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KAZAKHSTAN: More court-ordered religious literature destruction

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

In 2020, courts ordered destroyed one Muslim and 196 Christian publications. The owners were each fined one month's average wage. Punishing an individual for importing one religious book ("Selected Hadiths") for personal use is a "clear violation" by the court, a legal specialist noted. "Normally [police] destroy books by putting them in a stove, but I can't say if they've already destroyed the book," the judge told Forum 18.

In the cases of three individuals so far in 2020, courts have not only fined them about one month's average wage for bringing a religious book into Kazakhstan or offering religious literature to others, but ordered their literature destroyed. The police were tasked with destroying the books.

In February a court in the southern Zhambyl Region ordered destroyed a hadith collection seized from a Kyrgyz citizen who had crossed the border into Kazakhstan. The judge ordered the one Muslim book destroyed even though the Religion Law allows individuals to bring into the country one copy of any one religious book for personal use (see below).

Punishing an individual for importing one religious book for personal use "is a clear violation on the part of the court", a legal specialist told Forum 18 (see below).

The judge declined to say why he had punished the individual. He said that the police were tasked with destroying the hadith collection. "Normally they destroy books by putting them in a stove, but I can't say if they've already destroyed the book," he told Forum 18 (see below).

President Kassym-Zhomart Tokayev noted in August 2019 that when posted abroad in the late Soviet period, he had smuggled into the Soviet Union a copy of the Koran and recordings of Koranic suras at the request of his father when it was illegal (see below).

Police in a village in the north-eastern Pavlodar Region detained and seized Christian literature from two Baptists who were offering it for free on the streets. In early March, the local court fined them each one month's average wages and ordered the 196 items of Christian literature destroyed (see below).

Asked if he was comfortable taking decisions to order religious literature destroyed, one of the judges told Forum 18: "When we're enacting the law we don't distinguish on the basis of individuals' religious, racial or ethnic affiliation" (see below).

"Barbarism"

Courts often order seized religious literature to be destroyed. Forum 18 found six cases in 2019 where courts ordered Islamic and Christian literature to be destroyed. The Justice Ministry in another previous case stated that books are most likely to be burned (http://www.forum18.org/archive.php?article_id=2409) (see below).

In 2015, Yevgeny Zhovtis of the Kazakhstan International Bureau for Human Rights and the Rule of Law condemned such court-ordered book destruction as "barbarism". (http://www.forum18.org/archive.php?article_id=2130)

These six 2019 literature destruction orders came among the 168 known Administrative Code prosecutions to punish the exercise of freedom of religion or belief. Of these, 145 ended with convictions, with almost all being fined (http://www.forum18.org/archive.php?article_id=2532). Individuals, religious communities and a company were punished for worship meetings, offering religious literature and items (including online), sharing or teaching faith, posting religious material online, praying in mosques, inviting a child to meetings, or inadequate security measures.

Another five individuals are known to have been fined between January and March 2020 for offering religious literature for sale online. Another two were fined for offering Korans for sale in shops. Another was fined for lending two religious books to another individual, while yet another was fined for posting Islamic materials on the Telegram messaging app (see below).

Forum 18 was unable to reach the head of the Information and Social Development Ministry's Religious Affairs Committee, Yerzhan Nukezhanov, on 31 March or 1 April to find out why individuals are punished for distributing religious literature without state permission and why courts sometimes order such literature to be destroyed. His telephone went unanswered.

State religious censorship

Kazakhstan imposes tight restrictions on religious literature and other materials (http://www.forum18.org/archive.php?article_id=2409). Religious literature is subject to compulsory pre-publication censorship and – together with icons, pictures and jewellery with religious inscriptions - can be distributed only in state-approved venues. Sharing faith with others without state permission is also banned. The regime also imposes tight restrictions on all meetings for worship. State permission is needed for a community to be allowed to meet and the location of any meeting also needs state permission.

In six cases in 2019, courts ordered seized religious literature to be destroyed (http://www.forum18.org/archive.php?article_id=2532): 29 Islamic books seized from a commercial seller in Kyzylorda; 18 Islamic books seized from another commercial seller also in Kyzylorda; 2 Islamic books a visitor from Kyrgyzstan had in her luggage; 4 Islamic leaflets seized from a Muslim in Aktobe; one Kyrgyz-language Islamic book seized from a visitor from Kyrgyzstan; and 2 Christian booklets (one of them co-written by a Russian Orthodox priest) seized from a Protestant in Aktobe. The individuals were each fined three weeks' or one month's average wage for those in formal work.

President Kassym-Zhomart Tokayev told the journalist Mukhamedzhan Tazabek, in an interview Tazabek posted on his Instagram account on 18 August 2019, that when he had been posted abroad during the late Soviet period, he had smuggled into the Soviet Union a copy of the Koran and recordings of Koranic suras at the request of his father.

Censorship to continue in "Religious Freedom Road-Map"

The regime has produce a programme of extra measures under a so-called "Religious Freedom Road-Map", signed off by the Information and Social Development Minister Dauren Abayev on 29 January. This includes a proposal to introduce warnings as well as lower fines under the Administrative Code to punish exercising freedom of religion or belief. It describes such a proposal – to be considered in 2020 - as "humanisation" of the law (see below).

The programme of extra measures similarly includes a proposal – also to be considered in 2020 – to remove the requirement for religious objects to successfully pass a state "religious studies expert analysis" before registered religious organisations can distribute them (see below).

Other proposals in the programme of extra measures cover the way the state operates the censorship system, but no proposal is included to abolish state censorship of or restrictions on distribution of literature about religion (see below).

Fine, seized Muslim book ordered destroyed

On 20 December 2019, Kyrgyz citizen and resident Bakhtiyar Saitkomolov crossed the border from Kyrgyzstan into Kazakhstan's southern Zhambyl Region. Border guards of the Kazakh National Security Committee (NSC) found in his car one copy of the Kyrgyz-language book "Selected Hadiths" by Muhammad Zakariya Kandhlawi and others, according to the subsequent court decision seen by Forum 18. The book is a key text for adherents of the Tabligh Jamaat Muslim missionary movement.

Border guards seized the book, claiming it was illegal to import religious literature into Kazakhstan. The acting head of the Aysha Bibi check point, T. Seraliyev, prepared a record of an offence against Saitkomolov under Administrative Code Article 490, Part 1, Point 3.

Administrative Code Article 490, Part 1, Point 3 (http://www.forum18.org/archive.php?article_id=2409) 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 Monthly Financial Indicators (MFIs), about one month's average wage for those in formal work.

Judge Doszhan Tolenbekov of Zhambyl District Court heard the case on 6 February 2020 in Saitkomolov's absence. He found him guilty and fined him the prescribed 50 MFIs, 126,250 Tenge. The Judge also ordered that the book seized from him should be destroyed.

As Saitkomolov did not have state permission to distribute religious literature, the Judge was unable to impose a temporary or permanent ban on such activity, according to the decision seen by Forum 18.

Illegal decision?

Judge Tolenbekov found Saitkomolov guilty despite outlining in his court decision the guarantee enshrined in Article 20, Part 2 of

Kazakhstan's Constitution of free access to information provided it is not banned in law. Judge Tolenbekov also cited Article 9, Part 3 of the Religion Law, which allows the import of one copy of any one religious work into Kazakhstan provided it is for personal use.

Judge Tolenbekov's decision makes no mention that Saitkomolov intended to give the seized book "Selected Hadiths" to anyone else, so it appears he had it for personal use.

The Judge noted that Saitkomolov had not submitted the book for a state "expert analysis" before importing it. However, Article 9, Part 3 of the Religion Law appears to require this only when registered religious organisations import books or other materials about religion.

Punishing an individual for importing one religious book for personal use "is a clear violation on the part of the court", a legal specialist told Forum 18 from Kazakhstan on 31 March.

Asked why he punished Saitkomolov in apparent defiance of the law, Judge Tolenbekov responded that the defendant did not appear in court. "He agreed with the decision – he wrote to say so," the Judge told Forum 18 from the court on 1 April. He repeatedly refused to answer why he punished Saitkomolov for having one religious book for personal use and why he ordered it destroyed.

Judge Tolenbekov said that the police were tasked with destroying the hadith collection. "Normally they destroy books by putting them in a stove, but I can't say if they've already destroyed the book," he told Forum 18. The Justice Ministry in another previous case stated that books are most likely to be burned (http://www.forum18.org/archive.php?article_id=2409).

Saitkomolov did not appeal against the fine and destruction order, Judge Tolenbekov added. "But nor did he pay the fine as he is in Kyrgyzstan and there is no inter-state agreement to recover the money."

Court orders destroyed 196 confiscated Christian publications

On 29 February, four Council of Churches Baptists travelled to the village of Akkuly in the north-eastern Pavlodar Region close to the border with Russia. There they offered Christian literature to villagers on the street.

Police detained two of the Baptists, Oleg Stepanenko and Nadezhda Smirnova, and took them to a police station, local Baptists told Forum 18. Officers demanded that the two write statements. The two said that they had been distributing Christian literature, citing their Constitutional right to do so.

