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KYRGYZSTAN: Public discussion of latest repressive draft Religion Law

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Ten months after a previous proposed new Religion Law was made public then withdrawn, religious affairs, National Security and Interior Ministry officials have prepared a new version. 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. New restrictions on "preaching" are included. An Amending Law would impose higher Violations Code fines for a greater range of "offences". The public have until 28 September to submit comments.

On 29 August, 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.

The government made public the two new proposed Laws just ten months after previous draft versions were made public in November 2023 and then withdrawn. The new versions contain many similar provisions from the November 2023 versions that violate Kyrgyzstan's international human rights commitments (see below).

Both drafts were prepared by the State Commission for Religious Affairs (SCRA), the National Security Committee (NSC) secret police and the Interior Ministry at the initiative of the Government. Both draft laws are open for public discussion until 28 September. As of 4 September, the SCRA website makes no mention of the proposed new Laws or that they are open for public discussion (see below).

Officials at the SCRA did not answer their phones each time Forum 18 called. Colonel Asylbek Mambetov, Deputy Head of the Interior Ministry's Department for the Struggle against Extremism and Terrorism – identified by a colleague as knowing "all the issues related to the Law" – refused to answer Forum 18's questions (see below).

On 5 September, President Sadyr Japarov held a meeting of senior officials and members of a few religious organisations (apparently only Muslims) to discuss the draft Religion Law. He encouraged "well-known ulems [Islamic scholars]" to submit their proposals on the draft Law during the public discussion, according to the presidential website. He added that "taking into account the views of all parties", the agreed text would then be submitted to Parliament (see below).

"I am afraid that if these changes are adopted, and if the authorities continue their past strategies, many Churches will be closed down," one Protestant told Forum 18. Several religious communities, who asked Forum 18 not to identify them for fear of state reprisals, complained that neither the SCRA nor other State authorities have informed or consulted them on the proposed new Laws (see below).

The new Religion Law – if eventually adopted by Parliament, the Zhogorku Kenesh, in its current form and signed by the President – would come into force on 1 February 2025. The proposed Amending Law would come into force ten days after its official publication (see below).

The government's draft legislation website published a justification for producing the two draft laws along with the texts. The justification for the draft Religion Law 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 (most recently in November 2023), 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 Religion 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, increasing the 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;
- 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 to gain state registration from the SCRA;
- require SCRA permission before an individual can conduct "preaching activity";
- 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;
- 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 and sharply increases fines (see below).

Public discussion on two draft laws until 28 September

On 29 August, 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.

The August 2024 justification for the draft new Religion Law notes that Kamchybek Tashiyev, one of the Deputy Chairs of the Cabinet of Ministers as well as Chair of the National Security Committee (NSC) secret police, had on 5 July 2024 ordered the creation of a working group made up of the SCRA, the NSC secret police and the Interior Ministry "as a result of whose work the draft law is presented".

Tashiyev – who has headed the NSC since October 2020 – was a driving force behind the attempt to ban the Jehovah's Witness community (https://www.forum18.org/archive.php?article_id=2706). He claimed to the General Prosecutor's Office in July 2021, without giving evidence, that Jehovah's Witnesses "at various times and in various countries have been accused of rape, child kidnapping, murder, incitement to murder and suicide, desertion, fraud, theft, racism, extortion, bodily harm, prostitution, etc".

On 5 September, President Sadyr Japarov held a meeting of senior officials (including Tashiyev and the SCRA leaders) and members of a few religious organisations (apparently only Muslims) to discuss the draft Religion Law. He encouraged "well-known ulema [Islamic scholars]" to submit their proposals on the draft Law during the public discussion, according to the presidential website. He added that "taking into account the views of all parties", the agreed text would then be submitted to Parliament.

The government's draft legislation website says both draft laws are open for public discussion until 28 September. Comments began to appear under both draft Laws on 2 September. Most are critical of specific provisions.

The new Religion Law – if eventually adopted by Parliament, the Zhogorku Kenesh, in its current form and signed by the President – would come into force on 1 February 2025. The proposed Amending Law would come into force ten days after its official publication.

The Organisation for Security and Co-operation in Europe (OSCE)'s Office for Democratic Institutions and Human Rights (ODIHR) "has not received a request from the Kyrgyz authorities to review either of these draft laws, but we would be willing and able to do so if asked," Katya Andrusz, ODIHR Spokesperson, told Forum 18 on 4 September. Nor have the Kyrgyz authorities sought a legal opinion on them from the Council of Europe's Venice Commission, it told Forum 18 on 4 September.

Religious communities not informed or consulted

"I am afraid that if these changes are adopted, and if the authorities continue their past strategies, many Churches will be closed down," one Protestant told Forum 18 on 5 September.

