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KYRGYZSTAN: Freeing belief communities from state interference "a mistake"

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

A meeting chaired by Kyrgyzstan's President Almazbek Atambayev has described as a "mistake" the constitutionally-enshrined "distancing state bodies from regulating processes in the religious sphere". Following the meeting, a presidential Decree prepares the way for increased state control over the Muslim Board. The Decree also announces the preparation of legal changes. One Kyrgyz commentator told Forum 18 News Service that "many of the proposals emerging now contradict the Constitution". The commentator – who asked not to be identified – stated that "many religious communities are afraid that under any new legal changes they will be stripped of state registration." Despite the proposed heavy state controls over various aspects of the Muslim Board, its press secretary Asan Saipov told Forum 18 that "our government doesn't seek to control us". Asked why the Muslim Board could not choose its own leaders and verify their qualifications without state interference, Saipov responded: "The state needs to know who the imams are and where they were educated".

A closed government meeting chaired by Kyrgyzstan's President Almazbek Atambayev has described as a "mistake" the constitutionally-enshrined "distancing state bodies from regulating processes in the religious sphere". Participants in the 3 February Defence Council meeting included the new acting head of the state-backed Muslim Board Maksat Haji Toktomushev, the new head of the State Commission for Religious Affairs (SCRA) Orozbek Moldaliyev, as well as officials from the National Security Committee (NSC) secret police, other state agencies, the Presidential Administration, the Parliament (Zhogorku Kenesh), and other government ministers and officials.

Following the meeting, a presidential Decree of 7 February prepares the way for increased state control over the Muslim Board. The Decree also announces the preparation of legal changes that may further restrict rights to freedom of religion or belief for all, Forum 18 News Service notes.

Constitutional changes?

Formally imposing state control over the Muslim Board would require changes to Kyrgyzstan's Constitution, which came into force in 2010. This states in Article 7, Part 1: "In the Kyrgyz Republic, no religion can be established as the state religion or the compulsory religion." Article 7, Part 2 states: "Religion and all religious communities are separate from the state."

The Religion Law, which came into force in 2009, would also need to be changed. Article 5, Part 5 states: "The state does not interfere in the activity of religious organisations as long as it does not contradict the law, does not allow the establishment of any privileges for or restrictions on one religion or religious belief in relation to others, and does not finance the activity of religious organisations or activity to promote atheism". Despite these claims, the Religion Law contains multiple limitations on freedom of religion or belief (see Forum 18's December 2009 Kyrgyzstan religious freedom survey http://www.forum18.org/archive.php?article_id=1388).

Concern

One Kyrgyz commentator in the capital Bishkek expressed concern that once again new proposals were emerging to restrict individuals' and religious communities' right to freedom of religion or belief. "Many of the proposals emerging now contradict the Constitution," the commentator – who asked not to be identified – told Forum 18. "Many religious communities are afraid that under any new legal changes they will be stripped of state registration."

Kyrgyzstan has a history of proposing at times draconian new restrictions on freedom of religion or belief – often with backing from a wide range of state agencies – which ultimately fail to gain adoption. Among such were proposed amendments the government backed in 2013 to increase penalties for exercising the right to freedom of religion or belief, which are now stalled in the Zhogorku Kenesh (see below).

Defence Council meeting

The latest proposed changes were set in motion at a closed 3 February meeting of the presidential Defence Council, chaired by President Atambayev. (Defence Council meetings are normally closed.) He claimed that in allowing freedom of conscience, "the authorities have allowed the religious sphere to take its own course". "All these omissions, we now feel acutely," he claimed, particularly among the Muslim population.

Atambayev criticised what he saw as Arab, Bangladeshi or Pakistani norms in culture or clothing among local Muslims. "Of course we are Muslims – that's the religion of our ancestors, but at the same time we are above all Kyrgyz!" he was quoted on the presidential website as telling the Defence Council.

State has the "full right" to interfere in religious communities' activity

Participants at the meeting insisted that the Constitution's separation of religion and the state is to prevent religious communities interfering in the state, while the state has the "full right" to interfere in religious communities' activity. The presidential website implies that this statement was made by President Atambayev. He pointed to Afghanistan, Iraq, Egypt and Syria as places where, he claimed, ill-effects had followed the intervention of clergy in the affairs of the state.

President Atambayev sharply criticised the Muslim Board for turning itself into a "commercial entity". "Unless the state takes under its control processes in the religious sphere and puts them on the right track, forces will emerge which will take charge of these processes and threaten the unity of the nation and the future of our country," he claimed.

President Atambayev ordered the preparation of a new Concept on State Policy in the Religious Sphere for 2014-20, to be drafted by 1 April. He insisted that this and any changes that followed from it would not harm fundamental rights and freedoms.

"Pseudo-Christian, pseudo-Orthodox religious ideas"?

The Zhogorku Kenesh's Speaker, Asylbek Jeenbekov, said that the Muslim Board needs reform and is incapable of reforming itself. It would need the state's help.

New acting Mufti and head of the state-backed Muslim Board (from 7 January) Toktomushev was present at the closed-door meeting. He told journalists after the meeting that criticism of the Muslim Board is justified.

SCRA head Moldaliyev – who has been in office since 17 January - told journalists after the meeting that legal changes would focus in particular on the state registration of religious organisations. "There are religious organisations which are unregistered. All this must be put right," local news agency Akipress quoted him as declaring.

Moldaliyev complained about what he saw as the influx of "pseudo-Christian, pseudo-Orthodox religious ideas" after the country's independence – without explaining what exactly he meant. He expressed backing for the Hanafi school of Islam and the Russian Orthodox Church.

Presidential Decree

President Atambayev followed up the Defence Council meeting with a detailed 7 February Decree confirming the 3 February decisions, published on the presidential website.

The Decree worries about the "loosening of the foundations of the Hanafi school of Sunni Islam" caused by the influence of foreign religious organisations. It warns that the "current state of education .. creates conditions for the distorted interpretation of the foundations of Islam and other religious faiths". It does not explain why the state should be involved in determining which interpretations of individual faiths are correct or not.

The meeting "recognised as a mistake the practice which emerged in the early years of independence of distancing state bodies from regulating processes in the religious sphere".

- Sub-groups

The Defence Council was ordered to create sub-groups on four themes:

- to create a new Concept on State Policy in the Religious Sphere by 1 April;

- with the Presidential Administration to conduct by 1 April a "functional analysis" of work by the SCRA, the State Security Committee and the Interior Ministry to counter "extremism";

- "to conduct a functional analysis of the structures, decision-making procedures and systems of accountability in today's Muslim

Board and to offer proposals to increase the effectiveness of its activity and the improvement of its mechanisms of joint work with state bodies";

- and to prepare for the government proposals for changes to the Religion Law, the Code of Administrative Offences and other laws "taking into account the changed religious situation and approaches to its regulation".

- Detect "extremism"

The government was ordered to consider how state finance could be provided to clergy using experience of (unnamed) foreign countries. It was also ordered to create an expert council to detect "extremism" in publications and speeches.

Exactly what this "extremism" is is not defined.

The Foreign Ministry was ordered to include on its consular list all Kyrgyz going abroad for religious or any other education and support their return to Kyrgyzstan.

The Interior Ministry, the SCRA, the National Security Committee (NSC) secret police, and other state bodies were ordered to monitor the activity of "extremists", prevent "extremist" publications and cut off finance for "extremist" organisations. The state bodies were also ordered to "analyse and take decisions on the basis of it on the activity in Kyrgyzstan of the Tabligh Jamaat movement and other religious organisations working without state registration".

Officials have long considered banning Tabligh Jamaat, which is already banned in Uzbekistan, Tajikistan, Russia and Kazakhstan. Kyrgyzstan's General Prosecutors Office told the Zhogorku Kenesh in a February 2009 report that it had lodged a suit in a Bishkek court to ban the movement throughout Kyrgyzstan. However, so far Tabligh Jamaat has not been banned.

- Education

The Education Ministry was ordered to introduce lessons on "the history of religious culture" and tolerance in schools. It was also ordered to introduce a system of licensing for religious education establishments. It was ordered to analyse what is being taught in foreign-financed Kyrgyz higher education institutions and rule on the "appropriateness" of their continued operation.

The Education Ministry, the SCRA, the Foreign Ministry and the Muslim Board are ordered to halt individuals' "uncontrolled" travel abroad for religious education. They are to draw up a list of "recommended" foreign religious education establishments and promote this list among those planning to travel abroad for such education.

- Legal status of religious organisations

The SCRA is ordered to analyse the registered status of religious organisations and to propose "the optimisation of their system of accounting".

- "Recommendations" to Muslim Board

The Defence Council also gave specific "recommendations" to the Muslim Board "with the aim of strengthening the trust of Muslims of the country in the ruling body of the Islamic religion". It was told to amend its Statute to increase transparency over income by increasing the independence of the Council of Ulems (religious scholars) and the Audit Committee, as well as increasing the regular reporting by the Chief Mufti.

The Board was also told "to bring order to the system of electing imams and the Mufti, the conducting of attestation of imams and mosques and other forms of qualifications and exams for clergy with the participation of representatives of state bodies, and the creation of a system of material encouragement of its results, as well as the appointment of imams of mosques and imam-hatibs after appropriate checks by state agencies of whether they are members of extremist and destructive organisations".

