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RELIGIOUS FREEDOM IN KYRGYZ REPUBLIC

Christians and other religious minorities in Kyrgyzstan are being persecuted with increased violence and oppression. Kyrgyzstan's new legislation and specific instances of persecution discussed herein make it abundantly clear that protection for religious freedom written into the Constitution and protection of human rights assured by treaty do not translate into reality. The Kyrgyz Republic, a Central Asian country commonly called "Kyrgyzstan," gained its independence from the Soviet Union in 1991.¹ Since that time, the country's Islamic population has steadily grown, as have Islam-influenced laws. Kyrgyzstan has a population of nearly five and a half million.² Kyrgyzstan's religious composition is dominated by Muslims (almost all Sunni) constituting 75-80% of the population, but 8-11% are Russian Orthodox believers; roughly 10% may be classified as other religions.³

SECTION 1: LEGAL FRAMEWORK

The Kyrgyz Republic's legal system is based on French and Russian laws.⁴ The President is head of state and the Prime Minister is head of the government, while legislative power is vested in both the government and parliament.⁵ The State Agency for Religious Affairs ("SARA") is responsible for promoting religious tolerance, protecting freedom of conscience, and overseeing laws on religion.⁶

The Kyrgyz government is currently undergoing change. On October 20, 2009, the entire presidential cabinet resigned after President Bakiyev announced reform plans that would alter the cabinet's structure.⁷ The reforms will reach the executive, judicial, and military branches, as well

¹ CENTRAL INTELLIGENCE AGENCY, THE WORLD FACTBOOK, KYRGYZSTAN, <https://www.cia.gov/library/publications/the-world-factbook/geos/kg.html> (last visited Oct. 17, 2009) [hereinafter CIA WORLD FACTBOOK].

² *Id.*

³ *See id.*; cf. U.S. DEP'T OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS & LABOR, INT'L RELIGIOUS FREEDOM REPORT 2008 KYRGYZ REPUBLIC, § I, available at <http://www.state.gov/g/drl/rls/irf/2008/108502.htm> [hereinafter 2008 RELIGIOUS FREEDOM REPORT].

⁴ CIA WORLD FACTBOOK, *supra* note 1.

⁵ *See id.*

⁶ 2008 RELIGIOUS FREEDOM REPORT, *supra* note 3, at Introduction. The President appoints the Director of SARA, which is responsible for "promoting religious tolerance, protecting freedom of conscience, and overseeing the application of laws on religion." 2008 RELIGIOUS FREEDOM REPORT, *supra* note 3, § II. All religious organizations must register with SARA, which can deny or postpone the certification. Unregistered religious organizations may not rent space or hold religious services; however, many religious organizations meet regularly without governmental interference. SARA may reject a registration application upon non-compliance with the law or when there is a "possible threat to national security, social stability, interethnic and interdenominational harmony, public order, health, or morality." *Id.* The registration process can take a month to several years to complete. *Id.*

⁷ *Kyrgyz government resigns over reform drive*, ABC NEWS, <http://www.abc.net.au/news/stories/2009/10/21/2719528.htm> (last visited Oct. 20, 2009).

as cultural policies.⁸ Exiting cabinet members opined that these reforms merely concentrate more power in the Executive.⁹ The judicial branch of Kyrgyzstan consists of the Supreme Court, the Constitutional Court, the Higher Court of Arbitration, and Local Courts.¹⁰

The Constitution of Kyrgyzstan provides for the freedom of religion, the separation of church and state, and the prohibition of discrimination based on religion or religious beliefs.¹¹ The Government does not officially support any religion.¹² However, a 2006 decree recognized Islam and Russian Orthodoxy as “traditional religious groups.”¹³

Additionally, Kyrgyzstan has, through accession, become a party to the International Covenant on Civil and Political Rights (“ICCPR”)¹⁴; the International Covenant on Economic, Social and Cultural Rights¹⁵; the Convention against Torture and Cruel, Inhumane, or Degrading Treatment or Punishment¹⁶; and the Convention on the Elimination of All Forms of Racial Discrimination.¹⁷ The country became a member of the United Nations in 1992, but it has not accepted compulsory International Court of Justice jurisdiction.¹⁸ Kyrgyzstan has pledged to protect human rights and freedoms by acceding to such treaties; however, as the following sections relating to asylum-seekers and persecuted minorities suggest, Kyrgyzstan has failed to fulfill its obligations under these treaties.

The fear of religiously-inspired terrorism has served as the impetus for restrictive religion laws. According to the 2008 Religious Freedom Report, “tensions continued between Muslims and former Muslims who had converted to other religious groups.”¹⁹ The Religious Freedom Report also noted that the Kyrgyzstan government “generally respected religious freedom in practice . . . [but] continued to monitor and restrict radical Islamic groups that it considered threats to stability and security and hampered or refused to register some Christian churches.”²⁰

⁸ Associated Press, *Kyrgyz Cabinet resigns as part of president’s reform push, opposition alleges power grab*, STARTRIBUNE.COM, <http://www.startribune.com/world/64933367.html?elr=KArks:DCiUBcy7hUiacyKUUr> (last visited Oct. 20, 2009).

⁹ *Id.*

¹⁰ CIA WORLD FACTBOOK, *supra* note 1.

¹¹ KYRGYZ CONST. art. 1(1), 8(1), 13(3), 14(5).

¹² *Id.* at art. 8(1).

¹³ 2008 RELIGIOUS FREEDOM REPORT, *supra* note 3, at Introduction.

¹⁴ United Nations Treaty Collection, *Status of Treaties: International Covenant on Civil and Political Rights*, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&lang=en (last visited Oct. 20, 2009).

¹⁵ United Nations Treaty Collection, *Status of Treaties: International Covenant on Economic, Social and Cultural Rights*, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3&chapter=4&lang=en (last visited Oct. 20, 2009).

¹⁶ United Nations Treaty Collection, *Status of Treaties: Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-9&chapter=4&lang=en (last visited Oct. 20, 2009).

¹⁷ United Nations Treaty Collection, *Status of Treaties: International Convention on the Elimination of All Forms of Racial Discrimination*, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-2&chapter=4&lang=en (last visited Oct. 20, 2009).

¹⁸ See CIA WORLD FACTBOOK, *supra* note 1; see also UNdata, Kyrgyzstan, <http://data.un.org/CountryProfile.aspx?crName=Kyrgyzstan> (last visited Oct. 14, 2009).

¹⁹ 2008 RELIGIOUS FREEDOM REPORT, *supra* note 3, at Introduction.

²⁰ 2008 RELIGIOUS FREEDOM REPORT, *supra* note 3, at Introduction. In addition, according to Voice of the Martyrs, “officials in Kyrgyzstan have said they will close churches in an effort to pacify Muslim majorities. Christians there accuse local police and others of collaborating against them to allow acts like arson and harassment to continue.” Voice of the Martyrs, *Restricted Nations: Kyrgyzstan*, PERSECUTION.COM, <http://www.persecution.com/public/restrictednations.aspx> (last visited October 19, 2009).

Recently, the parliament passed the 2008-2009 “On Freedom of Conscience and Religious Organizations” Law, which has severely restricted religious freedom. The Law was a definitive response to concerns about terrorism stemming from “religious groups.”²¹ For example, the law requires a minimum of 200 members before a church may register (a drastic increase over the previous 10-member requirement).²² The law further banned non-government sanctioned proselytizing, and Kyrgyz citizens may not convert to a different faith.²³ Additionally, the law makes it illegal to distribute religious literature outside places of worship, and private religious schools are prohibited.²⁴

Officials say that this new legislation is needed to help thwart a second “social scourge”—evangelical Christians.²⁵ According to the deputy director of SARA, the Kyrgyz government is “afraid of religious extremism. Those who try to influence people on the level of psychology are trying to take destructive actions.”²⁶ According to one SARA official, “Religion is a very delicate thing and the fact that they [proselytizers] are insistently trying to spread their faith is a violation of basic human rights.”²⁷ Non-profit leaders fear that the situation for Christians will be “the same as it was during the Soviet Union’ ‘ Churches that have [fewer] than 200 parishioners cannot re-register; therefore[,] many churches will not be able to exist legally.”²⁸ According to a February 2, 2008 government press statement, to curb the activities of religious extremist groups, former Prime Minister Chudinov approved an initiative designed to prevent the “proliferation of extremism, fundamentalism, and religious conflicts.”²⁹

