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The right to change one's belief or religion
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KAZAKHSTAN: Ahmadi Muslim mosque closed, Protestants fined 100 times minimum monthly wage

By Mushfig Bayram, Forum 18 (https://www.forum18.org)

Kazakhstan has fined an Ahmadi Muslim community – also denying it the use of its mosque and land – as well as imposed fines of 100 times the minimum monthly wage on two Protestants for religious activity without state permission, Forum 18 News Service has found. One official claimed to Forum 18 in relation to the Ahmadis that "using a dwelling house for religious purposes violates the Land Code", but was unable to say where this was stated. Officials were similarly evasive in relation to the Protestants, when asked which of Kazakhstan's laws banned religious believers from praying and reading scriptures together with their fellow believers in their private homes. One of the two Protestants was only informed of an appeal hearing six days after it took place. Kazakhstan's mass media also continues to be used for "anti-sect" propaganda, one of the aims of which appears to be to encourage support for legislation imposing more restrictions on people exercising their right to freedom of religion or belief.

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Ahmadi Muslims fined and banned from using mosque and land

The Ahmadi Muslim community in the southern city of Shymkent was targeted by the Regional Property Inspection authorities in May, who claimed that they do not have the right to use their land and the building on it for religious purposes (see F18News 6 May 2011 http://www.forum18.org/Archive.php?article_id=1568).

On 12 May Judge Yerlan Seraliyev of South Kazakhstan Regional Economic Court fined the Community 756 Tenge (28 Norwegian Kroner, 4 Euros, or 5 US Dollars), and suspended the right of the Community to use its mosque and land. The suspension applies until the alleged violations of land usage claimed by the joint Zhambyl-Kyzylorda-South Kazakhstan inter-regional Land Inspection Agency are "eliminated", according to the verdict seen by Forum 18.

"We cannot now use our building for prayers and Friday sermons," a Muslim who did not wish to be named for fear of state reprisals lamented to Forum 18 on 2 June. On 31 May the community filed an appeal against the decision.

Prosecution brought on unspecific ground

The prosecution was brought under Article 253 of the Code of Administrative Violations, which punishes not using land according to its designated purpose. Possible punishments range from a warning to a fine for individuals of up to 10 Minimal Financial Indicators (MFIs), for officials and small business owners of between 10 and 30 MFIs, and for large business owners of between 50 and 120 MFIs.

The MFI is set annually, and since 1 January 2011 has been 1,512 Tenge (56 Norwegian Kroner, 8 Euros, and 10 US Dollars). This is just below one tenth of the official minimum monthly wage.

Inspector Nariman Kasymbekov of the inter-regional Land Inspectorate visited the Ahmadi community's property on 3 September 2010. In an official report, seen by Forum 18, he claimed that the community violated the demands of the Land Code's Article 65 by using the land for religious activity. The report states that the land was purchased for building a dwelling house on it, but does not produce evidence of the "violation" it claims.

Part 1 of paragraph 1 of Land Code Article 65 states that landowners shall use the land for its designated purpose. Article 65 goes on

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to state that landowners must follow sanitary and environmental regulations, and not cause harm to the health of the population or the environment as a result of their commercial or other activity. The Article also states that landowners must protect flora and fauna, natural resources, the historical-cultural legacy, and other objects of state importance. Nowhere in the Article is the use of land for religious purposes banned.

"You have no right to call this court"

Judge Seraliyev refused to explain his decision. "I have made my decision, and they can complain if they do not like it," he told Forum 18 on 2 June. Asked why the Ahmadi Muslims cannot use their lawfully purchased building for prayers, he angrily replied that "you have no right to call this court". He then put the phone down.

Land Inspector Kasymbekov was equally unforthcoming on 6 June. "I know that the Law allows religious organisations to use their property for religious purposes, but using a dwelling house for religious purposes violates the Land Code," he claimed. Asked concretely what points in the Land Code the community violated, Kasymbekov repeated his previous claim that a dwelling house cannot be used for religious purposes. He refused to explain what part of the Land Code contained this ban.

"I am not an environmental expert," he told Forum 18, when asked whose rights the community had violated, or whether any harm to the environment or people's health had been caused by the community's prayers and sermons. "I have consulted with the Prosecutor's Office and other officials, and they told me that my report and our Inspectorate's claim in the court are correct", he added.

Inspector Kasymbekov refused to answer when asked if any other state agencies were involved in the decision to target the Ahmadi community.

"They need to re-register the building as a Mosque"

Asked what exactly the authorities want the Ahmadi community to do to use their own property again, Kasymbekov stated that: "They need to re-register the building as a Mosque."

Kazakhstan exerts pressures on independent Muslim communities to join the state-favoured Muslim Board, which bans Ahmadi Muslims from preaching in mosques under its control (see F18News 14 October 2010 http://www.forum18.org/Archive.php?article_id=1498).

