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KYRGYZSTAN: Repressive draft new Religion Law out for public discussion

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The Chair of the State Commission for Religious Affairs, Toygonbay Abdykarov, insisted to Forum 18 that the proposed new Religion Law it prepared "may be restrictive, but we have all the reasons for it to be so". It would continue to require all religious communities to gain state registration before being allowed to exercise freedom of religion or belief, but would require re-registration every 5 years. An Amending Law would impose Violations Code fines for a greater range of "offences". The public have until 9 December to submit comments.

On 10 November, the government's draft legislation website posted the Kyrgyz and Russian texts of two proposed new laws which would continue to restrict freedom of religion or belief. A proposed new Religion Law would replace the 2008 Religion Law and subsequent amendments. An associated proposed new Amending Law in the Area of Religion would introduce amendments to the 2021 Violations Code, as well as the laws on political parties, on elections to and deputies of local keneshes (administrations), and on parliamentary deputies.

A member of a religious community, who asked Forum 18 not to identify them or their community, complained that the proposed new Religion Law is "more restrictive than the current one".

One Protestant expressed concern about the provision that religious communities would have to re-register every five years. "We believe that they will use this to close down any church they do not like," they told Forum 18 (see below).

A member of the Ahmadi Muslim community, which was banned by the authorities in 2011 (https://www.forum18.org/archive.php?article_id=2711), complained to Forum 18 that the proposed new Religion Law "on top of all the restrictions which make it impossible for us to share our faith, has some vague nuances. It says nothing about religious communities whose headquarters are not inside the country but abroad."

"Ever since our ban we have not been able to meet publicly for worship," the Ahmadi Muslim added. "It is unfortunate that a peaceful community such as ours was refused registration under the excuse of being a destructive organisation."

Both drafts were prepared by the State Commission for Religious Affairs (SCRA), and both draft laws are open for public discussion until 9 December. As of 28 November, the SCRA website makes no mention of the proposed new Laws or that they are open for public discussion (see below).

Toygonbay Abdykarov, Chair of the SCRA, refused to explain to Forum 18 why a new more restrictive Religion Law is needed. Told that a range of religious communities have complained to Forum 18 that it is a "very restrictive Law" and asked why - instead of improving the current Religion Law to allow freedom of religion or belief - the authorities made it more restrictive, Abdykarov admitted: "Yes, it may be restrictive, but we have all the reasons for it to be so" (see below).

The new Religion Law – if eventually adopted by Parliament, the Zhogorku Kenesh, in its current form – would come into force 10 days after its official publication following presidential signature (see below).

The government's draft legislation website published a justification for producing the draft Religion Law along with the texts of the two draft laws. The justification claims among other reasons that the "objective of the draft law .. is to .. fulfil the international obligations of the Kyrgyz Republic" (see below).

The SCRA has previously prepared multiple drafts of a new Religion Law, all of which would have continued to violate Kyrgyzstan's legally binding international human rights obligations, and has argued against Kyrgyzstan implementing its human rights obligations. The latest draft Religion Law and the draft Amending Law contain multiple examples of the regime ignoring legally-binding international human rights obligations (see below).

The proposed new Law would (see below) among other things:

- continue to require all religious communities to gain state registration before they are allowed to exist or exercise freedom of religion or belief;
- continue to make illegal and punishable any exercise of freedom of religion or belief by religious communities without state registration;
- impose compulsory re-registration of religious communities every five years;
- impose multiple burdensome registration requirements, including high thresholds for the numbers of founders required for a religious community;
- impose obstacles to founding religious communities, such as requiring a founding meeting to unanimously vote to establish a community;
- give the SCRA multiple arbitrary powers to reject registration applications, including requiring a state "expert analysis" of beliefs;
- allow the National Security Committee (NSC) secret police and Interior Ministry to veto a religious community being founded on grounds of alleged "possible involvement in terrorist and extremist organisations and terrorist activities";
- ban Muslims from founding any religious communities which are not controlled by the regime-controlled Muslim Board;
- give the SCRA extensive powers to "control" registered religious organisations and religious education establishments, as well as registered places of worship;
- give the SCRA extensive powers to ban religious communities;
- require registered religious organisations and religious education establishments to provide the SCRA with annual intrusive reports on their activities;
- require all places of worship, including Muslim prayer rooms, to gain state registration from the SCRA;
- ban Muslim prayer rooms in a residential block of flats (except on the ground floor) or in pre-school or general educational establishments;
- require registered religious organisations and educational establishments to gain SCRA permission for any religious rituals or other mass events they plan away from their registered premises;
- continue SCRA censorship of all religious texts and material, with only registered religious organisations being allowed to import such texts and material;
- continue the ban on distributing religious literature or materials "in public places, as well as by going round residential properties, state and municipal organisations, and in pre-school and general educational establishments, with the exception of religious educational establishments";
- ban religious education (whether of children or adults) without SCRA permission, including allowing the SCRA to control the curriculum;
- require SCRA permission for individuals to travel to study in a religious educational establishment abroad;
- continue to ban teaching religion individually outside a religious educational establishment;
- require SCRA registration for those sent by foreign religious organisations "to conduct religious activity in Kyrgyzstan", with only registered religious organisations being able to apply for such registration;
- and ban elected members of local keneshes and the national Parliament from conducting "religious activity". It is unclear if this means that elected members could not be leaders or members of registered religious organisations, or even be banned from attending any meetings for worship (see below).

The Violations Code allows the police and the SCRA to issue summary fines for violating Article 142. The new Amending Law increases the scope of the exercise of freedom of religion or belief that would be punishable under this Article (see below).

