

# **Freedom of Religion or Belief in the Kyrgyz Republic: an overview**

# Freedom of Religion or Belief in the Kyrgyz Republic: an overview

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This research paper contains articles regarding the current situation with respect to religion and religious freedom in Kyrgyzstan. The authors concentrated their attention on issues of compliance with the right to practice religion in Kyrgyzstan. Materials in the paper disclose relationships established between religious organizations and governmental institutions and issues of interfaith relations; there is also a brief overview of the history of religion in the territory of Kyrgyzstan. The publication is directed to a wide range of professionals, human rights and religious organizations\*.

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\* The authors will use the term “the Kyrgyz Republic” to refer to the modern political state and its governmental institutions, public officials, and laws, but generally will use the term “Kyrgyzstan” to refer to the country.

**Table of Contents:**

<b>Introduction</b> .....	4
<b>Dmitry Kabak, Gulshaiyr Abdirasulova</b>	
About the realization of the right for religious freedom in Kyrgyzstan .....	6
<b>Almaz Esengeldiev</b>	
Problems of legal freedom for religious freedom in Kyrgyzstan.....	32
<b>Galina Kolodzinskaja</b>	
Interconfessional dialogue in the Kyrgyz Republic.....	46
<b>Indira Aslanova</b>	
Short overview of religious history in the territory of Kyrgyzstan .....	50

## Foreword

Religious life in Kyrgyzstan as a social phenomenon started to actively occur in the early 1990's – the period of state transformation. The democratic process of this period in Kyrgyzstan enabled religious self-determination, and proselytism became a new phenomenon in Kyrgyz society. Religion, virtually obsolete in the Soviet period and viewed as preventing social development, started to be woven into the social structure, giving it a greater diversity and manifesting itself in a variety of faiths and denominations.

Throughout the twenty years of Kyrgyzstan's independence, society has undergone significant political and economic changes and become more diverse. The process of adaptation to new forms of life, pluralism and diversity required great efforts from the Jogorku Kenesh (parliament) of the Kyrgyz Republic, the Government of the Kyrgyz Republic, governmental institutions, civil society, religious organizations and citizens of the country. In these conditions, everyone has had to face real challenges, in the light of existing risks and threats. There is still no real recognition of and respect for freedom of choice and religious self-determination, and pluralism and diversity have not yet become a value of the wider population. Stratification in society, human rights violations, unfavorable conditions and discrimination are threats to establishing a culture of respect for human rights and stability in the country.

The religious sphere, more than any other, happened to be overloaded with prejudice, labels, active aggression, misunderstanding and rejection of congregational identity. Most of the population regard themselves as Muslims, as religion for the most part is perceived as characteristic, transmitted by ethnicity, rather than a free choice of an individual. Common correlation in the society between ethnic and religious affiliation is a basis for a negative attitude to proselytism. Experience shows that the problems of religious minorities in Kyrgyzstan are not being solved. For example, the problem of burying Kyrgyz people who have adopted a different religion has existed since the mid 1990's. Kyrgyz people, preserving strong blood ties, do not allow those of them who adopted a non-Islamic religion to be buried far from the tribal cemetery, as it provokes the feeling of family rejection, causing emotional harm. Given this, the majority of the population is not aware of the fact that according to Islam, a Muslim cemetery and graves of other faiths are allowed at one location given the condition of the natural division of land by trails or streams<sup>1</sup>, demonstrating Islam's tolerance to

<sup>1</sup> H. Saidullaev. Spiritual Directorate of the Muslims of Kyrgyzstan//seminar "International and national standards of freedom to religion," conducted by "Open Position" Public Fund, June 24-28, 2013

other religions. Therefore, the problem with burials of Kyrgyz Protestants is reflected by the state's intolerance to the process of proselytism and by gaps in religious education of the population. The general human rights situation in the country shows that even when human rights are established by national legislation and are reflected in laws, observance is not guaranteed by those in power.

The negative attitude to proselytizing and new religious groups show the fragility and instability of interfaith relations. Interfaith relations is fraught with conflicts, and is exacerbated by the political instability in Kyrgyzstan. Without doubt, the most promising way to overcome and prevent these negative phenomena in the religious sphere is honoring the laws guaranteeing rights and expectations of believers, recognizing their congregational identity, open discussion of the issues, and educating the population.

This publication is an attempt to invite the reader to openly discuss the problem and situation which is faced by our society regarding religious self-determination by citizens. One of the most important tasks for us today is to seek a peaceful and constructive co-existence among different groups of the population. For achieving mutual understanding between different social groups, under the conditions when there is a majority and a minority, there is a need for efforts by civil society to protect generally accepted human rights, and at the same time to protect specific rights of religious people and religious organizations. This collection of articles contains materials on the history of religions, an overview of specific violations of the rights of believers, and challenges in interfaith relations in our country. The content of this publication reflects only a part of the wide spectrum of issues in the religious arena, and invites the reader to an open discussion.

Research and monitoring in the sphere of religious freedom plays a crucial role in evaluating and encouraging the state's compliance with international standards. The community of national human rights advocates needs to lobby and demand from the state a solution to the problems of religious people and religious organizations, and to represent and protect their interests. Non-governmental and international organizations can provide a valuable service in taking problems of believers into civil forums for a wider discussion and recognition of the processes and steps necessary to improve religious freedom and interfaith relations.

We hope that the published materials will attract the attention of society to problems of religious people and religious organizations and will serve as an impetus for the acknowledgement of and respect for diversity in Kyrgyzstan.

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## About the realization of the right for religious freedom in Kyrgyzstan

### Introduction

The Constitution of the Kyrgyz Republic, which is a participant in international treaties on Human Rights, recognizes the right of every person to freedom of thought, belief and religion. According to international standards, the state guarantees respect and protection of religious freedom and beliefs:

1. freedom to have or adopt religion or beliefs according to one's own choice;
2. freedom to openly practice one's religion, either individually or with others;
3. freedom to exercise one's religion either publicly or privately;
4. freedom to choose a way of practicing religion or beliefs.

In 2013, the “Open Position” Public Fund conducted research into the issue of ensuring the rights of religious people. In the framework of this research, materials on the current situation were collected; meetings with government officials and members of religious organizations were conducted, materials on violation of religious freedom were gathered, statistical materials were analyzed, and expert interviews were conducted. Materials collected were from different regions of the country and different religious organizations, located in the Batken, Jalal-Abad, Naryn, Talas, Osh, and Chui regions, and in Osh and Bishkek cities. Requests on issues related to religion were sent to government agencies. Training seminars were conducted in the summer of 2013 on international standards and domestic law on the freedom of religion, for representatives of religious organizations and government agencies. The seminars produced additional materials and information, which formed a basis for this article.

Kyrgyzstan is multi-confessional by its structure and includes a range of religious organizations of different faiths: Islam, Christianity, Buddhism, Judaism and others. Among Islamic organizations, in addition to Spiritual Directorate of the Muslims of Kyrgyzstan (the majority of whom are of the Sunni Hanafi school of thought), 68 other

Islamic organizations and associations<sup>2</sup> were registered in the country. They contain Shiite Muslims<sup>3</sup> (Ja'fari school of thought), Tablighi Jamaat<sup>4</sup>, and the Ahmadyia community. In addition, there are proponents of Hizb ut-Tahrir, Salafis, and Wahhabis, who did not undergo the procedure of registration. Christianity is represented by Orthodoxy, Catholicism, Protestantism, and also new religious movements of Christian doctrine (for example, Jehovah's Witnesses, and Mormons). Christian organizations, which separated from the Russian Orthodox Church, are Old Believers' Community and Old Orthodox Christians. There is a group of independent Protestant churches and Protestant organizations. The State Commission for Religious Affairs of the Kyrgyz Republic (the SCRA) refers to this category as "non-denominational organizations." The origin of this term is unknown, as it is possible to define a denominational affiliation of many of the aforementioned organizations. The adherents of Buddhism attend the only registered Buddhist community, "Chamsen," located in Bishkek. Judaism is represented by a Jewish religious community (of orthodox direction). The Baha'i community and the Scientology church are considered as New Religious Movements (NRM). The state's classifications contain one more type of religious organization -- missions of foreign confessions.

## Overview of national legislation

The Constitution of the Kyrgyz Republic designated the state as secular, legal, and unitary<sup>5</sup>, and describes the rights and freedom of individuals as having the highest value. The Constitution states that no religion can be recognized as the state religion or be obligatory, and guarantees that religious institutions are separated from the state. Religion in Kyrgyzstan is closely woven with social structure, interrelating with other spheres of social life, but the main document regulating relationships on the subject of religion is the Constitution, which directly prohibits discrimination on any ground, including religious affiliation or beliefs. Every person, regardless of religious affiliation, is guaranteed all rights and freedoms of an individual by the Constitution. The Constitution does not allow restriction of the right for freedom of choice and the right to have religious or other beliefs, and it does not permit the coercion of religious expression.

Complying with provisions of International treaties, the Constitution of the Kyrgyz Republic prohibits any actions aimed at violent change of constitutional order, undermining national security, instigating social, racial, transnational, ethnic and religious hatred. Interference of religious organizations and clerics into activities of government institutions is also prohibited. In this regard, the creation of political parties based upon religion in Kyrgyzstan is prohibited. International treaties, in which the Kyrgyz Republic participates, set certain bases, according to which some rights and

<sup>2</sup> Parliamentary hearings of JK KR. Committee on Education, Science, Culture and Sport, March 5, 2013.

<sup>3</sup> Newspaper MSN from 27 February 2007 Available at: <http://msn.kg/ru/news/17465>

<sup>4</sup> According to the SCRA KR Tablighi Jamaat is a Pakistani movement. Available at: <http://www.vb.kg/219086>.

<sup>5</sup> The Constitution, Articles 1, 7, 16, 20.



freedoms may be restricted for particular purposes and in a manner commensurate to the purposes. Any restrictions imposed must be established by the Constitution and laws of the Kyrgyz Republic in order to protect national security, public peace, health and morals, protection of rights and freedom of other individuals.

The 2010 Constitution of the Kyrgyz Republic set new standards for a number of guarantees regarding human rights and freedoms, including freedom of religion. General constitutional guarantees for human rights, including the right for freedom of religion, are reflected in a number of norms of national legislation. For example, the Law of the Kyrgyz Republic “On freedom of religion” was adopted in 2008. However, the Law “On freedom of religion,” despite an amendment in 2012, does not comply with the new Constitution and international standards. This law has a number of contradictions, which have drawn attention of national and international experts<sup>6</sup>. In 2010-2011, a working group established under the Ministry of Justice of the Kyrgyz Republic developed a draft law “On freedom of religion and religious organizations in the Kyrgyz Republic,” but the Government did not introduce the law to the Parliament.

The draft law “On freedom of religion and religious organizations in the Kyrgyz Republic” guarantees the right for freedom of religion and the right for atheistic beliefs<sup>7</sup>, which corresponds to the Constitution of the Kyrgyz Republic and to the provisions of international treaties on Human Rights. The law prohibits any coercion in determining an attitude toward religion. The state has responsibility for establishment of mutual tolerance and respect between citizens (to be clear – between citizens, foreigners, and people without citizenship), who practice religion or who do not practice it<sup>8</sup>. The law defines the principles of the state policy on freedom of religion, repeating the provisions of the Constitution, according to which the Kyrgyz Republic is a secular state, no religion can be established as state or obligatory, all religions and religious organizations are equal before the law, and the relationship between the state and religious organizations are regulated by the law. This draft law preserves the definition “sect”<sup>9</sup>, which is not a legal term, has a theological meaning and is negatively perceived in society. Moreover, the term “sect” is not used in the text of the law. In response to the appeals of religious organizations, government officials use evaluating terminology (“non-traditional organizations,”<sup>10</sup> “heterodoxy people”<sup>11</sup>, “non-traditional religions”<sup>12</sup>). The group of “experts” involved and whether they respect religious diversity, inherent in modern Kyrgyz society, influences the quality of expert conclusions.

<sup>6</sup> See the comments of the Advisory Council on Freedom of Religion or Religion ODIHR/OSCE on the draft law “On freedom of religion and religious organizations in the Kyrgyz Republic”, prepared on October 7, 2008. (opinion № REL-KYR/120/2008). Available at: [www.osce.org](http://www.osce.org)

<sup>7</sup> Law “On freedom of religion and religious organizations in the Kyrgyz Republic» № 282 of December 31, 2008, Article 4, part 1.

<sup>8</sup> Ibid, Article 4, part 1-3, 5.

<sup>9</sup> Ibid, Article 42.

<sup>10</sup> Outgoing letter: Prosecutor’s Office of the Issyk-Kul region of June 16, 2011.

<sup>11</sup> Outgoing letter: Issyk-Kul district administration from July 14, 2011; Outgoing letter of the Department of Defense and Law Enforcement of the Regional State Administration of the Issyk-Kul region of KR, of August 18, 2011.

<sup>12</sup> Outgoing letter of the Department on the ethnic, religious policy and interaction with civil community of the Office of the President of the Kyrgyz Republic of October 06, 2011

## Overview of national legislation's provisions on responsibility

The Code of the Kyrgyz Republic “On administrative responsibility” (CAR) contains two articles<sup>13</sup> using the terms “freedom of belief,” “freedom of religion” and “religious groups.” In one, a punishment is set for obstruction by citizens and by officials of the right for freedom of belief and freedom of religion. The other contains the responsibility for violation of legislation by religious organizations, and imposes punishment of clergymen and members of religious groups. Officials of the Prosecutor’s Office and the SCRA are authorized to create protocols on administrative offenses under section 61 of this CAR and on violations under Article 395 of the CAR<sup>14</sup>. The failure of heads’ of religious organizations to register with the state administration, as well as failure to report data on changes of information of a legal entity, are penalized. At the same time, the legislation provides for punishment for officials responsible for the registration in case of unlawful refusal to register or delay of registration beyond the applicable time limit.

