

**Submission on freedom of religion or belief in Kyrgyzstan
to the 136th session of the UN Human Rights Committee - 8 September 2022**



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Forum 18 provides truthful, original, detailed, and accurate monitoring and analysis of violations of the freedom of thought, conscience and belief in Central Asia, Russia, Russian-occupied Ukrainian territory, the South Caucasus particularly Azerbaijan, and Belarus.

Freedom of religion and belief (FoRB) and related human rights issues in Kyrgyzstan include but are not limited to: a new 2021 Constitution which facilitates the restriction of human rights generally, including freedom of religion and belief; a climate of fear around publicly discussing freedom of religion and belief problems, which is related to the failures of the justice system to bring the perpetrators of past violent attacks to justice; and a continuing ban on exercising freedom of religion or belief with others without state permission, as well as the continued banning of the Ahmadi Muslim community and NSC secret police attempts to ban the Jehovah's Witnesses.

In contrast to interlinked human rights¹ such as freedom of expression, specific freedom of religion and belief violations have declined in comparison with previous years. This five-page briefing concentrates on the current freedom of religion or belief issues.

A new constitution ratified in May 2021 has many unclear and problematic provisions, and the draft was strongly criticised in a March 2021 Joint Opinion by the Council of Europe's Venice Commission and the Organisation for Security and Co-operation in Europe's (OSCE) Office of Democratic Institutions and Human Rights (ODIHR)². The Joint Opinion noted among other things that the new Constitution gives "potential grounds for restricting ... human rights and fundamental freedoms" and that there is "a shift of priorities and a dilution of the weight and value given to human rights and fundamental freedoms."

Fear of discussing human rights violations and publicly expressing views the government may dislike is found in many belief communities. Fears were expressed to Forum 18 that the new Constitution will both further reduce the willingness of people in Kyrgyzstan to raise human rights concerns, and provide more excuses for freedom of religion and belief violations.

- Violence and collusion of state authorities

Police and other state agencies have in the past repeatedly failed to stop violent attacks on people exercising freedom of religion or belief, or even appear sympathetic to such attacks. The state has

¹ See the reports of other human rights violations provided by the International Partnership for Human Rights <https://www.iphronline.org/category/country/kyrgyzstan> , Human Rights Watch <https://www.hrw.org/europe/central-asia/kyrgyzstan> , and Freedom House <https://freedomhouse.org/country/kyrgyzstan/freedom-world/2022> .

² Joint Opinion of the OSCE/ODIHR and the Venice Commission on the Draft Constitution of the Kyrgyz Republic [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2021\)007-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2021)007-e)

More background on FoRB is in Forum 18's country survey https://www.forum18.org/archive.php?article_id=2711
Individual cases of documented FoRB violations are at <https://www.forum18.org/archive.php?country=30>

also repeatedly failed to stop state officials and imams of the state-controlled Muslim Board encouraging or condoning violence and other coercion against people peacefully exercising their human rights, such as burying their dead under their own rites.

Smaller vulnerable communities have often experienced problems in carrying out burials in their own way, and in accordance with the wishes of relatives and the deceased. The most recent known case was on 14 December 2021, when state-appointed Muslim clergy in Karakol in Issyk-Kul Region prevented the family of deceased Protestant Pastor Kanatbek Junushaliyev from burying him in the local authority controlled cemetery.

The state-controlled Muslim Board (known as the Muftiate) controls all public expressions of Islam. Under a 2014 Defence Council instruction, the Muftiate approves all mosques and appoints the Chief Mufti (the leader of the Islamic community), all imams, religious judges, and members of the Council of Ulems (Islamic scholars) “only from among adherents of the Hanafī school traditional for Kyrgyzstan's Muslims.” The Defence Council ordered that this must happen “with the participation of representatives of state bodies .. after appropriate checks by state agencies of whether they are members of extremist and destructive organisations.” The Defence Council included officials from the State Commission for Religious Affairs (SCRA), the National Security Committee (NSC) secret police, other state agencies, the Presidential Administration, the single chamber Parliament (Zhogorku Kenesh), and other government ministers and officials.

“When our people began digging the ground in the city cemetery on 14 December 2022, some men approached and told them to stop digging,” the deceased Pastor Junushaliyev’s family told Forum 18. “They said that they acted on the instruction of the local Islamic clergy, and that they will not allow my father's burial there.”