With regard to Shari’ah law, the post-Soviet upheaval and increasingly ineffective centralized government in Kyrgyzstan has resulted in an increase in Islamic identity in the country in the form of both traditional Islam (the Muftiate) and political Islam (as typified by the banned group, *Hizb ut-Tahrir*). The Muftiate (or Spiritual Administration of Muslims of Kyrgyzstan) is the highest Islamic managing body in the country.³⁰ Under the Muftiate, “volunteers called ‘Davatchi’ visit[] villages in the south to teach traditional Islamic values.”³¹ “The Muftiate has the authority to ban publications that do not meet the established standards.”³²

²¹ Mushfig Bayram, *KYRGYZSTAN: Crackdown follows new Religion Law*, FORUM 18 NEWS SERVICE, May 28, 2009, available at <http://www.unhcr.org/refworld/pdfid/4a1e80f22.pdf> [hereinafter *Crackdown on Religious Freedom*]; see also Mushfig Bayram, *KYRGYZSTAN: Restrictive Religion Law passes Parliament unanimously*, FORUM 18, Nov. 16, 2008, available at http://www.forum18.org/Archive.php?article_id=1215; see also 2008 RELIGIOUS FREEDOM REPORT, *supra* note 3, § II; *Persecution in Kyrgyzstan*, *supra* note 33.

²² *Crackdown on Religious Freedom*, *supra* note 21.

²³ See *Crackdown on Religious Freedom*, *supra* note 21; 2008 RELIGIOUS FREEDOM REPORT, *supra* note 3, § II.

²⁴ Bayram, *supra* note 21. A 2005 law on “Countering Extremist Activity” is aimed specifically at extremist activity of religious groups. Under this law, Kyrgyz law enforcement officials are able to detain members of banned organizations (or presumably un-registered or “non-traditional” organizations) for distributing leaflets and other materials deemed to be of an extremist nature. 2008 RELIGIOUS FREEDOM REPORT, *supra* note 3, § II.

²⁵ *Religious Freedom Under Siege in Bishkek*, EURASIANET.ORG, Oct. 10, 2008, <http://www.eurasianet.org/departments/insightb/articles/eav102808a.shtml> [hereinafter *Religious Freedom Under Siege*].

²⁶ *Id.*

²⁷ *Id.* (alteration in the original). SARA officials insist that proselytism is dangerous: “if one is converted [to Christianity] and others in the family are Muslims, it [provokes] fighting in the family, the community, and society.” *Id.* (alteration in the original).

²⁸ *Id.*

²⁹ 2008 RELIGIOUS FREEDOM REPORT, *supra* note 3, § II.

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

SECTION 2: REPORTS OF RECENT INSTANCES OF RELIGIOUS PERSECUTION

1. Violence Against Christians: In southern Kyrgyzstan, where the majority of people are ethnic Uzbeks and Muslim, Muslims often physically assault and evict Christians from their communities and demand the closure of church buildings.³³ Christian worship meetings are often raided by Islamic mobs. Muslim intruders make it a practice to warn believers that continued prayer and worship services will result in their homes being torched. There are also allegations of a number of incidents where Muslims have raped the wives of church planters as a consequence of not ending their ministries.³⁴ A Christian church planter and his son found themselves outnumbered and under attack by a Muslim mob in the town of Kara Kuldza on July 28th, 2006. The militant group converged on the church planter and his son, beating them both severely. The attackers then ravaged the pastor's church (which was also his home). Once the Muslim mob seized all forms of Christian literature in the buildings, everything was thrown onto the street and set on fire.³⁵

In a 2007 case, four Kyrgyzstan nationals (a married couple and their two children) were granted asylum in New Zealand.³⁶ (See case summary in Appendix, attached hereto). The family had repeatedly been threatened. Within the span of a year in 2005, the husband had been attacked and brutally beaten three times. Medical aid was refused, the police refused to investigate, and the prosecutor's office refused to begin proceedings against the perpetrators, as they determined that no crime had been committed. The Refugee Status Appeals Authority ("RSAA") found that the risks the family faced "derive[d] principally from their religious conversion," and that the situation for Christian converts in Kyrgyzstan had "degenerated further over the past year, with reports of increasingly frequent attacks on Muslim converts to Christianity by lynch mobs, whose actions go unpunished[.]"³⁷ Such threats and attacks were in "clear violation of various human rights," including the right to liberty and security of person and the freedom of religion in Articles 9 and 18, respectively, of the ICCPR.³⁸

