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KYRGYZSTAN: Ahmadis "must not worship together. Otherwise they will be punished"

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

On 10 July Kyrgyzstan's Supreme Court rejected an appeal against two lower courts' support of the State Commission for Religious Affairs' (SCRA) refusal to give state registration to the Ahmadi Muslim community. Asel Bayastanova, the Ahmadis' defence lawyer, told Forum 18 News Service that "it means that Ahmadi Muslims cannot act like Ahmadi Muslims and organise meetings for worship or any other activity together". An Ahmadi Muslim, who asked to remain unnamed for fear of state reprisals, told Forum 18 that "this is equal to banning us .. If we are found by the NSC secret police, the ordinary police, or any other state agency to be carrying out 'illegal' religious activity, we will be given harsh punishments - maybe even imprisonment." The SCRA's lawyer, Zhanibek Botoyev, claimed to Forum 18 that "we are not going to send them to prisons". He also stated that "they can individually pray or read their books in their homes but they must not worship together. Otherwise they will be punished." He refused to say exactly what punishments will be imposed.

On 10 July Kyrgyzstan's Supreme Court rejected an appeal by Salamat Kyshtobayev, leader of the country's Ahmadi Muslim community, to revoke two earlier 2013 decisions of lower courts in favour of the State Commission for Religious Affairs' (SCRA) 2011 refusal to give state registration to the community throughout the country. Asel Bayastanova, the Ahmadis' defence lawyer, told Forum 18 News Service on 14 July that "it means that Ahmadi Muslims cannot act like Ahmadi Muslims and organise meetings for worship or any other activity together". She noted that Ahmadis "may in theory, under the Constitution, unofficially gather in private places for worship. But the authorities may well punish them if they find Ahmadis meeting together for religious activity."

The Supreme Court's ruling has not yet been given in writing to the community, but they have been told they will receive the ruling in two weeks. Judge Aynash Tokbayeva chaired the hearing, sitting with Judges Kamil Osmonaliyev and Bolotbek Akmatov. The National Security Committee (NSC) secret police took part in the hearing, as did the SCRA. A Supreme Court official (who refused to give his name), who participated in the hearing, on 16 July confirmed the decision to Forum 18 but refused to comment. He referred Forum 18 to the Chancellery. Nurbek Aldayarov, a Chancellery official on 16 July also refused to talk to Forum 18, and referred it to the Court Press Secretary whose phone was not answered on 16 July.

An Ahmadi Muslim from the capital Bishkek, who asked to remain unnamed for fear of state reprisals, told Forum 18 on 15 July that "this is equal to banning us in Kyrgyzstan. If we are found by the NSC secret police, the ordinary police, or any other state agency to be carrying out 'illegal' religious activity, we will be given harsh punishments - maybe even imprisonment." The Ahmadi Muslim said that they had over 600 followers throughout the country and many sympathisers, and that "this is a severe violation of our basic human rights, and also a potential danger in future for our lives in Kyrgyzstan".

The SCRA's lawyer, Zhanibek Botoyev, who represented the SCRA in the Supreme Court hearing, claimed to Forum 18 on 15 July that "we are not going to send them to prisons". He also stated that "they can individually pray or read their books in their homes but they must not worship together. Otherwise they will be punished." He refused to say exactly what punishments will be imposed.

SCRA Head Orozbek Moldaliyev on 15 July refused to comment on the ban on the Ahmadis. He claimed to Forum 18 – despite earlier interviews – that "I do not know you, and I will not talk to you over the phone". He then put the phone down.

The SCRA is also continuing to threaten a Russian Orthodox catechist with deportation, and has banned Russian Orthodox Bishop Feodosy who leads the Church in Kyrgyzstan. Also, a Protestant church continues to be threatened by the state with confiscation of the building it owns (see F18News 18 July 2014 http://www.forum18.org/archive.php?article_id=1978).

Not able to meet since July 2011

Ahmadis have not been able to meet for worship since July 2011, when the SCRA refused to grant re-registration to the Ahmadis in Bishkek and three other locations as the NSC secret police had told the SCRA that Ahmadi Muslims are a "dangerous movement and against traditional Islam". Then-SCRA Head Ormon Sharshenov, asked by Forum 18 how the SCRA concluded that Ahmadi Muslims are dangerous, replied: "I received it from heaven" (see F18News 21 December 2011)

http://www.forum18.org/archive.php?article_id=1650).

The General Prosecutor's Office has also sought to have the community included on a list of banned organisations as "extremist" (see F18News 19 December 2012 http://www.forum18.org/Archive.php?article_id=1784). "If we met for worship or carried out any religious activity, the registration we do still have with the Justice Ministry would be finally liquidated," a community member who asked not to be identified told Forum 18 in 2013. "Everything we did would then become illegal" (see F18News 8 April 2013 http://www.forum18.org/Archive.php?article_id=1821).

The Ahmadis' 2014 appeal to the Supreme Court came after Judge Zhyrgalbek Nurunbetov of Bishkek's Inter-District Court on 30 January 2013 and Judge Antonina Rybalkina of Bishkek City Court on 15 May rejected the Community's appeal against the SCRA's 2011 refusal of registration.

Due legal process violated

The Ahmadis' lawyer Bayastanova told Forum 18 that she demonstrated to the Supreme Court that "both the City and Inter-District Courts violated legal procedures by not questioning the 'religious experts' the SCRA used". She stated that these "experts" made "nonsensical and false claims in their opinions, branding a peaceful community as a dangerous sect" (see below). She also questioned the content of the SCRA's judgement and noted that the authorities have not been able to identify any "dangerous" or "extremist" actions by Ahmadis.

