

4 September 2018

KAZAKHSTAN: Religious freedom survey, September 2018

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Kazakhstan restricts freedom of religion and belief, along with interlinked freedoms of expression, association, and assembly. Forum 18's survey analyses violations including increasing numbers of prisoners jailed for exercising freedom of religion and belief, with increasing types of "offences", prosecution numbers, and fine levels.

Forum 18's survey analysis documents Kazakhstan's violations of freedom of religion and belief, with interlinked freedoms of expression, association, and assembly. Serious violations include but are not limited to:

- increasing numbers of prisoners of conscience jailed for exercising freedom of religion and belief;
- unfair trials and torture of prisoners;
- wide ranging "laws" allowing much scope for arbitrary official actions;
- misleading the UN Human Rights Committee;
- wide range of "offences" prosecuted, numbers of prosecutions, and levels of fines;
- making the exercise of freedom of religion and belief dependent on state permission, with restrictions on the activities allowed;
- restrictions on children and young people under 18's freedom of religion and belief;
- girls in headscarves being denied access to school education;
- imposing complete control of the Islamic community, including permitted prayer, and banning all mosques apart from state-controlled Sunni Hanafi mosques;
- and prior compulsory religious censorship.

The regime tries to control society by making the exercise of human rights conditional upon state permission. As then-United Nations (UN) Special Rapporteur on Freedom of Religion and Belief Heiner Bielefeldt said in his 2016 UN General Assembly report (A/71/269): "Freedom of religion or belief rightly has been termed a "gateway" to other freedoms, including freedom of expression and freedom of peaceful assembly and association. There can be no free religious community life without respect for those other freedoms, which are closely intertwined with the right to freedom of religion or belief itself. This is exactly what worries authoritarian Governments and often causes them to curb freedom of religion or belief."

Kazakhstan dislikes discussion of its human rights record. Officials warned some religious communities and others against participating in the 2014 UN Human Rights Council Universal Periodic Review of the country, and meeting both the then-UN Special Rapporteur on Freedom of Religion and Belief and then-UN Special Rapporteur on Freedom of Peaceful Assembly and of Association Maina Kiai on 2015 country visits. Kiai spoke of "a general unwillingness to properly protect human rights in the country, and of a sense of impunity by some officials".

Context

Kazakhstan is geographically the largest country in Central Asia, and has the second largest population with over 18 million people. About two-thirds of the population are ethnic Kazakhs (widely regarded as of Muslim background) and the rest are ethnic Slavs (mainly Russians, widely regarded as of Russian Orthodox or other Christian background), Uzbeks (widely regarded as of Muslim background), and smaller populations of Uighurs and others. Kazakhstan's economy (overwhelmingly dependent on oil and gas reserves) has declined in recent years, and Transparency International's Corruption Perceptions Index 2017 ranked the country poorly at 122 out of 175 countries.

Nursultan Nazarbayev has ruled Kazakhstan since 1989 when it was part of the Soviet Union. No election has been found to be free and fair by Organisation for Security and Co-operation in Europe (OSCE) election observers. In the last April 2015 presidential election, Nazarbayev claimed to have gained almost 98 per cent of votes.

The main state agency charged with restricting freedom of religion and belief is the Social Harmony Committee (created as the Religious Affairs Committee in September 2016), which is part of the Social Development Ministry (former Religion and Civil Society Ministry). However, the National Security Committee (KNB) secret police, ordinary police and Prosecutor's Offices play a leading role in restricting freedom of religion or belief.

"Dialogue" and "tolerance" ?

The regime claims what it calls "religious tolerance" and "religious dialogue". One such propaganda vehicle are so-called "Congresses of leaders of world and traditional religions". An official organising these meetings described them to Forum 18 as being "for foreigners".

One participant in a Congress planning process, who wished to remain anonymous, described them as prepared "in Soviet style top-down fashion". A secular guest of the regime from a well-known international organisation described to Forum 18 their "horrified amazement" when they witnessed other foreign guests present – including foreign religious leaders – ignoring fundamental human rights violations within Kazakhstan, and the fact that genuine dialogue and tolerance can only happen in a context of the freedom of everyone to exercise all human rights. It appears to people within Kazakhstan that the regime, with the collaboration of such foreign guests, wants to empty the language of dialogue and tolerance of any connection with the regime's binding international legal obligations to ensure that everyone can exercise their freedom of religion and belief, freedom of expression, and other human rights and fundamental freedoms.

Prisoners of conscience

Numbers of prisoners of conscience jailed for exercising freedom of religion and belief are increasing. Most are Muslim and most of these are alleged adherents of Muslim missionary movement Tabligh Jamaat. Independent Muslim non-Tabligh Jamaat and non-Muslim observers of the movement in Kazakhstan have told Forum 18 that the movement's activities in the country only aim to peacefully encourage greater religious observance among Muslims. The regime has repeatedly refused to explain what crime, if any, the alleged Tabligh Jamaat adherents have committed. One court verdict accuses the movement of "intolerance" towards Shia Islam – even though the regime itself has banned all Shia mosques and literature.

The UN Human Rights Committee's July 2016 Concluding Observations (CCPR/C/KAZ/CO/2) expressed concern at state targeting of "members or presumed members of banned or unregistered Islamic groups, such as the Tabligh Jamaat", referring to ICCPR Articles 9 ("Right to liberty and security of person"), 14 ("Right to equality before courts and tribunals and to a fair trial"), 18 ("Freedom of thought, conscience and religion"), 19 ("Freedom of opinion and expression"), and 21 ("Right of peaceful assembly").

A total of 72 alleged Tabligh Jamaat adherents are known to have been given criminal convictions between January 2015 and August 2018 to punish them for exercising freedom of religion or belief. Of these, 51 were given prison terms while 21 were given restricted freedom sentences. Typically, during sentences of restricted freedom individuals live at home, but are not able to leave their town or city without state permission. They are often also banned from visiting restaurants, cafes, bars, or places of public entertainment.

Kazbek Laubayev, Marat Konyrbayev and Taskali Naurzgaliev, for example, were jailed for three years each on 6 April 2018. The three are in their thirties and each is married with several children. The KNB secret police and the ordinary police worked together on preparing criminal cases against them, Senior Lieutenant Yernar Kaltayev of Karaganda Police admitting to Forum 18 that none of the six men arrested in the case had committed or called for violence.

The sister of one of the defendants told Radio Free Europe that they did not believe the prosecution case. "He always told us: pray the namaz and fear Allah. But the fact that this is somehow connected with terrorism or a 'Jamaat' – nothing like this is true. He admits only that they met together, drank tea, read prayers and spoke about Allah."

Laubayev, Konyrbayev and Naurzgaliev were jailed under Criminal Code Article 405 ("Organising or participating in the activity of a social or religious association or other organisation after a court decision banning their activity or their liquidation in connection with extremism or terrorism they have carried out"). Article 405 is normally used in alleged Tabligh Jamaat cases. Part 1 "organisation" carries a punishment of a fine or up to six years' imprisonment, and Part 2 "participation" carries a punishment of a fine or up to two years' imprisonment.

The three men who were not jailed – Eldar Kenzhetayev, Akilbek Kasen and Zhasulan Karabayev - were initially ordered to live at home under restrictions. They were subsequently fined under Administrative Code Article 490 ("Violating the Religion Law"), Part 3 for "missionary activity without state registration". Article 490 (see below) is frequently used to prosecute people exercising

freedom of religion and belief.

The widespread criminal prosecutions have caused fears among Muslims, especially relatives and friends of those convicted, that they too could be jailed. "Everyone is afraid," one Muslim told Forum 18 in March 2016. "They see that innocent people are being arrested, people who simply called others to be faithful to God. These people did nothing wrong. They didn't even get involved in politics."

Prisoners of conscience convicted of exercising their right to freedom of religion and belief are added to a Finance Ministry Financial Monitoring Committee List of individuals "connected with the financing of terrorism or extremism". An official told Forum 18 that "the only way they would know is when they go to the bank and find their account is blocked and the bank then tells them". Any bank accounts are blocked, and families are allowed to withdraw only small amounts for daily living only if the state permits and if they do not have other income sources.

One human rights defender, who wished to remain anonymous for fear of state reprisals, told Forum 18 that anyone who tries to help these prisoners or their families "might themselves be accused of financing terrorism".

Many of these prisoners have been required to pay for "expert" analyses (for example of confiscated religious literature) used to convict them. "Expert analyses" are routinely used to justify a range of state violations of freedom of religion and belief.

For example, Seventh-day Adventist former prisoner of conscience Yklas Kabduakasov was charged for a KNB secret police-commissioned "expert analysis" from the Justice Ministry's Central Institute of Judicial Expert Analysis. This claimed that some of his books "contain expressions of the exclusivity and superiority of Christianity over Islam", and that some allegedly "contain propaganda for the subversion of state security, inter-confessional and inter-ethnic accord and social/political stability".

The freedom to make claims about the relative merits or demerits of religious or non-religious views is a core part of the freedom of religion and belief, and state security is not in international law a legal ground to limit this freedom. Kabduakasov rejected the so-called "expert" analysis.

Among current prisoners of conscience jailed for exercising freedom of religion and belief is Saken Tulbayev, a Muslim sentenced in July 2015 to 4 years 8 months in a labour camp. He is also banned from exercising freedom of religion and belief from his release, due in December 2019, until December 2022. Tulbayev was jailed despite his family and others pointing to planted evidence and false witnesses (see below). The ban imposed on him after his release date bans him from praying alone or with others, reading the Koran or other religious literature, attending a mosque, or going on pilgrimages.

Another prisoner of conscience was Jehovah's Witness cancer sufferer Teymur Akhmedov. He was arrested in January 2017 for discussing his faith with young people recruited as KNB secret police informers. The circumstances of this arrest and jailing were very similar to those of former Adventist prisoner of conscience Kabduakasov, who was jailed for two years until October 2017. As of September 2018, nearly a year after he completed his jail term, Kabduakasov remained on the Financial Monitoring Committee List and so his bank account remained blocked.

On 2 May 2017 Akhmedov was jailed for five years and banned for a further three years from conducting "ideological/preaching activity". His jailing happened despite the national cancer centre stating that he needed to be hospitalised, breaking the UN Standard Minimum Rules for the Treatment of Prisoners (known as the Mandela Rules). The judge claimed this was to defend "a civilised society". Akhmedov's lawyers were threatened in court with criminal trial for "revealing information from a pre-trial investigation". Their "crime", for which they faced two years' jail, was to send copies of their appeal to President Nazarbayev and the Foreign Ministry.

Both the UN Working Group on Arbitrary Detention in October 2017 and the UN Human Rights Committee in January 2018 called for Akhmedov to be "immediately" released. He was not released until April 2018, after his health had further deteriorated.

Binding legal international human rights obligations ignored

Kazakhstan's Constitution states that international treaties take precedence over domestic laws, and the Religion Law states that international agreements have precedence over the Religion Law. Were these "guarantees" implemented, many laws used to restrict human rights would be abolished.

– Unfair trials

The United Nations (UN) Human Rights Committee's July 2016 Concluding Observations (CCPR/C/KAZ/CO/2) called for Kazakhstan to ensure that "rights to a fair trial and access to justice are respected", yet trials are conducted unfairly.

For example, Muslim prisoner of conscience Saken Tulbayev was first fined for preaching at a railway station without state permission and then in July 2015 jailed for 4 years 8 months (see above). The sentence was based on 43 leaflets police claimed to

have found during a three-hour police night raid on his home. "I was present in the flat and the leaflets were not there before," his sister told Forum 18. "I would have seen them immediately had they been there." The leaflets "were in Kazakh which my brother can barely read. He couldn't have written them or even translated them". Police also produced "witnesses" claiming to have received the leaflets from Tulbayev, but he insisted he had never met them.

The UN Human Rights Committee also expressed concern that "the independence of the judiciary is not sufficiently secured", and that "lawyers are subjected to threats, attacks and intimidation". Particularly in cases involving alleged adherents of Muslim missionary movement Tabligh Jamaat (see above), trials are often held in secret and lawyers have to sign statements not to reveal anything about the cases.

– Torture

The UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment defines torture as: "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity".

Kazakhstan is obliged both to arrest any person suspected on good grounds of having committed torture, and to try them under criminal law which makes "these offences punishable by appropriate penalties which take into account their grave nature". Yet no arrests or criminal trials of anyone strongly suspected of having tortured prisoners of conscience jailed for exercising freedom of religion and belief appear to have been made.

The UN Human Rights Committee stated that Kazakhstan "should take robust measures to eradicate torture and ill-treatment and to effectively investigate, prosecute and punish such acts". For example, cancer sufferer and former prisoner of conscience Teymur Akhmedov (see above) was tortured by being beaten by investigators trying to force him to admit his "guilt", the Kazakhstan International Bureau for Human Rights and Rule of Law stated. Similarly, Muslim prisoner of conscience Tulbayev was tortured. "I saw the result of the beatings," human rights defender Yelena Semenova told Forum 18 after meeting with him in labour camp in 2015. Officials have denied to Forum 18 that prisoners are tortured.

International law also defends the right of prisoners to freedom of religion or belief. The International Covenant on Civil and Political Rights (ICCPR), ratified by Kazakhstan in 2003, states: "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person" (Article 10, Paragraph 1). This specifically includes those held in prisons, detention camps or correctional institutions (General Comment 21 on ICCPR Article 10 "Humane Treatment of Persons Deprived of Their Liberty").

The UN Standard Minimum Rules for the Treatment of Prisoners (known as the Mandela Rules - A/C.3/70/L.3) require governments to respect the freedom of religion and belief and other human rights of prisoners. "So far as practicable, every prisoner shall be allowed to satisfy the needs of his or her religious life by attending the services provided in the prison and having in his or her possession the books of religious observance and instruction of his or her denomination", Rule 66 notes.

Many Muslim prisoners of conscience jailed for exercising their freedom of religion or belief have stated that they are banned from reading the Koran and other religious books, and prevented from saying the namaz (obligatory Muslim daily prayers). This and the forcible shaving off of beards appears to be a standard punishment imposed on such prisoners.

One relative told Forum 18 in March 2016 that "I asked the guards if I could bring a Koran. They said religious books, as well as political books, are not allowed. Only crosswords and ordinary newspapers and magazines, as long as they contain no politics." A prison Deputy Director attempted to justify this, claiming to Forum 18 that "even if it says Koran or Bible on the cover, maybe something else is written there". Officials have confirmed that the KNB secret police inspects books, and that only religious books are so inspected.

Solitary confinement is also used against such prisoners. In October 2017, prisoner of conscience Imam Abdukhalil Abduzhabbarov was transferred to a harsher prison where his conditions have been made worse. He is being held in solitary confinement in a cell, and is allowed only a 20 or 30 minute walk each day. On 31 January 2018 the Committee for the Criminal Execution System wrongly claimed to relatives that the exercise period each day lasts 90 minutes. He is banned from receiving parcels from relatives, and the prison has no shop where he might buy food or other necessary items. Officials gave no explanation as to why he is being held in solitary confinement.

In October 2011, the then-UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Juan Mendez condemned the use of solitary confinement, specifying Kazakhstan among other states, stating it could amount to torture. "Segregation, isolation, separation .. whatever the name, solitary confinement should be banned by States as a punishment or extortion technique," he stated.

Imam Abduzhabbarov is not allowed to have religious literature of his choice in his cell. Prison officials "give him the Koran to read, then they take it back", relatives told Forum 18. He is allowed only two two-hour meetings with relatives each year. Only two or three relatives are allowed to attend each visit. As he and his wife have 10 children, this means that about five of them have not seen their father for more than a year, relatives complained. Imam Abduzhabbarov is not allowed to make telephone calls, and any letters he writes are checked by the prison authorities before being sent.

Psychiatry has also been misused against prisoners. In 2013 the regime put retired Presbyterian Pastor Bakhytzhan Kashkumbayev and atheist writer Aleksandr Kharlamov into a psychiatric hospital. In April 2013 the police investigator responsible for Kharlamov's case, Captain Alikhat Turakpayev of Ridder Police, admitted to Forum 18 that "no-one suffered from what he [Kharlamov] wrote on religion". While in the psychiatric hospital, Kharlamov was not allowed to wear glasses, stopping him from reading, or to have a toothbrush - allegedly on safety grounds. One doctor told Kharlamov that you are here "because you are an inconvenient person for the authorities".

No official ever produced medical reasons for these incarcerations, despite repeated questioning by Forum 18 and others. (In February 2017 Kharlamov's flat was again searched, his books and computer confiscated, and a second criminal case opened against him. The second criminal case was closed in August 2017 and the first in April 2018.) No officials have been brought to justice for the wrongful psychiatric confinement of either Kashkumbayev or Kharlamov.

The UN Human Rights Committee's July 2016 Concluding Observations (CCPR/C/KAZ/CO/2) also noted with concern that "the definition in article 146 of the new Criminal Code still does not cover acts of torture committed by 'all persons acting in an official capacity.' It is also concerned that, under the same article, physical and mental suffering caused as a result of 'legal actions' of civil servants shall not be recognized as torture and that, de facto, this provision could potentially be used to circumvent the absolute prohibition of torture".

Denying human rights violations

Officials routinely deny human rights violations. For example, in June 2016 Kazakhstan's Delegation to the UN Human Rights Committee – led by the Deputy Justice Minister - claimed that only eight individuals had by June 2016 been punished for exercising the right to freedom of religion and belief without state permission. But by June more than 20 individuals were known to have been punished in 2016, most being Muslims, Protestants and Jehovah's Witnesses who had without state permission offered uncensored religious literature in places the state had not permitted, talked about their beliefs without state permission, or met for worship without state permission. Four days after the Human Rights Committee hearing, three Muslims were fined for without state permission talking to people about their beliefs and inviting them to a mosque.

The types of "offences" prosecuted, the numbers of prosecutions, and the level of fines have all increased since 2016 (see below).

Before the Human Rights Committee hearing, 12 of Kazakhstan's human rights organisations – including the Kazakhstan International Bureau for Human Rights and the Rule of Law, the Legal Policy Research Centre, and Adil Soz (Free Word) noted that "with rather dubious criteria being applied, terms such as "traditional" and "non-traditional" religious organisations, "religious extremism" etc. are being introduced into the realm of law-related definitions". They pointed out that the concepts of "extremism" and "religious hatred or enmity" applied by the authorities "are not clearly defined in the law and do not comply with the principle of legal certainty and predictability".

The human rights defenders also expressed concern that "almost all criminal proceedings on charges of extremism are held behind closed doors, including the announcement of the judgment. As a result, it is difficult to assess the soundness and relevance of the charges, the justification of the verdicts, and whether the legal proceedings were in line with international fair trial standards."

The Human Rights Committee's July 2016 Concluding Observations (CCPR/C/KAZ/CO/2) called for laws to be brought "into full compliance" with Kazakhstan's international human rights obligations. Yet the same month the KNB secret police head told a meeting of government ministers and senior officials that President Nazarbayev had ordered the drafting of what became the repressive January 2017 "Anti-Extremism and Terrorism" Law (see below).

Human rights defender Yevgeni Zhovtis, of the Kazakhstan International Bureau for Human Rights and Rule of Law, commented that "instead of a normal partnership and mutual respect, the authorities begin to intimidate society". He noted that "experience shows this, such measures mainly 'hit' not the extremists and radicals, but law-abiding citizens, at the same time reducing their loyalty and civic sense".

Steadily increasing restrictions and violations

Since the 2011 Religion Law, more repressive measures have followed. On 1 January 2015 a new Criminal Implementation Code (including a ban on prisoners having any uncensored religious literature), a new Criminal Code, a new Code of Administrative Offences, and a new Criminal Procedure Code came into force. The main parts affecting freedom of religion and belief are noted

below.

Human rights defender Zhovtis, of the Kazakhstan International Bureau for Human Rights and the Rule of Law, commented that "unfortunately, Kazakhstan continues to flagrantly violate the freedom of religion or belief guaranteed for its citizens by its Constitution and its international human rights obligations". He described the Codes as being "like a baton, to use as a threat against those the state does not like".

In January 2017 an "Anti-Extremism and Terrorism" Law imposed among other things new punishments for sharing the beliefs of religious communities which do not have state permission to exist, more religious literature censorship, and foreign pilgrimage controls. The restrictions came after the regime jailed many who took part in nationwide 2016 land privatisation protests, and after shootings in Aktobe. The regime immediately blamed "the non-traditional religious movement Salafism", without producing any evidence for this claim.

Wide-ranging draft amendments to the Religion Law and at least ten other laws imposing more restrictions on freedom of religion or belief have been under consideration since late 2017. The draft changes are currently with parliament, but it is unclear when they may be adopted or in what form. After being approved by parliament's lower house they were suddenly removed from consideration without explanation by the Senate, the upper house, in June 2018.

Proposed new restrictions and punishments, which are part of a draft Amending Law "Introducing changes and Additions to Laws on Questions of Religious Activity and Religious Associations", include but are not limited to: greater state control of religious communities the regime allows to exist; more restrictions on religious teaching without state permission, and sharing the beliefs of religious communities denied state permission to exist; and ordering that all religious literature that has not been passed state censorship must be confiscated.

The Comparative Table commenting on the Amending Law claims that this implements human rights obligations in line with General Comment 22 of the UN Human Rights Committee on Article 18 ("Freedom of thought, conscience and religion") of the ICCPR. It also claims that people who exercise freedom of religion and belief without state permission – which is their right under the ICCPR - are a "risk group" who may get involved in "terrorism".

The regime has long used broad formulations allowing much room for arbitrary official actions and negative stereotyping language in relation to its violations of freedom of religion and belief and interlinked human rights. Others have noted this. The UN Human Rights Committee for example expressed concern about "the broad formulation of the concepts of 'extremism', 'inciting social or class hatred' and 'religious hatred or enmity' under the State party's criminal legislation and the use of such legislation on extremism to unduly restrict freedoms of religion, expression, assembly and association".

Criminal Code Article 174

Criminal Code Article 174 is often used against political opposition, trade unionists, and people exercising their freedom of religion or belief. This punishes: "Incitement of social, national, clan, racial, or religious discord, insult to the national honour and dignity or religious feelings of citizens, as well as propaganda of exclusivity, superiority or inferiority of citizens on grounds of their religion, class, national, generic or racial identity, committed publicly or with the use of mass media or information and communication networks, as well as by production or distribution of literature or other information media, promoting social, national, clan, racial, or religious discord".

Part 1 punishes these actions committed by individuals, who if convicted face two to seven years imprisonment, or two to seven years restricted freedom. Restricted freedom means individuals living at home, but without being able to leave their town or city without state permission and often with a ban on visiting restaurants, cafes, bars, or places of public entertainment.

Part 2 punishes these actions "committed by a group of persons, a group with prior planning, repeatedly, with violence or threat of violence, or by an official, or by the leader of a public association". Those convicted face five to 10 years imprisonment, "with deprivation of the right to hold specified positions or to engage in specified activity for up to three years".

All known prisoners of conscience convicted under Article 174 have been added to the Finance Ministry Financial Monitoring Committee List of individuals "connected with the financing of terrorism or extremism" (see above).

Criminal Code Article 174 was strongly criticised by a UN Special Rapporteur on the rights to Freedom of Peaceful Assembly and of Association as this "pose serious risks of criminalizing and penalizing legitimate activities of associations". "The Code does not strictly define what is meant by 'incitement of discord', which may leave the term open for arbitrary interpretation," he warned following a 2015 country visit (A/HRC/29/25/Add.2). Kazakh human rights defenders and the UN Human Rights Committee have also repeatedly called it to be reworded or abolished (see above).