The family complained to Karakol city authorities, but the authorities refused to act to protect the family's right to bury its dead in the city cemetery where ethnic Kyrgyz like Pastor Junushaliyev are normally buried. The burial then took place on 15 December. “We did this since we had no other choice,” the family told Forum 18. “We did not want to bury him there, since normally all Kyrgyz are buried in the city cemetery and those who are buried in the Orthodox cemetery are Orthodox Russians.”

Relatives and friends who want to bury their dead with non-Muslim rites are frequently afraid to publicly discuss such problems, for fear of reprisals and mob violence aided by state officials' lack of willingness to defend people's human rights.

- Permission to exist

It is illegal to exercise freedom of religion and belief in association with others without state permission. This is against Kyrgyzstan’s legally-binding international human rights law obligations, for as noted in paragraph 10 of the OSCE / Council of Europe Venice Commission Guidelines on the Legal Personality of Religious or Belief Communities: “State permission may not be made a condition for the exercise of the freedom of religion or belief”³.

After many years of arbitrary delays, in 2019 the SCRA finally gave many religious communities who applied for it state registration and therefore permission to exist. These communities included various Christian churches, Baha’i communities, and some but not all Jehovah's Witness communities.

³ 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>

The experience of communities seeking registration is that decisions are arbitrary. An association of the Falun Gong spiritual movement was registered in July 2004, but - under Chinese pressure - was liquidated as “extremist” in February 2005. On 26 January 2018 the Chui-Bishkek Justice Department in the capital Bishkek registered a Falun Gong association. However, on 20 March 2018, less than eight weeks later, the Justice Department issued a decree cancelling the registration, according to the Justice Ministry register of legal entities.

In a similar arbitrary decision, Ahmadi Muslims were banned as allegedly “extremist” and have not been able to publicly meet for worship since July 2011. State Commission for Religious Affairs (SCRA)'s registration denials followed after the National Security Committee (NSC) secret police told the SCRA that Ahmadi Muslims are a “dangerous movement and against traditional Islam.” Attempts to challenge re-registration denials up to the Supreme Court in July 2014 failed. A non-Ahmadi Muslim religious leader in Kyrgyzstan, who asked not to be named for fear of state reprisals, suggested to Forum 18 that the ban was imposed “to do a service for the [state-controlled] Muslim Board and foreign Muslim investors, who dislike Ahmadis”.

On 14 July 2021, the UN Human Rights Committee found (CCPR/C/132/D/2659/2015)⁴ that the regime violated the rights of Jehovah's Witnesses by arbitrarily refusing their communities in Naryn, Osh and Jalal-Abad state registration. The State Commission for Religious Affairs (SCRA) must review the denials, provide “adequate compensation”, and “take all steps necessary to prevent similar violations from occurring.” The SCRA has not done this, and has also ignored a similar March 2019 decision (CCPR/C/125/D/2312/2013)⁵ on the Jehovah's Witness community in Batken. SCRA Deputy Director Gulnaz Isayeva refused in December 2021 to tell Forum 18 why it continues to deny these Jehovah's Witness registration applications, and whether Ahmadi Muslims, who were earlier told they could not register, would succeed in any new application.

However, state registration does not remove many obstacles to exercising freedom of religion and belief. Members of a variety of communities throughout the country, all of whom wished to remain anonymous for fear of state reprisals, pointed out to Forum 18 that among the problems they face “communities cannot have public meetings outside their registered addresses unless they receive prior permission for each event from the authorities, and our experience is that the authorities do not normally give permission”, and “the authorities have punished people for sharing their beliefs in public places with adults.” One member of a religious community who wished to remain anonymous told Forum 18 that “practically speaking, registration only gives you permission to exist. Registration does not give you the freedoms one should expect.”

Many leaders of registered communities declined to discuss registration and other problems relating to freedom of religion and belief, for fear of state reprisals. “The authorities are playing a game,” a Kyrgyz human rights defender, who wished to remain unnamed for fear of state reprisals, told Forum 18 on 25 June 2019. “They kill two birds with one stone,” showing the international community that there is democracy and silencing religious communities, “as many of them have been vocal critics of the authorities' policies in the past”.

“There is an atmosphere of fear in the country,” the human rights defender commented. “The fact that I am afraid to be publicly named, and that leaders of registered communities would not discuss registration and other problems relating to freedom of religion and belief, demonstrates this.”

NSC secret police criminal case attempt to ban religious community

On 4 December 2019, the National Security Committee (NSC) secret police opened a criminal case

⁴ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G22/282/78/PDF/G2228278.pdf?OpenElement>

⁵ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/147/58/PDF/G1914758.pdf?OpenElement>

against unspecified members of the Jehovah's Witness national centre in Bishkek under Article 313, Part 2, Point 2 of the Criminal Code then in force. This punishes “Incitement of racial, ethnic, national, religious or inter-regional enmity (discord) conducted by a group of people in a prior conspiracy” with jail terms.

