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KAZAKHSTAN: How many punished for exercising freedom?

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

Kazakhstan has misled the UN Human Rights Committee about the numbers of people it has fined and jailed for exercising freedom of religion and belief. Four days after the Human Rights Committee examined the country, Kazakhstan fined three more people for exercising their freedom.

Contrary to claims by Kazakhstan's Delegation to the United Nations (UN) Human Rights Committee in late June that just eight individuals had been so far in 2016 punished for violating the Religion Law, the true number is higher, Forum 18 notes. More than 20 individuals are known to have been punished for exercising the right to freedom of religion and belief without state permission. Most of the Muslims, Protestants and Jehovah's Witnesses were punished for offering religious literature the state has not approved in places the state has not permitted, talking about their beliefs with other people without state permission, or meeting for worship without state permission. Also, three shop owners have been fined for having religious literature in their shops without state permission, and banned from commercial activity for three months (see list at base of this article).

At least one person, Baptist Roman Dimmel, was given a short-term jail term for refusing to pay earlier fines for such "offences" (see F18News 11 May 2016 http://www.forum18.org/archive.php?article_id=2176). There are also increasing numbers of Muslim and Christian prisoners of conscience given long jail terms for exercising freedom of religion and belief. In addition to being jailed, these prisoners of conscience also have bank accounts blocked by the government without being informed of this, without additional legal process, and are also required to pay for "expert analyses" used to convict them (see F18News 10 June 2016 http://www.forum18.org/archive.php?article_id=2187).

Four days after the Human Rights Committee considered Kazakhstan's record under the International Covenant on Civil and Political Rights (ICCPR) in Geneva on 22-23 June, three more Muslims in the eastern town of Semei were fined for going door to door to talk to people about their beliefs and invite them to a mosque (see below).

Kazakhstan's Delegation similarly understated the known number of individuals punished for, contrary to the Religion Law, exercising their freedom of religion and belief in 2013. This has been the peak year so far for such punishments (see below).

Twelve Kazakh human rights defender organisations have strongly criticised the government's record to the Human Rights Committee, including the ban on exercising freedom of religion and belief without state permission. They noted that the government directly violates its UN human rights obligations (see F18News 8 June 2016 http://forum18.org/archive.php?article_id=2186).

Nearly 50 Jehovah's Witnesses from Kazakhstan have joined complaints to the Human Rights Committee against fines (and deportation for foreigners) imposed for sharing their faith with others (see F18News 13 May 2016 http://www.forum18.org/archive.php?article_id=2177).

On 27 June Kazakhstan was elected onto the UN Security Council as a non-permanent member for two years from 1 January 2017.

Fines without court hearings start being imposed

In a new move, police have without a court hearing started to fine people for exercising their freedom of religion and belief. Three Council of Churches Baptists have been fined by police without trial so far in 2016. Prosecutors later annulled one of the fines. Police have had the right to summarily impose certain fines for exercise freedom of religion and belief without state permission since January 2015. But Baptists and human rights defenders state that such summary police fines were not used before now (see F18News 18 July 2016 http://www.forum18.org/archive.php?article_id=2200).

Recent fines for exercising freedom of religion and belief

In addition to the Muslims fined for exercising their freedom of religion and belief while the Human Rights Committee examined the government's record, in April 2016 a shopkeeper in the northern city of Petropavl was fined for religious books his wife kept in his shop. He was also banned from conducting commercial activity for three months. Also in April, two Muslims visiting the

southern town of Zhetysai were fined for standing outside the main mosque encouraging others to attend the namaz (prayers). Protestants were also fined in Spring 2016 for meeting for worship without state permission (see below).

Punishments are generally fines of 50 or 100 Monthly Financial Indicators (MFIs). A fine of 100 MFIs is currently 212,100 Tenge (about 5,200 Norwegian Kroner, 560 Euros or 625 US Dollars). This is about seven weeks' average wages for those in work, according to June 2016 average income figures from the government's Statistics Committee. However, some of those fined are unemployed or pensioners on lower incomes.