Penalties are imposed in the Criminal Code of the Kyrgyz Republic for crimes related to freedom of religion<sup>15</sup>: direct or indirect violation or restriction of rights and freedoms of a person based upon religious or other beliefs, hindering the activity of religious organizations or conducting of religious rites, encroaching on a person’s identity and civil rights and incitement of religious hatred. There is also liability for the infringement of a person’s identity and rights, under the guise of performing religious rites. The Criminal Code of the Kyrgyz Republic provides punishment for committing a series of acts which are organized in nature and relate to religion: for organization of a community which encroaches identity or rights of citizens, for inciting religious hatred by a group of individuals, as well as organizing activity aimed at inciting religious hatred.

## Review of the provisions of international human rights treaties.

Provisions relating to guarantees of freedom of religion are contained in a number of key human rights treaties of the United Nations, including:

- 1) International Covenant on Civil and Political Rights<sup>16</sup>;
- 2) International Covenant on Economic, Social and Cultural Rights<sup>17</sup>;
- 3) The Convention on the Rights of a Child<sup>18</sup>.

<sup>13</sup> The Code of the Kyrgyz Republic “On Administrative Responsibility(CAR), Art. 61,395.

<sup>14</sup> The Code of the Kyrgyz Republic “On Administrative Responsibility”, Art. 556-1, p. 395, 297, 406.

<sup>15</sup> Criminal Code of the Kyrgyz Republic, Art. 134, 146, 259, 299, 299-1, 147.

<sup>16</sup> For the Kyrgyz Republic the treaty entered into force in January 7, 1995.

<sup>17</sup> For the Kyrgyz Republic the treaty entered into force in January 7, 1995.

<sup>18</sup> For the Kyrgyz Republic the treaty entered into force in November 6, 1994.

The International Covenant on Civil and Political Rights (ICCPR) provides a list of rights and freedoms, as well as gives their definitions. Religion and beliefs are mentioned in the provisions prohibiting discrimination<sup>19</sup>, that specifically prohibit countries from ignoring their obligations as to international religious freedom even during times of emergency (article 18 of the ICCPR)<sup>20</sup>. The ICCPR does not consider the work assigned to an individual in case of that individual's refusal of military service because of religious and ethnic reasons, to be forced or compulsory<sup>21</sup>.

"In those states in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right to enjoy their own culture, practice their religion and to perform the rites in community with other members of their group..."

ICCPR, art. 27.

The ICCPR guarantees the right to freedom of thought, belief and religion. This right includes the freedom to have or adopt a religion of one's own choice and freedom to practice one's religion or belief either individually or in a community, privately or publically, in worship or in performing religious or spiritual practice and teaching<sup>22</sup>. The ICCPR imposes restrictions on the freedom to practice a religion or belief in certain instances established by law and cases, when it is necessary to protect public safety, order, health or morals or the rights and freedoms of others. It should be noted that the protection of national security is not among the specific circumstances in which restrictions on freedom of religion or belief are allowed.

The definition of freedom of religion and belief in the ICCPR is complemented by the provisions of the UN Convention on the Rights of a Child. Each child has a freedom for thought, belief and religion. The state respects the rights and duties of parents and, when applicable, legal guardians to guide their children in the use of this right for freedom of thought, belief and religion. The guidance of children should meet the evolving capacity of a child<sup>23</sup>. The implementation of freedom of religion and belief<sup>24</sup> affects a number of other human rights and freedoms: the right for freedom of opinion, freedom of expression, freedom to seek, receive and spread information and ideas regardless of state borders, either orally, in writing or in print, in the form of art, or any other media of choice, the right for peaceful gathering, and the right for freedom of association.

The ICCPR mentions children's rights individually as being protected against discrimination on the basis of religion. The ICCPR also guarantees to religious minorities the right to enjoy their culture, practice their religion and perform their rituals, and imposes on the state the obligation to prohibit by law the advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence.

<sup>19</sup> ICCPR, Article 2, part 1

<sup>20</sup> Ibid. Article 4, part 1 - 2

<sup>21</sup> Ibid. Article 8.

<sup>22</sup> Ibid.

<sup>23</sup> The UN Convention on the Rights of a Child, Article 14.

<sup>24</sup> ICCPR, Articles 19, 20-24, 25.

The International Covenant on Economic, Social and Cultural Rights (ICESCR) also guarantees protection from discrimination on the basis of religion or belief, and raises issues of religion and belief in the context of the right for education<sup>25</sup>. The parties to the treaty should contribute to the fact that education will promote mutual understanding, tolerance and friendship among religious groups. The ICESCR imposes on the state the obligation to respect the liberty of parents and, when applicable, legal guardians to choose for their children not only the state's schools, but also other schools, which correspond to the minimum educational requirements set by the state, and to provide moral and religious education for their children according to their own beliefs.

Establishment and registration of religious organizations According to the ICESCR, religious people can come together for mutual practicing of their religion, commission of worship, rites and rituals, religious education and indoctrination of their followers, etc.<sup>26</sup> In this case, the right for freedom of association, and the right for freedom of belief and religion guaranteed by the Constitution of the Kyrgyz Republic<sup>27</sup> and international treaties, are assured<sup>28</sup>. At the same time, the Law "On freedom of religion and religious organizations in the Kyrgyz Republic" prohibits the operation and functioning of religious communities<sup>29</sup> without registration with the SCRA<sup>30</sup>. Religious educational institutions in the Kyrgyz Republic are required to go through registration.

According to the law, "religious association" means "association of legal entities", i.e., religious organizations. In addition, the law restricts the ability of religious organizations to merge if they have a different religious affiliations. The establishment of associations is allowed only for organizations with a single religious affiliation with at least 10 members, with at least one of them having 15 years of experience in its activities within the territory of the Kyrgyz Republic.

In the contrast to the civil law, which regulates the creation and activity of legal entities, the aforementioned law on religious freedom and religious organizations contains other rules and introduces a concept of "central management" of religious organizations, by setting the government's requirements for them in nine locations (the oblasts, and Bishkek and Osh), and requiring registration. Furthermore, the establishment of a religious organization requires two hundred citizens residing in the territory of the country. Thus, foreigners and people without citizenship are effectively denied the opportunity to create a religious organization, even though the right of association and the right to freedom of religion is guaranteed to every person, regardless of nationality.<sup>31</sup>

<sup>25</sup> ICESCR Articles 2, part 2, Articles 13, part 1, 3

<sup>26</sup> Ibid. Article 8, part 1

<sup>27</sup> Constitution of the Kyrgyz Republic, Articles 35, 32.

<sup>28</sup> ICCPR. Article 22, 18

<sup>29</sup> The Law has a conflict of terminology. By using the term "organization" the legislation actually uses the term associated with a legal entity, when a regular association cannot set goals for obtaining a status of legal entity (this follows from the human rights for association).

<sup>30</sup> Law "On freedom of religion and religious organizations", Article 8, part 2-5, Article 13

<sup>31</sup> The Constitution of the Kyrgyz Republic, Article 19, part 1.

A pre-condition for registration with the Ministry of Justice is the registration of religious organizations and missionaries at the SCRA. The law requires presentation of the charter to complete registration, as well as approval of the list of the founders of the religious organization or missionary by local councils<sup>32</sup>. In fact, this procedure is established to obtain the consent of local councils for religious people to create their associations. Correspondingly, missionaries are also required to have a confirming agreement with local councils and to have 200 “initiators.” A notarized list of initiators requires personal attendance of all two hundred people before the notary, which significantly complicates the procedure of registration, and imposes a large financial burden for notary services. Requirements and procedures for registration and re-registration also affected the major religious organizations – the Spiritual Administration of Muslims of Kyrgyzstan, and Bishkek’s and Kyrgyzstan’s Diocese of the Russian Orthodox Church. The decision to amend the charter of the Spiritual Directorate of the Muslims of Kyrgyzstan, due to the requirements of the law, led to the need for re-registration. The relevant procedures for re-registration have caused complications. The Russian Orthodox Church has faced difficulties with re-registration due to the change of the Diocese’s name.

Established in 2008, the requirement for approval of lists of initiators by local councils is characterized by a different practice in its actual application. For example, in one case the local council conducted the procedure of matching the lists of citizens of Kyrgyzstan’s and Bishkek’s diocese of the Central Asian Metropolitan District of the Russian Orthodox Church (Moscow Patriarchate).<sup>33</sup> In another case, the Bishkek City Council denied approval of nine religious organizations referred to as so-called “non-traditional religious organizations.”<sup>34</sup> Those organizations were the Evangelical Lutheran Church, the Church of the Seventh-day Adventist, Religious Center “Jehovah’s Witnesses in the Kyrgyz Republic,” the Jewish community of the city of Bishkek, Evangelical Christian Missionary Center “Grace,” Religious organization “Apprise”, the Roman Catholic Mission to the Kyrgyz Republic, the Christian Evangelical Presbyterian Church “Truth,” the Presbyterian Church “Immanuel.”

The procedure for registration of religious organizations is defined as the Interim Regulation on the registration of religious organizations in the Kyrgyz Republic<sup>35</sup>, the Provisional Regulations on registration of religious organizations, foreign missionaries and foreign citizens arriving in the Kyrgyz Republic for the purpose of religious activities<sup>36</sup>, as well as in the Law “On freedom of religion and religious organizations in the Kyrgyz Republic.” Subordinate legislative acts have not been brought into line with the principal law, and Regulation of SCRA is inconsistent as well.

<sup>32</sup> Ibid. Articles 9, 10.

<sup>33</sup> Resolution of the Bishkek City Council No. 8 of April 2, 2013.

<sup>34</sup> Ibid, No. 9 of April 2, 2013.

<sup>35</sup> Approved by Presidential Decree of the Kyrgyz Republic No. 319 of November 14, 1996.

<sup>36</sup> Ibid.

Changing the spiritual leader of a religious organization also requires a registration procedure. Any inaccuracies in the details of facilities of a religious organization (for example, the name of a mosque), even due to the fault of authorities at the time of the registration, requires correction, which involves repetitive collection of documents required for the registration.<sup>37</sup> Obtaining a certificate from the State Architectural and Construction Supervision (GASN) is costly and depends on the size of the structures or facilities. The cost of this procedure and other difficulties are a significant obstacles for registration of facilities.”<sup>38</sup> Provision of their own property (a part of it or a lodging) by believers to function as a religious object, where liturgical practices are held, faces a controversial practice in the consideration of the legal status of such facilities.<sup>39</sup>

The Law “On freedom of religion and religious organizations” remains rudimentary, when a religious organization is identified as “missionary.” According to the law, missionary activities of local religious organizations are called “missions.”<sup>40</sup> Additionally, there is a concept of “missionary of a foreign religious organization in the Kyrgyz Republic,” and its activity is permitted only upon completion of registration at the SCRA. Accordingly, a missionary is identified as a separate form of legal entity. This provision is contrary to the Civil Code of the Kyrgyz Republic, which does not employ such a category as “missionary”, rather distinguishing the concept of “legal entity”, “branch” or “representation” of a legal entity. The civil law defines a legal organizational form of legal entity, representing an association of religious people, as a “religious organization.” Individuals – foreign missionaries appear in the law apart from “missionary.”

The Kyrgyz Republic is a unitary state; therefore, registration as a legal entity allows religious organizations to function within the entire territory of the state. The organization itself may operate throughout the territory of the state or, if it considers it necessary to establish branches and representative offices, it may do so by defining their power and territorial activities (including functioning without reference to the administrative-territorial structure which is established for the purposes of state administration).

When making changes and amendments to the charter of a religious organization registered with the authorities, re-registration is required, in the same manner as the original registration.<sup>41</sup>

### The rejection of registration, **suspension** or liquidation of a religious organization

<sup>37</sup> From an interview with kazi T. Zhorojev, Jalal-Abad, April 14-15, 2013.

<sup>38</sup> Ibid.

<sup>39</sup> SCRA KR classifies mosques, temples, synagogues, houses of worship, monasteries, etc. as such objects// Outgoing letter of SCRA KR No. 02-16/427 of April 29, 2013.

<sup>40</sup> Law “On freedom of religion and religious organizations in the Kyrgyz Republic” No. 282 of December 31, 2008, Article 8 - 9, 10.

<sup>41</sup> Ibid. Article 10, part 3



The law recognizes the possibility for rejection of registration (or re-registration) of the mission or missionaries<sup>42</sup> (foreign citizens) arriving in the Kyrgyz Republic for the purpose of religious activities. In this case, the burden of proof and judicial appeals rest with the mission or missionary, not the government institution. The law establishes a reporting system for religious organizations, with respect to their activities, to the SCRA. Systematic failure of a religious organization to report on a timely basis using the designated forms of the SCRA may be grounds for the SCRA to initiate a court case for the liquidation of a religious organization. The SCRA has a right to suspend the activities of a religious organization pending a court decision on liquidation of the religious organization, due to failure to eliminate the violations specified in a warning, or repetitive violations. The Law “On freedom of religion and religious organizations” contains a list of reasons for the liquidation of a religious organization, and prohibiting activities of a religious organization, mission and religious schools. The law establishes the respective responsibilities of the members and officials for their actions. Article 14 of the law includes a prohibition of coercion to the destruction of families, refusal of medical care on religious grounds, refusal to receive compulsory education, inciting citizens to refuse to fulfill their civic duties prescribed by law, and other activities. The prohibitions should be brought into line with the structure of the crimes contained in the Criminal Code of the Kyrgyz Republic, as well as with actions deemed illegal under the CAR.

