

**Testimony of  
Elizabeth A. Clark  
USCIRF Hearing  
“Religious Freedom in Russia and Central Asia”  
September 16, 2020**

Thank you for the opportunity to be part of this briefing and to address legislation on religion in Russia and Central Asia.

While legislation is not the only basis for government restrictions—this region has also been plagued with unwritten regulations,<sup>1</sup> stemming from the lack of a strong basis in rule of law, and arbitrary enforcement of seemingly liberal laws<sup>2</sup>—legislation is nevertheless a key element in tracking the level of freedom in a country. For Russian leaders in particular, “for generations . . . the law has been a tool of state power, not a limit on its abuse.”<sup>3</sup>

The legal regulation of religion in Russia and Central Asia during both the Soviet and post-Soviet eras has been marked by (1) efforts by states to eliminate religion’s potential as a rival source of influence and authority; (2) an instrumental view of religion as a historical, ethnic-based phenomenon that is permissible so long as it supports the state; and (3) a sense, conflated with legitimate concerns about violent extremism, that minority beliefs, especially so-called “foreign” religions and new religious movements, undermine state security. There are some promising signs of greater support for religious freedom coming from Uzbekistan, including the release of political prisoners, abolition of a blacklist, registration of some new religious organizations, and new legislation, but the Soviet legacy of control, instrumentalization of religion, and seeing religion as a security threat seems to be difficult to overcome in this region.

I. Consolidation of State Control and Elimination of Pluralism

Both Soviet and post-Soviet Russia and Central Asia have seen state efforts over time to eliminate rival sources of power and authority. In post-Soviet Russia, Kazakhstan, and Kyrgyzstan, all of which experienced an initial period of comparative openness, this consolidation of state power has been particularly marked over the last 10-15 years. Religious organizations are not the only ones affected -- legal and practical restrictions have also significantly limited the ability of the political opposition, media, and NGOs.<sup>4</sup>

---

<sup>1</sup> See, e.g., Mushfig Bayram, UZBEKISTAN: New Decree gives "legal" basis to existing censorship (12 Feb 2014) [http://www.forum18.org/archive.php?article\\_id=1928](http://www.forum18.org/archive.php?article_id=1928)

<sup>2</sup> See, e.g., *Kimlya v. Russia*, Eur. Ct. H.R. (Mar. 1, 2010), <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-94565> (discussing the discriminatory and arbitrary enforcement of religious registration laws in Russia); GERALDINE FAGAN, BELIEVING IN RUSSIA: RELIGIOUS POLICY AFTER COMMUNISM 84–92 (2012) [hereinafter FAGAN, BELIEVING IN RUSSIA].

<sup>3</sup> *Russian Politics: Fear and Loathing*, ECONOMIST, Sept. 22, 2012, <http://www.economist.com/node/21563344>.

<sup>4</sup> See Robert C. Blitt, *How to Entrench a De Facto State Church in Russia: A Guide in Progress*, 2008 BYU L. Rev. 707 (2008), available at <https://digitalcommons.law.byu.edu/lawreview/vol2008/iss3/2>; Vladimir Gel'man, *The Politics*

The exercise of control over the religious sphere in its most extreme fashion is evident in restrictions on the ability of individuals and groups to engage in religious activity without notice to or permission from the state. For example, amendments to the Russian 1997 law on religious organizations have in practice sharply limited the ability of unregistered religious groups to meet or engage in religious activities without notice to the state, and a draft law introduced by the Russian government July 21<sup>st</sup> of this year would further restrict unregistered groups.<sup>5</sup> Unregistered religious activities are simply banned in all Central Asian countries<sup>6</sup> and even in the new, more liberal Uzbek draft law released last month.<sup>7</sup> This limitation on non-regulated religious activity was also the case in the Soviet era under the Law on Religious Associations of 1929, which mandated registration.<sup>8</sup>