"False information"?

The Kazakh Delegation to the Human Rights Committee – which was led by Deputy Justice Minister Elvira Azimova – admitted that "a 100 or so" individuals were in 2013 punished under the Code of Administrative Offences for violating the Religion Law, according to the 23 June 2016 French-language UN press report on the session (see <http://www.ohchr.org/FR/NewsEvents/Pages/DisplayNews.aspx?NewsID=20166&LangID=F>).

But the Delegation understated the number of individuals punished in 2013, the peak year so far for such punishments. Forum 18 has documented 153 such punishments on 126 named individuals between January and early November 2013. Other individuals also appear to have been punished (see F18News 11 November 2013 http://www.forum18.org/archive.php?article_id=1895).

As noted above, punishments for exercising freedom of religion and belief continued until the end of 2013 and beyond. This includes the more than 20 people known to have been so far punished in 2016 (see list at base of this article). This compares to the 8 in 2016 claimed by the Kazakh Delegation.

Under a 9 February Culture and Sport Ministry Decree, each Regional Religious Affairs Department must provide detailed information and statistics of prosecutions for exercising the right to freedom of religion or belief in their Region to the Religious Affairs Committee in Astana four times a year.

Zukhra Galiyeva, an aide to Justice Minister Azimova, told Forum 18 from Astana on 14 July that the Minister was not available. Asked whether the government Delegation had not been informed of the true numbers of those punished for exercising the right to freedom of religion or belief or had deliberately given the UN Committee lower figures, Galiyeva responded of Minister Azimova: "She didn't give false information."

However, Galiyeva refused to give any further information, including how many individuals are currently being punished for exercising freedom of religion or belief and why. She said all questions should be sent by post to the Justice Ministry.

New restrictions on freedom of religion and belief planned

Continuing punishments for exercising the right to freedom of religion or belief come as officials draft further amendments to the Religion Law and Criminal and Administrative Codes. These amendments seem set to impose even more restrictions on the right to freedom of religion or belief, with possible wider or increased punishments in the two Codes (see F18News 14 June 2016 http://www.forum18.org/archive.php?article_id=2188).

Fined after Human Rights Committee examines record

On 7 June, three Muslims were stopped in the dacha district of Vostochnoi in Semei, in East Kazakhstan Region. Bakhytbek Tursynov, Erzhan Shomatayev and Asilkhan Tumeshbayev were speaking to local residents about their faith on the way back from evening prayers in the mosque.

East Kazakhstan Regional Internal Policy Department drew up a record of an offence against Tursynov, Shomatayev and Tumeshbayev under Administrative Code Article 490, Part 3. This punishes: "Carrying out missionary activity without state registration (or re-registration), as well as the use by missionaries of religious literature, information materials with religious content or religious items without a positive assessment from a religious studies expert analysis, and spreading the teachings of a religious group which is not registered in Kazakhstan". The punishment is a fine of 100 MFIs, with deportation if the individual is a foreign citizen (see F18News 21 July 2014 http://www.forum18.org/Archive.php?article_id=1979).

(The UN Human Rights Committee considered Kazakhstan's record under the ICCPR in Geneva on 22-23 June.)

On 27 June Judge Gibrat Valiyev of Semei Specialised Administrative Court found all three Muslims guilty. He imposed the prescribed fine of 100 MFIs, 212,100 Tenge, according to the court verdict of 28 June seen by Forum 18.

The three men "do not consider their actions missionary activity", the court verdict cites them as telling the hearing, "as inviting people to the mosque is the obligation (farz) of every Muslim".

Kazakhstan requires that only people with state permission may share their beliefs and imposes severe restrictions on who may talk about their beliefs, where they may talk about them, and what materials they may use (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

Petropavl: shopkeeper fined for religious books

On 4 January, officials including at least one religious affairs official raided Rustem Seidaliyev's shop in Petropavl's Korona shopping centre. The officials found religious literature on the top shelf of the display window. As Seidaliyev does not have the compulsory state permission to sell religious literature, they insisted he had committed a crime or an offence.

