them at the brief hearing.

"The repression is postponed for now"

The banning case resumed on the morning of 2 December 2021. After a brief hearing, Judge Aydaraliyeva withdrew to consider objections to the suit. After 40 minutes the Judge came back and announced that she was leaving the suit "without consideration". She noted that the suit had been filed under the procedure where there is no dispute about the facts. As the objections made clear that the facts were in dispute, the matter could only be considered in a regular civil case with proper notice and all the rights to a fair hearing.

The General Prosecutor's Office accepted the 2 December court decision as founded in law and would not challenge it, Azatbek Temirbayev told Forum 18 on 17 December 2021. However, he also said that it is for the NSC secret police or the Interior Ministry to decide if they wish to prepare material for a new suit.

Synat Sultanalieva of Human Rights Watch, who was present at the court, commented on 2 December 2021: "The repression is postponed for now, more [international] monitoring needed!" She told Radio Free Europe's Kyrgyz Service for a 4 December article that, although the court dismissed the suit, she regarded the suit itself as a "very dangerous sign". She insisted that the Jehovah's Witness publications are not dangerous, and expressed surprise at the NSC secret police and ordinary police seeking to ban them.

"The conditions of the international agreements shall prevail"?

The Religion Law states: "If there exist other conditions defined within international agreements signed by the Kyrgyz Republic, different from those stated in the legislation of the Kyrgyz Republic related to freedom of religion and religious organisations, then the conditions of the international agreements shall prevail." Violations of Kyrgyzstan's legally binding human rights obligations (<https://www.ohchr.org/EN/Issues/FreedomReligion/Pages/Standards.aspx>) continue, including those relating to freedom of religion or belief, so it is difficult to see how Kyrgyzstan can be described as a state where the rule of law applies.

The legally-binding International Covenant on Civil and Political Rights (<https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>) states that "recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world." Despite this, arbitrary official violations of freedom of religion and belief with other human rights continue. As the January 2022 events in neighbouring Kazakhstan (<https://www.rferl.org/a/kazakhstan-protests-analysis-poverty-corruption/31641045.html>) indicate, human rights violations endanger any society's "freedom, justice and peace". (END)

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

Previous Forum 18 Kyrgyzstan religious freedom surveys (<https://www.forum18.org/analyses.php?region=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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If you need to contact F18News, please email us at:
f18news @ editor.forum18.org

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY