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KAZAKHSTAN: How many religious books await compulsory state censorship?

By Felix Corley, Forum 18 (<https://www.forum18.org>)

With new state Censorship Regulations for almost all religious literature and objects produced in or imported into Kazakhstan now in force, only some religious books – all Muslim – have so far successfully undergone the censorship process, Forum 18 News Service notes. As of 8 May, 182 Muslim works had gained the Agency of Religious Affairs (ARA) approval required before they can be distributed. Those distributing uncensored religious literature risk fines. Although the maximum period the ARA has to conduct its censorship is 60 days, some religious communities complain they have had no response to applications "for months". No ARA official was immediately available to say how many books or religious items are awaiting approval, if any have so far been refused, why no non-Muslim books have yet been approved and whether religious books already in use are legal or not. Officials have already confiscated religious books – including children's books on the lives of Russian Orthodox saints – from libraries for checking.

Two months after Kazakhstan's new Censorship Regulations came into force in March, only some Muslim books are listed on the website of the state Agency of Religious Affairs (ARA) as having successfully passed the new compulsory censorship of all religious literature and other items produced in or imported into Kazakhstan, Forum 18 News Service notes. The ARA in the capital Astana told Forum 18 on 8 May that no-one was immediately available to say how many books or religious items are awaiting approval, if any have so far been refused and why no non-Muslim books have yet been approved. It was also unable to say if religious books already in use are legal or not.

The new Censorship Regulations codify the official prior compulsory censorship of almost all religious literature and objects imposed by the 2011 Religion Law. This is the first time the way state censorship of religious literature and other materials is conducted will have been codified. But partial state censorship of religious literature has existed for some years. The Regulations do not codify either who is allowed to produce or import literature or other religious items under the Law, or who is allowed to sell or distribute such religious materials. Both are among the human rights restricted under the new Law (see F18News 23 September 2011 http://www.forum18.org/Archive.php?article_id=1617).

As well as violating freedom of religion or belief human rights commitments, Kazakhstan's censorship regime violates freedom of expression human rights commitments it has formally undertaken to implement. These include Article 19 ("Freedom of expression") of the International Covenant on Civil and Political Rights, which the country ratified in 2006.

Censorship both objectionable and slow

Many religious communities – including the Jehovah's Witness and Hare Krishna communities and others which did not want to publicly identify themselves – have complained to Forum 18 about the compulsory censorship imposed by the Religion Law. They have also complained about the slowness of the process.

The ARA – the body tasked with censoring all religious literature - has not responded in months to requests for approval for specific religious materials. For example, Jehovah's Witnesses have submitted successive copies of their magazine each month since November 2011, with no response (see F18News 30 April 2012 http://www.forum18.org/Archive.php?article_id=1695).

Without the ARA's approval, religious communities cannot use or distribute such literature without risking heavy penalties. Article 375, Part 1 of the Code of Administrative Offences punishes – among other things – "the import, production, publication and/or distribution of religious literature or other materials of religious content (significance) and objects of religious significance" in violation of the demands of the law. Fines for individuals are 50 Monthly Financial Indicators (MFIs), for officials and leaders of religious organisations 100 MFIs, and for legally-registered entities 200 MFIs plus a three-month ban on the organisation's activity. Article 375, Part 3 punishes individuals who use uncensored religious literature to spread their faith with a fine of 100 MFIs, plus - if the "offender" is a foreigner - deportation from Kazakhstan.

The MFI is set annually, and since 1 January 2012 has been 1,618 Tenge (64 Norwegian Kroner, 8 Euros, and 11 US Dollars). This

is just below one tenth of the official minimum monthly wage.

Implementation

One Almaty-based Russian Orthodox priest noted that although Orthodox books have not yet been approved by the ARA, the Church has not had any problems continuing to import them from Russia. "Just because a law exists doesn't mean it is being implemented," the priest told Forum 18 on 8 May.

Others have found that they are being prevented from distributing religious literature. Five Baptists in the northern Akmola Region who distribute Christian literature on the street were stopped twice within the space of a week in March. Their literature was confiscated, they were all questioned at the police and some were entered into police records. They may face prosecution, a police official told Forum 18. Police detained two Hare Krishna devotees in East Kazakhstan Region in April for handing out what police claim was "extremist literature" on the street. Their identity documents were seized and they too may face prosecution (see F18News 30 April 2012 http://www.forum18.org/Archive.php?article_id=1695).

Approved so far

A typical letter of approval from ARA to a publisher of Muslim books - signed by ARA Deputy Chair Marat Azilkhanov and seen by Forum 18 - was issued in late February, exactly four weeks after the publisher had applied for permission for a set of books. (The letter was written after the Decree approving the Censorship Regulations had been signed but before it had entered into force.) The letter said that a "religious studies expertise" had found nothing "preventing their use and distribution in Kazakhstan". The letter reminded the publisher of restrictions on where religious literature may be distributed or sold under Religion Law Article 9, Part 2 (see below). It also reminded the publisher that any visit to Kazakhstan by a foreign author to promote their books "entails missionary activity", which is subject to government restrictions.

The new Censorship Regulations require the ARA to list all the books that have passed their censorship. As of 8 May, the ARA website lists 130 Kazakh-language books and 52 Russian-language books – all Muslim - which have so far successfully passed the ARA censorship, together with pictures of their covers.

Of the Kazakh-language books, most were published in various cities of Kazakhstan, though a number of titles were published in Ankara or Istanbul. Six of the titles are by Kazakhstan's government-backed Chief Mufti, Absattar Derbisali.

Of the Russian-language books, many were published in Kazakhstan, but with a number published in Russia (including Moscow and Kazan), as well as Bishkek and Baku. While two are by Chief Mufti Derbisali, as many as 16 are by Imam Shamil Alyautdinov and four by his younger brother Ildar Alyautdinov, both based in Moscow.

The distributors of the books by the Alyautdinov brothers told Forum 18 on 8 May that gaining approval to distribute the books had been a "reasonable process". They pointed out that the ARA had already been familiar with the books.

In 2011, the ARA banned the visit to Kazakhstan of Shamil Alyautdinov. He had intended to present his new religious books in some Russian-speaking higher education institutions, and in bookshops. The ARA later claimed to have overturned the ban, but insisted his books would need to undergo the compulsory censorship (see F18News 21 October 2011 http://www.forum18.org/Archive.php?article_id=1628).

What is in the Censorship Regulations?

Echoing provisions in the Religion Law, Article 5 of the Censorship Regulations specifies that religious associations' "founding documents", "documents determining the structure, the bases of the religious associations' religious teaching, religious practice, and forms and methods of religious activity", religious education programmes, "informational materials and literature of religious content", as well as "objects of religious significance", must undergo "expert analysis".

Article 2 of the Regulations specifies that "expert analyses" will be conducted by the ARA "with the aims of establishing the conformity with the legislation of Kazakhstan" of such materials.

– When is censorship applied?

"Expert analyses" are initiated, according to Article 8, when an individual or organisation asks for one from the ARA, when religious publications "arrive in a library" or reach the ARA, when religious communities or "missionaries" seek the compulsory registration, when any religious literature is imported (apart from small quantities for personal use) or when the head of the ARA orders one.

– Bans without censorship

Under Article 9, the ARA is empowered to refuse to conduct a "religious expert analysis" – in effect banning a publication or object – if an item belongs to an organisation that has been banned in Kazakhstan, if it is by an author whose works have been banned in Kazakhstan, if it is subject to an international or inter-governmental ban, if no "authentic translation" into Kazakh or Russian is provided or if the item presented is incomplete. The term "authentic translation" is undefined, leaving much scope for arbitrary official bans.

Forum 18 notes that the requirement to provide a full translation into Kazakh or Russian of all materials used for religious purposes in Kazakhstan – such as from Arabic, Old Church Slavonic, Hebrew, Latin, Polish, Armenian or Sanskrit – imposes much work on religious communities seeking to import such materials.

– Who conducts censorship?

The ARA can name one or several "experts" to conduct the censorship. It uses its own employees "having special knowledge in the area of religion". Article 6 also allows the ARA to bring in outside "specialists" from state agencies, social organisations, religious studies specialists, lawyers "and other experts", including from abroad, if it needs to. Members of religious associations can also be used as "consultants". Forum 18 notes that this could mean that members of one community or denomination could be asked to comment on items submitted by members of a different community or denomination.

The ARA provides the "expert" or "experts" with specific questions on the item to be examined.

Article 18 requires the "expert" or "experts" to "prepare a reasoned, scientifically-based, objective and full expert conclusion". They are required not to publicise their "expert analysis" or give any view publicly on the item they have examined.

The ARA is empowered, under Article 16, to seek further information about a book or object "experts" are examining from state agencies, religious or social organisations or (via the Foreign Ministry) foreign state bodies or international organisations.

No definition is given as to what exactly is meant by "expert" - or how if at all their "expertise" can be challenged.

– Timescale for censorship

Article 14 requires the "expert analysis" to be completed by the nominated "experts" within 30 days from the time the item is presented to the ARA for censorship. Article 15 allows for a further 30 days if any supplementary questions need to be answered. In the case of such an extension, the ARA must write to the person who presented the item within three days. (The ARA's October 2011 draft had allowed 60 days for an "expert analysis" from the date the item reached the "expert", and made no mention of written notification if an extension had been granted.)

- "Missionary activity"

When the "expert analysis" is of religious materials to be used by a local or foreign citizen conducting "missionary activity", the time taken to conduct the analysis does not count towards the specified period in which the application for the "missionary's" compulsory state registration must be considered, according to Article 23.

The Religion Law does not clearly define "missionary activity", but states that this includes "spreading a faith". It also states that only individuals formally permitted by both the state and a registered religious organisation can engage in this activity (see F18News 23 September 2011 http://www.forum18.org/Archive.php?article_id=1617).

Article 28 of the Censorship Regulations specifies that the ARA takes into account the "expert analysis" (presumably of the literature presented by a would-be "missionary") when deciding whether it will approve a local or foreign citizen being granted permission to be a "missionary".

– Organisation's ideas and activities censored

When the statutes of a religious organisation applying for state registration are being examined, the time taken to conduct the analysis does not count towards the specified period in which such applications must be considered, according to Article 22 of the Censorship Regulations.

Article 16, Part 3 of the Religion Law requires each organisation's statute to explain "the fundamental religious ideas, forms of activity of the religious association, particularities of its attitude to marriage and the family, education and health of the participants (members) of the given religious association and other people, and attitude to the realisation of the constitutional rights and obligations of its participants (members) and officials". It remains unclear how extensive this information would have to be and how state officials will determine whether any of these explanations are adequate or not (see F18News 23 September 2011 http://www.forum18.org/Archive.php?article_id=1617).

Article 27 of the Censorship Regulations specifies that the Justice Ministry – which is responsible for registering religious organisations under the new Religion Law – will take into account the "expert analysis" (presumably of a religious organisation's statute) when deciding whether or not to register it. It remains unclear what happens if the ARA's decision differs from that of the "expert" or "experts". The unregistered exercise of freedom of religion or belief is – against international human rights standards – banned under the Religion Law.

– Second censorship by ARA after "experts"

Article 25 of the Censorship Regulations specifies that "expert analyses" are of purely "recommendatory nature". This implies that the ARA could make its own censorship decisions regardless of the recommendation of the "expert" or "experts".

Under Article 26, "the results of expert analyses" are to be published on the ARA's website. (The October 2011 draft Regulations had allowed for an exception in "cases specified in the law of Kazakhstan", but this has been removed – see F18News 24 November 2011 http://www.forum18.org/Archive.php?article_id=1639.) However, it remains unclear whether the reasoning behind an approval or a ban on any specific item will also be published.

– Criminal, civil and administrative court cases

Article 24 specifies that "expert analyses" of items for criminal, civil and administrative court cases are governed by other laws. But it does not rule out the ARA's "conclusions" being taken into account by courts.

This could be a reference to cases under Article 375 of the Code of Administrative Offences which, among other religious activity, punishes "violating the procedure for importing, producing, publishing and/or distributing religious literature or items of religious content". Under the amendments introduced to this Article in October 2011, this is punishable by fines and, if done by a registered organisation, a suspension of the organisation's activity for three months (see F18News 23 September 2011 http://www.forum18.org/Archive.php?article_id=1617).

Presumably, in such cases a court will ask the ARA as to whether an individual or religious community has produced or distributed religious literature or materials without undergoing the required prior censorship.

Censorship imposed by new Religion Law

The prior compulsory censorship – or "expert analysis" – of almost all religious literature, other religious materials and statutes of religious organisations was imposed in the harsh new Religion Law. This came into force in October 2011 (see F18News 23 September 2011 http://www.forum18.org/Archive.php?article_id=1617).

Article 9, Part 3 of the Religion Law requires that all imports of "informational materials of religious content" – apart from small quantities for personal use – be done only by registered religious organisations with prior approval from the ARA, which has to conduct an "expert analysis" of each title.