Kazakhstan imposes state censorship on all religious literature and objects, for example banning all Muslim literature that is not Sunni Hanafi, and imposes strict limitations on who may sell or distribute such material and where this may happen. Some bookshops which might be able to get state permission for this have decided not to apply for permission for fear of problems from the authorities (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

On 29 February, officials decided to halt a criminal investigation against Seidaliyev, according to the subsequent court verdict in the case. On 17 March Bulat Omarov of North Kazakhstan Region Religious Affairs Department drew up a record of an offence under Administrative Code Article 490, Part 1, Point 3. This punishes: "Violating the requirements of the Religion Law for .. import, production, publication and/or distribution of religious literature and other religious materials, and items for religious use". The punishment for individuals is a fine of 50 MFIs (see F18News 21 July 2014 http://www.forum18.org/Archive.php?article_id=1979).

On 20 April, Judge Alena Devyatkina of Petropavl Specialised Administrative Court rejected Seidaliyev's insistence that the religious books were not being offered for sale, and that his wife kept them in his shop. His wife teaches religion in a mosque in the city, she told the court, and used the books to teach fellow female Muslims. However, the Judge dismissed Seidaliyev's wife's testimony as invalid because she would not want her husband to be punished.

Judge Devyatkina punished Seidaliyev with the prescribed fine of 50 MFIs, 106,050 Tenge, according to the court verdict seen by Forum 18. Seidaliyev was also banned from commercial activity for three months. He did not appeal against the punishment and the court verdict came into force on 4 May, according to court records.

The court verdict does not say whether officials confiscated any religious books in the 4 January raid and, if so, whether they were to be returned to Seidaliyev, handed to someone else or ordered destroyed. Courts frequently order religious books to be destroyed (see eg. F18News 11 May 2016 http://www.forum18.org/archive.php?article_id=2176).

"It's not correct to ask who suffered"

Duman Espenbetov, who represented the regional Religious Affairs Department, refused to discuss the court verdict. "Our law says no one has the right to comment on court verdicts," he claimed to Forum 18 from Petropavl on 12 July. He refused to say if officials confiscated any religious books from Seidaliyev.

Asked who had suffered because Seidaliyev had had religious books in his shop, Espenbetov responded: "It's not correct to ask who suffered. He broke the law." Asked why books related to religion are under government censorship, he denied that censorship is imposed. Asked whether Seidaliyev would have been fined had the books been about football he refused to respond and put the phone down.

On 23 May, court bailiffs began proceedings to recover the unpaid fine from Seidaliyev, according to Justice Ministry records. The telephone of Irina Fomkina, the bailiff in Petropavl handling the case, was switched off when Forum 18 called on 14 July.

Spring 2016: raided, fined for meeting for worship without state permission

In Spring, on the same day, police raided five Protestant congregations in an area of Kazakhstan, fellow Protestants told Forum 18. They asked that names and other identifying details not be given for fear of state reprisals. The congregations have chosen not to apply for state permission to exist, as is their right under Kazakhstan's international human rights obligations.

Against international human rights law, Kazakhstan bans all exercise of freedom of religion and belief by more than one person without state permission (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

During the raids, police confiscated religious literature, documents, computers and money, fellow Protestants complained. Officers told church members that their activity was banned as they do not have state registration. Administrative cases against several church members were handed to court and they were subsequently fined.

As the church members refused to pay the fines, court bailiffs came to the individuals' homes and confiscated money and other

items.

"The churches are under close surveillance and can't function as they would wish," fellow Protestants told Forum 18. All religious communities are thought to be under surveillance by the ordinary police and National Security Committee (KNB) secret police (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

Zhetysai: fined for inviting people to meet for worship

In Zhetysai, in South Kazakhstan Region, two Muslims have been punished for inviting people to worship in the town's main mosque. Kairat Abuov of the regional Religious Affairs Department found the two men – Askar Kaliyev from Atyrau and Shokan Ualikhanov from Almaty – inviting people to pray on 4 April. The two Muslims do not live in Zhetysai.