The law on reporting of religious institutions on their activities does not meet international standards.

The registration of religious organizations (entities) is also classified as registration of facilities for religious purposes<sup>43</sup>. This provision of the law combines subjects (organizations) and objects (facilities). In implementing this provision, the SCRA requires the registration of any facilities owned or used by religious organizations.

In 2012, the SCRA refused to re-register the mission of the Ahmadiyya Muslim community, and provided “expert” advice which became the basis for the recognition of four organizations as extremist and terrorist<sup>44</sup>. The practices of the SCRA raises the question of the examination and evaluation of an organization’s instruments by judicial officials and prosecutors from the perspective of equality between the prosecution and defense, guarantees of a fair trial, respect for the presumption of innocence and protection from unlawful actions in the form of abuse of power.

<sup>42</sup> Ibid. Article 11, part 10-11, Article 12, part 6, Article 26, part 2,7, Article 14

<sup>43</sup> Law “On freedom of religion and religious organizations” No, 282 of December 31, 2008, Article 10, part 1.

<sup>44</sup> The newspaper “Delo No.”, of March 28, 2013 Available at: <http://delo.kg/index.php/religiya/5641-religioznost-rastjot-a-dukhovnosti-net>.

## **Religious literature and other materials as an integral part of religious freedom**

The publication, acquisition, storage, export and import of religious literature, audio-video materials, and other religious items are considered as a right of religious organizations.<sup>45</sup> All materials must have a mandatory labeling stating the full name and religious affiliation. Distribution of religious materials is allowed only in areas or facilities that belong to religious organizations, as well as places of worship and specialty stores. The law prohibits the distribution of materials in public places (streets, boulevards), apartments, private houses, child care centers, schools and universities. This provision affects religious freedom for believers in everyday life. The SCRA may appoint religious experts to review distributed materials. Religious organizations are required to provide an explanation to state and local governments regarding issues related to the presence of elements of religious extremism in the materials of the organization. In examining the religious materials, the state should take into account the diversity of both religious beliefs and other beliefs inherent in the society.

## **Labor relations and related reporting to authorities**

The employment relationship between religious organizations and workers is regulated under labor laws. Religious organizations are responsible for recruitment and selection of their employees in accordance with the law, and to deduct the taxes and other mandatory payments required for its employees. Accounting and taxation of religious organizations is carried out in accordance with the law. Religious organizations are required to submit reports to government bodies such as the tax authorities<sup>46</sup> and the Social Fund of the Kyrgyz Republic.

## **Donations, humanitarian aid and other funds received by religious organizations**

The Law “On freedom of religion and religious organizations in the Kyrgyz Republic” outlines monetary inflows which may be relevant to religious organizations: financial donations, humanitarian aid and other income, including income from economic activity. Tax laws use different terms: “assets<sup>47</sup>,” which include “cash” and “property,” “humanitarian aid,” “membership fee.” The legislation provides support for charitable activities as a whole, allowing a free transferring of up to 10% of taxable income a year.

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<sup>45</sup> Law “On freedom of religion and religious organizations in the Kyrgyz Republic” No.282 of December 31, 2008, Article 22.

<sup>46</sup> Law “On freedom of religion and religious organizations in the Kyrgyz Republic” No.282 of December 31, 2008, Article 26.

<sup>47</sup> Tax Code of the Kyrgyz Republic, Articles 208, 153, 212.



The terminology used in the law “On freedom of religion and religious organizations” should be brought into line with the terms and definitions of the Tax Code of the Kyrgyz Republic and the Civil Code of the Kyrgyz Republic.

## Review of judicial practice

Data on cases considered by the judicial authorities of the Kyrgyz Republic have been collected for an overview of judicial practice. One case<sup>48</sup> resulted in civil, administrative, constitutional and criminal proceedings<sup>49</sup> in the Kyrgyz Republic. The lawsuit by the General Prosecutor’s Office related to identification of a religious organization, “Ahmadiyya Muslim Community,” as extremist and prohibiting its activities in the territory of Kyrgyzstan<sup>50</sup>, which was left without consideration<sup>51</sup> by a court decision on June 15, 2012.

**Table number 1**

Data on criminal cases (Article 299 Criminal Code, incitement of national, racial, religious or inter-regional hatred) that were considered by the courts in the period 2010 - 2012.

	Year 2010 <sup>52</sup>	Year 2011	Year 2012
Balance in the beginning of the year	24	6	3
Received	76	89	101
Reviewed and issued a verdict	65	74	75
Verdict of guilty	67	81	77
Verdict of not guilty	5	—	—
Coercive measures of medical nature undertaken	2	—	—
Dismissed	6	3	2
Returned to the prosecutor’s office to address the gaps in the investigation	6	3	5
Returned to the prosecutor due to other reasons	13	8	9
Transferred to another court	—	4	—
Total completed	92	92	91

<sup>48</sup> Outgoing letter of the Supreme Court No.01-11/373 of April 08, 2013.

<sup>49</sup> “Open Position” Public Fund requested an information, from the Supreme Court of the Kyrgyz Republic, on cases still being in the judicial process from period of approval of the Constitution of the Kyrgyz Republic of June 27, 2010 until March 31, 2013 (outgoing letter No.5/03 of March 11, 2013)

<sup>50</sup> Claim was received by the Oktyabrskiy District Court of the Bishkek City, on April 12, 2012

<sup>51</sup> Based on the Civil Procedure Code of the Kyrgyz Republic, Article 223, part 1

<sup>52</sup> Based on the received data for 2010, it is impossible to draw a conclusion on two cases

The data in Table 1 shows an increase in the number of cases received by judicial authorities in connection with inciting hatred and enmity. However, the information provided does not allow us to make conclusions on cases relating exclusively to the field of inciting interconfessional enmity, as Article 299 and 299-1 of the Criminal Code contain several offenses. Similarly, Article 299-2 of the Criminal Code addresses several of the crimes related to the possession and distribution of extremist materials, which makes the selection of the statistics of cases of deliberate use of symbols or attributes of extremist organizations difficult.

**Table number 2**

Data on criminal cases (Article 299-1 Criminal Code, organized activity aimed at inciting national, racial, religious or inter-regional hatred) that were considered by the courts in the period 2010 - 2012.

	Year 2010	Year 2011	Year 2012
Received	1	—	8
Reviewed and issued a verdict	—	—	5
Verdict of guilty	—	—	5
Verdict of not guilty	—	—	—
Coercive measures of medical nature undertaken	—	—	—
Dismissed	1	—	—
Returned to the prosecutor's office to address the gaps in the investigation	—	—	—
Returned to the prosecutor due to other reasons	—	—	1
Transferred to another court	—	—	—
Total completed	1	—	6

**Table number 3**

Data on criminal cases (299-2 Criminal Code, purchase, storage, transportation and shipment of extremist materials for distribution or their production and distribution, as well as the deliberate use of symbols or attributes of extremist organizations) that were considered by the courts in the period from 2010 - 2012.

	Year 2010	Year 2011	Year 2012
Received	3	2	8
Reviewed and issued a verdict	3	1	6
Verdict of guilty	5	—	8
Return a verdict of not guilty	—	1	—
Coercive measures of medical nature undertaken	—	—	—
Dismissed	—	—	—
Returned to the prosecutor's office to address the gaps in the investigation	—	—	—
Returned to the prosecutor due to other reasons	—	—	—
Transferred to another court	—	—	1
Total completed	3	2	7

In addition to issues of criminal accountability for illegal actions, courts are considering the elimination of religious organizations, and the suspension and prohibition of their activities in the territory of the Kyrgyz Republic, as well as the identification of religious organizations as extremist or terrorist. Since the adoption of the new Constitution of the Kyrgyz Republic on June 27, 2010, the list of organizations whose activities are prohibited in the territory of Kyrgyz Republic due to the fact that they were identified as extremist or terrorist, included four new organizations: Zhayshul Mahdi, Jund al-Khilafah, Ansarulloh, At-Takfir Val -Hijra (Al-Takfir wa al-Hijra)<sup>53</sup>. The activities of the Unification Church of San Mena Moon (Moon's sect), which was present earlier on the list of the SCRA of destructive and totalitarian sects, was prohibited by the decision of the Sverdlovsk regional court in Bishkek on February 22, 2012.<sup>54</sup> This decision was upheld by the Supreme Court of the Kyrgyz Republic on August 7, 2013.<sup>55</sup> The lack of clear and precise evaluation criteria, and the inclusion of some religious organizations in the list of "destructive and totalitarian sects," require clarification and expert opinion, as well as an evaluation of the legality of such practices by of the SCRA.

The term "sect" is not a legal concept that refers to distinguishing a particular religious group from monolithic religions and being in opposition to the dominant religious doctrine. But since this term does not have a generally accepted scientific definition in a secular sense, it is not used in international law, but is used in theology and sociology of religions. For prohibiting illegal purposes of religious organizations, national legislation should use a different definition corresponding to the destructive and totalitarian nature of the activities. The characterization of organizations as "destructive and totalitarian" should be confirmed with the appropriate investigative materials and accompanied with a court decision made in accordance with the requirements of equality of prosecution and defense. The accusation of being involved in prohibited activities related to religion should require a proper investigation carried out in accordance with the requirements of the law, presentation of necessary evidence and conducting a hearing with the participation of all stakeholders. Lists of prohibited religious organizations are coordinated with the decisions of intergovernmental regional organizations that have security as their mandate, in particular, the Shanghai Cooperation Organization (SCO)<sup>56</sup> and the Collective Security Treaty Organization (CSTO)<sup>57</sup>.

Appeals to the competent authorities in order to establish and protect the rights of *religious people*.

<sup>53</sup> Verdict of the Pervomaiski District Court of the Bishkek City of October 24, 2012. Available at: <http://religion.gov.kg/node/69>.

<sup>54</sup> Available on SCRA KR website: <http://religion.gov.kg/node/69>.

<sup>55</sup> Available at: [www.interfax-religion.ru/?act=news&div=52255](http://www.interfax-religion.ru/?act=news&div=52255)

<sup>56</sup> The International Federation for Human Rights (FIDH) released the report entitled as "The Shanghai Cooperation Organization: fertile ground for human rights violations" in September 2012. Available at: <http://www.fidh.org/IMG/pdf/scoantiterro583ru.pdf>.

<sup>57</sup> The States parties to the intergovernmental organizations formed the list of prohibited organizations. In the future, this list can be used by States as grounds for banning organizations on their territory. See how the CSTO in the hit list of the organization "Tablighi Jamaat". Available at: <http://www.for.kg/news-225008-.html>.

In the period from June 2010 through March 2013, the General Prosecutor's Office considered 12 appeals of cases, involving restrictions or violation of religious freedom and the activities of religious organizations in the Kyrgyz Republic<sup>58</sup>. During this period, the organs of the State Committee for National Security reviewed 29 allegations regarding violations of freedom of religion and religious beliefs. Twenty-four of these were of the Islamic nature and 5 were of the Christian nature. State Committee for National Security recommended in only three cases that an application made judicial bodies for solving these issues in the civil procedure; on remaining, claims were sent directly to the declarants<sup>59</sup>. During this period, the Ministry of Internal Affairs did not start criminal cases under Article 146 of the Criminal Code (obstruction of the right to freedom of belief and religion).

The ability to protect the interests of believers, or those who do not practice religious beliefs, are not limited to judicial authorities. Other government institutions are available to believers (and atheists) and religious organizations. For example, an appeal is available to the deputies of the Parliament and to the SCRA, to the Department of ethnic and religious policies and interaction with civil society, to the Office of the President of Kyrgyz Republic, to Akyikatchy (Ombudsman) of Kyrgyz Republic<sup>60</sup>, and to public supervisory boards (PSB). The effectiveness of state mechanisms of protection depends on the competence of the relevant body, and the availability of legal confirmation of the procedure on review of appeals, without subjective reasons (presence of a will to deal with the particular question, assessment of relevance of the topic in question).

## Problems of interconfessional relationships

Religious organizations are actively involved in charitable activities; collection and distribution of humanitarian aid is one of the forms. In conditions of poverty, state authorities in general are positive toward charity, which complements measures of social protection provided by the state. There are successful joint campaigns of religious organizations of different persuasions on the collection of funds and provision of humanitarian aid to the population<sup>61</sup>. At the same time, there is an interreligious strain and negative perception toward charity from a religious minority<sup>62</sup>.

Any cases of intolerance and violence impose on the state the responsibility of carrying out an effective investigation and bringing a guilty party to responsibility. Cases considered during a survey demonstrate the non-use of existing mechanisms of legal

<sup>58</sup> Insert version

<sup>59</sup> There are no clarifications on the subject and content of the answers in the information provided by SCNS (outgoing letter No.19/521 of April 10, 2013)

<sup>60</sup> Yearly, Ombudsman of the Kyrgyz Republic issues report, in which there is a possibility for analysis of practice on the issues regarding the freedom to belief. He is entitled to issue special reports, as well.

<sup>61</sup> Campaign of religious leaders, who are in the Interconfessional Council conducted in 2012.

<sup>62</sup> Cases related to the provision of humanitarian aid to the school in the Ak-Kiya village of the Aktala region of the Naryn oblast in 2012.

protection by believers, and the necessity to conduct monitoring of cases related to intolerance based on religion. The issue of the effectiveness of existing components in the criminal law for suppression of crimes based on religious hatred needs study.

## **Ensuring possibility of burial and organization of cemeteries, taking into account religious diversity**

Among the local issues, local government is responsible for ensuring the functioning of cemeteries and provision of funeral arrangements<sup>63</sup>. Local government sets the rules for the use of cemeteries and on the amount of cemetery fees<sup>64</sup>, but local government does not always take into account the interests of religious minorities, especially the Kyrgyz-proselyte. In February 2011, in the Jargylchak village district, a discussion on the allocation of land for burial turned out to be a condemnation of people who practice a different faith. The result of the local meeting was the decision to deny land for burial to proselytes and the establishment of a one month period for proselytes to return to the Muslim faith. The local meeting gave the responsibility for the execution of the decision to the head of the village council. This decision of the village council was overturned by the District Prosecutor's Office<sup>65</sup>.

A significant number of conflicts are connected to issues of allocation of land for burial of the Kyrgyz-proselyte<sup>66</sup>. When discussing the allocation of land, participants often referred to the precedents of other communities in similar issues. For example, during a discussion at a local gathering, radical views were expressed: to not provide proselytes with water for irrigation of fields, not to allow their livestock to graze in pastures, not to allow their children to study with Muslim children, and to throw stones at representatives of other faiths if they come to the village<sup>67</sup>.

The functions of the SCRA include coordination of allocation of land for the construction of religious facilities. In this connection, the question arises whether a cemetery is included among such facilities. The SCRA has the right to request and receive information from local authorities, which makes it possible to monitor the rights of religious minorities at the local level. In addition, the SCRA has the authority to organize and coordinate the work of the SCRA at the local level, thus ensuring implementation of public policy at the local level<sup>68</sup>. In order to regulate the issues of burial of the Kyrgyz-proselyte, some parties have applied to various government agencies, but this did not lead to the solution of their problems. To solve the problems

<sup>63</sup> Law of KR "On local self-government bodies and local state administration," Article 18, part 2, paragraph 8

<sup>64</sup> Law "On freedom of religion and religious organizations in the Kyrgyz Republic" Article 16, paragraph 3.

<sup>65</sup> Outgoing letter of the Prosecutor's Office of the Jeti-Oguz region, Issyk-Kul oblast No. 7-n of 18.06.2013 r.

<sup>66</sup> Among collected materials are documents on conflicts in the Bosteri village district, in the Shapak village (Otradniy village district) and Ak-Suu (Teplokluhenskiy village district) in 2011

<sup>67</sup> From the stenograph of local meeting of February 22,2011.

<sup>68</sup> Regulation On State Commission for Religious Affairs of the Kyrgyz Republic, approved by the Order of the President of the Kyrgyz Republic No. 78 of March 15, 2010.

of burial of the Kyrgyz-proselytes, it is necessary to amend the legislation to recognize the principle of allocation of land for cemeteries for all, regardless of religion, to establish requirements for the organization of the cemetery to provide a sectoral division of the cemetery land based on religious affiliation. When considering issues of burial, government authorities tend to give priority to the stability of society, rather than the rule of law and constitutional guarantees.

One example of a positive and successful interaction between religious organizations is the decision of the Russian Orthodox Church on the allocation of land for the burial of members of religious minorities of the Christian religion<sup>69</sup>.

With the increase in the number of people who profess religious beliefs, people professing atheist views or non-religious beliefs need protection<sup>70</sup>. The community often puts pressure on them, sometimes with manifestations of violence to compel the performance of religious rites<sup>71</sup>.

## Examination of religious materials

Under the law “On freedom of religion and religious organizations in the Kyrgyz Republic,” questions of religious expertise is within the competence of the SCRA<sup>72</sup>. Religious literature, and other printed, and audio-video materials may be subjected to examination. Literature and printed or audio/video materials published by religious organizations must be labeled. The procedure for conducting examination of religious materials is determined by the Criminal Procedure Code of the Kyrgyz Republic, Chapter 25<sup>73</sup>, in connection with the investigation of criminal offenses and civil proceedings relating to the prohibition of organizations engaged in activities prohibited by the law.

The question of examination of literature and the presence of a label arose during a visit to one prayer house by members of the Southern Regional Division of the SCRA in Osh.<sup>74</sup> Employees of the South Regional Division of the SCRA issued a warning to the organization with a requirement to eliminate unacceptable violations of the national legislation. It is necessary to highlight that all the literature mentioned in the document of the SCRA, was brought to the Kyrgyz Republic with the help of the SCRA<sup>75</sup>. This case raises many questions about the coherence of actions in the subdivisions of the

<sup>69</sup> Russian Orthodox Church gave a place for the burial of churchwoman in the Jalal-Abad Church of Jesus Christ, in Karakol – Church of Iysa Misih, who were rejected for burial in Muslim cemetery.

<sup>70</sup> Activists are against ban of the movie “I am gay, I am Muslim”. Available on website: <http://www.knews.kg/society/22478>

<sup>71</sup> Available on website: [http://rus.azattyk.org/content/kyrgyzstan\\_uzgen/24683172.html](http://rus.azattyk.org/content/kyrgyzstan_uzgen/24683172.html)

<sup>72</sup> Law “On freedom of religion and religious organizations in the Kyrgyz Republic”, Article 22

<sup>73</sup> Outgoing letter of SCRA KR No. 02-16/427 of April 29, 2013

<sup>74</sup> Appeal of the Church of Evangelical Christians-Baptists in the city of Osh on 19.04.2013 located in the Southern Regional Division SCRA KR signed by I.Karataeva.

<sup>75</sup> Charitable religious organization “League of the Bible” expressed willingness to import religious literature to the Kyrgyz Republic from SCRA (2.09.2011 year, 29.06.2006, 30.07.2008, 10.09.2012)



SCRA. Moreover, in this case, a question of a label should not be raised, since literature is imported from abroad, and was not published in the country.

The SCRA does not keep a register of religious materials sent for religious or theological examination.<sup>76</sup> Types of examinations have fundamental distinctions because a religion expert's examination uses a neutral approach inherent to secular science, while a theologian examines materials on the basis of the positions of a particular religion or creed. The law only empowers the SCRA to conduct a religion examination, not a theological examination.<sup>77</sup> Consequently, the experts involved in the examination must be generalized scholars of religion.<sup>78</sup> There is a possibility of a biased assessment during carrying out of an examination of one rival religious group against another group. However, the state itself encourages the publication of books, thus allowing examination by non-specialists. For example, in 2013, teachers of the Kyrgyz-Russian (Slavonic) University published a book entitled "Non-traditional religions and their possible prospects of development in the Kyrgyz Republic," which provides a negative assessment of different religious groups, and they are referred to as "destructive and totalitarian sects."<sup>79</sup> The publication of 350 copies of a guidebook was financed by the Public Foundation "Unity."<sup>80</sup> This publication is recommended by the Ministry of Education and Science and the SCRA as a textbook for students of higher educational institutions. In response to the request for examination of the publication, the SCRA referred to the reviews of teachers; however, none of the reviewers was a scholar of religious studies<sup>81</sup> or an expert. The evaluation that the authors of this guidebook gave to a significant number of religious groups violated the rights and dignity of the believers. The authors used terms such as "totalitarian" and "destructive," applying them to organizations registered in accordance with the law, whose activities are not considered as illegal and were not forbidden by the courts. In addition, it is worth noting that this guidebook is quite similar to the book by Alexander Dvorkin, "Sect Studies,"<sup>82</sup> published in Russia, which identifies a number of Russian organizations as "totalitarian" and "destructive."

In a secular state that respects the equality of religious organizations and diversity in the community, government agencies took a very questionable position. The legality of the reasons for public institutions establishing a list of "destructive" and "totalitarian" organizations has not been confirmed by prosecutors of the Kyrgyz Republic, and may be subject to review by the courts on the initiative of the Ombudsmen (Ombudsman) of the Kyrgyz Republic, other government agencies, or religious organizations identified in the published guidebook. In addition, before recommending materials and textbooks for publication, the Ministry of Education and Science needs to check the texts for plagiarism.

<sup>76</sup> Law "On freedom of religion and religious organizations in the Kyrgyz Republic", Article 22.

<sup>77</sup> Ibid

<sup>78</sup> Ref. SCRA KR № 02-16/427 from 29.04.2013 year.

<sup>79</sup> N.M.Galkina, V.A. Shkolnyi. Study Manual. - Bishkek, 2013.

<sup>80</sup> Available on the website of the Fund <http://ed.kyrg.info/prezentatsiya-uchebno-metodicheskogo-posobiya-netraditsionnyie-religii-i-vozmozhnyie-perspektivy-ih-razvitiya-v-kyrgyzskoy-respublike>.

<sup>81</sup> The answer of the State Commission for Religion of May 30, 2013, No. 03-05/526, signed by the Director, A.Zhumabaev.

<sup>82</sup> Alexander Dvorkin "Sect study." Electronic version is available at: <http://www.klex.ru/4ia>.

In the materials provided by the SCRA for the parliamentary hearings on the religious situation and religious education in Kyrgyzstan<sup>83</sup>, Talent Joroev (in the past – Kazi of the Jalal-Abad region) has been accused of pandering to Hizb ut-Tahrir<sup>84</sup>. These materials were provided by the SCRA, referring to the 10th Division of Internal Affairs in the Jalal-Abad region without a judicial investigation and adequate examination. According to the SCRA, for the year 2012 there was an examination of 9193 seized religious materials for evidence of extremism.<sup>85</sup> Examination of such a large number of materials should raise questions about the criteria for the examination and the composition of the experts.

## Reporting requirements for religious organizations

Reporting of religious organizations to the authorities (including statistical agencies, tax authorities, prosecutors, public body on religious affairs) is determined by the requirements of the Law<sup>86</sup>. The reports should include information on the activities of religious organizations, the composition of their governing bodies, documents on the expenditure of funds and the use of other property, including funds and property obtained from international and foreign organizations<sup>87</sup>. The provisions of the law do not make a clear division of reporting of religious organizations according to the competence of the authorities, allowing each authority to interpret this provision in its own way, unless otherwise provided by the law. The law designates the determination of the form and deadlines for reporting as the responsibility of the state body.

On December 20, 2012, the SCRA adopted a decree for forms and terms for reporting on the activities of religious organizations<sup>88</sup>. This decree is not included in the system of normative legal acts of the Kyrgyz Republic, due to the fact the decree does not track the orders made by the ministries and subdivisions<sup>89</sup>. The decree on the form and timing of the reporting of religious organizations (p.19) stated that the systematic (two or more) failure to report within the specified period is grounds for the SCRA to eliminate the organization, or for the prosecution in court. The positions taken by the SCRA affects the competency of other authorities, such as statistical agencies, tax authorities, and the prosecutor's office. Moreover, the decree established the procedure for applying to the prosecution authorities for defining requirements for the information provided by religious organizations. In addition to that, a requirement on the performance "of the annual report to the prosecution" was introduced. It is applied in the case of any

<sup>83</sup> Parliament hearings of JK KR: Committee on education, science, culture and sport, March 5, 2013

<sup>84</sup> Outgoing document of SCRA KR to the Chairman of the Committee on education, science, culture and sport of JK KR, K. Osmonaliev of February 12, 2013

<sup>85</sup> Religiousness grows, but not spirituality//newspaper "Delo No.", March 28, 2013. Available at: <http://delo.kg/index.php/religiya/5641-religioznost-rastjot-a-dukhovnosti-net>.

<sup>86</sup> Law "On freedom of religion and religious organizations in the Kyrgyz Republic" Article 26.

<sup>87</sup> Ibid. 26.

<sup>88</sup> SCRA Order number 116 of December 20, 2012, order number 4 on January 28, 2012. According to the SCRA, the document of 28 January 2012 does not exist, it was a technical error.

<sup>89</sup> Outgoing. Letter of the Ministry of Justice of the Kyrgyz Republic № 02-1/5069, on May 27, 2013



complaints by religious organizations to the prosecutor's office, as well as to violations committed by religious organizations<sup>90</sup>.

The order of the SCRA also approved five forms of reporting:

- 1) Information about the religious organization (name, religious affiliation, location, contact details, date of registration with the SCRA, the certificate number of the accounting organization);
- 2) Information about the director (full name, date of birth, nationality, place of residence, date and number of the protocol of the meeting at which the director was appointed);
- 3) information on employees or contractors of the organization (name, position, nationality, time of entry into service);
- 4) information about the regulation by public authorities of a religious organization, for submission to the prosecutor's office (name, legal and actual address, contact details, the number of orders of authorities against religious organizations for violation of the law), as well as violations alleged against a religious organization by authorities regarding freedom of belief and religion;
- 5) on the activities of religious organizations.

As can be seen, reporting on the activities of religious organizations (Form 5) includes presentation of a significant amount of data. For example, on general meetings and the issues discussed, information about any public events and promotions, training, spiritual workers abroad; the presence of foreign nationals in religious organizations; information about television and radio programs or the print media; on the amount of money flowing in and out; humanitarian aid; the volume of production and economic activity; comprehensive data about the teachers and students of educational institutions, etc.