Several religious communities, who asked Forum 18 not to identify them for fear of state reprisals, complained that neither the State Commission for Religious Affairs (SCRA) nor other State authorities have informed or consulted them on the proposed new Laws. One leader lamented that the SCRA and the other authorities "never consult us, and never ask the opinion of other religious communities which we know".

Several leaders told Forum 18 that they were "not aware" of the text of the proposed new Laws, or that they were on the government's draft legislation website. One told Forum 18 that they are now studying the proposed new Laws "intensively". Another told Forum 18 that "now we will look at it and only in a week or so can we have our conclusions".

No official responses

Director of the State Commission for Religious Affairs (SCRA) Torgonbay Abdykarov, Deputy Director Kanatbek Midin uuly, the Head of its Press Service, and several other officials did not answer their phones each time Forum 18 called on 5 September.

Abdykarov defended the repressive November 2023 draft new Religion Law at the time. Told in November 2023 that a range of religious communities had complained to Forum 18 that it was a "very restrictive Law" and asked why - instead of improving the current Religion Law to allow freedom of religion or belief - the authorities had made it more restrictive, Abdykarov admitted (https://www.forum18.org/archive.php?article_id=2875): "Yes, it may be restrictive, but we have all the reasons for it to be so, for each point in the Law."

An Interior Ministry official (who did not give her name) on 5 September 2024 referred Forum 18 to Colonel Asylbek Mambetov,

Deputy Head of the Ministry's Department for the Struggle against Extremism and Terrorism. Colonel Mambetov "knows all the issues related to the Law", she told Forum 18. "Please, speak to him."

Colonel Mambetov refused to answer Forum 18's questions, and asked it to leave its number promising that "our specialist will answer you some time later". He refused to specify when. Neither Mambetov nor the specialist called Forum 18 back by the end of the working day in Bishkek of 5 September.

Janyl Kupeshova, Assistant to the Head of the Press Service of the Zhogorku Kenesh (Parliament), refused to discuss the draft Laws on 5 September or refer Forum 18 to the Committee or the Deputies who will be responsible for them if they reach Parliament. "I cannot give you any information at all." She then referred it to the International Relations Department's Aida Kinjaliyeva.

Kinjaliyeva, Deputy Head of the International Relations Department, also refused to discuss the Draft Law on 5 September. She wrote down Forum 18's name and questions and then put the phone down. Her phone was switched off when called later.

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

The government's draft legislation website published a justification for producing the draft Religion Law and the draft Amending Law along with the texts. The justification for the draft Religion Law 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 for the draft Religion Law 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 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 November 2023 draft Religion Law (https://www.forum18.org/archive.php?article_id=2875) was withdrawn "for further work", the justification says, given "the comments and observations from interested parties and government agencies".

On 18 December 2023, four United Nations Special Rapporteurs – including Nazila Ghanea, Special Rapporteur on freedom of religion or belief – wrote to the authorities (KGZ 6/2023 (<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=28670>)) expressing concern about provisions in the November 2023 draft Religion Law (which was never adopted and which has been adapted into the current draft).

The Special Rapporteurs asked the authorities (https://www.forum18.org/archive.php?article_id=2914) to explain how the contentions provisions "are compatible with international human rights standards regarding the right to freedom of religion or belief, and the rights to freedom of peaceful assembly and freedom of association".

The Special Rapporteurs asked the government to inform them of measures it had taken or was planning to take to ensure the proposed Law's compliance with the country's obligations under international human rights law. As of 5 September 2024, the United Nations website does not list any response from the Kyrgyz government to their letter.

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 2023 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 8 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.

Article 8 also specifies: "In cases of the systematic violations by a religious organisation of the requirements of this Law, the authorised state body in the area of religion [SCRA] has the right to adopt a decision on its liquidation." Such a decision would make any activity by the liquidated religious community illegal and punishable.

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."

The Amending Law would reword the provision in Article 142 of the Violations Code to punish those who exercise freedom of religion or belief or use a place of worship without state permission with a fine of 200 Financial Indicators (FIs) on individuals (20,000 Soms, equivalent to three weeks' average wages) and 650 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 8 of the proposed new Religion Law:

- local religious organisations, which can function only in one District, would require at least 200 adult citizen founders living in a single District of the country;
- regional religious organisations, which can function only on the premises of local member communities, would require at least 500 adult citizen founders living in a single Region of the country who are members of at least two registered local religious organisations in different towns or districts each with at least 250 adult citizen members;
- and national religious organisations, which would need to have "structural subdivisions" in each of the country's nine Regions, would require at least 2,000 adult citizen founders from communities with at least 300 adult citizens in each of the country's nine Regions.

(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 after the November 2023 version of the new Religion Law was made public. "We have difficulty collecting signatures of 200 persons at the moment to register in one locality," the Protestant told Forum 18 in November 2023 (https://www.forum18.org/archive.php?article_id=2875). "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."