In addition to state control over registration and unregistered activity, another important area of state control is of religious education – in Russia and Central Asia, this is limited to registered religions.<sup>9</sup> Several countries have vague prohibitions of “private teaching of religion.”<sup>10</sup> This also parallels Soviet practice under the 1929 Law on Religious Associations, which banned religious organizations from teaching religion to children, holding special events for youth, and organizing lectures on the Bible or Koran.<sup>11</sup>

## II. Instrumentalization of Religions

In the Soviet era, religious organizations were seen as rivals to state power and directly attacked until World War II, when Stalin began to use dominant religious groups to encourage patriotism and support

---

*of Fear*, 53 *Russian Politics & Law* 6 (2016); Jim Nicol, Cong. Rsch. Serv., RL33407, *Russian Political, Economic, and Security Issues and U.S. Interests* 1, 19-26 (2014), available at

[https://digital.library.unt.edu/ark:/67531/metadc284457/m1/1/high\\_res\\_d/RL33407\\_2014Mar31.pdf](https://digital.library.unt.edu/ark:/67531/metadc284457/m1/1/high_res_d/RL33407_2014Mar31.pdf); Masha Gessen, *The Kremlin vs. The NGOs*, N.Y. Times (May 29, 2015), available at <https://www.nytimes.com/2015/05/30/opinion/masha-gessen-the-kremlin-vs-the-ngos.html?searchResultPosition=4>; Leon Aron,

*Putinism*, Am. Enter. Inst. (May 8, 2008), available at <https://www.aei.org/research-products/report/putinism/>.

<sup>5</sup> Вносится Правительством Российской Федерации, Проект ФЕДЕРАЛЬНЫЙ ЗАКОН, О внесении изменений в Федеральный закон "О свободе совести и о религиозных объединениях" в части совершенствования правового регулирования деятельности религиозных объединений (21 July 2020); Роман Лункин, “Разве религия – это что-то опасное?: Новое законодательство о свободе совести стремится оградить граждан от веры” *НГ Религии*, [https://www.ng.ru/ng\\_religii/2020-08-04/9\\_491\\_religion.html](https://www.ng.ru/ng_religii/2020-08-04/9_491_religion.html).

<sup>6</sup> Law of the Kyrgyz Republic, On Freedom of Conscience and Religious Organization in the Kyrgyz Republic [Kyrgyzstan], 282/2009, Nov. 6, 2008, art. xi; Law of Kazakhstan, On Introduction of Amendments and Supplements to Certain Legislative Acts of the Republic of Kazakhstan on the Issues of Religious Activities and Religious Organizations [Kazakhstan], Oct. 13, 2011, art. iii; Article 240 of the Code of Administrative Offences and article 216 (2), part 1, of the Criminal Code of the Republic of Uzbekistan; [CITES to Turkmenistan, Tajikistan laws]

<sup>7</sup> Draft Law of the Republic of Uzbekistan, “On freedom of conscience and religious organizations” (August 2020), Art. 3.

<sup>8</sup> See, e.g., FELIX CORLEY, *RELIGION IN THE SOVIET UNION: AN ARCHIVAL READER* (1996), 75, 205; EUGENE B. SHIRLEY, JR. & MICHAEL ROWE, EDS, *CANDLE IN THE WIND* (1989), 75.

<sup>9</sup> FELIX CORLEY, *RELIGION IN THE SOVIET UNION: AN ARCHIVAL READER* (1996), 75.

<sup>10</sup> E.g., Law Of the Turkmenistan “On Religious Freedom and Religious Organizations” July 2, 2009, art. 6 (Turkm.), available at <http://www.legislationline.org/documents/action/popup/id/16341>; Law of Uzbekistan, “On freedom of Conscience and Religious Organizations,” May 1, 1998, art. 9 (Uzbek.).