The requirements for the content of the report includes a large amount of data, which imposes a significant burden on religious organizations. Religious leaders identified collection of passport data of managers as a violation of law and freedom of religion, and there is a question of how legitimate collection of information about the agenda of the general meetings or content of religious services is, and duplication of data that is already obtained by the authority because of prior statements. There is a threat posed by the SCRA to religious organizations in case of their failure to report. Warning letters are sent to religious organizations, with the threat of a judicial action for the liquidation of the organization<sup>91</sup>. Earlier, the heads of the five congregations appealed to the Director of the SCRA, with a request to suspend and review the reporting form and timing of reporting on the activities of religious organizations<sup>92</sup>.

<sup>90</sup> SCRA Regulations, § 18.

<sup>91</sup> Christian Union of Evangelical Baptists, the Spiritual Board of Muslims of Kyrgyzstan, Bishkek The Kyrgyz and Russian Diocese of the Orthodox Church received the same warning letters, signed by the Deputy Director of the SCRA, T.Orozaliev.

<sup>92</sup> Incoming letter No. 03-02/411 of May 15, 2013, with three pages attachment.

Reporting on the activities of religious organizations to the SCRA casts doubt on the constitutional principle of the separation of religious institutions from the state, on respect for self-governing religious organizations, as well as effective cooperation between the various authorities in order to obtain data provided by religious organizations to different authorities. It is necessary to eliminate duplicative reporting of information; the state should get this information only through one of its organs.

## **Experience of cooperation between the state and religious organizations**

There is a department of ethnic and religious policies and interaction with civil society in the structure of the President's Office of the Kyrgyz Republic. The SCRA is subordinated to the President of the Kyrgyz Republic. In addition, a Council of Ethnic and Religious Affairs is formed, whose members include experts and representatives of the Spiritual Directorate of the Muslims of Kyrgyzstan. In the structure of the Government, religious issues are considered in the context of security within the Department of Internal Affairs (10 Division); educational institutions and the learning processes are considered in the Ministry of Education, registration of legal entities in the Ministry of Justice, the objects of culture and education in the Ministry of Culture, Information and Tourism. Also local issues are supervised by the State Agency for local Government and inter-ethnic relations. The State Agency of Architecture, Construction and Housing and Communal Services of the Government of the Kyrgyz Republic supervises the objects used by religious organizations. Local governments are represented by executive and administrative bodies and local councils; they independently determine local problems, which may include cooperation with religious organizations.

In the social sector, the Russian Orthodox Church in Jalal-Abad and Osh actively cooperates with government authorities. The representative of the Russian Orthodox Church and Islamic clergy are members of the Public Council under the Mayor's Office of Osh.<sup>93</sup> Respondents gave positive feedback on the activities of the advisory board at the Southern Regional Division of the SCRA. A positive example is the attitude of local authorities to religious minorities. For example, in Kadamzhaj village, the mayor rejected a request of a group of local residents who demanded that the Protestant Church be closed.<sup>94</sup> There was a case of building of a church with the agreement of a mayor with representatives of other religious organizations.<sup>95</sup>

Questions relating to freedom of religion and regulation of the activities of religious organizations are within the competence of the Parliament. Since the adoption of the new Constitution at a referendum in 2010, amendments to legislation have been repeatedly initiated, although there was not always a public hearing held with an

<sup>93</sup> From an interview with Pastor Sergiy of the Russian Orthodox Church, Jalal-Abad, April 14-15, 2013

<sup>94</sup> From an interview with Alexander Nikitin, Jalal-Abad, April 14-15, 2013.

<sup>95</sup> From an interview with Pastor Sergiy, Karakol, May 28-29, 2013

invitation of interested parties. It is necessary to ensure the involvement of religious organizations in the discussion of whether to amend laws related to religion.

## **Taxation of religious organizations**

Religious organizations are exempt from the land tax.<sup>96</sup> Income tax and insurance contributions from wages paid by religious organizations to their employees are calculated on the same basis as to all other legal entities, and taxation on operating and other income-generating activities has no peculiarities. The question of the legal status of the donations sent to support the believers of religious organizations is unresolved.

## **Utilities and divisional balance**

Religious organizations can carry out their activities in buildings and premises belonging to them as a property right and belonging to other people and used by the organization on a contractual basis (for a fee or free of charge). Utility services cover two categories of consumers – individuals (citizens) and legal entities (organizations). Public utility services include electricity, hot water and heating, cold water and sewage, garbage collection, maintenance of premises and common areas. As a rule, private companies provide utility services; government and municipality may also be involved.

Therefore, difficulties arise when service providers do not take into account the non-commercial nature of the activity or purpose of the use of the premises. The same address may actually include an office building, premises used for religious ceremonies, as well as the premise in which a religious leader lives. An example of a way out from this situation is the separation balance sheet, taking into account the objectives regarding the use of occupied premises.<sup>97</sup> In the past, government provided for privileges to support the population. Privileges depend on the market conditions; providing services to individuals is subsidized by the provision of services for other categories, usually for organizations. Moreover, there is no separation of commercial and non-commercial among the organizations and legal entities. As measures of social policy, individuals are offered different (lower) prices than legal entities.

During collection of data, it was revealed that a number of disputes arose due to billing for services at the rate for organizations. Service providers do billing in a retrospective order. In addition, they can add interest and penalties, considering the prior release of tariffs for individuals as illegal consumption.

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<sup>96</sup> The Tax Code of the Kyrgyz Republic, Article 343, paragraph 9.

<sup>97</sup> From an interview with T. Yusupov, A. Nikitin, R.Kalski, Anas Azhy, April 14-17, 2013, in the Jalal-Abad and the Osh cities.

## Military service and freedom of religion

Defense of the homeland is a sacred duty and responsibility of citizens. The grounds and procedures for exemption of citizens from military service or alternatives to replace it, is established by law<sup>98</sup>. Military men are guaranteed freedom of belief, they have a right to practice any religion or no religion. Military men cannot be exempted from the military service on religious grounds<sup>99</sup>. Military men cannot use their official authority for the promotion of a particular religion.<sup>100</sup>

The Kyrgyz Republic provides alternative service opportunities to citizens instead of regular military service. Alternative service is available to citizens who are members of a registered religious organization which does not permit the use of weapons and service in the Armed Forces.<sup>101</sup> The period of alternative service is 18 months (the period of military service is 12 months).<sup>102</sup> The procedure of alternative service taking into consideration beliefs of citizens is determined by the Government of the Kyrgyz Republic.<sup>103</sup> People called for alternative service, pay a cash contribution based on a formula for the entire period of service. The military may use these funds for mobilizational, service and economic needs.<sup>104</sup> Spending money on the needs of the Army can be an obstacle to alternative service, if it is contrary to the beliefs of a person called to military service.

The state and its agencies have no obligation to meet the needs of military personnel arising out of their religious beliefs.<sup>105</sup> In fact, the state does not provide a mechanism to overcome a conflict of belief/conscience while military person is on duty, and does not take into account the diversity of religious beliefs and practices (worship, food, nature of work replacing the military service with an alternative, the exclusion of financing of the army from contributions from those admitted for alternative service). There is no opportunity for people not registered in religious organizations to replace military service because on beliefs. Jehovah's Witnesses do not accept even alternative military service. In addition, the legislation does not provide a legal requirement for access to military units by religious clergy.

In the period from 2007 to 2013, 42 members of Jehovah's Witnesses refused to carry out military service. The SCRA believes that the members of this religious organization "are trying to dispute Article 56 of the Constitution of Kyrgyz Republic".<sup>106</sup> When

<sup>98</sup> The Constitution of the Kyrgyz Republic, Article 56

<sup>99</sup> Law of the Kyrgyz Republic "On status of military people" of July 1, 1991 (as of December 30, 2009), Article 7

<sup>100</sup> Law "On freedom of religion and religious organizations in the Kyrgyz Republic", Article 7, part 2

<sup>101</sup> Law "On general military duty of citizens of the Kyrgyz Republic, on the military and alternative service" of December 26, 2008, (as of July 09, 012), Article 32.

<sup>102</sup> Ibid. Article 29, part 1.

<sup>103</sup> Government Resolution No.306 of May 18, 2009, "On approval of the Regulation on the procedure of alternative service by citizens of the Kyrgyz Republic."

<sup>104</sup> "Regulation on the procedure of alternative service by citizens of the Kyrgyz Republic", paragraph 9.

<sup>105</sup> Law "On the Status of Military Men" of July 1, 1991 (as of December 30, 2009), Article 7.

<sup>106</sup> Outgoing letter of SCRA No. 02-04/119 of February 18, 2013 to the Chairman of the Committee of JK, K. Osmonaliev.

reporting on people avoiding military service based on religious grounds, a military police takes actions<sup>107</sup> in response to this fact: criminal cases and non-criminal cases, sentencing in court. Data indicates that the judicial decisions often involve Article 351 part 2 of the Criminal Code of the Kyrgyz Republic for avoidance of alternative (non-military) service by persons exempted from military service. There is a punishment with a fine based on a formula or imprisonment for up to two years<sup>108</sup> for the avoidance of military service in the absence of legal grounds for exemption. Avoidance of alternative (non-military) service by persons exempt from military service is punishable by a fine based on a formula, or by community service for 180 to 240 hours.<sup>109</sup>

## Conclusions

Analysis shows that the legislation of Kyrgyz Republic regulating freedom of religion must be brought into line with the provisions of the Constitution of the Kyrgyz Republic and the international human rights treaties. The contradictions in national legislation negatively affect compliance and ensuring freedom of religion. Proposed projects and legislative initiatives should be examined for compliance with human rights and constitutional norms and international standards.

State bodies and local government entities, empowered to cooperate with religious organizations, and the provision of state policy in the sphere of religion, require a more effective approach to problem solving.

Some constitutional guarantees require detailed description of power of authorities, in particular of local authorities, for ensuring the rights of religious minorities in local communities. The efficiency of suppression of violence caused by religious intolerance should be increased.

Educational programs and training programs do not pay enough attention to nurturing of respect for religious diversity and tolerance. Publication of religious studies materials and textbooks should remain neutral and give equal treatment to different religious groups operating in the territory of the Kyrgyz Republic in accordance with national legislation.

The rules governing the registration of religious organizations should be reviewed and brought into conformity with the Constitution of the Kyrgyz Republic and the international obligations of the Kyrgyz Republic, voluntarily adopted by the country within the framework of international human rights treaties. Legislation should ensure effective mechanisms for protecting religious people and for providing judicial control

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<sup>107</sup> Outgoing letter of SCRA letter № 02-04/119 of February 18, 2013. The information on avoiding military duties based on religious reasons during the period from 2007 to the present.

<sup>108</sup> Criminal Code of the Kyrgyz Republic, Article 351, part 2.

<sup>109</sup> Criminal Code of the Kyrgyz Republic, Article 351, part 2.

over the legality of decisions and actions of the authorities affecting rights and freedoms related to religion. Earlier procedures of registration of religious organizations were better. At the present time, this registration process is permissive in nature, which violates the right to freedom of religion. State policy on religion should be revised taking into account the constitutional provisions and international human rights instruments, as well as the inherent cultural diversity of the Kyrgyz Republic.

*Almaz Esengeldiev,*

*expert*

## Problems of legal freedom of religion

### Direction of legal regulation of religious activities and religious organizations in Kyrgyzstan before and after the constitutional reform of 2010

A comparative analysis of the laws (1991 and 2008) which regulate relations in the sphere of religion shows a downturn of protection of freedom of religion in Kyrgyzstan. For example, the Law “On freedom of religion and religious organizations of the Kyrgyz Republic”<sup>110</sup>, adopted in 2008, indicates the active intervention of the state against freedom of religion and religious organizations, even in the absence of violations. Adopted and proposed laws increasingly show an eagerness to establish the benefits of some religious organizations and denominations over others. Before the adoption of the 2008 law, a number of minority religious groups were registered annually. According to official data, from 2011 to 2013 only 3 Orthodox and 135 Islamic organizations were able to pass through procedures of official registration. Another example is the period of 2009 to 2011, during which no other organization was registered.

The logic of the negative changes in the law on religion in 2008 is associated with the “Concept of government policy in the sphere of religion of the Kyrgyz Republic” adopted in 2006<sup>111</sup>. This Concept states that “during the years of independence, religious activity in the country was liberalized, all unjustified restrictions on the iconic, social, industrial, economic and other activities of religious organizations were cleared.” The Concept expresses concern about the activity of foreign religious organizations and various foundations that are “trying to introduce their inadequate ideas and beliefs that are peculiar to the historically established religions in the country,” whereas, “it may threaten the intra- and inter-religious peace and harmony.” The Concept does not include active measures by the SCRA to prevent conflicts based religion. The Concept calls for “every possible way to assist maintenance of integrity and unity among Muslims and the Orthodox of traditional Islamic and Orthodox teachings.”

<sup>110</sup> Law “On freedom of religion and religious organizations in the Kyrgyz Republic” of December 31, 2008 No.282.

<sup>111</sup> The concept of public policy regarding a religion in the Kyrgyz Republic. Approved by the Resolution of the Government of the Kyrgyz Republic No.324 of May 6, 2006



Compared with the Law “On freedom of religious beliefs” adopted in 1991, a similar law passed in 2008, instead of clarifying and reinforcing the state’s international obligations, increases the number of prohibitions and disproportionate interference of the state in the religious sphere. Among the objectives of the state, is – “spiritual security,” which does not have a definition and which has not been previously used in legal terminology. The term has acquired a broad interpretation and led to the denial of registration and re-registration of religious organizations and to lawsuits related to the termination of previously existing religious organizations. In this case, the grounds for refusal of registration are not the results of unlawful actions by religious organizations and their representatives but often simply the difference in attitudes, beliefs or teachings. For example, in March 2011, the SCRA officially refused to register the Ahmadiyya Muslim community, due to the fact that it “is not applied in traditional Islam.”