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 in 2023 of regime targeting of registered communities (https://www.forum18.org/archive.php?article_id=2849), a Catholic church was 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 11, 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 11, Part 9, 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)).

It appears that if - for example - a local religious community gathers 200 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 200 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 11, Part 9, 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 10, 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".

Under Article 8, the SCRA would be given 30 days to consider registration applications. The SCRA would check "the veracity of information and accordance with the current Law" of the application and associated documents.

Article 8 would specify that the SCRA "has the right to forward 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 20 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>).

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".

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.

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 11, Part 8 would allow individuals to check in advance with the SCRA if a proposed name for a religious organisation would be suitable.

Under Article 11, Part 12 a registered religious organisation would be required to re-register (under the full requirements imposed for registration) in the case of reorganisation, a change of name, amendments to the statute, or if a court ordered re-registration.

Religious organisations must re-register every five years

Article 8 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 11, 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 11 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 when the November 2023 draft with a similar provision was made public. "We believe that they will use this to close down any church they do not like," they told Forum 18 in November 2023 (https://www.forum18.org/archive.php?article_id=2875).

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 37 of the draft new Religion Law specifies that when the new Law comes into force, that provisions related to registered religious organisations would not have retroactive force. It remains unclear if religious organisations that have registration at the time the new Law enters legal force would have to re-register five years later.

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".

Only one centralised administration possible?

Under Article 9 of the proposed new Religion Law, only religious organisations of one faith with registered communities in all nine of the country's Regions (as in the current Law) would be allowed to form central administrations.

As at 5 September 2024, 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 9 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.

The SCRA's extensive powers of "control"

Under Article 30 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 empowered to inspect registered religious organisations, religious education establishments and 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.

Under Article 31, 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 30 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 31, ban the organisation's activity for 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-counter-extremist-activities-performed-by-the-cen>

ter-for-information-and-analysis-sova).

Intrusive reporting requirements

Article 30 of the proposed new Religion Law would specify that the SCRA and its local branches check that religious organisations of all sorts and their approved places of worship act in accordance with their statutes and the requirements of the Religion Law. They would be empowered to demand to see administrative and financial documents, send officials to attend events, and inspect financial and other transactions.

Article 30 would require registered religious organisations, religious education establishments and religious charities to provide not only the tax authorities but the SCRA also with intrusive reports.

Reports to the SCRA 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 of up to 30 days, the SCRA would, under Article 31, ban the organisation's activity for 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 12 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 be lodged by a centralised religious organisation (if the community has one) or by a regional or local community if it does not. This would mean, for example, that the Muslim Board would be the only body allowed to apply for approval of a new mosque. 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 in the November 2023 draft Religion Law 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 November 2023 (https://www.forum18.org/archive.php?article_id=2875). "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 12 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.

Building places of worship on land owned by individuals would be banned.

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 use a place of worship which is not registered with the SCRA with a fine of 200 Financial Indicators (FIs) on individuals (20,000 Soms, equivalent to three weeks' average wages) and 650 FIs on organisations. The Violations Code allows the police and the SCRA to issue summary fines for violating Article 142.

Public events would require SCRA permission

Under Article 25 of the proposed new Religion Law, registered religious organisations and educational establishments would be allowed to hold events in their own premises, at places of pilgrimage and at cemeteries.

For any religious rituals or other mass events they plan elsewhere, they would need to notify the local administration and the SCRA, giving the date, location and programme of activity. The local authorities and the SCRA would give permission (or not give permission) ten working days before the proposed event.

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 exercise freedom of religion or belief without SCRA permission with a fine of 200 Financial Indicators (FIs) on individuals (20,000 Soms, equivalent to three weeks' average wages) and 650 FIs on organisations. The Violations Code allows the police and the SCRA to issue summary fines for violating Article 142.

Religious materials on paper and online would be censored

Article 4, Part 11 of the proposed new Religion Law would declare bluntly: "the publication, replication and sale of religious materials" without SCRA permission would be banned. "Religious materials" includes items in the media and on the internet.

Article 8 would include a provision banning "religious figures (clergy) who do not represent a religious organisation registered with the SCRA" from appearing in the media or online. It remains unclear if this bans anyone who is not a leader of a registered religious community from speaking in the media or writing anything online related to religion, or whether it specifically bans leaders of unregistered religious communities from doing so.

Article 26 would specify that registered religious organisations would have the right to produce, acquire, 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.

Under Article 26, individuals entering the country would be allowed to have only one copy of any one religious publication which would be for their own use only.

Imports of religious literature 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 26 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 30 working days to complete such analyses, but this could be extended by an extra month "taking into account the level of complexity and quantity of materials".