It does not appear that the production of "religious literature" or "other informational materials of religious content" by registered religious organisations within Kazakhstan is restricted, though Article 9, Part 4 requires each work to have the "full name" of the religious organisation which produced it.

This appears to exclude the possibility of private individuals or commercial companies producing such literature. Also, Article 9, Part 2 of the Religion Law states that religious literature and objects may only be distributed through state-approved venues for distributing religious literature.

The Religion Law states that "expert analyses" – conducted by the ARA – are required not only for all "religious literature" or "other informational materials of religious content" imported for distribution in Kazakhstan, but also for any religious literature acquired by libraries in any institution or organisation. The exact terms of this requirement remain unclear. "Objects of religious significance" – presumably including crosses, crucifixes, Koran stands and vestments – and "spiritual (religious) educational programmes" are also, under Article 6, Part 2, subject to an "expert analysis".

Article 15 of the Religion Law implies that the statutes of all religious organisations applying for registration or re-registration will undergo "expert analysis".

"Religious studies experts", as well as "when necessary" state officials, conduct such "expert analyses" on behalf of the ARA.

Censorship Regulations approved by Decree

The new Censorship Regulations, prepared by the ARA in late 2011, were approved by the Government in a Decree of 7 February 2012 signed by Prime Minister Karim Masimov. They came into force ten days after their official publication in the

Kazakh-language paper Egemen Kazakhstan and the Russian-language paper Kazakhstanskaya Pravda on 7 March.

The Censorship Regulations replaced the previous Religious Expert Analysis Regulations of January 2007. The 2007 Regulations allowed for state bodies – including the then state Religious Affairs Committee (predecessor of the ARA) – and religious communities to seek an "expert analysis" of a religious community's founding documents or religious literature. However, such "expert analyses" were not compulsory for all religious materials.

Also signed by Prime Minister Masimov on 7 February 2012 and published in the same newspapers on 7 March was the government Decree approving the procedure for registering local and foreign citizens who conduct "missionary activity".

Draft Regulations presented at closed meeting

The draft Censorship Regulations were prepared by the ARA in October 2011. They were presented at a closed meeting of about twenty senior officials in Astana on 27 October 2011, very shortly after the two controversial Laws restricting freedom of religion or belief came into force (see F18News 19 October 2011 http://www.forum18.org/Archive.php?article_id=1627).

The 27 October 2011 meeting – chaired by Kazakhstan's State Secretary Kanat Saudabaev, who as Foreign Minister was OSCE Chairperson-in-Office – was also attended by ARA head Kairat Lama Sharif, as well as senior ministers and the heads of the National Security Committee (KNB) secret police and the Foreign Intelligence Service. The meeting outlined how the harsh new Law would be implemented (see F18News 7 December 2011 http://www.forum18.org/Archive.php?article_id=1644).

The final Regulations approved by the Prime Minister do not differ greatly from the October 2011 draft, though some Articles have been rephrased. The main change is the reduction in the time allowed the ARA to complete "expert analyses" and the requirement to notify those seeking approval for items if the ARA has agreed an extension to the usual deadline.

Hunt for uncensored literature

At the beginning of 2012, Talgat Alibayev, Prosecutor of the Caspian Sea port of Aktau, ordered Education Department and Internal Policy Department officials to search school libraries to check whether they contained "extremist" materials. Three Russian Orthodox children's books about saints had been taken from the library of School No. 10 and sent to the "responsible agency" (presumably the local ARA branch) for checking, he told the Interfax news agency on 13 January.

Beginning on 14 February, an ARA-led commission began searches of libraries in Astana to check whether it approved of the religious literature they held, it announced on its website. The commission included Culture Department, Internal Policy Department and other local officials, as well as members of the Muslim Board and the Russian Orthodox Church. Employees of libraries and bookshops were also informed of the provisions of the new Religion Law governing religious literature.

One library worker later told Radio Free Europe's Kazakh Service that all the books in Section No. 86 of Astana's Centralised Library Service – where religious books are held – were studied individually. "If any book aroused their doubts they took it with them," RFE quoted the worker on 14 March.

The worker told RFE two books had been found to be "banned" and were taken. One was a book on Jesus, which had been donated by a reader and of which the Service had one copy. The other was a Kazakh-language Muslim book published in 1886, copies of which were in all the 23 branches of the Centralised Library Service. No books were listed on 8 May on the ARA website as "banned". (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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