Religion Law

The main other justifications for freedom of religion and belief violations are the Religion Law with its corresponding Administrative Code Articles 489 ("Leading, participating in, or financing an unregistered, halted, or banned religious community or social organisation") and 490 ("Violating the Religion Law") (see below). The main currently relevant Religion Law provisions are outlined below. [A full analysis of the 2011 Religion Law and Amending Law is in Forum 18's March 2014 Kazakhstan religious freedom survey http://www.forum18.org/Archive.php?article_id=1939.]

Compulsory re-registration

All religious communities were required to apply for re-registration – state permission to exist – by 24 October 2012. The regime used this process to close many religious communities, including mosques, and announced closures with apparent pride. Communities complained of arbitrary and flawed decisions, as well as pressure exerted by local authorities on people to withdraw their signatures from founding documents.

Among the smaller communities "voluntarily" closed was a Methodist Church threatened with a fine state officials admitted was unlawful. Similarly, a local official told the imam of the Tautan Molla Mosque in Prishakhtinsk that "he will close down our Mosque, and even demolish the Mosque building with a bulldozer".

The forced closures affected people's willingness to exercise their freedom of religion and belief in association with others. "Now our believers are afraid each time they gather for worship", a Kazakh religious leader told Forum 18.

Complex registration system

Members of many religious communities have described the registration process as "complex", "burdensome", "arbitrary", "unnecessary" and "expensive" compulsory re-registration process. But few religious communities were prepared to discuss the process, for fear of state reprisals.

Against international human rights law, all exercise of freedom of religion and belief by a group of people without state permission is banned.

There are three permitted types of registration:

- local (which needs at least 50 adult citizen members within one region of the country or main town);
- regional (which needs 500 adult citizens belonging to at least two different registered local religious organisations, each with at least 250 adult citizens, located in two different regions or main towns);
- national (which needs at least 5,000 adult citizens from all regions of the country, the capital and all major towns, with at least 300 members in each of those territories);

Local and regional organisations are only allowed to function in the geographic area they are registered in.

Among the registration requirements, a religious organisation must have "a united faith .. and spiritual orientation of its activity" and explain "the fundamental religious ideas .. attitude to marriage and the family, education and health .. and attitude to the realisation of the constitutional rights and obligations". Terms such as "a united faith" are unclear and undefined, facilitating arbitrary refusals of permission to exist. Similarly, official approval of beliefs as a precondition for exercising human rights is against international law.

Apart from the Muslim Board (see below), the only religious community to be re-registered without apparent problems was the Catholic Church under an agreement with the Holy See which Kazakhstan hastily ratified in September 2012.

Even if registered, freedom of religion and belief may only be exercised "in religious buildings and their assigned territory, in places of worship, offices and premises of religious associations, in cemeteries and in crematoriums, and inside homes and dining halls if needed on condition that they respect the rights and interests of nearby residents". Any new place of worship requires the approval of the local administration.

Sharing beliefs in any way can only be done by "missionaries" appointed by registered religious organisations, and who must have state approval every year. They can only use state-approved material and can only operate in state-approved places. All discussion of faith by people without state permission, or not using state-approved texts, or outside state-approved locations, is banned.

Only regional and national registered religious organisations are allowed to train clergy, if they have state permission to do this.

Restrictions on children and young people under 18's freedom of religion and belief

The Religion Law requires leaders of religious organisations "to take steps to prevent the attraction and/or participation by children and young people under 18 in the activity of a religious association if one parent or one of its legal guardians objects". It remains unclear how religious leaders will know if parents or guardians disagree over this.

As noted below, Administrative Code Article 490 ("Violating the Religion Law") Part 7 imposes punishments on religious leaders for failing to prevent someone bringing a child or young person under 18 to a religious meeting against the wishes of one of its parents or guardians.

This facilitates state pressure against children or young people, parents - even separated or divorced parents - and guardians involved in a religious community officials dislike. It also allows pressure against anyone involved in such communities, including where no parent or guardian has told a religious leader of objections to a child's attendance.

For example, on 25 February 2018 two women came to Kyzylorda's New Life Church before Sunday worship, and told Pastor Serik Bisembayev that they were the mother and grandmother of a girl with them and "aggressively" told the Pastor not to allow children to attend without their parents' permission. After the Pastor told them he follows the law, a man claiming to be the father of the girl arrived together with police. Police also brought two teachers who began questioning adults who used to attend their school why they were present at the service and insulted their faith. Illegal searches of the house followed, along with police filming everyone present against their wishes. Police forced them to write statements explaining why they came to church and when they had started coming, whether anyone had forced them to do so and whether they read any religious literature. Police also confiscated religious books that had already passed state censorship. Police had no legal authority for the raid and confiscations, as they did not have a search warrant, and refused to answer questions about their illegal actions.

In 2011 the Law on the Rights of the Child was changed to include a ban on: "The carrying out of services, religious rituals, ceremonies and/or meetings, as well as actions directed at spreading a faith, in children's holiday, sport, creative or other leisure organisations, camps or sanatoria is not allowed".

Since the passage of the Religion Law, such summer camps have been raided (often cooperating with hostile state-controlled media) and with police interrogations of children on their own which leave them frightened.

Schools have increasingly been denying access to girls who wear headscarves. The Education and Science Ministry has imposed a national uniform which does not allow any deviations. Many parents have tried to challenge this denial of education through the courts, so far without success. "The ban on the inclusion in the school uniform of elements of clothing of religious adherence of various confessions was introduced with the aim of preserving the internal order of educational establishments and the avoidance of manifestations of social, property or other differences between students," one court claimed in December 2017 in rejecting a suit by parents.

Independent mosques forcibly closed, types of prayer restricted

Even before the Religion Law was adopted, officials were insisting that all independent mosques must close. There is no "legal" basis for such demands, or evidence for official claims of "terrorists" associating with such mosques. The Justice Ministry has denied all re-registration applications by non-Muslim Board Islamic communities. The Muslim Board is registered as one legal entity with all mosques in the country as its branches. Islam is the only religious community to which the state gives such a monopoly.

All mosques are controlled by the Board and must be Sunni Hanafi. All other mosques are banned, including other schools of Sunni Islam (such as Hanbali or Shafi), Shia, Ahmadi, or independent Sunni Hanafi mosques. State censorship has banned all Islamic literature that is neither Hanafi Muslim nor Muslim Board approved (see below).

All mosques must give the Board 30 per cent of their income, and have their imams appointed by the Board with no consultation. Imams must only read out sermons at Friday prayers which have been provided by the Board. Independent mosques strongly objected to these restrictions, which make Muslim exercise of freedom of religion and belief even more restricted than the freedom of religion and belief of those who follow other beliefs.

The state also subjects Muslim communities to language restrictions which do not apply to other communities. Mosques must use Kazakh rather than other languages such as Russian, Tatar, Chechen, or Azeri for sermons. Unlike communities of other faiths (eg. Russian Orthodox, Armenian Apostolic, or Jewish) mosques cannot have an ethnic affiliation in their name.

State and Muslim Board officials used a variety of tactics to force independent mosques to join the Board or close – including as noted above threats to use bulldozers to demolish an independent mosque. In the case of the Din-Muhammad Tatar-Bashkir Mosque in Petropavl, heavy state pressure caused attendance at prayers to drop from hundreds to tens because "people are afraid of the authorities", community members told Forum 18. They also thought the pressure caused the June 2015 death from a heart attack of their Imam, Rafael Ryazapov. Later that year the Mosque joined the Board.

All Ahmadi Muslim mosques throughout Kazakhstan were closed in April 2012, re-registration being refused as their Almaty community's "statute did not qualify under the expert opinion". A positive Social Harmony Committee (the former Religious Affairs Committee) "expert analysis" is required for any community to be permitted to exist. It is now illegal for Ahmadi Muslims to meet for worship.

The state also restricts the ways Muslims can pray. In November 2016 the state-controlled Muslim Board banned saying out loud the word "Amen" ("Amin" in Kazakh, derived from Arabic) in mosques. Human rights defenders, who wish to remain anonymous for fear of state reprisals, state that fines for saying "Amen" aloud in mosques have become common. At least seven are known to have been given such fines in 2018, with Kairat Makhanov being fined about one month's average wages in Taraz in August 2018.

"I am an adherent of the Hanbali school and consider it necessary to pray the word 'Amen' aloud," a Muslim who wished to remain anonymous for fear of state reprisals told Forum 18. "But after imams halted the prayers because I prayed the word aloud I had to stop and say it to myself just to avoid conflict."

A lawyer in one case unsuccessfully argued that the ban on saying Amen aloud "violates the constitutional rights of citizens who belong to the Shafi or Hanbali schools as, in those schools, saying the word 'Amen' aloud is permitted". After being contacted by Muslim Board-appointed imams, local religious affairs officials prepare prosecution cases under Administrative Code Article 490 ("Violating the Religion Law") (see below). Attempting to justify the state dictating how people should pray, Meiram Kikimbayev, Chief Specialist of Atyrau Region's Religious Affairs Department, told Forum 18 that "the word 'Amen' is not important. What is important is the violation of collective prayers, which represents obstruction of lawful religious activity".

KNB secret police surveillance, informer recruitment

As noted above, KNB secret police surveillance of people exercising freedom of religion and belief seems to be common. People in Kazakhstan think all religious communities are under surveillance by the ordinary police and KNB secret police, and to be subject to attempts to recruit informers. Many communities are reluctant to discuss this for fear of state reprisals.

Censorship

The Religion Law claims everyone has the right to acquire and use "religious literature, other informational materials of religious content, and objects of religious significance at their own discretion". However, distribution is only permitted in registered places of worship, approved religious education institutions and "special stationary premises [bookshops] determined by local executive authorities" (Akimats). Akimats must approve any bookshop which wants to sell religious literature and other materials such as icons.

The numbers of permitted bookshops are small, and even some shops with permission to sell religious items have told Forum 18 that they will not do so. "As soon as we sell the few books we have left, we will stop selling any religious materials," one such bookshop that wished to remain anonymous for fear of state reprisals told Forum 18. "I do not want to get in trouble with the authorities because of religious books." Another bookseller told Forum 18 that "I did not like all the hassle when a large group of officials with men in military uniforms visited my shop".

The requirement to have a state licence means that online book retailers cannot sell religious literature. However, the confusion around what is banned or "religious" means that some titles are still available. Police raid shops selling religious items without state permission, and also raid people (such as Baptists) distributing such literature on the street. For example, one police and regional Religious Affairs Department February 2017 raid found 57 copies of 14 different publications, including an Arabic-language Koran and Muslim books in Kazakh and Russian, among them several on how to pray the namaz. An "expert analysis" by the then Religious Affairs Committee found that the books were religious and the retailer was fined.

A growing number of commercial traders (at least 58 in 2017), as well as individuals offering even one religious book for sale online (at least 10 in 2017), have faced punishment.

Yerlan Kalmakov of Kostanai Regional Internal Policy Department, asked why people must ask for state permission to distribute books, replied in February 2013: "Imagine what could happen if we allow just anybody to distribute religious materials". He added that "unregistered religious organisations, which are illegal in Kazakhstan, will use this and attract people to their ranks. They will thus continue their illegal existence".

From January 2017 the "Anti-Extremism and Terrorism" Law (see above) rewrote the Religion Law to state that only one item of a religious title for personal use can be imported. Previously, there was no specified limit on the number of copies "for personal use". Police have stated to Forum 18 that they inspect any religious book being brought into Kazakhstan.

Social Harmony Committee (former Religious Affairs Committee) "expert analyses" are required for all "religious literature" or "other informational materials of religious content", and for any religious literature (imported or not) acquired by any library. The exact terms of this requirement are unclear. "Objects of religious significance" can include Koran stands, crosses, crucifixes, icons

and religious clothing. After a raid confiscated a Russian Orthodox icon, Forum 18 asked an official whether he has known icons to be harmful. He replied: "We have experts to check icons". "Religious studies experts", as well as "when necessary" state officials, conduct "expert analyses" on behalf of the Social Harmony Committee.

Confiscated texts – including Bibles - have been ordered by courts to be destroyed, but such orders are sometimes overturned on appeal. A court bailiff in Astana told Forum 18 that bailiffs throw books ordered destroyed – including religious books – into the rubbish bin. "They are normally disposed off at a general rubbish dump outside the city." In another case the Justice Ministry stated that "most likely the books would be burnt". Human rights defender Zhovtis of the Kazakhstan International Bureau for Human Rights and the Rule of Law stated that "it is barbarism to destroy books".

Censorship is imposed by the state along with – for Islamic literature – the Muslim Board. The Board told Forum 18 that "only Islamic literature from the Sunni Hanafi school can be distributed, as all other Muslim schools - including Ahmadis - are banned". Shia Muslims across Kazakhstan, who asked not to be named for fear of state reprisals, told Forum 18 that Shia literature cannot be found on sale.

There is confusion among officials about what is censored, what is involved and what if anything is exempt. As noted below, courts frequently fine commercial booksellers and individuals for distributing religious literature outside approved venues (state-registered places of worship and state-licensed shops). Allegedly "extremist" works are also banned, but because court hearings to rule whether materials are "extremist" take place unannounced and because no full, up-to-date published list of banned books appears to exist, people in Kazakhstan remain unaware of what has and has not been banned. The unannounced nature of court hearings also makes it impossible for such bans to be challenged.

The General Prosecutor's Office and district administrations sometimes publish lists of books and materials described as "extremist", including many books which are not religious. These have included Muslim, Ahmadi Muslim, Christian, Hare Krishna, and Jehovah's Witness publications. Officials have been unable to explain whether items on the lists are banned and, if so, when and where they were banned. One regional Religious Affairs Department official told Forum 18 that such lists were produced and distributed by the then Religious Affairs Committee in Astana "so that people don't use" such literature. "People shouldn't read or use them", the official – who would not give his name – insisted. "If they are on the list they are banned." No one at the then Religious Affairs Committee was prepared to explain to Forum 18 whether publications on the District Administration lists but not on the General Prosecutor's Office list are banned.

Prosecution procedure, fines with no court hearing

Official allegations that the Religion Law has been broken should invoke an article of the Administrative or Criminal Codes, and mainly need to be prepared by prosecutors or other agencies for trial in a court.

However, the 2015 Administrative Code Article 489 ("Leading, participating in, or financing an unregistered, halted, or banned religious community or social organisation") gave police new powers to fine people with no court hearing.

Article 489, Part 9 punishes: "Leadership of an unregistered, halted, or banned religious community or social organisation" with a fine of 100 Monthly Financial Indicators (MFIs).

The MFI is set annually and, since 1 January 2018, 50 MFIs has been 120,250 Tenge. This is equivalent to about one month's average wages for an individual in formal work.

Article 489, Part 10 punishes: "Participation in an unregistered, halted, or banned religious community or social organisation" with a fine of 50 MFIs.

Article 489, Part 11 punishes: "Financing an unregistered, halted, or banned religious community or social organisation" with a fine of 200 MFIs.

It is possible to challenge such police fines, however this is more difficult than lodging an appeal to a higher court against a lower court decision.

Administrative Code Article 490

The 2015 Administrative Code Article 490 ("Violating the Religion Law") added another new offence of "spreading the teachings of a religious group which is not registered in Kazakhstan". As is usual with the Administrative and Criminal Codes, "offences" and "crimes" are often not precisely defined, leaving much room for arbitrary official actions.

As noted above, Article 490, Part 7 facilitates state pressure against children or young people, parents - even separated or divorced parents - and guardians involved in a religious community state officials dislike. It also allows pressure against anyone involved in such communities. In 2017, at least eight religious leaders are known to have been prosecuted under Article 490, Part 7: 4 Jehovah's

Witnesses, 3 Protestants (including 1 Seventh-day Adventist pastor) and 1 Russian Orthodox priest. Six of them were punished, while two were acquitted.

Administrative Code Article 490 states:

"- Part 1. Violating the requirements of the Religion Law for:

1) conducting religious rites, ceremonies and/or meetings;

2) carrying out charitable activity;

3) import, production, publication and/or distribution of religious literature and other religious materials, and items for religious use;

4) construction of religious buildings, and changing the profile (functional purpose) of a building into a religious building;

shall result in a fine on physical persons of 50 times the MFI;

and on legal persons [communities with state permission to exist] of 200 times the MFI with suspension of their activity for a term of three months."

(Since 1 January 2018, 50 MFIs has been 120,250 Tenge, equivalent to about one month's average wages for an individual in formal work.)

"- Part 2. Impeding lawful religious activity as well as violation of the civil rights of physical persons on grounds of their religious views or insulting their feelings or profanation of items, buildings and places revered by followers of any religion, unless there are signs of criminally punishable actions,

shall result in a fine on physical persons of 50 times the MFI;

and on legal persons of 200 times the MFI.

- Part 3. 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,

shall result in a fine on Kazakh citizens of 100 times the MFI;

and on foreigners and stateless persons of 100 times the MFI with administrative deportation from Kazakhstan.

- Part 4. A religious association carrying out activity which is not defined in its charter,

shall result in a fine of 300 times the MFI with suspension of activity for three months.

- Part 5. Engagement by a religious association in political activity as well as participation in the activity of political parties and/or rendering them financial assistance, interference in the activity of state agencies, or the assumption by members of religious associations of the functions of state agencies or officials,

shall result in a fine of 300 times the MFI with suspension of activity for three months.

- Part 6. Creation of organisational structures of religious organisations in state agencies, organisations and entities, as well as in organisations carrying out health care and education,

shall result in a fine on officials of 100 times the MFI;

and on legal persons of 200 times the MFI.