Despite the tendencies created by the 2008 Law the constitutional reform of 2010, for the first time, recognized the right of freedom of religion for each person, and has established a direct influence of international agreements on human rights. However, instead of the expected reforms in the legislation in compliance with the Constitution of the Kyrgyz Republic and international standards, the provisions of the 2008 Law remained in practice. Nevertheless, some positive characteristics of state policy should be highlighted, as they are reflected in the National Strategy for Sustainable Development of the Kyrgyz Republic for the period from 2013-2017.<sup>112</sup> The strategy includes a program in form of a document for finding solutions in religious issues. The National Strategy foresees the development of the state’s religious policy and a set of preventive measures to ensure the nature of the state as secular. It also foresees the development of the state’s regulation for prevention of possible discrimination on a religious basis considering the rights of citizens for freedom of belief and religion, as well as the international obligations of the Kyrgyz Republic. In this case, prevention of religious extremism should be focused on educational and outreach activities and on analysis and elimination of the roots causing radicalization. The Strategy envisions the revision of the concept of the state’s policy in the sphere of religion and changes to the national legislation which regulates it.

## **Legal support of religious freedom: compliance with the minimum standards of human rights and freedoms**

Minimum standards on freedom of religion are contained in the UN documents on human rights, among which are:

- Universal Declaration of Human Rights and Freedoms ;
- International Covenant on Civil and Political Rights (ICCPR, December 16, 1966)

<sup>112</sup> Decree of the President of the Kyrgyz Republic “On the National Sustainable Development Strategy of the Kyrgyz Republic for the period 2013-2017 years,” DP No. 11 of January 21, 2013



- International Covenant on Economic, Social and Cultural Rights (ICESCR, December 16, 1966)
- International Convention on the Elimination of All Forms of Racial Discrimination (ICERD, March 7, 1966)
- The Convention on the Rights of the Child (CRC, November 20, 1989)
- Convention for the Protection of the Rights of All Migrant Workers and Members of Their Families (December 18, 1990)
- Convention for the Protection of All Persons from Enforced Disappearance (from December 23, 2010)<sup>113</sup>
- General Comment number 22 on Article 18 of the ICCPR (forty-eighth session, 1993)
- Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (November 13, 1981)

In addition to the Convention on the Protection of All Persons from Enforced Disappearance, all other documents, except for the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, are current and are legally binding. Nevertheless, the 2006 Concept of government policy in the sphere of religion<sup>114</sup>, among other international and national documents, indicates that this Declaration is one of the fundamentals on which public policy on religions and religious organizations in the Kyrgyz Republic is being built.

Freedom of religion is subject to the general rules in respect of all rights and freedoms of people, which:

- ensure support of human rights and freedoms by the state;
- ensure support of human rights and freedoms without discrimination on the basis of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other circumstance;
- ensure that support of human rights and freedoms is exercised by judicial, administrative and legislative measures;
- provide an individual whose rights or freedoms have been violated with the proper protection.

The general rule with regard to freedom of religion is provided in Article 18 of the International Covenant on Civil and Political Rights, which states that every individual has the right for freedom of thought, belief and religion. This right includes the freedom to have or adopt a religion or belief of his or her choice,

<sup>113</sup> Kyrgyzstan has not ratified the Convention for the Protection of All individuals from Enforced Disappearance.

<sup>114</sup> Government Resolution No. 324 of May 6, 2006, "On the concept of the state policy regarding a religion in the Kyrgyz Republic."

and freedom to practice his or her religion or belief either alone or in community with others, publicly or privately, in worshiping, practicing rituals, observing and exercising. No individual shall be subject to coercion which would restrict his or her freedom to have or adopt a religion or belief of his or her choice.”

In accordance with the universal set of standards, established in international UN documents, the Constitution of the Kyrgyz Republic in 2010, for the first time, has provided freedom of religion in full compliance with these standards<sup>115</sup>:

1. everyone is guaranteed freedom of belief and religion;
2. everyone has the right to practice, individually or jointly with others, any religion or have no religion;
3. everyone has the right to freely choose to have religious beliefs or to have other beliefs;
4. no individual can be forced to express his or her religious beliefs or any other beliefs or deny them.

According to the constitutional guarantees, the right to freely choose to have religious beliefs or to have other beliefs, as well as a ban on forced expression of religious or other beliefs or their denial, cannot be restricted under any circumstances<sup>116</sup>. The Constitution of the Kyrgyz Republic in 2010 established freedom of religion in compliance with minimum required standards, and established restrictions of this right in accordance with international standards. Thus, in accordance with paragraph 3 of Article 18 of the ICCPR, “[F]reedom to practice religion or beliefs shall only be subject to restrictions if prescribed by law and necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others.” In accordance with Article 20 of the Constitution of the Kyrgyz Republic, limitation of rights and freedoms is only allowed by the Constitution and national laws in order to protect national security, public order, health or morals and the protection of the rights and freedoms of others.” In order to strengthen these norms, the Constitution of the Kyrgyz Republic introduced a direct prohibition on the adoption of normative legal acts which restrict the rights and freedoms of an individual and a citizen (paragraph 2 of Article 20 of the Constitution of 2010). Thus, at the present time, no government agency except the Parliament of the Kyrgyz Republic (Jogorku Kenesh) is entitled to make regulations limiting the right to freedom of religion.

An important achievement of the constitutional reform was the fact that, for the first time, the main law of the country has supported the principle of proportionally imposed restrictions on rights and freedoms, as well as the prohibition of establishing restrictions on the rights and freedoms for other purposes. (Paragraphs 2 and 3 of Article 20 of the Constitution of the Kyrgyz Republic, 2010). In 2010, the Constitution returned

<sup>115</sup> The Constitution, Article 32

<sup>116</sup> Ibid. Article 20

to the notion of non-military alternative service, which provides “grounds and procedures for exemption of citizens from military service, or replacing it with an alternative (non-military) service”<sup>117</sup>. Return of the term “non-military” meets the requirements of freedom of religion, because for some religious beliefs military service is not allowed, as well as any other service associated with the activities of the state military forces. The rules of the law of the Kyrgyz Republic “On general conscription of citizens of the Kyrgyz Republic, on military and alternative service” does not provide for a non-military alternative service. Alternative service provides the introduction of payments by people performing alternative service to the special account of the Ministry of Defense of the Kyrgyz Republic through the district (city) military recruitment office at the place of recruitment<sup>118</sup>. The constitutional reform of 2010 is still the best time in the history of independent Kyrgyzstan, because the freedom of religion was guaranteed in accordance with the minimum standards in the field of human rights and freedoms.

## Legal restrictions on religious freedom: the contradiction with the minimum standards of human rights and freedoms

The Law “On freedom of religion and religious organizations in the Kyrgyz Republic,” dated December 31, 2008, No.282, contained numerous violations of human rights and freedoms. Experts believe that the law is conflict-prone and requires revision. Protection of rights and freedoms

“All the evangelists, cultists, the Baptists, the Moon sect corrupt our society. In Kyrgyzstan there should only be religions which are historically associated with our country- Islam and Orthodox Christianity- religions of one God.”

*From the speech by the head of the party “Erkin Kyrgyzstan,” the deputy of Parliament (Ar-Namys party) Tursunbai Bakir Uulu at a press conference February 13, 2012*

is the obligation of all states that participate in major UN conventions on human rights and, at the same time, have constitutional rule<sup>119</sup>. The law of the Kyrgyz Republic “On freedom of religion,” in contradiction with the requirements of international treaties and the Constitution of the Kyrgyz Republic. In its first article imposed a state policy in the sphere of religion (together with the SCRA) on public committees of local government in order to ensure the protection of public order, spiritual security, territorial integrity and constitutional order. Thus, members of the public committee, i.e. ordinary citizens, are assigned the responsibilities of senior officers of the government. Citizens and their associations cannot perform the functions of state bodies and local self-government, because they are not responsible parties for any failure to perform these functions. The scope of responsibilities for a government representative is always limited by the law; all other actions be will considered as ultra vires. A different principle exists for the citizens – the law only specifies restrictions and prohibitions, everything else is allowed.

<sup>117</sup> The Constitution of the Kyrgyz Republic, Article 32

<sup>118</sup> The law “On general military duty of citizens of the Kyrgyz Republic, on the military and alternative service”, Article 32, part. 4

<sup>119</sup> Constitution of the Kyrgyz Republic, Article 16

Attempts to empower some citizens and their associations with actual authority of official bodies, without their incurring liability, leads to a violation of the equality of citizens, arbitrariness, discrimination and violations of the rights and freedoms of others and, as a consequence, conflicts in society.

The Law “On freedom of religion and religious organizations of the Kyrgyz Republic” prohibits the activities of religious organizations without registration with the SCRA. An individual performing an activity on behalf of unregistered religious organizations, according to the current law, should bear responsibility and be held liable<sup>120</sup>. Thus, in Kyrgyzstan, the freedom to practice one’s religion or belief, either alone or in community with others, is only possible within the framework of an established and registered organization. This rule of law is in direct conflict with the Constitution and the ICCPR that provide the right to “practice his or her religion or belief, either alone or in community with others.” The Law established challenging obstacles for individuals wishing to register a religious organization.

Among the requirements for registration of a religious organization are:

- a minimum of 200 initiators of the religious organization. These initiators must be the citizens of the Kyrgyz Republic who have reached the age of 18 years and who are permanently residing in the territory of the country;
- a notarized approved list of initiators and members of the constituent board who initiated the establishment of a religious organization and who are responsible under the charter (must include their first, last, middle names, dates of birth, nationality, place of residency, passport number);
- The SCRA has the right to request additional information and obtain the conclusions of the relevant authorities, as well as to send the constituent documents of the applicant for examination by religious experts.

National legislation prohibits the establishment of religious organizations by foreign citizens, individuals without any citizenship, and also persons temporarily residing in the territory of the country. This is in contradiction to international and constitutional norms. The right to freedom of religion belongs to every person, regardless of his or her connection to a particular state. According to the law, citizens under 18 years old are forbidden to participate in the creation of a religious organization, which contradicts Article 18 of the ICCPR and the Article 14 of the “Convention on the Rights of the Child,” as Kyrgyzstan has committed itself to respect “the rights of children to freedom of thought, belief and religion” and to respect the rights and duties of parents or, when appropriate, legal guardians, to direct the child in realization of his or her rights in a manner which is consistent with the evolving capacities of the child. International standards are being violated by the Law “On freedom of religion and religious

<sup>120</sup> Law “On freedom of religion and religious organizations in the Kyrgyz Republic” No. 282 of December 31, 2008, Article 8, part 2

organizations in the Kyrgyz Republic” (paragraph 5 of Article 4), which prohibits the involvement of children in a religious organization. The law sets the rule of the process of admissions to higher and secondary religious schools. According to the law, an individual can only apply to a religious school after completing compulsory secondary education (paragraph 5 of Article 6 of the Law of the Kyrgyz Republic “On Education”).

Also, no individual has the right to decide for another individual whether or not to become one of the founders of a religious organization, because according to paragraph 3, Article 32 of the Constitution everyone has the right to freely choose and to have religious or other beliefs. Therefore, the requirement to prepare a list of citizens – initiators of a religious organization – for the local representative authorities violates the constitution. So far, no local representative authority has approved a process or procedure for submission of lists of names of co-initiators of a religious organization. However, decisions on approval or denial in registration are occurring and the decisions are based on the current law in which approval procedures are not provided.

***Taken from decree of Bishkek city council dated April 2, 2013 № 9***

***“On accepting the lists of citizens “***

The Bishkek city council, guided by the Law of Kyrgyz Republic “On freedom of religion and religious organizations,” in order to control the activities of religious organizations in Bishkek, based on the certificate of the committee working on addressing issues of religious organizations, missions and missionaries in the city of Bishkek, decides:

1. Do not accept lists of citizens or members of the Board of Founders who invited missionaries to the Kyrgyz Republic, of religious organizations such as:
  - The Evangelical Lutheran Church (chairman Kurbanova KD);
  - Church of the Seventh Day Adventist (Chairman Nazimenko VN);
  - Religious Center “Jehovah’s Witnesses in the Kyrgyz Republic” (Chairman Bekmanov AK);
  - The Jewish community of the city Bishkek (Nixdorf LV);
  - Evangelical Christian Missionary Center “Blagodat” (Kashitsyn NV);
  - The religious organization “Obnovlenie” (Chairman Kuleshov) ;
  - The Roman Catholic Mission of the Kyrgyz owners for Catholics Republic (Bishop Messmer N.);
  - Christian Evangelical Presbyterian Church “Istina” (Chairman of the Board of the Church Razdorskaya N.);
  - The Presbyterian Church “Immanuel” (Pastor K. Safronov).
2. Recommend religious organizations to provide the lists of citizens and members of the Board of Founders who invited missionaries to the Kyrgyz Republic, and who are the initiators of religious organizations, to provide documents in accordance with paragraph 2 of Article 10 and Part 3, paragraph 4 of Article 12 of the Law “On freedom of religion and religious organizations in the Kyrgyz Republic.”

In paragraph 3 of the Decree of the Bishkek city council the local governmental body decided to apply to the Government of the Kyrgyz Republic on behalf of the Bishkek City Council to initiate the deletion of the words “agreed with the local councils” from the Law of the Kyrgyz Republic “On freedom of religion and religious organizations in the Kyrgyz Republic.” This provision provides opportunities for various forms of violations, as the limits of the powers of public authority and its officials are not defined. In addition, in case of a need to review such documents, specified in the legislation, a month to review the documents can be extended for another month. The provision of the law allows state officials, based on a self-made decision, to request and renew consideration of such documents, and may contribute to their arbitrariness.

After going through a set of complex registration procedures, a religious organization must be very cautious about making changes or additions as it will have to go through the procedure of re-registration in the same manner and in the same time frames.<sup>121</sup> During its existence, the organization is under constant control from of a number of various departments. According to paragraph 4 of Article 26 of the Law of the Kyrgyz Republic on freedom of religion, “a religious organization is obligated to provide to the national statistics committee and tax authorities, the state agency for religious affairs and the prosecution authority with documents containing a report of its activities, on the composition of governing body, as well as documents on the expenditure of cash flows and use of other resources, which include finances or any other resources received from international and foreign organizations, foreign citizens and individuals without a state (without citizenship).” The law does not specify the form and time frames of the submission of these documents, they are determined by the SCRA.

Any violation of the law, which has not been eliminated within three months, or if repeated with a year, may result in the liquidation of the organization, and prior to the decision made by a court

The refusal to register a religious organization as a legal entity is highly inefficient in preventing conflicts and monitoring the situation.

the SCRA has the right to suspend the activities of a religious organization. In case of suspension, a religious organization cannot carry out any activity, including religious ones<sup>122</sup>. The set of obstacles introduced by the government to registration of religious associations of citizens as a legal entity has led to the fact that many denominations have preferred to register under other legal forms provided by the civil law for commercial and non-profit organizations, or just refused to register at all. As a result, the SCRA does not fully possess the information about the activities of religious associations of citizens in the country. By continuing the policy of having difficult registration procedures for religious movements that they refer to as “destructive” or “non-traditional”, the SCRA risks not recognizing the actual scope of religious activities. For example,

<sup>121</sup> Law “On freedom of religion and religious organizations in the Kyrgyz Republic” No. 282 of December 31, 2008, Article 10

<sup>122</sup> Law “On freedom of religion and religious organizations in the Kyrgyz Republic” No. 282 of December 31, 2008, Articles 27 – 28



The Supreme Court supported the decision by the Sverdlovskiy regional court and the Bishkek city court to ban the operation of “Tserkvi Obedineniya” (Unification Church, Moon Church) in the territory of Kyrgyzstan. In addition, the Court supported the decision of the Sverdlovskiy regional court and the Bishkek city court on the elimination of the Public Association “Federation of Families for the unity and peace in the world.” This federation provided free Korean and English language courses and a computer literacy course, and its members formed a division of the Unification Church.<sup>123</sup>

A tool used by the government to refuse registration or create obstacles for registration of a religious organization as legal entity is highly inefficient in preventing conflicts, conducting analytical and statistical work, monitoring the situation, and planning the work of the public authority with the religious community. It turns out that much of the work that the SCRA must conduct with religious organizations will be conducted by enforcement agencies that monitor violations of rights and violations of the law. For the first three months of 2013, that there have been at least eight cases in which police officers attended meetings of “Jehovah’s Witnesses” in Jalal-Abad and Osh. The police warned the participants of the meeting that these meetings were illegal, because the local religious communities have not gone through the procedures of state registration<sup>124</sup>.

The Law on Freedom of Religion banned persistent actions aimed at converting believers of one religion to another (proselytism). No definition of “persistent” is given, which creates the use of subjective interpretation. Also, the law banned the spread of “printed literature, and audio and video materials of a religious nature in public places (streets, boulevards), in apartments, in child care centers, in schools and universities.<sup>125</sup>” These prohibitions contradict constitutional norms, as their introduction is not proportionate. Proselytism in practice is a constant process of involving people in a particular confession of a religious organization.

International standards prohibit coercion that would impair the freedom of any person to have or adopt a religion or belief of his or her choice. Distribution of literature and other religious materials can be prohibited if the content in the text calls for “the benefit of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.”<sup>126</sup> The law establishes the requirement that upon “the reorganization or liquidation of a mission, the property of the mission having architectural, cultural and historical value should remain in the territory of the Kyrgyz Republic<sup>127</sup>.” This law is not only contrary to international standards of freedom of religion by introducing unwarranted action to restrict the activities of religious organizations, but also to the national legislation for the protection of property rights.

<sup>123</sup> From an interview of Janybek Botoev – KyrTAG, chief specialist of the department of legal personnel support of the State Commission for Religious Affairs of the Kyrgyz Republic. Available at: <http://www.kyrtag.kg/?q=ru/news/4682>

<sup>124</sup> From the News “Forum18” of April, 2013. Available at: [http://www.forum18.org/Archive.php?article\\_id=1821](http://www.forum18.org/Archive.php?article_id=1821)

<sup>125</sup> Law “On freedom of religion and religious organizations in the Kyrgyz Republic,” No. 282 of December 31, 2008, Article 22, part 6

<sup>126</sup> The International Covenant on Civil and Political Rights, Article 20, paragraph 2

<sup>127</sup> Law “On freedom of religion and religious organizations in the Kyrgyz Republic” No. 282 of December 31, 2008, Article 11, part 3

The Act of 1991 establishing the separation of religious institutions from the state recognized their right to participate in political life, in accordance with the Constitution of the Kyrgyz Republic.<sup>128</sup> The Act of 2008, excluded that provision and introduced a new rule that establishes responsibility for “attempts by religious organizations and members of religious cults to exert any pressure on public authorities, local governments and their officials that violate current legislation of the Kyrgyz Republic.”<sup>129</sup> However, the current law on freedom of religion does not specify the form and extent of the provision of such pressure which could be considered an offense by law enforcement authorities.

The Constitution established a prohibition on adoption of “subordinate legislation restricting the rights and freedoms of an individual and citizen.”<sup>130</sup> However, subordinate legal acts that provide prohibitions and restrictions on religious freedom have not yet been brought into compliance with the provisions of the Constitution, and draft legislation, the content of which is clearly contrary to the Constitution of the Kyrgyz Republic and the contractual obligations of Kyrgyzstan’s major UN conventions, draws attention. For example, a draft law “On Amendments and Additions to the Law “On freedom of religion and religious organizations in the Kyrgyz Republic” prepared in 2012. The bill raised concerns with human rights defenders, as despite the current religious diversity in the country, it sought the recognition of the significant role of the Hanafi Islam and the Russian Orthodox Church. These standards are directly contrary to the “Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief” (Article 2) prohibiting any distinction, exclusion, restriction or preference based on religion or beliefs, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms. The bill also suggested additional obstacles to the registration of religious organizations and various prohibitions on their activities. There are a number of other bills and proposed amendments to national legislation, which contain provisions violating equality and that provide “traditional religions” advantages against religious minorities. Another example is the bill initiated in 2012 by the Ministry of Justice of the Kyrgyz Republic, and in 2013 by the State Committee of National Security of the Kyrgyz Republic, in which administrative responsibility was imposed for conducting religious activities without registration in the SCRA and a number of other rules contrary to the right to freedom of religion.

## **Violations related to laws that affect religious freedom**

The right for freedom of religion does not exist in isolation, its impacts other rights and freedoms. Such fundamental rights and freedoms include the right to freedom

<sup>128</sup> Law “On freedom of religion and religious organizations” of December 16, 1991, No. 656-XII, Article 5

<sup>129</sup> Law “On freedom of religion and religious organizations in the Kyrgyz Republic” No.282 of December 31, 2008, Article 5, part 3

<sup>130</sup> The Constitution of the Kyrgyz Republic, Article 20, part 2



of opinion, expression, press and information, the right to freedom of peaceful assembly, and the right to freedom of association. The Constitution of 2010 reflected the protection of those rights and freedoms in full compliance with international obligations under UN conventions on human rights. The Constitution reflects the right for freedom of information in accordance with international standards (Articles 19 and 20 of the ICCPR): “Everyone has the right to seek, receive, store, and use information and disseminate it orally, in writing or in any other way.”<sup>131</sup> However, the Law “On freedom of religion and religious organizations of the Kyrgyz Republic” has restrictions that are contrary to constitutional rights: “citizens and religious organizations have the right to acquire and use religious literature in the language of their choice, as well as other articles and materials for religious purposes only in places services and specialty stores<sup>132</sup>.”

The Constitution of the Kyrgyz Republic (Article 34) protects the right for freedom of assembly. Conducting rallies and meetings is different from religious public events. Religious public events have to meet the religious needs of the believers. Religious public events (worship) similar to peaceful assembly can be carried in a public place in the open air, and political events that are accompanied by religious activities and religious meetings also may be accompanied by political demands. Laws of the Kyrgyz Republic prohibiting assemblies, meetings, campaigning and other activities of a political nature in places of worship<sup>133</sup> require clarification and revision.

## Draft normative legal acts

On December 13, 2012, members of Parliament approved amendments to the law “On the State Language.” According to Article 7 of this bill work of state and local governments, as well as “other organizations and agencies of the Kyrgyz Republic, shall be carried out in the official state language, and where necessary, they will be provided a translation into the official language.” If we consider the requirement of the law in relation to organizations, which include religious organizations, this initiative is disproportionate and unreasonable government interference in the freedom of religion, as preaching and praying will not be conducted in the Kyrgyz language by all religious organizations.

In the above mentioned bill, initiated by the Ministry of Justice of the Kyrgyz Republic and the State Committee of National Security of the Kyrgyz Republic on amendments and additions to Article 395 of the Administrative Code of the Kyrgyz Republic, liability is imposed on citizens, leaders of religious organizations and religious organizations themselves for violation of the laws and rules of the

<sup>131</sup> The Constitution of the Kyrgyz Republic, Article 33.

<sup>132</sup> Law “On freedom of religion and religious organizations in the Kyrgyz Republic,” of December 31, 2008, No.282, Article 22, part 7.

<sup>133</sup> Law “On freedom of religion and religious organizations in the Kyrgyz Republic,” of December 31, 2008 No. 282, Article5, part 7.

organization and conduct of religious meetings, processions and other ceremonies of worship. The adoption of these amendments is not necessary because their assurance is no different from the usual peaceful meetings with political or other conditions. Article 395-2, introduced in this bill, prohibits managing or participating in the activities and funding of non-registered religious organizations. This initiative represents a violation of the Constitution (Article 35) and international standards (ICCPR, Article 22), as any association of citizens, including religious, has a right to exist, regardless of its registration with state registration authorities.

A similar violation of the right to freedom of association is a bill, initiated in 2013, providing a new version of the existing law “On counteraction to legalization (laundering) of proceeds from crime and the financing of terrorist or extremist activity.” This bill establishes requirements for organizations to collect, store and report financial information to law enforcement, and oversight of national security information on the beneficial owner (person who owns or manages the property of the organization). Not all religious organizations will be able to continuously meet the requirements of the law, even those that are constantly receiving donations.

Once religious organizations are included in the list of people, who have no choice other than to violate the law, they can be eliminated by state agencies, who track the implementation of the legislation.

## Recommendations

1. The Government of the Kyrgyz Republic to provide systematic training of its employees on constitutional and international standards of human rights and freedoms, including in the area of freedom of religion;
2. Parliament to revise legal acts that are contrary to the Constitution of the Kyrgyz Republic and its international commitments in the area of the right to freedom of religion;
3. State Commission for Religious Affairs of the Kyrgyz Republic to abandon ineffective tools for recording and reporting on religious organizations, to expand its activities in the field of conflict prevention and the establishment of mutual tolerance and respect between the followers of different religions, believers and atheists.
4. Parliament shall eliminate limitations of the right to freedom of religion and other rights and freedoms in the legislation, in accordance with the Constitution of the Kyrgyz Republic and international standards of human rights and freedoms.
5. The Government of the Kyrgyz Republic to take into account the results of examination of normative legal acts in the field of freedom of religion;
6. The Government of the Kyrgyz Republic, together with experts and advocates, to develop a new design concept for state policy in the sphere of religion.

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## **Interconfessional dialogue**

After Kyrgyzstan gained its independence, polyconfessional society has become an obvious and unquestionable fact in the country. An increasing number of conflict situations and open demonstration of malevolence towards various cultures proved the necessity for problem solving and interreligious conflicts prevention. The value of interconfessional dialogue as a platform for cooperation among different religious leaders and communities for the purpose of conflict prevention has started to grow.

### **History of the Interconfessional Council in the Kyrgyz Republic**

After the tragic events of 2010, ex-president Rosa Otunbaeva introduced an initiative for the foundation of the Interconfessional Council in the Republic. The possibilities for founding such a council were being discussed by the SCRA, European Council of Religious Leaders and leaders of religious communities in the Kyrgyz Republic. On of January 12, 2011, a conference named “Different religions – common values – collateral actions” was conducted, where it was decided to organize a working group that will focus on the idea of the Interconfessional Council in the Kyrgyz Republic. Different religious leaders of the main confessions of Kyrgyzstan, NGO representatives, human rights activists and students of religion became members of the working group. The group was involved in the development of the organizational structure, interaction principles, as well as tasks and objectives of the Interconfessional Council.