Old Criminal Code Article 313 is similar to new Criminal Code Article 330, which came into force on 1 December 2021. Any trial would take place under the Code in force when the “crime” was committed. Zhayilbek Dadiyev of the Presidential Administration told Forum 18 that the criminal case was opened by the NSC secret police after an appeal from an unnamed individual.

The NSC secret police raided the Jehovah's Witness national centre in Bishkek and the adjoining residence on 25 March 2021, claiming in the search warrant that the raids were: “on the basis of information about the presence of signs of extremism and incitement of religious hatred in the activities of representatives of the religious organisation, the Religious Centre of Jehovah's Witnesses.” Officers seized documents and electronic equipment from both. “After protests they returned the confiscated materials within one day,” Jehovah's Witnesses told Forum 18.

On 7 July 2021, Jehovah's Witnesses contacted the Ombudsperson's Office in Bishkek to express concern about the continuing criminal investigation. The Ombudsperson's Office then contacted the General Prosecutor's Office. On 1 October, the Deputy Ombudsperson responded to the Jehovah's Witness national centre saying that the criminal case is still open. On 30 November the Ombudsperson's Office refused to tell Forum 18 what steps it had or would take to protect the rights of Jehovah's Witnesses to exercise freedom of religion or belief.

In an attempt to ban Jehovah's Witness publications as “extremist”, National Security Committee (NSC) secret police chief Kamchybek Tashiyev claimed to the General Prosecutor in July 2021 that their teaching “is contradictory and oriented towards people who don't know the fundamentals of religion and the Bible” and based on “the personal views of the founders of the organisation who misinterpret the Bible.” Tashiyev also claimed, 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. The activity of Jehovah's Witnesses is banned in Russia, China, Turkmenistan, Tajikistan, Iran, Iraq and in a number of other countries.”

Tashiyev called for their literature to be banned and a ban on the entire organisation to be considered (while the NSC continues the 2019 criminal case). Without informing Jehovah's Witnesses, on 17 November 2021 the General Prosecutor's Office lodged a suit to Bishkek's Pervomaisky District Court for 13 books and 6 videos to be declared “extremist”. The General Prosecutor's Office banning suit notes that four “expert analyses” of Jehovah's Witness publications and videos were commissioned as part of the NSC secret police’s 2019 criminal case.

On 2 December 2021, the court rejected the General Prosecutor's Office suit to ban the Jehovah's Witness books and videos as “extremist”, saying it had been filed under the wrong procedure. The General Prosecutor's Office official who took the case to court said it will not appeal. “The repression is postponed for now,” said Syinat Sultanalieva of Human Rights Watch who was present in court. Jehovah’s Witnesses told Forum 18 that they think that the aim of the suit was “primarily to strengthen the [2019] criminal investigation and pave the way for an eventual claim to liquidate the national centre and ban the peaceful worship of Jehovah's Witnesses in Kyrgyzstan”.

The NSC secret police is still also pushing to have Jehovah's Witnesses banned under its 2019 criminal case. The General Prosecutor's Office official said he is not aware of any suit being prepared. The NSC officer investigating the case, Lieutenant Kubanychbek Toktaliyev, refused to give Forum 18 any information about the case on 17 December 2021, citing the “secrecy of the

investigation”.

A ban on a religious community would be against Kyrgyzstan's legally-binding international human rights obligations. The country acceded to the International Covenant on Civil and Political Rights (ICCPR) in 1994, and ICCPR Article 19 (“Freedoms of opinion and expression”) states: “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his [sic] choice.” As General Comment 34 on this Article puts it: “All forms of opinion are protected, including opinions of a (..) moral or religious nature. It is incompatible with paragraph 1 to criminalize the holding of an opinion. The harassment, intimidation or stigmatization of a person, including arrest, detention, trial or imprisonment for reasons of the opinions they may hold, constitutes a violation of article 19.”

On 10 December 2021, four UN Special Rapporteurs wrote to Kyrgyzstan’s government to express “serious concern at what appears to be an arbitrary, ongoing criminal investigation” and at “what appears to be acts of intimidation and harassment” in the police raids and searches, as well as stigmatisation of the Jehovah’s Witness community. The Rapporteurs asked for a response within 60 days. As of September 2022, no government reply is listed on the UN OHCHR Communications report website.

(END)