<sup>11</sup> FELIX CORLEY, *RELIGION IN THE SOVIET UNION: AN ARCHIVAL READER* (1996), 75; see also ADEEB KHALID, *ISLAM AFTER COMMUNISM: RELIGION AND POLITICS IN CENTRAL ASIA* (2007), 71-3.

the war effort.<sup>12</sup> From this point on, state approved churches retained some additional ability to function during the rest of the Soviet era, though highly regulated and infiltrated. Minority religions and those seen as “foreign” still faced persecution and internal exile.<sup>13</sup>

This Soviet-era view of religion as permissible so long as it supports the state continues, along with the assumptions that dominant ethnic-based religions are those that are loyal to the state. This divide between protected religions that are majorities in the dominant ethnic groups in Russia and Central Asia and less protected minority groups should not be surprising. Political scientist Ani Sarkissian has empirically demonstrated how authoritarian leaders in countries with dominant religions tend to discriminate in favor of the dominant religions and repress minority beliefs as a soft power means of shoring up the legitimacy of their rule.<sup>14</sup>

This divide between protected majority religions and less-protected minority groups is reflected in laws and practice in this region. The Russian law against extremist materials, for example, was amended in 2015 to exempt “the Bible, the Koran, the Tanakh and the Kanjur [i.e., the scriptures of the so-called “historical religions” of Orthodoxy, Islam, Judaism, and Buddhism], their contents, and quotations from them” after it became clear that the vaguely worded law could be used against holy texts of majority religions.<sup>15</sup> Courts, however, have still proceeded to ban the Jehovah’s Witnesses translation of the Bible as extremist, claiming that it is not a Bible.<sup>16</sup>

The so-called “Yarovaya law” in Russia that limits proselyting can also be understood as a form of discrimination against newer religions, which are the groups typically associated with proselyting and the groups that have primarily been prosecuted under the law.<sup>17</sup>

Minority “nontraditional” groups also experience discriminatory application of seemingly neutral laws. Russia’s anti-extremism law, for example, with its excessively broad definition that includes claims of “the exceptional nature, superiority or deficiency” of religious beliefs, could easily be applied to any religious group. The law, however, has been most prominently used to ban the pacifist Jehovah’s

---

<sup>12</sup> See Elizabeth A. Clark, *Civil Religion and Religious Freedom in the Russian-Ukrainian Conflict*, in ELIZABETH A. CLARK AND DMYTRO VOVK, EDS., *RELIGION DURING THE RUSSIAN-UKRAINIAN CONFLICT* (Routledge, 2019).

<sup>13</sup> See, e.g., JOHN ANDERSON, *RELIGION, STATE AND POLITICS IN THE SOVIET UNION AND THE SUCCESSOR STATES* (1994); EUGENE B. SHIRLEY, JR. & MICHAEL ROWE, EDS, *CANDLE IN THE WIND* (1989).

<sup>14</sup> ANI SARKISSIAN, *VARIETIES OF RELIGIOUS REPRESSION* (2015).

<sup>15</sup> Victoria Arnold, *RUSSIA: Some but not all sacred texts exempted from banning*, available at [http://www.forum18.org/archive.php?article\\_id=2126](http://www.forum18.org/archive.php?article_id=2126)

<sup>16</sup> Victoria Arnold, *RUSSIA: Jehovah's Witness Bible, Jewish, Christian, Muslim books banned*, available at [http://www.forum18.org/archive.php?article\\_id=2319](http://www.forum18.org/archive.php?article_id=2319).

<sup>17</sup> See, e.g., Olga Sbireva, *Freedom of Conscience in Russia: Restrictions and Challenges in 2019*, available at [https://www.sova-center.ru/en/religion/publications/2020/03/d42209/#\\_Toc509950628](https://www.sova-center.ru/en/religion/publications/2020/03/d42209/#_Toc509950628) (“Protestants and representatives of new religious movements remain the most frequent target of persecution under the “anti-missionary” amendments.”); Olga Sbireva, *Freedom of Conscience in Russia: Restrictions and Challenges in 2018*, available at <https://www.sova-center.ru/en/religion/publications/2019/04/d40912/> (“As before, the “anti-missionary” amendments were most frequently applied to representatives of the Protestant churches and the new religious movements.”).