However, Bayastanova said that the Supreme Court "ignored our arguments, said nothing new during the hearing, accepted the previous court decisions as lawful, and rejected our appeal".

Judge Rybalkina of Bishkek City Court on 16 July refused to discuss the case with Forum 18, stating: "I will not comment on the decision we made. If they are unhappy they can challenge our decision". She then put the phone down.

Judge Nurunbetov of Bishkek's Inter-District Court was on 16 July asked by Forum 18 why the "religious experts" were not questioned by the court, how the court established that the Ahmadis were a "destructive or dangerous sect", and whether the authorities have proved any "dangerous actions" by Ahmadis. However, the Judge told Forum 18 that "we made our decision and I am not going to discuss them with you".

Forum 18 asked Judge Nurunbetov why the Court did not consider the international human rights obligations of Kyrgyzstan and based its decision on the state's views of Ahmadi beliefs. Forum 18 also pointed out that under the International Covenant on Civil and Political Rights (ICCPR) – which Kyrgyzstan acceded to in 1994 - "national security" is not a permissible reason to limit freedom of religion or belief. The Judge claimed that "for us state security is more important" and then put the phone down.

Although the state has repeatedly stopped Ahmadis and members of some other communities from exercising their human rights in peaceful ways, it has repeatedly failed to take any action to stop state officials and imams of the state-backed Muslim Board encouraging or condoning violence and other coercion against people peacefully exercising their human rights. An example has been the government's long-standing failure to ensure that people may exercise their right to bury their dead with the religious ceremonies and in the cemeteries they would wish (see eg. F18News 6 June 2014 http://www.forum18.org/archive.php?article_id=1966).

UN and domestic legal challenges

Ahmadi Muslims told Forum 18 on 16 July that they are waiting to receive a copy of the Supreme Court decision before deciding what action to take. This may involve appeals to the United Nations (UN) and other international organisations.

Other religious communities have also faced registration denials and taken international action after exhausting all possible legal avenues in Kyrgyzstan. For example, the Jehovah's Witnesses have lodged two complaints to the UN Human Rights Committee over registration denials in four locations (see F18News 8 April 2013 http://www.forum18.org/archive.php?article_id=1821).

The Jehovah's Witnesses representative, Khamit Iskakov, told Forum 18 on 16 July 2014 that on 26 February the community lodged a suit with the Constitutional Chamber to declare the Religion Law's registration procedures illegal. In defiance of Kyrgyzstan's international human rights obligations, 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 who 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).

The Constitutional Chamber has told Jehovah's Witnesses that the suit will be heard at some point in September 2014. The community sees this as positive, as the case could have been rejected before being heard.

The government has long claimed an intent to change the Religion Law, planned legal changes apparently focusing on state registration of religious organisations (see F18News 27 February 2014 http://www.forum18.org/archive.php?article_id=1932).

The UN Human Rights Committee commented on the Law and possible plans to amend it in 25 March Concluding Observations (CCPR/C/KGZ/CO/2) to its consideration of Kyrgyzstan's record under the ICCPR. It noted that "the Committee is concerned about the restrictions incompatible with provisions of the Covenant [ICCPR] contained in the current law, including with respect to missionary activities, registration procedure and dissemination of religious literature". The Committee stressed that planned amendments to the Religion Law should "remove all restrictions incompatible with article 18 of the Covenant, by providing for a transparent, open and fair registration process of religious organizations and eliminating distinctions among religions that may lead to discrimination" (see F18News 1 April 2014 http://www.forum18.org/archive.php?article_id=1944).

"Expert opinions"?

Judge Nurunbetov in January 2013 deemed it lawful for the SCRA to in 2011 rely as a claimed reason for registration refusal on "expert opinions" from the NSC secret police, Kadyr Malikov of a state-backed NGO Religion, Law and Politics, and Yuri Podkuyko of the Kyrgyz Russian Slavic University's UNESCO Department of World Cultures and Religions. The SCRA itself confirmed to the Ahmadis that it used these "experts" in a letter dated 13 July 2011.

Malikov's "expert opinion" claimed that "the Ahmadi Muslim community is a very dangerous sect for the society, statehood, independence and stability of Kyrgyz Republic".

The NSC secret police claimed that Ahmadi Muslims are a "dangerous movement and against traditional Islam" (see F18News 21 December 2011 http://www.forum18.org/archive.php?article_id=1650).

Podkuyko stated that there may be "tension and possibly open conflicts" between the official Muslim community [the state-backed Muslim Board] and the Ahmadis as it "considers the Ahmadi community to be a heretical movement and destructive sect, the registration of which may lead to destabilisation of integrity of Islam in Kyrgyzstan".

However, Podkuyko also stated that "analysis of the religious literature of the organisation shows that the teaching of the Ahmadi Muslim community does not contain any threat to state or public security, health or morals of society".

The only grounds on which the ICCPR permits a state to limit manifestations of freedom of religion or belief are if this is: "prescribed by law" and "necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others".

Forum 18 pointed out to SCRA lawyer Botoyev that Podkuyko – who had been chosen by the SCRA - had found that the Ahmadi community does not pose any threat to state or public security, but that he [Botoyev] had continued to claim in the Supreme Court that Ahmadis do pose such threats and should not be registered. Asked for the reasons for this contradiction, Botoyev stated that "the Supreme Court accepted our arguments, and therefore supported us." He then refused to continue to discuss the case with Forum 18 and put the phone down. (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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