On 10 November, the government's draft legislation website posted the Kyrgyz and Russian texts of two proposed new laws which continue to restrict freedom of religion or belief. A proposed new Religion Law would replace the 2008 Religion Law (https://www.forum18.org/archive.php?article_id=2711) and subsequent amendments.

An associated proposed new Amending Law in the Area of Religion would introduce amendments to the 2021 Violations Code (https://www.forum18.org/archive.php?article_id=2711), as well as the laws on political parties, on elections to and deputies of local keneshes (administrations), and on parliamentary deputies.

Both drafts were government initiatives and prepared by the State Commission for Religious Affairs (SCRA), and the government website says both draft laws are open for public discussion until 9 December. As of 28 November, the website records no comments on either proposed new Law.

Ayday Khudaybergenova, Chief of Parliament's General Section, which is responsible for registering proposed Laws reaching Parliament, noted that the proposed new Religion Law and the Amending Law have not yet reached Parliament.

"9 December is the date until which all proposals from the public will be received and until 16 December they will be considered and decided whether any particular proposals from the public will be accepted," Khudaybergenova told Forum 18 on 28 November. "Then discussion of the Laws in Parliament will begin." She could not tell Forum 18 which Deputies would be responsible for initially considering the proposed new Laws. "We do not have any information on that yet."

The new Religion Law – if adopted in its current form – would come into force 10 days after its official publication following presidential signature.

The Kyrgyz authorities have not sought legislative assistance on these draft laws from the Organisation for Security and Co-operation in Europe (OSCE)'s Office for Democratic Institutions and Human Rights (ODIHR) or the Council of Europe's Venice Commission.

"ODIHR hasn't so far been asked by the Kyrgyz authorities to review either of these draft laws, but we would be ready and willing to do so if we received such a request," Katya Andrusz, ODIHR's spokesperson, told Forum 18 from Warsaw on 22 November. Similarly, a spokesperson for the Venice Commission told Forum 18 on 21 November that it has not received a request for an opinion on these draft laws.

"Yes, it may be restrictive, but we have all the reasons for it to be so"

Toygonbay Abdykarov, Chair of the State Commission for Religious Affairs (SCRA), refused to explain to Forum 18 why a new more restrictive Religion Law is needed. He did not explain why the SCRA has not publicised the draft Laws on its website. He did not say whether the authorities would be seeking legislative assistance from the OSCE or the Venice Commission.

"Last year we discussed the Law with representatives of various religious communities and now we opened it for open, public discussion," Abdykarov told Forum 18 on 28 November. "The communities have until 9 December to send their opinion and proposals. We will only then finalise the draft Law and only then discussions will begin in Parliament."

Told that a range of religious communities have complained to Forum 18 that it is a "very restrictive Law" and asked why - instead of improving the current Religion Law to allow freedom of religion or belief - the authorities made it more restrictive, Abdykarov admitted: "Yes, it may be restrictive, but we have all the reasons for it to be so, for each point in the Law."

Abdykarov declined further to discuss the Law or other questions related to violations of freedom of religion or belief in Kyrgyzstan. "Look you are taking my time. I am very busy. Please send the rest of your questions in writing."

"To .. fulfil the international obligations of the Kyrgyz Republic"?

The government's draft legislation website published a justification for producing the draft Religion Law along with the texts of the two draft laws. The justification claims that the draft Law is dictated by the need to enact the rights to freedom of belief and the activity of religious organisations in the light of the new May 2021 Constitution.

The new Constitution 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.forum18.org/archive.php?article_id=2711), as well as by Human Rights Watch and local and international human rights defenders.

"The objective of the draft law," the justification prepared by the SCRA claims, "is to improve the legislative framework, fulfil the

international obligations of the Kyrgyz Republic, and ensure continuity and consistency of state policy in the religious sphere." It also claims that the 2008 Religion Law contains "numerous inconsistencies and gaps" affecting half that Law.

The Amending Law is not accompanied by a separate justification.

The SCRA has previously prepared multiple drafts of a new Religion Law, all of which would have continued to violate Kyrgyzstan's legally binding international human rights obligations (https://www.forum18.org/archive.php?article_id=2705).

The most recent 2021 draft was withdrawn (https://www.forum18.org/archive.php?article_id=2850). SCRA Deputy Director Kanatbek Midin uuly told Forum 18 in July 2023 (https://www.forum18.org/archive.php?article_id=2850) that the then-draft Religion Law "needed improvement". He refused to explain the reasons in more detail, or whether United Nations (UN) Human Rights Committee Concluding Observations would be implemented in a revised draft Religion Law.

In December 2022, the UN Human Rights Committee's Concluding Observations on Kyrgyzstan (CCPR/C/KGZ/CO/3) (<https://www.undocs.org/CCPR/C/KGZ/CO/3>) stated – as have previous Concluding Observations – among other things that Kyrgyzstan should: "Expedite the adoption of the legislative amendments to the Freedom of Religion and Religious Organizations Act and ensure that all limitations that are incompatible with article 18 ["Freedom of thought, conscience and religion"] of the Covenant [the ICCPR] are removed .."

Kyrgyzstan ratified both the International Covenant on Civil and Political Rights (<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>) (ICCPR) and its Optional Protocol (OP1) (under which individual complaints are made (<https://www.ohchr.org/sites/default/files/2021-08/FactSheet7Rev.2.pdf>)) on 7 October 1994. By voluntarily doing this, Kyrgyzstan took on both the binding international human rights law obligations of the ICCPR, and the obligation to correct any violations of its obligations (<https://www.ohchr.org/en/instruments-and-mechanisms/international-human-rights-law>) – such as violations found by the UN Human Rights Committee.