2. Registrations: Upon passage of the 2008-2009 Law on Freedom of Religion and Religious Organizations, several religious leaders faced registration delays or denials when SARA declared their applications erroneous or insufficient.³⁹ Consider these examples: The Mormon Church of Jesus Christ of Latter-Day Saints, which initially applied for registration with SARA in 2004, was still not registered by 2008; Leaders of the Hare Krishna temple in Bishkek have attempted unsuccessfully to register several times over the past two years; Leaders of the Jehovah's Witnesses were still awaiting approval of registration for three places of worship at the end of 2008; SARA permitted the Baptist Church in Karakulja to continue only under the official registration of the Osh Baptist Church, rather than approving its own application.⁴⁰

³³ Voice of the Martyrs (Canada), *Persecution News: Kyrgyzstan*, available at <http://www.persecution.net/kyrgyzstan.htm> (last visited Oct. 16, 2009) [hereinafter *Persecution in Kyrgyzstan*].

³⁴ Voice of the Martyrs, *Muslim Mob Brutally Attacks Church Planter and His Son*, PERSECUTION BLOG, Aug. 21, 2006, available at http://www.persecutionblog.com/2006/08/kyrgyzstan_musl.html.

³⁵ *Id.*

³⁶ Refugee Appeal Nos. 75981, 75982, 75983 & 75984, 75981, 75982, 75983 & 75984, New Zealand: Refugee Status Appeals Authority, Mar. 19 2007, available at <http://www.unhcr.org/refworld/docid/46a4854c0.html> [last visited Oct. 21, 2009].

³⁷ *Id.* ¶¶ 40, 48.

³⁸ *Id.* ¶ 51.

³⁹ 2008 RELIGIOUS FREEDOM REPORT, *supra* note 3, § II, Restrictions on Religious Freedom.

⁴⁰ *Id.*

3. Missionaries: A Baptist pastor reported that a foreign Baptist missionary was denied a religious activities visa when attempting to visit the country.⁴¹ Additionally, a foreign Protestant leading a church in the capital Bishkek was forced to leave the country.⁴² Finally, several Christian groups reported delays in receiving visas for their missionaries who attempted to visit the country. At least three foreign missionaries were deported for violation of their visa status or other laws in relation to their religious activities.⁴³

4. Monitoring Activity: SARA regularly monitored religious services, taking photographs and asking questions.⁴⁴ Officials have warned religious communities not to share their faith with others, not to give out religious literature, and have been instructed to bring their founding documents into compliance.⁴⁵ In one town, Jehovah's Witnesses had religious literature confiscated in April of 2009.⁴⁶ Jehovah's Witnesses reported that on March 19-20, 2009 in the town of Mailuu Suu, Jalalabad Oblast, Ministry of Interior officers detained six of their members for several hours, raided their homes, and confiscated their religious literature.⁴⁷

5. Societal Abuses and Discrimination: Although there were no reports of forced religious conversion during the past year,⁴⁸ there was evidence of periodic tension in rural areas between conservative Muslims and foreign Christian missionaries and individuals from traditionally Muslim ethnic groups who have converted to other religions. Both Muslim and Russian Orthodox spiritual leaders criticize the proselytizing activities of nontraditional Christian groups.⁴⁹ On May 19, 2008, in the village of Kulanak of the Naryn Oblast, a family of Christian converts attempted to bury their 14-year-old son near the village cemetery, which local officials designated for the burial of Christians. According to numerous media reports, a crowd of Muslim villagers, led by the local imam, disrupted the funeral and prevented family members from burying the son. The villagers offered to allow the burial if the father renounced Christianity. The family appealed to law enforcement officials to intervene; however, amidst crowds of Muslims, the Ministry of Internal Affairs officers entered the home, forcibly removed the corpse, and buried it in a Christian cemetery 25 miles from Kulanak.⁵⁰ Several other instances have occurred in which there have been difficulties burying deceased congregants who converted from Islam to Christianity. The Government allocated new plots of land for Protestant cemeteries in an effort to resolve the problem; however, the scarcity of such cemeteries forced Christians to travel great distances to bury their dead.⁵¹ Finally, the investigation into the 2006 incident of Molotov cocktails thrown at the Baptist Sarygulov's church facilities in Karakulja was closed with no arrests made.⁵²

⁴¹ *Id.*

⁴² *Crackdown on Religious Freedom, supra* note 21.