Witnesses, confiscate their property, and has led to 384 individual Jehovah's Witnesses facing criminal charges, 37 put in pretrial detention, 10 convicted and 26 under house arrest.<sup>18</sup>

### III. Religion as a State Security Threat

As the anti-extremism law<sup>19</sup> and the Yarovaya law, which was adopted by the Russian Duma's committee that deals with extremism and state security, suggest, religion has also come to be viewed as a security threat.<sup>20</sup> Concerns about violent extremism have served as the justification for excessively broad restrictions on religious life, including restrictions on peaceable minority religions and, in Central Asia in particular, on those who are perceived to act or dress excessively Islamic.

As early as 2000, The Concept of National Security of the Russian was amended to read: "Ensuring the national security of the Russian Federation also includes the protection of its ... spiritual and moral heritage ... the forming of a State policy in the field of spiritual and moral education of the population ... and also includes opposing the negative influence of foreign religious organisations and missionaries ..."<sup>21</sup> A Federal Security Service informational letter from this time, "Information on the activities of representatives of non-traditional religious associations on Russian territory," charged that "foreign sectarian communities ...under the cover of religion establish extensive governing structures which they use for gathering socio-political, economic, military and other information about ongoing events in Russia, indoctrinate the citizens and incite separatist tendencies."<sup>22</sup>

### IV. Conclusion

In conclusion, I'd like to identify a worrying trend over the last number of years among the legislation of Russia and Central Asia that could be called "sharing of worst practices," where restrictive provisions are adopted in a few countries and then spread to others. Initially in the post-Soviet world, for example, proselyting was banned and censorship of religious materials prior to distribution was mandated only in Turkmenistan and Uzbekistan,<sup>23</sup> at that point the most repressive of the countries in Central Asia. These provisions then got picked up by Kyrgyzstan in 2008<sup>24</sup> and Kazakhstan in 2011<sup>25</sup> and then Russia

---

<sup>18</sup> Letter from Jarrod Lopez, September 14, 2020.

<sup>19</sup> SOBRANIE ZAKONODATEL'STVA ROSSIISKOI FEDERATSII [SZ RF] [Russian Federation Collection of Legislation] 2002, No. 30, Item 3031, available at <http://www.legislationline.org/documents/id/4368>.

<sup>20</sup> See generally, OLGA OLIKER, ED., RELIGION AND VIOLENCE IN RUSSIA: CONTEXT, MANIFESTATIONS, AND POLICY (2018), available at [https://csis-website-prod.s3.amazonaws.com/s3fs-public/publication/180530\\_Oliker\\_ReligionandViolenceinRussia\\_Web.pdf?HLUCSpiycSLjwYXjxwk8nM49DfnpOsvT](https://csis-website-prod.s3.amazonaws.com/s3fs-public/publication/180530_Oliker_ReligionandViolenceinRussia_Web.pdf?HLUCSpiycSLjwYXjxwk8nM49DfnpOsvT).

<sup>21</sup> Quoted in Nolan and K. v. Russia, (Application no. 2512/04) (Eur. Ct. HR) (12 Feb 2009), para. 12.

<sup>22</sup> Id., para. 39.

<sup>23</sup> See, e.g., "Law on Religious Freedom and Religious Organizations (2003) (Turkmenistan); "Law on Freedom of Conscience and Religious Organizations (1998) (Uzbekistan); Felix Corley, Turkmenistan: Religious Freedom Survey, 2003, available at [http://www.forum18.org/archive.php?article\\_id=151](http://www.forum18.org/archive.php?article_id=151); Igar Rotar, Uzbekistan: Religious Freedom Survey, July 2003, available at [http://www.forum18.org/archive.php?article\\_id=105](http://www.forum18.org/archive.php?article_id=105).