Examples of such individual complaints include those concerning Jehovah's Witness communities, which have been repeatedly denied state registration (https://www.forum18.org/archive.php?article_id=2850), as have other communities. Such denials have "a chilling effect", Jehovah's Witnesses note. They took their cases to the UN Human Rights Committee, which in two decisions so far have found that Kyrgyzstan violated the rights of Jehovah's Witnesses (https://www.forum18.org/archive.php?article_id=2703) by arbitrarily refusing their communities in Naryn, Osh, and Jalal-Abad regions state registration.

SCRA officials have claimed – wrongly – that Human Rights Committee views "are for consideration but not for implementation" (https://www.forum18.org/archive.php?article_id=2850). Both the SCRA and court officials refused to explain to Forum 18 in July why the SCRA rejected registration applications – including after the Human Rights Committee decisions – ignored repeated Human Rights Committee decisions, and why the SCRA claimed that Kyrgyzstan's legally binding international human rights law obligations are not legally binding.

The draft Religion Law and the draft Amending Law contain multiple examples of the regime ignoring Kyrgyzstan's legally-binding international human rights obligations.

"Illegal" exercise of freedom of religion or belief

Under the current Religion Law, the unregistered exercise of freedom of religion or belief is illegal and punishable (https://www.forum18.org/archive.php?article_id=2711). Article 19, Part 1 of the proposed new Religion Law continues this restriction, specifying that the exercise of freedom of religion or belief without SCRA registration would be illegal and punishable under the Violations Code.

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>) state: "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."

Article 8 of the proposed new Religion Law would set out what exercise of freedom of religion or belief is permitted, including "satisfying the religious needs of believers", as well as sharing faith, holding meetings for worship and other religious purposes, religious education, producing and distributing religious literature, and building places of worship.

Article 8 then sets out what would be the "illegal" exercise of freedom of religion or belief: "activity without undergoing registration with the authorised state body [the SCRA], or carrying out activity outside the designated territory [where a religious organisation is registered], or carrying out religious educational activity privately outside of religious educational institutions".

The Amending Law would reword the provision in Article 142 of the Violations Code to punish those who exercise freedom of religion or belief without state permission with a fine of 75 Financial Indicators (FIs) on individuals (7,500 Soms, equivalent to just over two weeks' average wages) and 230 FIs on organisations. The Violations Code allows the police and the SCRA to issue summary fines for violating Article 142.

Burdensome registration requirements

Under Article 11 of the proposed new Religion Law:

- local religious organisations would require at least 100 adult citizen founders living in a single District of the country;
- regional religious organisations would require at least 500 adult citizen founders living in a single Region of the country;
- and national religious organisations would require at least 3,000 adult citizen founders living "proportionately" in at least five of the country's nine Regions. "Proportionately" is not defined.

(The current Religion Law requires religious organisations to have 200 adult founders (https://www.forum18.org/archive.php?article_id=2711) living anywhere in the country.)

A Protestant expressed concern about the large numbers of adult citizens that would be needed to register regional and national bodies. "We have difficulty collecting signatures of 200 persons at the moment to register in one locality," the Protestant told Forum 18 in late November. "This means to us that the authorities particularly do not want the participation of Protestant Churches in the decision-making process in the area of religion on the national or regional level. They want to limit our religious activity as much as they can."

Another Protestant agreed that finding people locally prepared to sign a registration application might be difficult in many places. "Currently citizens of Kyrgyzstan living anywhere in the country can be founders, but with the new Law only residents living in one region would be allowed for the registration of a community in a particular region," the Protestant told Forum 18 in late November. "This will create an extra burden, since often it is very difficult to find 100 members, as would be required, of a community living in the same region, who would agree to give their signatures to the state organs."

Many smaller churches have not sought state registration as they are, they told Forum 18 in July 2023 (https://www.forum18.org/archive.php?article_id=2850), "afraid of state reprisals for themselves as communities as well as their members". They fear that if regime agencies are given – as is required – the personal details of founders this will lead to state surveillance of their private lives, and possible later targeting by regime agencies. Followers of other beliefs, such as Hare Krishna devotees, have similar fears.

Fears of state reprisals have grown since 2019, and as a member of a religious community commented to Forum 18 (https://www.forum18.org/archive.php?article_id=2711) at the time: "practically speaking, registration only gives you permission to exist. Registration does not give you the freedoms one should expect."

In known incidents so far in 2023 of regime targeting of registered communities (https://www.forum18.org/archive.php?article_id=2849), a Catholic church has been raided by the SCRA, the National Security Committee (NSC) secret police, and Talas police "Department for the Struggle against Extremism and Illegal Migration", with congregation members detained at gunpoint, and two nuns each fined the equivalent of just over two weeks' average wages for reading the Bible at Mass. After the raid, the SCRA threatened to ban the Catholic Church nationwide. Elsewhere, two foreigners at a registered Protestant church were also fined.

The Interior Ministry, police "Departments for the Struggle against Extremism and Illegal Migration", the SCRA, and the NSC secret police all refused to explain to Forum 18 (https://www.forum18.org/archive.php?article_id=2849) why they violate legally-binding international human rights obligations.

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 "burdensome requirements that are not justified under international law include, but are not limited to, the following: that the registration application be signed by all members of the religious organization and contain their full names, dates of birth and places of residence .. that excessively detailed information be provided in the statute of the religious organization; that the religious organization has an approved legal address; or that a religious association can only operate at the address identified in its registration documents".

Legislation, the Guidelines also note, "should not make obtaining legal personality contingent on a religious or belief community having an excessive minimum number of members".

Article 12, Part 3 of the proposed new Religion Law would require all the founders of any religious organisation to be personally

present at a meeting that formally founded the organisation and chose its leadership. All participants would have to vote unanimously to found the organisation. A simple majority of votes would be required to choose the leaders.

It remains unclear what would prevent an individual who did not want a specific religious organisation to exist – for example a regime official - from attending a founding meeting, and voting against its founding.

Founders of a religious organisation would also be considered the members of it.

Under Article 22, Part 3, a religious community's application would require a full list of all the founders, including their full name, date of birth, citizenship, address, and identity document details. This list would have to be legally notarised. (The current Religion Law has the same requirement (https://www.forum18.org/archive.php?article_id=2711).)

Under Article 21, Part 1, the SCRA would reject any registration application if any one of the founders has lost their identity documents, has an unspent criminal record, or has been banned from "conducting religious activity in Kyrgyzstan" by a court.

It appears that if - for example - a local religious community gathers 100 adult citizens living locally, and they unanimously agree to found a religious organisation, and submit an application and associated documentation, if the SCRA would discover that any of the 100 is ineligible, the local religious community's application would be rejected. The religious community would then have to start the whole procedure again by calling a new founders' meeting and preparing a new application.

Article 19, Part 12 would allow the religious community 30 working days to appeal against a SCRA rejection after the application and associated documents have been returned to the community. The appeal must first be made to the SCRA or "a higher administrative body" (the President), and could then be made to a court.

Under Article 22, Part 3, religious communities applying for registration would have to include with their application a document with "information about the basics of the doctrine and the practice corresponding to it, including the history of its origin, the forms and methods of its activities, the attitude towards family and marriage, education, the peculiarities of the attitude towards the health of followers of a given religion, and restrictions for members and servants of the organisation regarding civil rights and obligations". (The current Religion Law has the same requirement (https://www.forum18.org/archive.php?article_id=2711).)

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: "The state must respect the autonomy of religious or belief communities when fulfilling its obligation to provide them with access to legal personality. ... states should observe their obligations by ensuring that national law leaves it to the religious or belief community itself to decide on ... 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."

Religious communities would also have to include documentary evidence that they have a suitable venue, which could not be a residential address, with all documentation related to the venue's purchase or rental.

Article 13, Part 3 of the proposed new Religion Law would require religious organisations to include in their statute "the territories in which the religious organisation carries out its activity".

Article 14 would specify that religious organisations' names and symbols must include their religious affiliation. Religious organisations would not be able to use names or symbols of already registered religious organisations. It is unclear how broadly this would be applied.

Under Article 15, only religious organisations of one faith with communities in all nine of the country's Regions (as in the current Law) would be allowed to form central administrations.

As at 28 November 2023, for example, the SCRA website lists Catholics, Jehovah's Witnesses and Seventh-Day Adventists as having registered communities in only 6 of the country's 9 regions, and the Russian Orthodox Church and the Baha'is having registered communities in 8 of the country's 9 regions.

Article 15 also specifies that for Muslims, the central administration would be the regime-controlled Muslim Board (https://www.forum18.org/archive.php?article_id=2711) (known as the Muftiate). This would appear to prevent the formation of independent nationwide Muslim bodies that are not controlled by the regime. The reason why Muslims are targeted by this restriction is not explained.

Article 18, Part 3 would ban already registered religious organisations from opening other "branches or representations". This appears designed to reverse a September 2014 Supreme Court ruling (https://www.forum18.org/archive.php?article_id=2711) that a religious organisation is not limited to carrying out its activity only in the place where it has its legal address.

Under Article 19, the SCRA would be given 30 days to consider registration applications, which can be lodged in either Kyrgyz or Russian. The SCRA would check "the veracity of information and accordance with the current Law" of the application and associated documents. The SCRA would return incomplete or inaccurate applications, but they could be resubmitted once corrected.

Article 19, Part 9 would specify that the SCRA "forwards the applicant's documents to the internal affairs and national security authorities to obtain a conclusion on possible involvement in terrorist and extremist organisations and terrorist activities". The Interior Ministry and the NSC secret police (https://www.forum18.org/archive.php?article_id=2711) would be given 14 working days to conduct "verification", while the SCRA would be given an extra 30 days.

Under Kyrgyzstan's legally binding international human rights obligations, "national security" is not a legitimate reason to restrict the exercise of freedom of religion or belief. The UN Human Rights Committee has, in General Comment 22 (<https://undocs.org/CCPR/C/21/Rev.1/Add.4>) on International Covenant on Civil and Political Rights Article 18 ("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."

This is reiterated in the OSCE's Freedom of Religion or Belief and Security: Policy Guidance (<https://www.osce.org/files/f/documents/e/2/429389.pdf>).

Article 19 of the proposed new Religion Law adds that the NSC secret police would check the founders and religious organisations against international and national lists of persons involved in allegedly "terrorist" and "extremist" activities, or money laundering.

The OSCE's Freedom of Religion or Belief and Security: Policy Guidance (<https://www.osce.org/files/f/documents/e/2/429389.pdf>) notes that "'extremism' is an imprecise term without a generally accepted definition, which leaves it open to overly broad and vague interpretations and opens the door to arbitrary application of the law".

Article 21, Part 1 would give the Interior Ministry and the NSC secret police the power to veto any community's registration.

The NSC secret police already stops registration applications (https://www.forum18.org/archive.php?article_id=2711), attempts to ban religious communities (such as Jehovah's Witnesses), and has been responsible for the banning of Ahmadi Muslims.

Article 19, Part 10 of the proposed new Religion Law would specify that "in cases of controversial issues of a religious nature," the SCRA would send the registration application to "independent experts" for a "state religious studies expert analysis". The SCRA would be given an extra 30 days to consider the application.

State "expert analyses" of religious materials and religious communities' beliefs have been used to justify regime human rights violations, such as censoring and banning films and texts officials dislike (https://www.forum18.org/archive.php?article_id=2711), attempting to ban an entire religious community, and in August 2023 jailing a Protestant for six months for questioning regime religious policy (https://www.forum18.org/archive.php?article_id=2870).

Article 21, Part 1 would allow the SCRA to reject applications from communities if they have "similar names" to existing registered religious communities. Article 22, Part 2 would allow individuals to check in advance with the SCRA if a proposed name for a religious organisation would be suitable.

Once a religious organisation is registered, under Article 27 it would be required to notify the local administration where it is based within five working days of its registration and its address. It would also have to provide it with the name, address, phone number and passport details of the leader. The religious organisation would need to send confirmation of this notification to the SCRA within five working days.

Once a religious organisation is registered, under Article 26 it would be required to notify the SCRA within 30 days of any changes to its founders (members), address, leadership body, phone or fax number, or e-mail address.

Religious organisations must re-register every five years

Article 10 of the proposed new Religion Law would divide registered religious organisations (the only ones allowed to exist and function) into national, regional, and local organisations.

Article 10, Part 2 would specify that the required compulsory SCRA registration would last no more than five years. Religious organisations that would want to continue to function would then be required to undergo re-registration. No reason is given for the five-year time limit on the validity of registration.

Article 23 would specify that re-registration applications would entail the same requirements as in the original registration procedure, with a requirement for a meeting of all the adult citizen founders and preparation of all required documentation.

One Protestant expressed concern about the provision that religious communities would have to re-register every five years. "We believe that they will use this to close down any church they do not like," they told Forum 18 in late November.

Another Protestant described the "repetition of this process every 5 years for new registration" to Forum 18 as "an immense burden".

The current Religion Law (https://www.forum18.org/archive.php?article_id=2711) has no time limit for the duration of registration. Article 47 of the draft new Religion Law specifies that when the new Law comes into force, registered religious organisations' current registration would be deemed to last for five years.

Compulsory re-registration linked with denials of communities' existing legal status is illegal under international law. As 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: "In cases where new provisions to the system governing access to legal personality of religious or belief communities are introduced, adequate transition rules should guarantee the rights of existing communities. Where laws operate retroactively .. (for example, requiring reapplication for legal personality status under newly-introduced criteria), the state is under a duty to show that such restrictions are compliant with the criteria set out in Part I of these Guidelines."

(The Guidelines' Part 1 outlines the permissible restrictions on the freedom of religion or belief, including that "limitations may not be retroactively or arbitrarily imposed on specific individuals or groups; neither may they be imposed by rules that purport to be laws, but which are so vague that they do not give fair notice of what the law requires or which allow for arbitrary enforcement".)

The Guidelines go on to note that "the state must demonstrate the objective reasons that would justify a change in existing legislation, and show that the proposed legislation does not interfere with the freedom of religion or belief more than is strictly necessary in light of those objective reasons".

The SCRA's extensive powers of "control"

Under Article 44, Part 5 of the proposed new Religion Law, the SCRA and its regional offices would exercise "control" over how registered religious organisations and religious education establishments, as well as registered places of worship, abide by the provisions of the Religion Law and their own statutes.

The SCRA would have the right to demand administrative and financial documents from the leadership of registered religious organisations. (The current Religion Law has the same provision (https://www.forum18.org/archive.php?article_id=2711).) It would also have the right to seek such information from state tax and statistics authorities and from banks.

The SCRA would also have the right to send its officials to attend events by registered religious organisations. (The current Religion Law has the same provision (https://www.forum18.org/archive.php?article_id=2711).)

The SCRA would be required to inspect "no more than once a year" each registered religious organisation and religious education establishment, as well as each registered place of worship. State and municipal bodies would be able to ask the SCRA to conduct such an inspection of a particular religious organisation or place of worship.

If SCRA officials find a violation of the Religion Law during such an inspection, the SCRA would issue a written warning to the religious organisation specifying a deadline (of up to 60 days) by which it would have to have ended the violation.

If the religious organisation does not in the SCRA's view end the violation within the SCRA's deadline, the SCRA would, under Article 45, be able to ban the organisation's activity for up to 90 days. If the religious organisation still does not in the SCRA's view end the violation within that period, the SCRA would be able to go to court to liquidate the organisation. This would make all exercise of freedom of religion or belief by the organisation illegal. (The current Religion Law has similar provisions (https://www.forum18.org/archive.php?article_id=2711).)

The exercise of freedom of religion or belief by religious organisations would also be able to be "halted, liquidated or banned" if they violated the February 2023 Countering Extremist Activity Law. This Law has been criticised by human rights defenders (<http://birduino.kg/en/press/review-of-the-draft-law-of-the-kyrgyz-republic-on-countering-extremist-activities-performed-by-the-center-for-information-and-analysis-sova>).

Intrusive reporting requirements

Article 44 of the proposed new Religion Law would require registered religious organisations and religious education establishments to provide the SCRA with intrusive reports. These would include "an annual report on its activities, including religious premises, personnel of governing bodies, employees, teachers and students for a religious educational establishment, as well as documents on the expenditure of funds and the use of other property, including those received from international and foreign organisations, foreign citizens and stateless persons".

(The current Religion Law has similar reporting requirements (https://www.forum18.org/archive.php?article_id=2711).)

If a religious organisation would fail to supply the annual report, the SCRA would issue a written warning. If it would fail to comply within the SCRA's deadline, the SCRA would, under Article 45, be able to ban the organisation's activity for up to 90 days. If it would then fail to comply within that period, the SCRA would be able to go to court to liquidate the organisation (thereby rendering all its activity illegal).

If a religious organisation would commit a violation for the second time within a year, the SCRA would be able to go to court to have the organisation liquidated.

(The current Religion Law specifies a much wider range of reasons (https://www.forum18.org/archive.php?article_id=2711) for the SCRA to go to court to liquidate a religious organisation, such as if it is harming individuals' life or health, forcing adherents to hand over their property, or encouraging suicide.)

Places of worship would require registration

Article 30 of the proposed new Religion Law would require state registration with the SCRA of buildings used by registered religious organisations (including places of worship) and by registered religious education establishments. Such buildings would be allowed to be used only after they are registered.

Registration applications would need to include documents confirming the ownership, rental or other legal use of the building.

A Protestant described the registration requirement for places of worship as "an extra burden on religious organisations". "Getting such registration will be a difficult process, since the National Security Committee secret police and the Interior Ministry, and local mayor's office will have to give permission for such registration," the Protestant told Forum 18 in late November. "The registration as a religious building could mean that the community may be banned in future to use it for other purposes for its members or the wider public."

Once a religious building is registered, under Article 30 the owner would be required to notify the local administration where it is based within five working days of its registration and its address. It would also have to provide it with the name, address, phone number, email address and passport details of the owner. The owner would need to send confirmation of this notification to the SCRA within five working days.

The Cabinet of Ministers would be in charge of setting out provisions for building, reconstructing or changing the usage of such religious buildings.

The Amending Law would add a provision to Article 142 of the Violations Code to punish those who maintain a place of worship which is not registered with the SCRA with a fine of 75 Financial Indicators (FIs) on individuals (7,500 Soms, equivalent to just over two weeks' average wages) and 230 FIs on organisations. The Violations Code allows the police and the SCRA to issue summary fines for violating Article 142.

"Prayer rooms" would require registration

Article 29 of the proposed new Religion Law would define a "prayer room" as "a room in a building or separate structure that has public access and is used exclusively for the purpose of prayer". It specifies that these would not be allowed to be used until they have state registration.

It appears that "prayer rooms" are only Muslim prayer rooms which are not mosques.

Registered religious organisations or individuals would be allowed to apply to the SCRA to register "prayer rooms." The applicant would have to provide documents confirming their ownership, rental or other right to use the premises.

"Prayer rooms" would be banned in residential blocks of flats (apart from on the ground floor), as well as in educational establishments. Those who violate this would face punishment under the Violations Code.

Once a "prayer room" is registered, under Article 29 it would be required to notify the local administration where it is based within five working days of its registration and its address. It would also have to provide it with the name, address, phone number, email address and passport details of the owner. The owner would need to send confirmation of this notification to the SCRA within five working days.

Article 47 would specify that when the new Law comes into force, owners of "prayer rooms" would be required to register them with the SCRA within one year.

The Amending Law would add a provision to Article 142 of the Violations Code to punish those who maintain a "prayer room" which is not registered with the SCRA with a fine of 75 Financial Indicators (FIs) on individuals (7,500 Soms, equivalent to just over two weeks' average wages) and 230 FIs on organisations. The Violations Code allows the police and the SCRA to issue summary fines for violating Article 142.

Another provision that would be added to Article 142 of the Violations Code would punish those who maintain a "prayer room" in a residential block of flats or in pre-school or general educational establishments with a fine of 55 Financial Indicators (FIs) on individuals (5,500 Soms, equivalent to just over a week's average wages) and 170 FIs on organisations.

Public events would require SCRA permission

Under Article 39 of the proposed new Religion Law, registered religious organisations and educational establishments would be allowed to hold events in their own premises. For any religious rituals or other mass events they plan away from their own premises, they would need to notify the local administration and the SCRA five working days in advance, giving the date, location and programme of activity.

Religious events in prisons, homes for elderly or disabled people, or the armed forces are allowed only at the request of residents and in special premises. The administrations of these institutions would need also to get approval from the SCRA.

The Amending Law would add a provision to Article 142 of the Violations Code to punish those who organise such religious events without SCRA permission with a fine of 55 Financial Indicators (FIs) on individuals (5,500 Soms, equivalent to just over a week's average wages) and 170 FIs on organisations. The Violations Code allows the police and the SCRA to issue summary fines for violating Article 142.

Religious literature import, distribution would be restricted

Article 40 of the proposed new Religion Law would specify that registered religious organisations would have the right to produce, distribute, export and import religious literature and other materials. It says that the procedure would be set out by the Cabinet of Ministers, but gives no information about what this procedure might consist of.

The Article adds that only registered religious organisations would be allowed to import such materials.

Such imports are already subject to SCRA censorship (https://www.forum18.org/archive.php?article_id=2711). For example, in 2022 the SCRA denied permission to import the 2022 issue of another Jehovah's Witness booklet, the Kyrgyz version of "Examining the Scriptures Daily". This was one of 13 publications and six videos the NSC secret police and the General Prosecutor's Office's tried to have declared "extremist" (https://www.forum18.org/archive.php?article_id=2706) in a failed 2021 application to the courts.

On 23 February 2023, the SCRA denied permission to import a Jehovah's Witness brochure for parents to read with their children, "The Lessons for Little Ones" in both Kyrgyz and Russian. "Although Jehovah's Witnesses met with SCRA representatives to discuss this instance of religious censorship, the SCRA's decision to ban the brochure still stands," Jehovah's Witnesses noted.

Article 40 of the proposed new Religion Law would empower the SCRA to conduct "religious studies expert analyses" of religious literature and materials. (The current Religion Law has the same requirement (https://www.forum18.org/archive.php?article_id=2711).) It would normally have up to one month to complete such analyses, but this could be extended by an extra month "taking into account the level of complexity and quantity of material."

All religious literature acquired by libraries would require a SCRA "religious studies expert analysis." (The current Religion Law has the same requirement (https://www.forum18.org/archive.php?article_id=2711).)

State "expert analyses" of religious materials and religious communities' beliefs have been used to justify regime human rights violations, such as censoring and banning films and texts officials dislike (https://www.forum18.org/archive.php?article_id=2711), attempting to ban an entire religious community, and in August 2023 jailing a Protestant for six months for questioning regime religious policy (https://www.forum18.org/archive.php?article_id=2870).

Article 40 of the proposed new Religion Law does not say when the SCRA can impose "expert analyses" on literature and materials, saying only that the procedure is set out by the Cabinet of Ministers. No information is given about what this procedure might consist of.

All religious literature produced by registered religious organisations or religious educational establishments would have to have the full official legal name of the organisation and its religious affiliation. (The current Religion Law has the same requirement (https://www.forum18.org/archive.php?article_id=2711).)

Article 40, Part 4 would ban the distribution of religious literature or materials "in public places, as well as by going round residential properties, state and municipal organisations, and in pre-school and general educational establishments, with the exception of religious educational establishments". Those who violate this would face punishment under the Violations Code. (The current Religion Law has the same provision (https://www.forum18.org/archive.php?article_id=2711).)

Article 142, Part 3 of the Violations Code already punishes distributing religious literature in public with a fine of 55 Financial Indicators (FIs) on individuals (5,500 Soms, equivalent to just over a week's average wages) and 170 FIs on organisations. The Amending Law would specify in more detail the sorts of distributed religious materials for which punishment was set out. The Violations Code allows the police and the SCRA to issue summary fines for violating Article 142.

(The ban in the current Religion Law on "illegal missionary activity," also described as "proselytism," does not appear in the proposed new Religion Law.)

A member of a religious community expressed concern about the restrictions on sharing faith in public. "Even if you can register overcoming all the obstacles put there by the authorities, we won't be able to effectively share our faith," the individual told Forum 18 in late November. "For instance, we would like to pass out our books and literature on the street to others so they can find out about our faith, but this is directly banned in the draft Law."

Religious education – with state permission only

Article 6, Part 5 of the proposed new Religion Law would specify that religious education (whether of children or adults) would be under the control of the Cabinet of Ministers, but gives no information about what this control might consist of.

Article 6, Part 4 would allow registered religious organisations to establish religious educational establishments and courses "of professional religious education" for "clergy and religious personnel they need." It remains unclear why they would not be able to establish such facilities for any adult who wishes to learn more about a faith.

Religious educational establishments would have to include in their teaching "a minimum set of general education disciplines" and agree their activity with the SCRA. It remains unclear why adults learning more about their faith would have to study other topics determined by the state and have SCRA permission. Such a requirement would represent "interference in the internal issues of religion", a Protestant complained to Forum 18 in late November.

Article 16, Part 1 would specify that only registered religious organisations can found religious educational establishments. (The current Religion Law has the same provision (https://www.forum18.org/archive.php?article_id=2711).)

Article 24, Part 3 would specify that applications from a registered religious organisation to register a religious educational establishment with the SCRA would need to include "a curriculum together with a list of religious literature to be used in study."

The application would also need to show that the religious educational establishment had "high-quality teachers" approved by the founding registered religious organisation. (The current Religion Law has the same provision (https://www.forum18.org/archive.php?article_id=2711).)

(A provision in the current Religion Law that teachers in religious educational establishments must have documented higher religious education qualifications is not in the proposed new Religion Law.)

The applicant religious organisation would also need to submit documents for the premises where the religious educational establishment would be based, together with certification of the premises from the sanitary-epidemiological and fire services. (Such a provision related to the sanitary-epidemiological and fire services is in the current Religion Law.)

The proposed new Religion Law does not state explicitly that registration of religious educational establishments is subject to the five-year limit that religious organisations would be subject to. However, the concluding provisions which note that the registration of any religious organisation which does not give a time limit would be deemed to be for five years from the official publication of the adopted new Law.

Article 18, Part 3 would ban religious educational establishments from opening "branches or representations".

Article 6, Part 4 of the proposed new Religion Law would require SCRA permission for individuals to travel to study religion in a religious educational establishment abroad. Those who study abroad without such permission would not have their religious qualification recognised in Kyrgyzstan. By contrast, Article 41, Part 2 would specify that individuals going abroad for religious education, whether sent by a registered religious organisation or on their own initiative, would need only to "notify" the SCRA.