- Part 7. Leadership of a religious association by a person assigned by a foreign religious centre without the consent of the authorised state agency,

as well as the leader of a religious association not taking measures not to allow the involvement and/or participation of children and young people under 18 in the activity of the religious association when one of the parents or their other legal representatives objects,

shall result in a fine of 50 times the MFI with administrative deportation from Kazakhstan.

- Part 8. Actions or lack of actions resulting in repeated breaking of Parts 1, 2, 3, 4, 5 and 7 of this Article, repeated within one year of an administrative penalty being imposed,

shall carry a fine on physical persons of 200 times the MFI;

on officials of 300 times the MFI;

and on legal persons of 500 times the MFI with banning of their activity."

- Deportation from Kazakhstan for Kazakh citizens?

Part 7 imposes fines on and deportation of anyone breaking that part of Article 490. This could theoretically lead to a court ordering the deportation from Kazakhstan of a Kazakh citizen. Zhovtis of the Kazakhstan International Bureau for Human Rights and the Rule of Law told Forum 18 that he thinks that this is "just carelessness on the part of the officials working on the text. Probably deportation will only be imposed if the concerned person is a foreigner or a stateless person."

Increasing "offences", increasing prosecutions, increasing penalties

Administrative Code Article 489 ("Leading, participating in, or financing an unregistered, halted, or banned religious community or social organisation") and Article 490 ("Violating the Religion Law"), as well as the Articles they replaced in 2015, have long been used to punish individuals and communities exercising their right to freedom of religion and belief. The types of "offences" prosecuted, the numbers of prosecutions, and the level of fines have all increased in recent years. For example, in 2013 at least 153 punishments were imposed on 126 individuals (mainly for meeting for worship or sharing their beliefs without state permission), and fines were then between one and two months average wages.

Between January and December 2017 at least 284 individuals, religious communities, charities and companies were prosecuted for exercising their freedom of religion and belief. Of these, 263 were punished:

- 88 individuals, charities and companies for meeting for worship, hosting such meetings or maintaining places for such meetings.
- 39 individuals and charities for offering religious literature to others for free.
- 56 individuals and companies for offering religious literature, icons or other items for sale.
- 4 individuals for trying to import religious literature.
- 1 individual for bringing religious literature from one Kazakh city to another.
- 1 community leader for storing religious literature which the authorities consider "extremist".
- 10 individuals for offering religious items for sale online.
- 12 individuals for posting religious materials online.
- 30 individuals for sharing their beliefs with others.
- 22 Muslims for praying in mosques not in accordance with the state-controlled Muslim Board's regulations, for example by using the word Amen. (2017 is the first year such punishments have been imposed).
- 2 individuals for teaching their faith.
- 7 religious leaders for allowing children to be present at meetings for worship or conducting religious rites against the wishes of one parent.
- 5 religious communities for allegedly "inadequate" security or safety measures for their places of worship, for example not having enough video cameras.
- 2 individuals for failing to pay earlier fines to punish them for exercising the right to freedom of religion or belief.

Punishments included fines, one three-day jail sentence for refusing to pay an earlier fine, temporary or permanent bans on activity (including bans on meeting for worship), two deportations, and confiscation and destruction of religious literature. Over 50 fines were imposed by police without a court hearing. Fines normally accompany raids on meetings by police and other officials, with all

the participants being questioned and some being fined. Fines ranged between the equivalent of three weeks to six months' average wages, depending on whether or not the authorities identify the person concerned as having played a leading role in the "offence".

One example of a ban on meeting together was a February 2018 one month ban on meeting for worship imposed on New Life Church in Shymkent for having three and not five fire detectors in a building used for storage only. The fire inspector who brought the case refused to explain why he did not issue the order in writing, and why the church was banned despite having installed the extra detectors within the specified one month deadline. "I took all the documents to court to show that we had installed the extra fire detectors, but the Judge didn't even look at them," Pastor Zhetis Rauilov told Forum 18. The punishment was cancelled on appeal and a verbal warning issued instead.

Courts in 2017 imposed five three-month bans on activity on entire religious communities: Vefil Pentecostal Church in Belousovka in Glubokoe District in March 2017; Source of Life Protestant Church in Almaty in March 2017; New Life Church in Oskemen in August 2017; and the unregistered Council of Churches Baptist congregation in Shu District in November 2017. The Jehovah's Witness regional headquarters in Almaty was banned for three months for allegedly having insufficient security measures.

In 2017 women represented more than two-thirds of individuals prosecuted for offering religious literature and other items for sale in shops, and more than 90 per cent of those prosecuted for offering such material online. Women also represented almost half the individuals prosecuted for sharing their faith with others.

Of the 284 cases in 2017, 93 involved Protestants, 24 involved Muslims, and the remaining 167 cases involved others, including 56 companies or traders, 4 Jehovah's Witnesses, and a Russian Orthodox Church priest.

The first half of 2018 saw at least 79 known administrative prosecutions, of which 61 ended with punishments.

Exit bans

People who refuse to pay Administrative Code Articles 489 and 490 fines – which as those fined frequently note violate international human rights obligations – are often placed on Justice Ministry lists banning foreign travel.

Human rights defender Zhovtis, of the Kazakhstan International Bureau for Human Rights and the Rule of Law, noted that this "double punishment" is not governed by any law. He pointed out that "officials of the Justice Ministry's Committee for the Execution of Court Judgments simply take the decision and individuals don't have the proper opportunity to challenge this in court".

The future?

Kazakhstan tries to make exercising human rights conditional upon state permission. It systematically violates intertwined fundamental rights - such as the freedoms of religion or belief, of expression and of assembly - it has solemn international obligations to respect and defend. There is a culture of impunity for such violations among officials. It is likely that the government will continue violating the human rights of everyone in the country. (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>.

Previous Forum 18 Kazakhstan religious freedom surveys can be found at <http://www.forum18.org/analyses.php?region=29>.

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.

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

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