At separate hearings on the evening of 8 April, Judge Altai Utemisov of Maktaaral District Court found Kaliyev and Ualikhanov guilty of violating Administrative Code Article 490, Part 3 ("Carrying out missionary activity without state registration"). The Judge imposed the prescribed fine of 100 MFIs, 212,100 Tenge, according to the court verdicts seen by Forum 18. Neither appealed against the fines and the decisions came into force on 19 April.

"They were talking to people about their faith"

Abuov of the regional Religious Affairs Department defended the prosecution of the two men. "They were talking to people about their faith and coming to people's homes," he told Forum 18 from the regional capital Shymkent on 12 July. Asked why talking to others of their faith should lead to punishment, Abuov laughed. "They broke the law."

Abuov said Kaliyev and Ualikhanov had approached two people walking on the street. When they invited them to pray at the mosque, one of them called the police. "In Kazakhstan no-one can approach another person and tell them to come to a place of worship, except an imam or clergyman," Abuov insisted to Forum 18. "They are not officials of a religious organisation approved as missionaries. People don't want to listen to things about religion from unknown people."

On 28 June, court bailiffs in Kaliyev's home city of Atyrau began proceedings to recover the unpaid fine from him, according to Justice Ministry records. Reached in Atyrau by Forum 18 on 12 July, the bailiff handling the case, Kuanish Kaliyev (no relation), refused to discuss how he plans to recover the money from Askar Kaliyev.

Kapshagai: fined for foreigners at children's camp

Baptist Pastor Sergei Li of Kapshagai Baptist Church in Almaty Region was fined the prescribed 100 MFIs on 8 January under Administrative Code Article 490, Part 3. He was punished because foreigners had been present at a church-run children's summer camp without personal registration as missionaries.

In July 2015 about 20 police officers, Prosecutor's Office officials and Education Department officials raided the summer camp. Officials frightened the children and "behaved like they were detaining some criminals", Pastor Li told Forum 18. "One seven-year old girl was frightened and cried, and after that I told them to stop questioning the children." Asked why Almaty TV channel and its subsidiary Almaty News attacked the Baptist Church without a right of reply and to the distress of members, Deputy Chief Editor Tatyana Lisitskaya responded: "The authorities gave us the materials for broadcast" (see F18News 13 August 2015 http://www.forum18.org/archive.php?article_id=2089).

Atyrau: appeals fail

Two members of the Protestant New Life Church in Atyrau failed to overturn earlier fines on appeal. In separate hearings on 23 June, Judge Bagila Nurzhanova of Atyrau Regional Court upheld the fines of 35 MFIs each and a three-month ban on unspecified activity on Bagitzhan Zholdybayev and Aleksandr Revkov, according to the court verdicts seen by Forum 18.

The two men were punished on 26 May under Administrative Code Article 490, Part 1, Point 1 for drinking tea in a cafe; with five other church members after their Sunday meeting for worship on 17 April (see F18News 14 June 2016 http://www.forum18.org/archive.php?article_id=2188).

Known 2016 Administrative Code punishments

(Name; faith or occupation; date and place of hearing; Administrative Code article; punishment.)

1. Sergei Li; Baptist; 8 January Kapshagai District Court Almaty Region; Article 490, Part 3; fine 100 MFIs.
2. Sultan Kurbanov; shopowner; 12 January Enbekshikazakh District Court Almaty Region; Article 490, Part 1, Point 3; fine 50 MFIs, plus 3 month ban on commercial activity.