<sup>24</sup> Law of the Kyrgyz Republic, On Freedom of Conscience and Religious Organization in the Kyrgyz Republic [Kyrgyzstan], 282/2009, Nov. 6, 2008, art. 5.4.

restricted proselyting in the Yarovaya law in 2016, which has led to over 2,000 lawsuits and fines of over 10 million rubles.<sup>26</sup>

The sharing of worst practices goes both ways. After Russia adopted a law prohibiting insult to religious feelings in 2013,<sup>27</sup> the Kyrgyz Republic adopted it in 2014<sup>28</sup> and a similar provision is in the new Uzbek draft law.<sup>29</sup>

Another, even more recent example -- draft legislation introduced into the Russian Duma July 21<sup>st</sup> includes a provision previously seen in Central Asian legislation – restriction of religious leadership (here in theological schools) to those who have received relevant academic training in-country, which violates the principle of religious autonomy and is impossible for some religious denominations who do not have a training facility in that country to establish theological schools or conduct worship.

One of the few bright spots in this landscape is that there seems to be a bit more openness to questions of religious freedom in Uzbekistan over the last year and a half. Uzbekistan proposed a revised draft law in 2019 and then another more liberal one just last month that simplifies the registration process for religious organizations somewhat and provides additional procedural protections for religious organizations. The drafting process has been marked by open engagement with foreign experts and the invitation of comments from the OSCE, the Venice Commission, and the U.N. Special Rapporteur for Freedom of Religion or Belief.

While more work remains to be done on the draft to bring it fully into line with international norms in this area, it is a sign of progress, together with the positive actions by the state in registering additional religious organizations, allowing minors to attend religious services, and releasing political prisoners.

The Soviet legacy of control, instrumentalization of religion, and viewing religion as a security threat, however, remain dominant in this region.

---

<sup>25</sup> Law on Religious Activity and Religious Associations October 11, 2011 (amended 2014), (Kaz.), art. 9, *available at* [https://www.legislationline.org/download/id/6626/file/Kazakhstan\\_law\\_religious\\_activities\\_associations\\_2011\\_a\\_m2014\\_en.pdf](https://www.legislationline.org/download/id/6626/file/Kazakhstan_law_religious_activities_associations_2011_a_m2014_en.pdf).

<sup>26</sup> Роман Лункин, “Разве религия – это что-то опасное?: Новое законодательство о свободе совести стремится оградить граждан от веры” *НГ Религии*, [https://www.ng.ru/ng\\_religii/2020-08-04/9\\_491\\_religion.html](https://www.ng.ru/ng_religii/2020-08-04/9_491_religion.html)

<sup>27</sup> <http://www.reuters.com/article/2013/01/27/russia-religion-bill-idUSL5N0AW14X20130127>; Christopher Stroop, *In Russia It Is Now a Crime to Insult Someone’s Religious Feelings*, July 11, 2013, *available at* <http://www.religiondispatches.org/archives/politics/7183> (describing passage of the legislation which amended Article 148 of the Criminal Code to criminalized “public acts expressing manifest disrespect for society and carried out with the goal of insulting the feelings of religious believers.”)

<sup>28</sup> See OSCE/IDHR, *Comments on “The Concept Paper on State Policy in the Sphere of Religion of the Kyrgyz Republic”*, (Warsaw: OSCE Office for Democratic Institutions and Human Rights, March 27, 2014), Opinion-Nr.: FOR -KYR/245/2014 [RJU], *available at* <https://www.osce.org/files/f/documents/4/1/118672.pdf> (referencing para. 26-28 of the Concept Paper).

<sup>29</sup> Draft Law of the Republic of Uzbekistan, “On freedom of conscience and religious organizations” (August 2020), Art. 6, 9.