A member of a religious community expressed concern about these restrictions on individuals going abroad for religious study. "We would like to send abroad our members, who have the possibility to go, to study since we are not able to do so in Kyrgyzstan," the

individual told Forum 18 in late November.

A Protestant expressed concern that foreign-earned qualifications would not have official recognition in Kyrgyzstan. "Many would like to go abroad to study religion for a better education and more experience, and there are not many opportunities to study religion in Kyrgyzstan," the Protestant told Forum 18 in late November. "This is not fair."

Once a religious educational establishment is registered, under Article 27 it would be required to notify the local administration where it is based within five working days of its registration and its address. It would also have to provide it with the name, address, phone number, and passport details of the head of the establishment. The religious educational establishment would need to send confirmation of this notification to the SCRA within five working days.

Once a religious educational establishment is registered, under Article 26 it would be required to notify the SCRA within 30 days of any changes to its founding organisation, address, leadership body, phone or fax number or email address.

Individual religious teaching would still be banned

Article 6, Part 4 of the proposed new Religion Law would also continue to ban teaching religion individually outside a religious educational establishment. Those who violate this would face punishment.

The Amending Law would add a provision to Article 142 of the Violations Code to punish those who teach religion individually outside a religious educational establishment with a fine of 55 Financial Indicators (FIs) on individuals (5,500 Soms, equivalent to just over a week's average wages) and 170 FIs on organisations. (The current equivalent part of Article 142 punishes those who violate "the procedure for religious education.") The Violations Code allows the police and the SCRA to issue summary fines for violating Article 142.

"Foreign preachers" would require registration

Article 28 of the proposed new Religion Law would require those sent by foreign religious organisations "to conduct religious activity in Kyrgyzstan" (also described as "foreign preachers") to have state registration. (The current Religion Law has the same requirement (https://www.forum18.org/archive.php?article_id=2711).)

Only registered religious organisations would be able to apply for such registration for "foreign preachers." The application would have to include a form filled out by the foreigner, a copy of the foreigner's passport and a referral letter from the foreign religious organisation. It would also have to specify how long the individual would stay in the country.

The maximum term the SCRA would be able to give "foreign preachers" would be one year, although this could be renewed. If the foreigner has committed any violations of the Religion Law, the SCRA would take that into account in deciding whether to approve the application for the registration to be renewed.

"A foreign preacher can carry out activities only in the territory covered by the activities of the religious organisation that invited him," Article 28 adds. The foreigner is warned in advance about abiding by the law.

Once "foreign preachers" are registered, under Article 28 they would be required to notify the local administration where they are based within five working days of their registration, address, contact and passport details. They would need to send confirmation of this notification to the SCRA within five working days.

Creating a barrier between freedoms

Much of the proposed new Religion Law is taken up with creating a barrier between exercising the right to freedom of thought, conscience and religion (International Covenant on Civil and Political Rights (<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>) - ICCPR, Article 18) and the right to participate in public affairs, voting rights and the right of equal access to public service (ICCPR, Article 25). Many of the proposed Religion Law's provisions on this and other topics are vaguely worded.

The UN Human Rights Committee's General Comment 25 (<https://www.refworld.org/docid/453883fc22.html>) on ICCPR Article 25 states among other things: "No distinctions are permitted between citizens in the enjoyment of these rights on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." General Comment 25 goes on to observe: "The right to freedom of association, including the right to form and join organizations and associations concerned with political and public affairs, is an essential adjunct to the rights protected by article 25."

Article 5, Part 5 of the proposed new Religion Law would ban "political parties and other political formations founded on a religious basis". It would also ban political campaigning and "other measures of a political nature" in places of worship. Religious organisations and their representatives would be banned from "pursuing religious goals" and participating in local or national

elections. The creation of religious organisations in state bodies (including the army) would be banned.

Article 1 of the Amending Law would amend Article 3 of the 1999 Political Parties Law to ban "the creation of political parties on a religious basis, as well as the participation of political parties in religious activity".

The Amending Law would also add a provision to Article 9 of the Political Parties Law: "During election campaigning and in the name of the party, the display and other use in campaign materials of parts and elements of information (images) containing direct and indirect borrowings or references to religious topics is not allowed."

The Amending Law would add a provision to Article 142 of the Violations Code to punish those who conduct electoral campaigning or "other meetings of a political nature" in a place of worship with a fine of 55 Financial Indicators (FIs) on individuals (5,500 Soms, equivalent to just over a week's average wages) and 170 FIs on organisations. Another provision would punish those who finance political parties with religious organisations' funds, with similar penalties. The Violations Code allows the police and the SCRA to issue summary fines for violating Article 142.

(The current Religion Law already bans holding political events in places of worship (https://www.forum18.org/archive.php?article_id=2711).)

Articles 2 and 3 of the Amending Law would ban elected members of local keneshes and the national Parliament from conducting "religious activity". It is unclear what this means, for example if such elected members could not be leaders or members of registered religious organisations, or even be banned from attending any meetings for worship.

(The current Religion Law says that if a religious leader becomes a state or municipal official, their activity as a religious leader is suspended (https://www.forum18.org/archive.php?article_id=2711).)

The ban on religiously-inspired political parties would affect the Yiman Nuru (Light of Faith) Party, which has an Islamic inspiration. The Justice Ministry registered the party in June 2012, and the party gained five deputies in November 2021 parliamentary elections (<https://www.osce.org/files/f/documents/2/f/519087.pdf>). (END)

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

For background information, see Forum 18's Kyrgyzstan religious freedom survey (https://www.forum18.org/archive.php?article_id=2711)

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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