The Board was told to conduct "canonical work" to unmask "extremist doctrines among fundamentalist movements".

- State appointment of Islamic leaders

On the appointment of imams, the Muslim Board was told to revert to the procedure in its Statute until 2009 under which "the appointment of leaders of religious organisations is agreed with local authorities with the aim of preventing the taking up of appointments as imams of mosques and regional imam-hatibs by persons holding extremist views".

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

- Collective Security Treaty Organisation proposal

The Foreign Ministry was ordered to propose to the Collective Security Treaty Organisation (CSTO) the creation of a council of state religious affairs agencies "for the speedy exchange of information in the area of religion, the improvement of national laws in the area of religion and the adoption of agreed decisions of a preventive nature".

As well as Kyrgyzstan, five other countries (Armenia, Belarus, Kazakhstan, Russia and Tajikistan) are members of the CSTO. The press secretary at the CSTO in Moscow, Vladimir Zaynetdinov, declined to tell Forum 18 by phone on 26 February if the Kyrgyz Foreign Ministry has yet submitted such a proposal. No response had arrived in writing to its question by the end of the working day in Moscow on 26 February.

Working Group members

The Secretary of the Defence Council, Major-General Beishenbai Junusov, was put in charge of the Working Group to oversee the work. Moldaliyev of the SCRA and a Deputy Prime Minister were named as Deputy Chairs. Other members include Mira Karybayeva, Head of the Presidential Administration's Ethnic, Religious Policy, and Cooperation with Civil Society Department, as well as six deputy ministers and the deputy head of the NSC secret police.

Why is freedom of religion or belief policy under Defence Council?

Officials would not put Forum 18 through to Major-General Junusov, Secretary of the Defence Council, on 25 February. They referred Forum 18 instead to his First Deputy, Major-General Kubanychbek Oruzbayev.

Asked why devising policy affecting freedom of religion or belief is an issue for the presidential Defence Council, Major-General Oruzbayev told Forum 18 that the Council is simply the renamed Security Council and "it deals with a range of issues". He insisted that freedom of conscience will be respected.

Asked why controls were planned over the Muslim Board, given the Constitution's separation of religion and the state, Oruzbayev stressed that his background is in the military and that he did not take part in the Working Group's first meeting on 20 February. He identified SCRA head Moldaliyev as playing a leading role in the Working Group's work and suggested asking him.

SCRA head Moldaliyev refused to discuss the issue. "I don't give interviews to unknown journalists", he claimed to Forum 18 on 25 February before putting the phone down.

Forum 18 was unable to put these questions to Karybayeva of the Presidential Administration. She told Forum 18 on 26 February that no deadlines for the proposed legal amendments were set out at the first Working Group meeting on 20 February. She stressed that civil society – including a Muslim, a Russian Orthodox and a Baptist, as well as academic experts – are involved in the Working Group. After outlining the four sub-groups of the Working Group she then said she was already late for a meeting of the first sub-group, of which she is a member, and ended the call.

"Our government doesn't seek to control us"?

Despite the proposed heavy state controls over various aspects of the Muslim Board, its press secretary Asan Saipov expressed no concerns. "The President wants normalised Hanafi Islam," he told Forum 18 from Bishkek on 26 February. "Our government doesn't seek to control us, it just wants order and to prevent the activity of terrorist groups. We want the state to bring order. We want government support."

Asked why the Muslim Board could not choose its own leaders and verify their qualifications without state interference, Saipov responded: "The state needs to know who the imams are and where they were educated." Asked what would happen if the Board chooses a candidate for a post and state officials reject the appointment, he replied: "There won't be cases where officials will reject candidates. They will merely vet them."

Saipov insisted that the Board itself had chosen to move the elections for a new Mufti from 8 February to 4 March. "There was no pressure from the state," he claimed. While noting that the SCRA had not approved the amendments to the Board's Statutes approved at a Kurultai in December 2012, Saipov insisted SCRA officials were not at fault. "Local keneshes [administrations] failed to approve them, so the SCRA could not approve them. No-one did wrong."

Previous proposed new punishments dropped

On 20 June 2013 the NSC secret police published for "public discussion" amendments which would have introduced or increased penalties in the Code of Administrative Offences for sharing one's beliefs with others, participating or leading unregistered exercise of freedom of religion or belief. The amendments received the backing of the SCRA and other state bodies and were approved by the government on 24 September 2013 and sent to the Zhogorku Kenesh.