A member of the Ahmadi community, who wished to remain anonymous for fear of state reprisals, stated on 6 June in response to Kasymbekov's statement that if the Community registers its building as a mosque, the authorities will not allow visitors or local members to live in it. Kasymbekov confirmed this, stating that "they need to decide whether they want a private home or a Mosque."

In the past the authorities have often used property cases as a means of targeting religious communities (see eg. F18News 20 August 2008 http://www.forum18.org/Archive.php?article_id=1174).

Raids and large fines for unregistered religious activity

In the southern region of Kyzylorda [Qyzylorda], three members of the Protestant Grace Church in the same region have been prosecuted for unregistered religious activity, two of them being fined 100 times the minimum monthly wage each on 12 April and 6 May respectively.

Trouble began for Mereken Moldaziyatov on 27 March, when police found him "preaching from the book to 7-8 visitors, and leading prayers in his private home", the 19 May court verdict seen by Forum 18 states. Grace Church members told Forum 18 on 2 June that "the police and other authorities broke in to Moldaziyatov's home without having any authorisation to do so". A Grace Church member who wished to remain unnamed, for fear of state reprisals, observed that "no authority has any rights to interfere with the private life of people who are not disturbing public order."

Church members also explained that only four people were present in the house during the raid, including the hosts Moldaziyatov and his wife Bakhyt Tokobekova.

For Bazyl Zhashibekov, trouble began when Kyzylorda Police secretly filmed him in his home with his friends reading the Bible, and praying. Church members insist that for a court to accept this as "evidence" is to break the rules of judicial procedure.

Organised crime?

Sanzharkhan Kaulenov, Chief of the Kyzylorda Regional Directorate for the Struggle with Organised Crime, told Forum 18 on 6 June that his officers did "not need permission" to enter Zhashibekov's private home as "regional Prosecutors and Justice officials also participated in the action." Kaulenov refused to say who gave the orders to raid and film Zhashibekov's home. He also insisted

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that there is "nothing wrong" in providing a court with film as evidence. "Otherwise the court would punish the police too," he claimed.

Forum 18 is not aware of any instance where Kazakh police or other officials have been punished for any actions they have taken when raiding people peacefully exercising the internationally-recognised right to freedom of religion or belief.

Asked on 6 June whether the Prosecutor's officials gave orders to raid Zhashibekov's home, Kayrat Abdykhanov, Deputy Prosecutor of Kyzylorda Region, referred Forum 18 to Karmakshi District Prosecutor's office, saying "you need to talk to them."

Murat Dosmagambetov, Prosecutor of Karmakshi District, told Forum 18 on 6 June that he did "not give any authority" to the police to enter Zhashibekov's home or film it. "This was totally at the initiative of the Regional Police," he claimed. He declined to comment on why the authorities raided a private home of a peaceful believer. "We only participated in the hearing of the [Karmakshi] District Court."

Prosecutor Dosmagambetov also would not comment on why the authorities targeted Zhashibekov. "I am not sure about that", he replied.

Two fines of 100 times the minimum monthly wage

Moldaziyatov was fined 151,200 Tenge (5,550 Norwegian Kroner, 700 Euros, or 1,040 US Dollars), 100 times the minimum monthly wage, on 19 May by Judge Saken Audekov of Zhanakorgan District Court. The fine was imposed under the Administrative Code's Article 374-1 ("Leadership or participation in the activity of an unregistered social or religious organisation"). His wife Tokobekova was given a warning.

Judge Audekov explains in his verdict, seen by Forum 18, that he issued the warning to Tokobekova under Article 68 of the Administrative Code "taking into account her personality, social status and the fact that her breaking of the law did not harm anyone, and that the violation is insignificant."

Article 68 "in cases of insignificant harm" allows a verbal warning to be given in place of any other punishment.

The Judge's verdict states that they both were part of the "[Kyzylorda] Grace religious Community, the activity of which was halted by the Republic of Kazakhstan's law." Church members, who wished to remain unnamed for fear of state reprisals, told Forum 18 on 6 June that the Church was closed down on 19 June 2009 by the Kyzylorda Regional Specialised Economic Court. This was after "some founding members retracted their signatures from the founding documents under pressure from officials of the Prosecutor's Office," they told Forum 18.

Zhashibekov was on 12 April also fined 151,200 Tenge under Administrative Code Article 374-1. His fine was imposed in Karmakshi District Court, where he was found to be "secretly holding meetings in his private home, where he explained the Bible to people visiting him, and shared his religious views".

Grace Church members complained to Forum 18 on 6 June that the District Court "is biased, and instead of describing Zhashibekov's actions as exercising his Constitutional rights, it accused him of leading a liquidated religious organisation".