3. Viktor Shtrek; Jehovah's Witness; 25 January Ayirtau District Court; Article 490, Part 3; fine 100 MFIs.
4. Ruslan Bayanbayev; Jehovah's Witness; 28 January Almaty Specialised Interdistrict Administrative Court; Article 490, Part 7; fine 50 MFIs (acquitted on appeal).
5. Ruslan Bayanbayev (second case); Jehovah's Witness; 18 February Almaty Specialised Interdistrict Administrative Court; Article 490, Part 7; fine 50 MFIs.
6. Tatyana Pastukhova; giftshop owner; 25 February Atyrau Specialised Administrative Court; Article 490, Part 1, Point 3; fine 35 MFIs, plus 3 month ban on commercial activity.
7. Gennadi Zhirov; Council of Churches Baptist; 24 March Arkalyk City Court; Article 490, Part 1, Point 3; fine 35 MFIs (book destruction order overturned on appeal).
8. Yuri Bekker; Council of Churches Baptist; 24 March Arkalyk City Court; Article 490, Part 1, Point 3; fine 35 MFIs (book destruction order overturned on appeal).
9. Shokan Ualikhanov; Muslim; 8 April Maktaaral District Court; Article 490, Part 3; fine 100 MFIs.
10. Askar Kaliyev; Muslim; 8 April Maktaaral District Court; Article 490, Part 3; fine 100 MFIs.
11. Natalya Ayaganova; Jehovah's Witness; 15 April Semei Specialised Administrative Court; Article 490, Part 3; fine 100 MFIs.
12. Tamara Talyot; Jehovah's Witness; 15 April Semei Specialised Administrative Court; Article 490, Part 3; fine 100 MFIs.
13. Nikolai Levin; Council of Churches Baptist; 20 April Sandiktau District Court; Article 669; fine 10 MFIs.
14. Rustem Seidaliyev; shopkeeper; 20 April Petropavl Specialised Administrative Court; Article 490, Part 1, Point 3; fine 50 MFIs, plus 3 month ban on commercial activity.
15. Dina Sarsebekova; Jehovah's Witness; 25 April Oral Specialised Administrative Court; Article 490, Part 3; fine 100 MFIs.
16. Roman Dimmel; Council of Churches Baptist; 3 May Shet District Court; Article 669; 3 days' prison.
17. Yegor Prokopenko; Council of Churches Baptist; 22 May Zyryanovsk police; Article 489, Part 9; fine 100 MFIs.
18. Bagitzhan Zholdybayev; Pentecostal; 26 May Atyrau Specialised Administrative Court; Article 490, Part 1, Point 1; fine 35 MFIs, plus 3 month ban on unspecified activity.
19. Aleksandr Revkov; Pentecostal; 26 May Atyrau Specialised Administrative Court; Article 490, Part 1, Point 1; fine 35 MFIs, plus 3 month ban on unspecified activity.
20. Sofya Bunyak; Council of Churches Baptist; 9 June Ekibastuz police, Pavlodar Region; Article 489, Part 10; police imposed fine of 50 MFIs without court hearing.
21. Asylbek Kiyanbekov; Jehovah's Witness; 20 June Shymkent Specialised Administrative Court; Article 490, Part 3; fine 100 MFIs.
22. Bakhytbek Tursynov; Muslim; 28 June Semei Specialised Administrative Court; Article 490, Part 3; fine 100 MFIs.
23. Erzhan Shomatayev; Muslim; 28 June Semei Specialised Administrative Court; Article 490, Part 3; fine 100 MFIs.
24. Asilkhan Tumeshbayev; Muslim; 28 June Semei Specialised Administrative Court; Article 490, Part 3; fine 100 MFIs.
25. Aleksandr Belan; Council of Churches Baptist; date unknown Sergeyevka police, Akmola Region; Article 489; police imposed fine without court hearing (Prosecutor later annulled fine).
26. [Names withheld for fear of state reprisals]; Protestants; one area in Spring 2016; fines after 5 raids on same day. (END)

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>.

For more background, see Forum 18's Kazakhstan religious freedom survey at http://www.forum18.org/Archive.php?article_id=1939.

For a personal commentary from 2005 on how attacking religious freedom damages national security in Kazakhstan, see F18News http://www.forum18.org/Archive.php?article_id=564.

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.

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If you need to contact F18News, please email us at:
f18news @ editor.forum18.org

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY