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KAZAKHSTAN: 171 known administrative prosecutions in 2018

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In 171 known administrative prosecutions in 2018, 143 individuals, religious communities, charities and companies were punished for worship meetings, offering religious literature and pictures (including online), sharing or teaching faith, posting material online, praying in mosques, allowing a parent to bring a child to meetings, or inadequate security measures.

Kazakhstan's authorities are known to have brought at least 171 administrative prosecutions in 2018 to punish individuals, religious communities, charities and companies for their exercise of freedom of religion or belief. Of these, 143 ended up with punishments, which included fines, temporary bans on activity (including bans on meeting for worship), religious literature destruction, seizures of religious literature, short-term jail terms and one deportation.

Muslims, Protestants (especially Council of Churches Baptists), Jehovah's Witnesses, and commercial and private sellers were many of the targets of these prosecutions.

Fines were mostly the equivalent of between three weeks' and four months' average wages for those in formal work (35 to 200 Monthly Financial Indicators [MFIs], 84,175 Tenge to 481,000 Tenge in 2018). However, such fines are a much greater burden for unemployed individuals and pensioners.

Courts generally ordered the return to individuals of seized religious literature, phones and computers. However, in two cases courts ordered seized religious literature to be destroyed (http://www.forum18.org/archive.php?article_id=2442) (see below).

At least 40 cases were brought to punish individuals, charities and companies for meeting for worship, hosting such meetings or maintaining places for such meetings.

At least 10 cases were brought to punish individuals and charities for offering religious literature to others for free. At least 34 cases were brought to punish individuals and companies for offering religious literature, icons or other items for sale. At least 18 cases were brought to punish individuals for offering religious items for sale online.

At least 23 cases were brought to punish individuals for posting or sharing religious materials online. At least 17 cases were brought to punish individuals for sharing faith with others.

At least 3 cases were brought to punish individuals for teaching their faith. At least 1 case was brought to punish a religious leader for allowing children to be present or conducting religious rites against the wishes of one parent. At least 2 cases were brought to punish religious communities for inadequate security measures for their places of worship.

In the second year of a new "offence" introduced in 2017, at least 21 cases were brought to punish Muslims for praying in mosques not in accordance with the state-backed Muslim Board's regulations.

At least 2 cases were brought to punish failing to pay earlier fines handed down to punish exercise of freedom of religion or belief.

Those punished were born between 1939 and 2000. Iztai Omirtai, the youngest individual known to have been punished – for praying in a mosque using the word "Amen" aloud – had just passed his 18th birthday. The oldest was Jehovah's Witness Taisiya Yezhova. She was 78 and a half years old when a court in Kostanai Region fined her in February 2018 for hosting religious meetings in her home.

Yezhova is not the oldest known victim of such punishments for exercising the right to freedom of religion or belief. In May 2016, at the age of 89 and a half, former Soviet-era Baptist prisoner of conscience Yegor Prokopenko was again fined for leading a meeting for worship in Zyryanovsk in East Kazakhstan Region. A police officer fined him 100 MFIs. (http://www.forum18.org/archive.php?article_id=2188)

Pensioners in their late seventies are also frequently fined. (http://www.forum18.org/archive.php?article_id=2212)

A total of 163 of the 2018 cases were heard in court, but 8 fines (7 subsequently annulled) are known to have been summarily handed down by police (the total number could be higher).

The number both of court-imposed and summary police fines fell by more than a third in 2018 compared to 2017. In 2017, Forum 18 found 284 such administrative cases, with 263 ending in punishment. (http://www.forum18.org/archive.php?article_id=2347)

Unlike in 2017, no cases are known to have been brought in 2018 to punish importing, transporting or storing religious literature.

(Full list of the known 2018 administrative cases – based on court decisions and other information. (http://www.forum18.org/archive.php?article_id=2448))

12 known criminal convictions

In addition to these punishments for exercising freedom of religion or belief imposed under the Administrative Code, 12 individuals are known to have been given criminal convictions in 2018 to punish the exercise of freedom of religion or belief. All 12 were Sunni Muslims (all of them men), of whom 5 received prison terms and 7 restricted freedom sentences, where they live at home under restrictions. (http://www.forum18.org/archive.php?article_id=2435)

Tight restrictions

In violation of its international human rights commitments, Kazakhstan imposes tight restrictions on all aspects of the exercise of freedom of religion or belief. Specific state permission is required to open or maintain a place of worship, sell or distribute religious literature and items (and the location needs state permission also), import religious literature and items, share faith, or teach a faith. (http://www.forum18.org/archive.php?article_id=2409)

Further restrictive amendments abandoned?

The government appears to want to make these existing tight restrictions even tighter. In late 2017 it launched a draft Amending Law proposing many wide-ranging changes to the 2011 Religion Law, Administrative Code and many other laws.

If adopted in current form, the Law would impose new restrictions on and punishments for religious education, sharing beliefs, censorship of literature and (for state officials) participating in worship. It would also require almost all registered religious organisations to undergo re-registration.

Parliament's lower house, the Majilis, approved the Amending Law on 23 May 2018. Parliament's upper house adopted the amendments almost unchanged in both first and second readings on 27 September 2018. The Amending Law – described by one Muslim as "extremely harsh" – then returned to the Majilis for final approval. (http://www.forum18.org/archive.php?article_id=2419)

However, the Majilis does not appear to have considered the Amending Law after its return. Whether it will be adopted or has been abandoned remains unclear.

Punishing meetings, rituals, held without state permission

In 2018, at least 40 administrative cases were launched to punish individuals, charities or companies for hosting, holding or participating in meetings for worship. Known cases were brought against 26 Muslims, 9 Protestants (7 Council of Churches Baptists), 3 companies, 1 Jehovah's Witness, and 1 charity.

Authorities brought cases to punish holding meetings for worship outside registered places of worship maintained by registered religious communities. Muslim prayer rooms in work premises and elsewhere and places of worship maintained by Council of Churches Baptists who see no need to register their communities have led to such prosecutions.

Fewer than half the number of cases were brought in 2018, compared to 2017.

Many of the 2018 cases were brought under Administrative Code Article 490, Part 1, Point 1. This punishes "violation of procedures established in law for conducting rites, ceremonies and meetings". Punishment for individuals is a fine of 50 MFIs, and for organisations a fine of 200 MFIs plus a three-month ban on activity.

Six Council of Churches Baptists and two other Protestants were punished under Administrative Code Article 489, Part 9 ("Leadership of an unregistered, halted, or banned religious community or social organisation"), with a fine of 100 MFIs, or Part 10 ("Participation in an unregistered, halted, or banned religious community or social organisation"), with a fine of 50 MFIs. Such fines are often summarily handed down by police. Such police fines can be challenged through the courts. In the case of the 6 Baptists,

Oral police annulled the fines three months later. Similarly, one of the other Protestants' fine was subsequently annulled in court on appeal. (http://www.forum18.org/archive.php?article_id=2285)

Of these 40 known cases in 2018, 30 ended up with fines of between 35 and 200 MFIs (three weeks' to three months' average wages for those in formal work).

In addition to the fines, courts issued 9 three-month bans on activity, such as maintaining a prayer room.

In just one of the 40 known cases was the defendant acquitted: Kokshetau Specialised Administrative Court acquitted a doctor Sultan Karimov on 21 June 2018 after fellow employees used a room in the hospital for prayers. Additionally, two cases in Aktobe against Muslims were closed because prosecutors had failed to file them within the two-month deadline.

Punishing offering free religious literature

In 2018, at least 10 administrative cases were launched to punish individuals or charities for offering religious literature to others free of charge, usually on the streets. Known cases were brought against 5 Protestants (including 4 Council of Churches Baptists), 2 or 3 Muslims, 1 charity and 1 organisation.

The number of such prosecutions for offering free religious literature fell by three-quarters between 2017 and 2018.

Almost all the 10 known cases in 2018 were brought under Administrative Code Article 490, Part 1, Point 3. This punishes: "Violating the requirements of the Religion Law for .. import, manufacturing, 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.

Of these 10 known cases in 2018, 7 ended up with fines of between 35 and 140 MFIs (three weeks' to two months' average wages for those in formal work). In 3 of these cases, courts also imposed three-month bans, either on distributing religious literature or on unspecified activity.

In none of the known cases in 2018 did courts order religious literature destroyed, unlike in earlier years.

Three cases ended up with no punishment. In one case, the appeal court changed the fine to a verbal warning. The Aktobe Baptist Pastor Vyacheslav Poptsov was acquitted. In another, the prosecution failed to bring the case within the specified deadline.

Punishing offering religious literature, items for sale

In 2018, at least 34 administrative cases were launched to punish individuals or companies for offering religious literature, jewellery, icons or pictures for sale. Known cases were brought against 29 commercial traders and 4 companies.

Just over half the number of cases were brought in 2018, compared to 2017.

All the cases in 2018 were brought under Administrative Code Article 490, Part 1, Point 3. This punishes: "Violating the requirements of the Religion Law for .. import, manufacturing, 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.

Of these 34 known cases in 2018, all but two ended up with fines of between 35 and 200 MFIs (three weeks' to four months' average wages for those in formal work). In 24 cases, courts imposed not only fines but three-month bans on selling religious literature and other items.

In one case, a Kyzylorda court on 19 September 2018 ordered 85 Islamic booklets seized from Askarbek Sarsenov to be destroyed. (http://www.forum18.org/archive.php?article_id=2442)

In two cases, courts ordered literature seized from individuals during raids on their shops to be confiscated.

In 3 or possibly 4 cases, police had initially opened cases under Criminal Code Article 174 ("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"), but these were closed down and administrative cases opened. Numerous criminal cases under Article 174 were similarly opened against those posting material about religion online before being dropped in favour of administrative cases (see below).

As many as 24 of the cases ended not only with fines but in 3-month bans on activity (usually entailing the enforced closure of a shop).

On 20 November 2018, Almaty Specialised Inter-District Administrative Court not only fined Almaz Shaiken (on behalf of Ummastore bookshop) 200 MFIs (reduced to 50 MFIs on appeal), but imposed a 3-month ban. The bookshop – which specialises in books by the Moscow-based Imam Shamil Alyautdinov – had applied for but not received the state licence needed to sell religious materials. The bookshop confirmed to Forum 18 on 31 January 2019 that it closed in accordance with the court decision, which Shaiken challenged.

Punishing offering religious literature, items for sale online

In 2018, at least 18 administrative cases were launched to punish individuals (16 of them private sellers, 2 commercial sellers) for offering religious literature, icons or pictures for sale online. All 18 sellers had offered religious items on the olx.kz website.

The 20 September 2018 decision fining Zaur Kerimov for offering icons for sale noted: "By a decree of 4 June 2014, East Kazakhstan Regional Akimat (administration) confirmed the location of the specialised, stationary premises for the distribution of religious literature and other informational materials of religious content, as well as items of religious significance, in which the Olx website is absent."

Forum 18 asked Olx.kz in writing on 31 January 2019 what measures it takes to try to ensure that users of its website do not suffer from the state's censorship of religious literature and objects (http://www.forum18.org/archive.php?article_id=2409), and whether customers have complained to the company over punishments for offering religious items for sale on its platform. Forum 18 had received no response by the end of the working day in Kazakhstan on 31 January.

All 18 known cases in 2018 were brought under Administrative Code Article 490, Part 1, Point 3. This punishes: "Violating the requirements of the Religion Law for .. import, manufacturing, 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.

All 18 were found guilty and fined 35 or 50 MFIs (three weeks' or one month's average wages for those in formal work). The fine of one was annulled on appeal because of the insignificance of the "offence".

This was a near-doubling of the number of known cases in 2017.

In many cases, individuals had placed advertisements on olx.kz with a price of 5,000 Tenge for one religious book. One individual offered for this price an old German-language Bible he had found in a house he had bought. A fine of 35 MFIs, 84,175 Tenge, therefore represents nearly 17 times the money they had hoped to gain from a sale. Court decisions often note individuals' reason for offering such religious books for sale that they do not have enough money to live on.

Courts in 5 of the 18 cases handed down three-month bans on selling religious items online. In the 6th case, the court handed down a one-month ban.

In one case, Zharma District Court in East Kazakhstan Region fined Zairash Amanova on 29 December 2018 for offering two religious books for sale. The Judge ordered that one of them – "Bible Stories" – be destroyed. When Forum 18 asked the Judge on 17 January 2019 why she had ordered the book destroyed she put the phone down. (http://www.forum18.org/archive.php?article_id=2442)

Many of the cases take months to come to court, leaving often vulnerable individuals concerned about punishments they might eventually receive.

On 1 February 2018, police detected an "offence" Natalya Matyusha had committed by offering 3 Muslim books for sale online. On 3 March police ordered a state religious "expert" analysis of the books, which was assigned to two experts in Almaty. Their analysis, which arrived on 25 September, found that the books were not against the Constitution. Police then brought an administrative case, which reached Sharbakty District Court on 2 October 2018, the court told Forum 18 on 15 January 2019. The court fined Matyusha 50 MFIs on 11 October 2018. This means she was punished more than 8 months after the alleged "offence". The two-month deadline for bringing such cases is suspended while an "expert" analysis is conducted.

Punishing posting religious materials online

In 2018, at least 23 administrative cases were launched to punish individuals for posting or sharing religious materials or hosting religious groups on websites, social media or message exchanging apps. Of the 23 individuals, 19 were Muslims while the other 4 were of unknown religious affiliation. The individuals had used a variety of platforms, including WhatsApp, Telegram, and the Russian social network VKontakte.

This represents a near-doubling of the number of cases in 2018, compared to 2017.

Cases in 2018 were brought under one of two Administrative Code Articles. Article 490, Part 3 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.

Article 490, Part 1, Point 3 punishes: "Violating the requirements of the Religion Law for .. import, manufacturing, 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.

All but one of the 23 individuals were found guilty and fined 35 to 70 MFIs (three to six weeks' average wages for those in formal work). In 7 of the 23 cases, courts also banned individuals from posting religious materials online for three months, with a 1-month ban in a further 2 cases.

In 8 or 9 of the 12 cases, police initially opened cases under Criminal Code Article 174 ("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"). But these cases were closed down and administrative cases opened.

Punishing sharing faith

In 2018, at least 17 administrative cases were launched to punish individuals for sharing their faith with others in public. Of these 17, 9 were Jehovah's Witnesses, 6 were Muslims, and 2 (including 1 Council of Churches Baptist) were Protestants.

This represents a fall of nearly a half in the number of such cases in 2018 compared to 2017.

Cases in 2018 were all brought 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.

Of these 17 known cases, 10 ended up with fines of 70 to 100 MFIs (six weeks' to two months' average wages for those in formal work).

In one case, Maktaaral District Court on 22 August 2018 not only fined a Kyrgyz-born Russian Muslim Ulanbek Zhumashov 100 MFIs, but also ordered him deported.

In another case, Saryagash Specialised Administrative Court on 3 August 2018 not only fined a Muslim, Nurzhan Turapov, 70 MFIs for sharing faith with a taxi driver, but also ordered one Muslim book confiscated.

Punishing violating mosques' internal rules

In 2018, at least 21 administrative cases were launched to punish such Muslims for praying in mosques not in accordance with the Muslim Board rules. The punishments were for saying the word "Amen" aloud during prayers.

This represents a slight reduction in the number of cases in 2018, compared to 2017.

The Administrative Code punishments began to be used in early 2017 to target Muslims who pray in mosques in ways that the state-backed Muslim Board regards as unacceptable. The punishments began to be used after the Muslim Board imposed behaviour regulations in all mosques in November 2016. (http://www.forum18.org/archive.php?article_id=2267)

The state has given the Hanafi Sunni Muslim Board a monopoly on Islam in Kazakhstan, even though this monopoly is not enshrined in any law. This makes Muslim exercise of freedom of religion and belief even more restricted than the freedom of religion and belief of those who follow other beliefs. (http://www.forum18.org/archive.php?article_id=2409)

Of these 21 known cases in 2018, all but one ended with fines of 35 to 200 MFIs (three weeks' to four months' average wages for those in formal work). The one higher fine of 200 MFIs – Kairat Makhanov, punished on 1 October 2018 in Taraz Specialised Administrative Court – was handed down as he had already been fined 50 MFIs by the same court for the same "offence" on 15 August 2018.

In one case, Taraz Specialised Administrative Court on 11 October 2018 found Rinat Zibirov guilty, but released him from any punishment because of the "insignificance" of the "offence".

Punishing religious teaching of children

In 2018, at least 3 administrative cases were launched to punish individuals for conducting religious teaching. All the known cases were of Muslims.

On 6 August 2018, Kordai District Court sentenced Aidir Kharsanov to a 150 MFI total fine and a ban on activity, and Zarina Manu to a 50 MFI total fine and a ban on activity. The two were punished for teaching the Koran to 48 school-age girls in the school holidays. (http://www.forum18.org/archive.php?article_id=2407)

In the 3rd case, Dastan Abdrakhmanov was fined 35 MFIs for teaching religion to school-age children.

Cases were brought 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.

Punishing involvement of children

In 2018, at least 1 administrative cases was launched to punish a religious leader for allowing children or grandchildren of community members to be present or to undergo religious rituals without first ensuring that another parent does not object.

This 1 case in 2018 compares to 9 known cases in 2017.

In 2018, the one known case was brought against Baptist Union Pastor Vyacheslav Poptsov, fined 50 MFIs at Aktobe Specialised Administrative Court on 7 February 2018 because children were present at a church event.

A court in Aktobe Region closed a similar case against Pastor Poptsov in 2017 because it had not been completed in the required two months.

The 2018 case was brought under Administrative Code Article 490, Part 7. This punishes leaders of registered religious organisations who fail to abide by the 2011 Religion Law's requirement "to take measures not to allow the involvement and/or participation of under age children in the activity of the religious association when one of the parents or their other legal representatives objects". Punishment is a fine of 50 MFIs plus deportation from the country.

Punishing "inadequate" security measures

In 2018, at least 2 administrative cases were launched to punish religious communities for not having enough security measures in their places of worship.

Cases were brought under Administrative Code Article 462, Part 3. This punishes "Non-fulfilment or inadequate fulfilment of legal orders" with a fine for organisations of 100 MFIs and a possible ban on all or some activity.

On 22 February 2018, Shymkent Specialised Administrative Court found the Pentecostal New Life Church guilty as it had three not five fire detectors in a storage building. It fined the Church 100 MFIs and handed down a 1-month ban. However, the punishment was cancelled on appeal and a verbal warning issued. (http://www.forum18.org/archive.php?article_id=2360)

On 15 March 2018, Kostanai Specialised Administrative Court found the Pentecostal Harvest Church guilty because a technical fault on state-required video surveillance system did not store recordings for the required 30-day minimum. It fined the Church 70 MFIs.

Punishing failing to pay earlier fines

In 2018, at least 2 administrative cases were launched to punish individuals for failing to pay earlier fines imposed to punish them for exercising freedom of religion or belief. Both cases were launched against Council of Churches Baptists, who have adopted a policy of civil disobedience, refusing to pay fines imposed to punish them for exercising their human rights.

Both cases were brought under Administrative Code Article 669. This punishes "Failure to fulfil a court decision" with a fine for individuals of 5 MFIs (10 MFIs until early 2018) or up to five days' jail.

Both of the Baptists - Vitaly Yashchenko (who received a 5-day jail term) and Dmitry Isayev (who received a 1-day jail term) - were

punished by the same court (Bulandy District Court) on the same day (9 July 2018). (END)

Full reports on freedom of thought, conscience and belief in Kazakhstan
(<http://www.forum18.org/archive.php?query=&religion=all&country=29>)

For more background, see Forum 18's Kazakhstan religious freedom survey (http://www.forum18.org/archive.php?article_id=2409)

Forum 18's compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments
(http://www.forum18.org/archive.php?article_id=1351)

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