Church members lamented that neither Moldaziyatov nor Zhashibekov "is able to pay such a huge fine."

Both judges refuse to comment

Judge Audekov on 2 June would not comment on why Moldaziyatov and other people cannot pray and read Bible privately in their homes. "They have appealed against my decision," he responded. Church members confirmed that an appeal was lodged on 28 May.

The Judge also refused to comment on why he did not warn Moldaziyatov instead of fining him 100 times the minimum monthly salary. "Let the Appeal Court decide whether my decision was right or wrong", he said.

Aybek Dauranbekov, Chair of the Karmakshi Court on 3 June defended the huge fine given to Zhashibekov, saying that "we gave our decision based on Kazakhstan's Laws". He added that if Zhashibekov is "not happy with the decision, he can file an appeal".

An appeal hearing without the appellant

Zhashibekov had indeed lodged an appeal – but he was only notified of the hearing six days after it took place. Judge Moldabek Ahmetov of the Kyzylorda Regional Appeal Court in a notification signed by him on 4 May and seen by Forum 18, asked Zhashibekov to appear before the Court on 6 May at 11.00 in the morning. Zhashibekov received the notification on 12 May, six days after the appeal hearing took place. "Consequently Zhashibekov was deprived of the possibility of defending himself against the unjust decision", church members complained to Forum 18.

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Despite this, Judge Ahmetov upheld the original court judgment and fine. Forum 18 could not reach Judge Ahmetov for comments, as officials of the Regional Court on 2 and 3 June kept asking Forum 18 to call back later. When Forum 18 did, Judge Ahmetov was each time said to be busy.

Church members told Forum 18 that they are going to complain against the Appeal Court's decision.

When Forum 18 told Judge Dauranbekov, Chair of Karmakshi Court, of Zhashibekov being thus denied the chance to participate in the appeal hearing to defend himself, he said that it is "not necessary" for the appellant to participate in the appeal hearing.

Asked whether people, who are not part of a registered organisation, can privately pray or read religious books together with their friends in their homes, Judge Dauranbekov repeated his previous statement that the court decision was based on Kazakhstan's laws. "I am not authorised to evaluate the decision to you over the phone," he stated.

"Anti-sect" propaganda continues

Kazakhstan's mass media also continues to be used for "anti-sect" propaganda, one of the aims of which appears to be to encourage support for legislation imposing more restrictions on people exercising their right to freedom of religion or belief.

On 2 June state-run Khabar TV broadcast a report of a meeting that day in the capital Astana of state-funded "anti-sect" associations, which stated that "changes should be made to the law [on religion] in order to put a barrier to non-traditional religious sects". The meeting followed a speech making a similar statement by President Nursultan Nazarbaev (see F18News 6 May 2011 http://www.forum18.org/Archive.php?article_id=1568).

In the last attempt to change the Religion Law, restrictive revisions to it and a number of other laws were rejected shortly before Kazakhstan became 2010 Chair-in-Office of the Organisation for Security and Co-operation in Europe (OSCE) (see F18News 12 February 2009 http://www.forum18.org/Archive.php?article_id=1255). However, human rights defenders have long predicted the proposals' return. The National Human Rights Action Plan - published in September 2009 – indicated that a draft Law would be introduced in 2011. A member of the Senate, the upper house of Parliament, Garifolla Esim told Forum 18 in June 2010 that the draft Law is being worked on (see F18News 18 June 2010 http://www.forum18.org/Archive.php?article_id=1458).

On 4 June the state-owned news agency Kazinform announced the results of a 10-day campaign entitled "The place of religion in society and countering destructive religious trends", conducted at all the educational establishments of Oral (Uralsk) in West Kazakhstan. At the G.Kurmangaliyev West Kazakhstan Regional philharmonic society, regional Deputy Governor Serik Suleymen was reported as emphasising "the special importance of the issue". Contests of drawings and poems among schoolchildren on the subject were held as part of the campaign, with the winners being given prizes.

Kazinform stated – without giving evidence – that "it is known that society is concerned that religious sects are luring people, especially young people. There have been many instances of people becoming members of such sects and committing suicide, and therefore it is necessary to counter such religious trends together, participants in the campaign said." (END)

For a personal commentary on how attacking religious freedom damages national security in Kazakhstan, see F18News http://www.forum18.org/Archive.php?article_id=564.

For more background, see Forum 18's Kazakhstan religious freedom survey at http://www.forum18.org/Archive.php?article_id=1352.

More reports on freedom of thought, conscience and belief in Kazakhstan can be found at http://www.forum18.org/Archive.php?query=&religion=all&country=29.

A compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments can be found at http://www.forum18.org/Archive.php?article_id=1351.

A printer-friendly map of Kazakhstan is available at http://education.nationalgeographic.com/education/mapping/outline-map/?map=Kazakhstan.

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