State officials – from both the NSC and the SCRA – vigorously defended the proposed new punishments to Forum 18 in September 2013. They rejected the widespread concerns expressed by local religious communities.

However, the Zhogorku Kenesh did not even consider the proposed amendments, which were blocked by its Human Rights Committee.

Earlier government attempts to change the Administrative Code to introduce new punishments and "offences" for exercising freedom of religion or belief were abandoned by the Justice Ministry in April 2013 (see F18News 8 April 2013 http://www.forum18.org/archive.php?article_id=1821). Like the latest attempts, those amendments too had been prepared by the NSC secret police (see F18News 8 January 2013 http://www.forum18.org/archive.php?article_id=1788).

However, the government was successful in introducing tightened religious censorship via the Religion Law, which came into force in December 2012 (see F18News 13 December 2012 http://www.forum18.org/archive.php?article_id=1781).

Legal status to be made more difficult to obtain?

The Kyrgyz government informed the United Nations Human Rights Committee (HRC) in Geneva on 17 January 2014 that preparations are already underway to revise the Religion Law. It said that a particular focus would be on the numbers of founders needed to apply for registration.

The comment came in paragraph 157 of its submission to the HRC (CCPR/C/KGZ/Q/2/Add.1 http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fKGZ%2fQ%2f2%2fAdd.1&Lang=en) as part of the HRC's review of Kyrgyzstan's compliance with the International Covenant on Civil and Political Rights. The Committee is due to examine Kyrgyzstan's record in Geneva on 10 and 11 March, with concluding observations to be adopted on 25 March.

Kyrgyz religious believers told Forum 18 that they fear not only that the proposed legal changes will make registration more difficult, with a possibly increased number of required founders. They also fear that this will be used to strip many religious communities of their state registration and thus their right to exist legally. "It's just a matter of time before groups like Protestants and Jehovah's Witnesses are stripped of registration," one religious believer who wished to remain anonymous told Forum 18 from Bishkek.

"Against the Constitution and discriminatory"

In defiance of Kyrgyzstan's international human rights obligations, Article 8, Part 2 of the Religion Law bans the unregistered exercise of freedom of religion or belief. It also states that individuals face punishment if they exercise this human right without state permission in association with others. Registration is very difficult to obtain, and requires 200 adult citizen permanent residents whose are willing to openly identify themselves to local keneshes (local councils). Even if religious communities have this number of members, many people are afraid to openly identify themselves as members to the authorities (see Forum 18's Kyrgyzstan religious freedom survey http://www.forum18.org/archive.php?article_id=1388).

After the Religion Law came into force in 2009, many religious communities remained unsure if their previous registration remained valid. Many have failed to gain registration, including all non-Muslim and non-Russian Orthodox communities (see eg. F18News 2 April 2013 http://www.forum18.org/archive.php?article_id=1821). The Law has been described by human rights defenders Valentina Gritsenko of Justice, a human rights group in Jalal-Abad, and Dmitri Kabak of Open Viewpoint in Bishkek as "against the Constitution and discriminatory" (see F18News 16 January 2012 http://www.forum18.org/archive.php?article_id=1655).

One religious community – the Ahmadi Muslim community – had its registration stripped from it. Because of the re-registration denial, the Ahmadi community has not been able to meet for worship since July 2011. The General Prosecutor's Office has also sought to have the community banned as "extremist" (see F18News 19 December 2012 http://www.forum18.org/Archive.php?article_id=1784).

In a 2 April 2009 decision, seen by Forum 18, Bishkek Kenesh rejected the registration documents of nine named religious communities, including Protestants, Jehovah's Witnesses, Jews and Catholics. At the same time it called for the Religion Law to be amended to abolish the requirement for keneshes to give approval for lists of founders. In a separate decision the same day, the Bishkek Kenesh approved the list of signatures for re-registration of the Russian Orthodox Bishkek and Kyrgyz Diocese.

In November 2011 the SCRA announced that permission to exist without applying for registration had been given to 122 mosques, 23 Muslim religious education institutions, and three Russian Orthodox organisations. It is unclear why these exceptions were made. The SCRA also claimed at the time that 2,200 religious organisations and associations are officially registered, including 77 Islamic organisations, 1,764 mosques, 62 madrassahs (Islamic religious schools), and 140 Christian communities, including Baptist, Catholic, Pentecostal and Russian Orthodox churches (see F18News 16 January 2012

http://www.forum18.org/archive.php?article_id=1655).

In late 2013, the SCRA published on its website lists of both Muslim and non-Muslim registered organisations. The published lists reveal that only 11 Muslim communities and 2 non-Muslim communities (both Russian Orthodox parishes) have been able to gain registration since the entry into force of the Religion Law. (END)

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

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

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

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