On December 21, 2011, another conference on interconfessional dialogue was conducted in the Kyrgyz Republic. The objective was to discuss participation of religious organizations in interconfessional dialogue for the purpose of helping socially vulnerable segments of people. In 2012, a project in the spirit of interconfessional cooperation aimed at humanitarian help for southern women who suffered from the tragic events, was realized. The positive experience of interaction of different religious organizations strengthened the trust among the confessions. Finally, the Interconfessional Council of the Kyrgyz Republic was officially registered in the Bishkek Ministry of Justice on December 18, 2012, under the name “Interfaith Council.” Thus, the Kyrgyz Republic became the first country in Central Asia where a interconfessional dialogue platform was founded.

The European Council of religious activists, the governmental commission for religious affairs and the Department of ethnical, religious politics and interaction with the state machinery, played main parts in the foundation of the Interconfessional Council.

## Principles of Interconfessional Council activity

The Interconfessional Council is an instrument in which actions of its members attempt to solve the problems religious organizations are concerned with. Such a structure is a consultative body, and its solutions have the character of recommendations. Relying on common principles and values, religious leaders of Kyrgyzstan aim at strengthening tolerance in the society, prevention of religious conflicts, protection of human worth and justice, and support of the socially vulnerable segments of people. Additionally, religious leaders pointed out the significance of religious freedom guaranteed to all the citizens and residents of Kyrgyz Republic by the Constitution. Religious leaders have worked out 5 major principles of interaction that promote the development of interconfessional dialogue:

- *Respect and recognition of religious differences.* The Interconfessional Council representatives respect religious beliefs of their communities as well as respect the rights of other communities to have their own religious beliefs.
- *Awareness of human common values,* that are the basis for cooperation for the sake of peace and are based on key ideas: tolerance, human worth, equality and justice.
- *Preservation of the originality of each religious community.* Representatives of different religions may work cooperatively while at the same time preserving their religious traditions.
- *Respect for different forms of religious community organization.* Each religious community should have its voice in the Interconfessional Council depending on the method of its self-organization. Interconfessional cooperation aims at attracting the existing religious structures but not trying to change them.
- *Support of pluralistic and democratic society*

The Interconfessional Council is guided by the principle that recognizes that a person or a group of persons may represent the community that they belong to, both officially and unofficially. Each religious community in accordance with its own methods of self-organization, determines the representative who will participate in interconfessional dialogue.

## Structure of the Interconfessional Council

The Interconfessional Council exercises its functions through the Supreme Soviet, the Executive Committee and the Secretariat. The Supreme Soviet consists of Muslim, Protestant, Buddhist and Jewish religious leaders. The Executive Committee includes Muslim, Protestant, Jewish and Buddhist representatives. Representatives of the Russian Orthodox Church participate as observers. Other religious organizations and communities may join the Executive Committee with no right for voting. The Executive director of the Interconfessional Council is an executive committee member but does not hold any voting rights.

The Chairman provides all the support in the organization and conducts Interconfessional Council conferences. The Secretariat is authorized to carry out the decisions taken by the Supreme Soviet and the Executive Committee. The Executive director carries the responsibility for the Secretariat's work and has to submit a report to the Supreme Soviet through the Executive Committee.

## Advisory structure for cooperation with the government

Within the framework of cooperation with the government and with the purpose of improvement of the government's relationship with religious organizations, the Advisory body was founded at the initiative of the Interconfessional Council. The Advisory body has become a platform of dialogue between religious organizations and responsible governmental bodies. One of the positive results of cooperation was development of a joint attitude against acceptance of changes in the Law "On freedom of religion and religious organizations in the Kyrgyz Republic," that contradict with the Constitution of Kyrgyz Republic. Unfortunately, the tendency of cooperation between religious organizations and governmental bodies has started to decrease. Nevertheless, it is worthwhile to recall the main functions of the structure:

- The Advisory body may discuss the questions that are of mutual interest for religious communities and government;
- The Advisory body may give recommendations to the government and religious communities (when considered rational and relevant);
- Any of three membership participants may call for an Advisory Body Conference but conferences must occur not less than 4 times a year;
- The Interconfessional Council may cooperate with government bodies to provide help for the population (when considered rational and timely)

## **Improvement of interconfessional relations through joint activities**

In order to improve interconfessional relations, religious communities organize football matches among junior teams represented by various religious confessions. As experience has proven, team games are carried out in a friendly atmosphere and inspire young people who participate in them. On of April 17, 2013, the Interconfessional Council represented by religious leaders of Kyrgyzstan along with the SCRA took part in a three-months cleaning event program held in Victory Park and declared by the Government of the Kyrgyz Republic and Bishkek's mayor's office. The religious board of Muslims in Kyrgyzstan holds some special events during the Ramadan sacred month every year. where the representatives of the Russian Orthodox Church and governmental organizations are invited. Due to the founding of the Interconfessional Council, it was the first time when representatives of different religious communities were invited to different events. Conferences on discussion of the actual issues for all religious communities are held annually. Delegations of Interconfessional Council representatives participate in international conferences, conducted by the global organization known as "Religions for Peace" on national and regional levels.

## **Perspectives on development of interconfessional dialogue**

Religious leaders find it necessary to create local interconfessional councils in the regions in order to develop interreligious dialogue in the Republic. Such councils strengthen tolerance in the society. Dialogue and cooperation between different religious leaders would help to create explanatory discussions among the population with the purpose of prevention of religious conflicts and improvement of relationships in society. Ability to compromise in difficult situations and mutual respect of religious leaders from different confessions are the most important factors determining the development of peaceful coexistence of different religious groups.

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## **Short overview of religious history in the territory of the Kyrgyz Republic**

In modern publications it is noted that religious diversity has evolved in Kyrgyzstan since the 1990s. Historical facts talk about the confessional variety of the communities living in the territory of Kyrgyzstan during different epochs. Movements of indo-European tribes (2-1 thousands BC) had its impact on every world religion. Different models (Iran, greko-hellenic world, India, countries of Middle East) had a significant impact on the development of the region. Along with Turks, Central Asia was also inhabited by Uigur, Kyrgyz, Kimako-Kipchak, Mongol, and Tatar nationalities as well as by Iranian language speaking descendants of saks, usunies, juechjeies, kanguies and sogdiyies.

### **Religious ideas of Turks**

According to cosmogonical views of Turks, “blue sky” was considered to be the roof of the world where the sun and moon were born. The divine being – Tengri – belonged to the upper world. For many centuries Tengri was considered to be the divine being for Kyrgyz was depicted in folklore in “Tenir Jalgasyn” and “Tenir Ursun.” Middle world was ruled by fertility goddess Umai. Tenir and Umai made a divine couple. The divine being of earth and water, Iduk Jer-Suu, was thought to have beneficial and punitive functions and represented the meaning of the Motherland. Genealogical legends and myths of Turks represented ancient totemic ideas reflected in title names, class names and first names. Turks’ religion in Tien Shan has its impact on local cults of sako-usunian and uachjisko-kanguian population – descendants of avestic turks that praised the Sun and Fire, Water and Earth and sacrificed people and animals for it. Architectural findings indicate widespread Fire, Mountains and Water cults, proved by a respectful attitude towards Sulaiman mountain, Issyk-Kul lake, Issyk-Ata gorge, etc. Such a sacred attitude towards natural scenes takes place in the whole territory of the Kyrgyz Republic.

### **Zoroastrism**

The origin of zoroastrism dates back to II and I millenniums BC when cattle-breeders (turjis) from eastern-Iranian tribes started praising the prophet Zaratushra.



Zoroastrism was one of the major religions in the territory of Kyrgyzstan until the 20th century, sometimes taking its archaistic forms of Mazdeizm and Mitraizm. This is proved by rock paintings in Tien Shan Mountains, petroglyphs<sup>134</sup> of Saimaluu-Tash, Tamgaly-Tas, Sulaiman-Too, Ornoca and others. The earliest petroglyphs in the territory of Kyrgyzstan refer to III–II millenniums BC.

Conclusions made about spreading of late (sasanidian) Zoroastrism in the territory of Kyrgyzstan can be made due to archeological findings of ritual items made from burnt gault, funeral vaults<sup>135</sup> with different symbols, censers depicting different zoroastristic gods and their attributes. Funeral traditions of Iranian speaking sogdians, toharistians and chorezmians inhabiting Chui and Talas Valleys refer to Zoroastrism traditions as well. Muslim mausoleum (gumbez) as a place for remains to be kept for future resurrection are situated next to ancient funeral vaults<sup>136</sup>. Zoroastrism also supports the celebration of Nooruz recognized in Kyrgyzstan and other countries as a day of spring coming and start of agricultural works. For nomads, this holiday is related to the Nature cult but with coming of Islam the holiday is celebrated by many Muslims. It is believed that Nooruz is celebrated by Arabs due to the decree of the prophet Muhammad.

## Buddhism in Kyrgyzstan

Huge Buddhism complexes were located in Central Asia that gave us different materials which became famous due to archeological works (VII–XIII c.): written documents, architectural remains, works of art. There were especially many Buddhists in Chui Valley. The religion was not a major one in the territory of Kyrgyzstan but many of the authorities were strong Buddhists, founded cloisters and made some donations. Central Asia can be seen as a giant “retransmitter” of Buddhism in Eastern Turkestan and next to the east- in Mongolia, Tibet, China and Japan.

Buddhism has also had its impact on early Sufism. The sufistic system of tutorship, understanding of perfection, some spiritual practices are similar with Buddhism meditation. Additionally, Buddhism influence is depicted in literature, architecture, ornaments and artistic handicraft in Central Asia, Iran and Afghanistan.

## Manicheism

Manicheism is a religion originated in Persia in the III century. Teachings of Zoroastrism, Buddhism, Christianity and Tengri Cult are evident in the basics of the religion. The religion was brought to the territory of Central Asia at the end of III–IV

<sup>134</sup> Petroglyphs – small size drawing – symbols – carved on the rock with a sharp object/

<sup>135</sup> Box, urn, vessels, place etc., to store the skeletal remains

<sup>136</sup> Sepulchral vault

centuries by the believers followed by Sasanidian Iran. At the end of VII- beginning of VIII century Manicheism was brought to Eastern Turkestan by sogdians who spread it first among their colonial kinsmen and then among Uigurs. Valleys of the Chu and Talas rivers were the centers of Manicheism development. In the middle of the X century when Karakhanids' community was being developed, Islam was not competing with Shamanism but with Manicheism and Christianity.

## **Christianity**

Along the Silk Road merchants carried not only tissues, spices, and jewelries, but also sacred books. Archeologists found monuments of Christian origins: remains of the churches and cloisters, wall paintings, ceramic and metal items depicting evangelical scenes, crosses and medallions. There are hundreds of findings of sepulchral stones with writings in Turk and Syrian languages. They date back to the VI-XIV centuries.

In the Ephtalits Empire which existed in the V-VI centuries taking a significant part of Central Asia, Christianity was declared a major religion. Despite the fact that Sogdians, Turk tribes and Mongols accepted Christianity, it did not become a national religion. It coexisted peacefully with Buddhism, Manicheism, Zoroastrism, tribe cults and Islam. It is known that some of Chingiz-khan's descendants stayed dedicated to tribe cults, some accepted Christianity but the final choice towards Islam was made during Timur's governance in the XIV century.

In the middle of the XIX century after Kyrgyzstan joined the Russian Empire, Christianity in Kyrgyzstan takes a new stage. The Turkestan diocese of Russian Orthodox Church was established in 1872. The first mention of Catholics dates back to the XII century. Catholics came to Turkestan again in the middle of XIX century. They were citizens of the Russian Empire, usually officers of the tsar's army. It was Lutheranism, Baptism, Adventism and Pentecostalism that penetrated into Kyrgyzstan along with migrants. It was mainly Russian Germans, Finns and Estonians who settled in the Chui, Talas and Issyk-Kul valleys and gave birth to those movements in the territory of Kyrgyzstan.

## **Islam**

Islam penetrated in the territory of Kyrgyzstan in the VIII century as a result of the Kuteiby campaigns in 712. Islam became a national religion (in 960) with its center in Balasagun. During this time the construction of such cult Muslim complexes as the Buranian and Uzgen architectural complexes of the X-XII centuries and Muhammad's mausoleum started. Firstly, Islam was spread among the settled population. Nomads were the followers of ancient heathen views.

In the XIII and the beginning of the XIV centuries, Islam lost its status of a national religion as a result of Mongolian conquests, but it was reestablished in 1354 in Mogolistan. At the end of the XV century, the Kyrgyz become the dominating nation in Tien-Shan and in XVI-XVII Islam played the role of an ideological uniting factor for the Kyrgyz people. During the governing of Kakand khanate Muslim priesthood starts its missionary activity among the nomadic population through mullahs. It was Sufism communities of Ahmet Jassavi and Nakshbandija that contributed much to the spreading of Islam among the Kyrgyz. A dominant number of Kyrgyz identified themselves to Islam when joining the Russian Empire (second half of the XIX century). During the soviet period propaganda of scientific-materialistic outlook was put into action and followed by mass repressions of priesthoods in the 1920-1930s. Religion was developed on the national level. Sometimes the USSR provided support for some confessions following its own interests.

Ancient Iranian tribes had a significant impact on the outlook of nations inhabiting the territory of Central Asia. They determined special places of pilgrimages and burials of ancestries. Rock paintings, and sepulchers depicted the earliest forms of religion. It all had an impact on Zoroastrism, Buddhism, Christianity and Islam. Historical facts state that polyconfessionality was typical for the communities inhabiting the territory of modern Kyrgyzstan.

Thus, mutual understanding and a tolerant attitude can be traced to the rich historical experience of the coexisting of different religious communities in the territory of our country.

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### **Freedom of Religion or Belief in the Kyrgyz Republic: an overview**

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