⁴³ U.S. DEP'T OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS & LABOR, INT'L RELIGIOUS FREEDOM REPORT 2009 KYRGYZ REPUBLIC, § II, *available at* <http://www.state.gov/g/drl/rls/irf/2009/127367.htm> [hereinafter 2009 RELIGIOUS FREEDOM REPORT].

⁴⁴ *Crackdown on Religious Freedom, supra* note 21; 2009 RELIGIOUS FREEDOM REPORT, *supra* note 43, § II.

⁴⁵ *Crackdown on Religious Freedom, supra* note 21.

⁴⁶ *Id.*

⁴⁷ 2009 RELIGIOUS FREEDOM REPORT, *supra* note 43, § II.

⁴⁸ 2008 RELIGIOUS FREEDOM REPORT, *supra* note 3, § II, Forced Religious Conversion.

⁴⁹ *Id.* § III.

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

APPENDIX:

CASE SUMMARY: KYRGYZ CITIZENS SEEKING ASYLUM IN NEW ZEALAND

In a 2007 case, four Kyrgyzstan nationals (a married couple and their two children) appealed the decision of an officer of the Refugee Status Branch of the New Zealand Immigration Service who declined to grant them refugee status.⁵³ The husband and wife were both born into the Muslim faith, but in 2003, they began attending the protestant Church of Jesus Christ.⁵⁴ By May 2004, the family had begun receiving threatening phone calls—they were warned that if they did not attend the mosque, they would be harmed. The husband’s employer first allowed him to keep his job only if he practiced his Christianity in secret; however, at the end of 2004, the employer gave the husband an ultimatum: leave his church, or leave his job. The husband chose the latter option.⁵⁵

In 2005, the threatening phone calls intensified; in September, the husband was attacked by two or three men while walking home; they beat him in the head and the stomach. A month later, he was attacked again, when three men punched him repeatedly. A third attack happened in November of 2005, when five or six men (one armed with a screwdriver) approached him while he was returning home and beat him until he lost consciousness. His wife called for an ambulance; she was told “there was not enough petrol for it to come.” When the husband reported the attacks to the police, they simply told him they were very busy and were not able to investigate. The prosecutor’s office informed him that they would not instigate criminal proceedings because “no crime had been committed.” The family left Kyrgyzstan for New Zealand in January 2006.⁵⁶

The Refugee Status Appeals Authority (“RSAA”) analyzed whether the family had a well-founded fear of persecution in the face of threats and violence on account of their conversion to Christianity, and whether there was a real chance of persecution if the family returned to Kyrgyzstan.⁵⁷ The RSAA found that the risks the family faced “derive[d] principally from their religious conversion,” and that the situation for Christian converts in Kyrgyzstan had “degenerated further over the past year, with reports of increasingly frequent attacks on Muslim converts to Christianity by lynch mobs, whose actions go unpunished[.]”⁵⁸ Such threats and attacks were in “clear violation of various human rights,” including the right to liberty and security of person and the freedom of religion in Articles 9 and 18, respectively, of the ICCPR.⁵⁹

The RSAA found that the “orchestrated campaign of threats and violence against the family resulting principally from their conversion to Christianity amounts to persecution.”⁶⁰ Moreover, they found that the Kyrgyz government would do nothing for the appellants due to widespread corruption in law enforcement and the apparent police bias against Christian

⁵³ Refugee Appeal Nos. 75981, 75982, 75983 & 75984, 75981, 75982, 75983 & 75984, New Zealand: Refugee Status Appeals Authority, Mar. 19 2007, *available at* <http://www.unhcr.org/refworld/docid/46a4854c0.html> [last visited Oct. 21, 2009].

⁵⁴ *Id.* ¶¶ 7, 21.

⁵⁵ *Id.* ¶¶ 22-23.

⁵⁶ *Id.* ¶¶ 26-34.

⁵⁷ *Id.* ¶¶ 37-38.

⁵⁸ *Id.* ¶¶ 40, 48.

⁵⁹ *Id.* ¶ 51.

⁶⁰ *Id.* ¶ 52.

converts.⁶¹ According to the RSAA, should the family return to Kyrgyzstan—and continue attending their church—it was highly probable that the violence against not only the father but against the entire family would continue. Therefore, the RSAA granted the entire family refugee status within the meaning of Article 1A(2) of the Refugee Convention.⁶²

⁶¹ *Id.* ¶ 53.

⁶² *Id.* ¶¶ 54-57.