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 26 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, audio and video recordings, including online, 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 26, 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, in military sites, and in pre-school and general educational establishments, with the exception of religious sites and 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 and increase the fines to 200 FIs (20,000 Soms, equivalent to three weeks' average wages) on individuals and 650 FIs on organisations. The Violations Code allows the police and the SCRA to issue summary fines for violating Article 142.

A member of a religious community expressed concern about the restrictions on sharing faith in public in November 2023 when the then draft Religion Law was made 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 November 2023 (https://www.forum18.org/archive.php?article_id=2875). "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.

Under Article 6, Part 3, only registered religious communities with a central administration would be allowed to establish religious educational establishments "for children and adults".

Article 6, Part 4 would allow registered religious organisations to establish religious educational establishments to prepare "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.

Article 17, 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 17, Part 6 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).)

Article 6, Part 6 would specify that anyone teaching religion in a registered religious educational establishment would have to have "specialised higher religious (spiritual) education" with an appropriate certificate.

(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.)

Article 6, Part 9 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 similar restrictions on individuals going abroad for religious study in the November 2023 draft Religion Law. "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 November 2023 (https://www.forum18.org/archive.php?article_id=2875).

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 November 2023 (https://www.forum18.org/archive.php?article_id=2875). "This is

not fair."

Once a religious educational establishment is registered, under Article 36 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 35 it would be required to notify the SCRA within 30 days of any changes to its founding organisation, address, leadership body, phone or email address.

Individual religious teaching would still be banned

Article 6, Part 7 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 200 Financial Indicators (FIs) on individuals (20,000 Soms, equivalent to three weeks' average wages) and 650 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.

"This needs to be redrafted," an individual noted on the draft legal website on 3 September. The individual noted that young people go to the mosque and receive "short lessons on behaviour, prayer or reading the Holy Koran". "Or a person can simply come with questions to the imam and during the time when the imam answers his questions, some may consider this a lesson in the wrong place and fine him?!"

"Preachers" would require registration

In a new move, Kyrgyz citizens who want to carry out "preaching activity" within the country or abroad would require state registration. "Only those people can act as preachers who have higher and specialised religious education," Article 16 of the proposed new Religion Law declares.

"Preachers" would speak in the name of a registered religious organisation and could only act within their territory. Individuals would be banned as acting as "preachers" in the name of an unregistered religious organisation.

"Preachers" who appear in the media or online would require accreditation from the centralised administration of a registered religious community and the SCRA. SCRA accreditation would last up to one year, though religious organisations could apply to extend this period.

"Only specially authorised specialists of the central governing bodies of religious organisations are authorised to answer various questions of believers that arise in the process of satisfying spiritual needs (clarification of religious dogmas and canons)," Article 16 declares. "Decisions and conclusions that are binding on all believers are issued only by competent specialists of the central governing bodies of religious organisations."

Foreign missions and "missionaries" would require registration

Articles 14 and 15 of the proposed new Religion Law would require missions of foreign religious organisations and those sent by foreign religious organisations "to conduct religious activity in Kyrgyzstan" (also described as "missionaries") to have state registration. (The current Religion Law has the same requirement (https://www.forum18.org/archive.php?article_id=2711)).

Under Article 14, missions can gain registration for a maximum of three years before requiring re-registration. They would require 200 adult citizen founders, and all their personal details would have to be submitted with the application.

Under Article 15, only registered religious organisations would be able to apply for such registration for "missionaries". The application would have to include a form filled out by the foreigner, a copy of the foreigner's passport, a certificate that the foreigner does not have a criminal record in their home country 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 inviting organisation would also have to declare that it would take responsibility if the foreigner violates the Religion Law during their stay.

The SCRA would send any application to the National Security Committee (NSC) secret police and the Interior Ministry for their approval before granting permission for the "missionary".

The maximum term the SCRA would be able to give "missionaries" would be one year, although this could be renewed to a

maximum of three years. 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 missionary can carry out activities only in the territory covered by the activities of the religious organisation that invited him," Article 15 adds. The foreigner is warned in advance about abiding by the law.

Once "missionaries" are registered, under Article 15 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 7 of the proposed new Religion Law would ban "interference by religious figures in the activity of state bodies, local administrations and their officials, including exerting pressure on them in any form". It remains unclear if religious leaders who lobby state officials or parliamentary deputies on state religious policy or issues of public concern, or even simply express their opinions on such subjects, would be violating this ban.

Article 5, Part 7 would also ban "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 200 Financial Indicators (FIs) on individuals (20,000 Soms, equivalent to three weeks' average wages) and 650 FIs on organisations.

Another provision would punish those who finance political parties with religious organisations' funds, with similar penalties. Another provision would punish religious figures or organisations who seek to influence officials, 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>). It currently has four deputies in the Zhogorku Kenesh. (END)

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

For more background, 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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