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KYRGYZSTAN: Restrictive Law due for final parliamentary vote on Thursday

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

Kyrgyzstan's restrictive new Religion Law is due to be voted on for the second and final time tomorrow (6 November), Forum 18 News Service has learnt. If the draft Law – whose exact text is unavailable for public discussion - is passed, it will go to President Kurmanbek Bakiev for signature. One human rights defender pointed out that, as the draft Law openly breaks the Kyrgyz Constitution, this would be a very strong ground for the Law to be turned down. Provisions that have caused concern to religious communities and human rights defenders include: a ban on children being involved in religious organisations; a ban on "aggressive action aimed at proselytism"; a ban on the distribution of religious literature, print, audio-video religious materials; and de facto compulsory re-registration of all registered religious organisations. Representatives of various religious communities have complained to Forum 18 about both numerous provisions and the secrecy surrounding the whole legislative process. The Law breaks Kyrgyzstan's international human rights commitments and has been strongly criticised by an OSCE / Venice Commission legislative review.

Kyrgyzstan's restrictive new Religion Law is due to be voted on for the second and final time tomorrow (6 November), Forum 18 News Service has learnt. If the draft text is passed by the single-chamber parliament, the Zhogorku Kenesh, it will go to President Kurmanbek Bakiev for signature. He then has at least one month to either sign the Law or send it back to Parliament.

The exact proposed text of the Law is still publicly unavailable, despite numerous repeated requests for it to be made available for public discussion (see F18News 16 October 2008 http://www.forum18.org/Archive.php?article_id=1204). A text available on the parliamentary website from 3 November is "not the final text but it is as the text should look like if the comments of deputies were accepted," Yildiz Kamchibekova, an aide to Deputy Zainiddin Kurmanov told Forum 18 on 5 November. Kurmanov is Chair of the parliamentary Committee on Constitutional Law, State Structure, Legality and Human Rights, and is the main author of the draft Law.

Despite the exact text not being publicly available, it is known that the current draft Law breaks Kyrgyzstan's international human rights commitments. At a meeting with Kyrgyz parliamentary deputies in Bishkek on 29 October, a delegation from the European Parliament discussed the proposed new Religion Law with Kurmanov. Sources told Forum 18 that Kurmanov was "not amused" when some members of the delegation raised their concerns about various provisions of the proposed law. Asked about the lack of availability to religious communities and others of the proposed Law's text, Kurmanov denied that the full text had not been available. He insisted it was available on the parliamentary website.

Kurmanov also claimed to the delegation that the new law will be in accordance with international standards. He claimed that one change had already been made: religious groups of 50 persons would be able to register, a reduction from the proposed minimum of 200 persons. Another change is that registration would no longer be compulsory, merely a "help", Kurmanov told the delegation. However, the text on the parliamentary website bans the activity of religious organisation not registered by the State Agency for Religious Affairs. And as one religious community pointed out to Forum 18 "Even if the minimal threshold of founders is brought down to 50, it will still jeopardise the activity of those with smaller numbers."

However, one parliamentary source contradicted Kurmanov's claim that the registration threshold would be reduced, noting that many deputies oppose reducing the registration threshold from 200 people. Deputy Ajibay Kalmamatov, for example, was reported by the 24.kg news agency on 30 October as saying that freedom of religion or belief must be restricted as "one sect pays 50 dollars for a membership, and many of our citizens enroll in these organisations."

Asked whether the new law would ban unregistered religious activity, Kamchibekova only those groups must register, in whose activity characteristics of a religious organisation can be seen. "If a group is not involved in financial activity or does not perform religious rites, for instance," she said, "they don't need to be registered."

Other known provisions that have caused concern to religious communities and human rights defenders include:

- a definition of a sect as "a religious movement (community) split off and not agreeing with a main denomination, showing indifference to and conflicting with the interests of society. Theologians and religious scholars are entitled to use the term 'religious sect' within the denominations in relation to new religious movements and groups."

- a ban on children being involved in religious organisations

- a ban on "aggressive action aimed at proselytism – converting people from one faith to another," along with individuals teaching religious doctrines individually, and a ban on the distribution 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.

- a requirement that religious organisations must provide financial information to: the State Agency for Statistics; tax authorities; the State Agency for Religious Affairs and its territorial divisions; and the Public Prosecutor's Office. If this is not completely complied with, the State Agency for Religious Affairs or its territorial divisions can seek a court order to close down the religious organisation.

- compulsory "re-alignment" of the charters or other founding documents of religious organisations with the new Law, which will de facto force the re-registration of all religious organisations. When Aleksandr Shumilin, the Chair of the Baptist Union, pointed out to Kanatbek Murzakhhalilov of the State Agency for Religious Affairs that the Law forces compulsory re-registration, Murzakhhalilov "smiled and said I thought you would not detect that," Shumilin told Forum 18 on 22 October.

An international human rights defender has pointed out to Forum 18 that Article 65 paragraph 6 of the Kyrgyz Constitution states that: "No laws restricting freedom of speech and freedom of the press may be adopted." This is independent of and in addition to the guarantee of freedom of "thought, speech and press, as well as to unimpeded expression of those thoughts and beliefs" in Article 14 paragraph 6 of the Constitution. Some of the draft Religion Law's restrictions – for example the wide-ranging bans on "proselytism" and the distribution of religious literature - restrict both freedom of speech and freedom of the press. As the draft Law openly breaks the Constitution, it would seem that this would be a very strong reason for both the Zhogorku Kenesh and President Bakiev to turn the Law down.

It is unclear why Kurmanov claimed to the European Parliament delegation that the draft Law will be in accordance with international standards. The known provisions of the draft Law clearly breach the international human rights standards outlined in the Organisation for Security and Co-operation in Europe (OSCE) / Venice Commission 'Guidelines for Review of Legislation Pertaining to Religion or Belief' (see <http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD%282004%29028-e>). A joint Venice Commission / OSCE legal review of a July text of the Law was also highly critical of it (see F18News 16 October 2008 http://www.forum18.org/Archive.php?article_id=1204).

Further changes to the draft law will be made after the parliamentary vote, Kamchibekova, Deputy Kurmanov's aide, told Forum 18. "It will take another 7-10 working days to incorporate amendments and changes into the text, and only then will it be sent to the President for signature," she stated. During tomorrow's Zhogorku Kenesh debate, it is intended that deputies will vote on each point of the proposed Law.

No one from the Presidential Administration was available to talk to Forum 18 on 5 November. Almaz Usenov, aide to Almaz Turdumamatov, the Press Secretary of the President stated that Turdumamatov would be available at 5 pm local time. However, no-one was available to answer the phone at 5 pm. Usenov himself told Forum 18 that "I cannot comment on the new Law because I am not competent." The Presidential Administration in February 2008 rejected a restrictive decree that would have made many religious communities illegal (see F18News 4 March 2008 http://www.forum18.org/Archive.php?article_id=1096).

Kanatbek Murzakhhalilov of the State Agency for Religious Affairs criticised the Venice Commission / OSCE legal review at a round table held on 20 October. The review, Murzakhhalilov claimed "did not take into account the Kyrgyz culture or mentality or the local situation," Forum 18 was told by someone present at the round table. Murzakhhalilov was also reported on 28 October by eurasianet.org saying "the Kyrgyz people are very tolerant and have been this way for centuries, but this obsessive work of Christian and, sometimes, Islamic groups (...) could lead to unpleasant consequences." He characterised the existing legislation as "too liberal," adding that it did not "meet the requirements of reality."

Murzakhhalilov defended his statements to Forum 18 on 5 November. "We are not toughening the law but are bringing some orderliness to the relations between the State and religious organisations, which is missing in the current law," he said.

Representatives of various religious communities have complained to Forum 18 about both the secrecy of the whole legislative process and the failure of the authorities to invite them to a round table held on 20 October, despite official promises to do so (see F18News 16 October 2008 http://www.forum18.org/Archive.php?article_id=1204). A member of the Baha'i community stated that they found out about the developments around the new Law from Forum 18. "We are not informed or given any written materials or texts of the draft Law. Neither are we ever invited to any round tables," Forum 18 was told on 5 November. Similarly, the Jehovah's Witnesses were also not invited to the 20 October round table.

Sources present at the round table told Forum 18 that "only a few religious leaders" - from communities such as the Russian Orthodox Church and the Muftiate (the state-favoured Muslim spiritual leadership) - and officials allowed only 90 minutes for discussion. "This was very little time to discuss such a crucial document with the all the stakeholders," one person present stated. Each representative of a religious organisation was given only ten minutes to speak. One source noted their "surprise" that Deputy Kurmanov did not stay for the whole meeting. No texts giving the changes proposed by parliamentary deputies were given to participants.

"The whole meeting was a show," Shumilin of the Baptist Union - who was present at the round table – told Forum 18. "None of the serious concerns of the Protestant churches or other religious organisations were listened to," he stated. "For example, we proposed a two-tier system for those who want to be a religious community, and those who want to remain as small groups," Shumilin said. "This was not listened to by the authorities." (END)

For background information see Forum 18's Kyrgyzstan religious freedom survey at http://www.forum18.org/Archive.php?article_id=222.

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 survey of the religious freedom decline in the eastern part of the Organisation for Security and Co-operation in Europe (OSCE) area is at http://www.forum18.org/Archive.php?article_id=806, and of religious intolerance in Central Asia is at http://www.forum18.org/Archive.php?article_id=815.

A printer-friendly map of Kyrgyzstan is available at <http://www.nationalgeographic.com/xpeditions/atlas/index.html?Parent=asia&Rootmap=kyrgyz>.

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