Officers confiscated their Christian literature, which was in Russian and Kazakh: 3 copies of "Jesus our Destiny", 10 copies of "The Most Important Truths", 15 copies of "All Children Need to Know This", 98 copies of the newspaper "Do You Believe?" and 70 Christian leaflets.

Officers drew up cases against both Stepanenko and Smirnova under Administrative Code Article 490, Part 1, Point 3 ("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").

In separate hearings on 2 March, Akkuly District Court fined Stepanenko and Smirnova 50 MFIs each (one month's average wage). In Smirnova's case, Judge Bibigul Sabitdenova banned her from unspecified activity for three months.

Judge Sabitdenova ordered 196 items of seized Christian literature to be destroyed, according to the decision seen by Forum 18.

In Stepanenko's case, Judge Kairbulat Karimov also ordered 196 items of seized Christian literature to be destroyed, according to the decision seen by Forum 18.

Asked why he had fined Stepanenko for offering religious literature to others on the street, Judge Karimov told Forum 18 from Akkuly on 1 April: "They committed an administrative violation – that is the procedure here. I was doing my job."

Asked why he had ordered the seized literature to be destroyed, Judge Karimov responded: "The literature they sought to distribute was destroyed because it was the instrument of their violation." Asked if it was comfortable taking decisions to order religious literature destroyed, he responded: "When we're enacting the law we don't distinguish on the basis of individuals' religious, racial or ethnic affiliation."

Judge Karimov told Forum 18 that the police were in charge of fulfilling the destruction order he had included in the decision.

Both Stepanenko and Smirnova appealed against the fines and literature destruction orders. Pavlodar Regional Court is due to hear their appeals on the morning of 2 April, court officials told Forum 18.

Continuing fines for offering religious literature for sale online

Courts continue to fine individuals for offering religious literature for sale online. Forum 18 found five such cases in the first three months of 2020, with fines of three weeks' or one month's average wages for those in formal work. In all cases, individuals had offered such literature for sale on the online shopping site Olx.kz. All five told the court that they did not know that offering religious books and materials for sale online is illegal, according to the decisions seen by Forum 18.

All five were punished under Administrative Code Article 490, Part 1, Point 3 ("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 known 2020 cases:

1) Yelena Yaragina: Pavlodar Specialised Administrative Court fined her 35 MFIs on 6 February for offering a Children's Bible for sale online (a religious studies "expert analysis" had determined that the Children's Bible was religious).

2) Vyacheslav Safronov: Oskemen Specialised Administrative Court fined him 35 MFIs on 27 February for offering 3 New Testaments and an Orthodox prayer book for sale online (a religious studies "expert analysis" had determined that the books were religious).

3) Natalya Nurzhanova: Pavlodar Specialised Administrative Court fined her 35 MFIs on 11 March for offering 2 copies of the Bible for sale online (a religious studies "expert analysis" had determined that the Bibles were religious).

4) Anastasiya Litvinova: Petropavl Specialised Administrative Court fined her 50 MFIs on 11 March for offering a copy of the Bible for sale online (a religious studies "expert analysis" had determined that the Bible was religious), plus 3-month ban on activity, plus Bible withheld by police.

5) Altynai Kulmukhanbetova: Atyrau Specialised Administrative Court fined her 35 MFIs on 20 March for offering a copy of the Koran for sale online, plus 3-month ban on activity.

Forum 18 found prosecutions of 24 individuals for offering religious items for sale online in 2019, 18 in 2018, and 10 in 2017. (http://www.forum18.org/archive.php?article_id=2532)

Fines for lending, selling and posting online religious literature

In addition, Kostanai Specialised Administrative Court fined Birzhan Arynbayev 35 MFIs (three weeks' average wages) on 17 February 2020 for lending two books on Islam to an individual who had repeatedly asked to borrow them. Arynbayev was similarly punished under Administrative Code Article 490, Part 1, Point 3, according to the decision seen by Forum 18. Kostanai Regional Court rejected Arynbayev's appeal on 16 March.

Also punished under the same Administrative Code Article 490, Part 1, Point 3 was Sergei Snitsarenko. Kostanai Specialised Administrative Court fined him 50 MFIs (one month's average wage) on 4 March for posting Islamic talks and texts on the Telegram messaging app.

On 18 March under the same Article, Taraz Specialised Administrative Court fined Moldir Umiraliyeva 50 MFIs (one month's average wage) for offering five copies of the Koran for sale in her shop. The following day, Shieli District Court in Kyzylorda Region fined Nagashbek Durmanov 35 MFIs for offering three Kazakh translations of the Koran for sale in a shop, and ordered the shop closed for three months.

No plans to abolish religious censorship

The regime has produce a programme of extra measures under a so-called "Religious Freedom Road-Map", signed off by the Information and Social Development Minister Dauren Abayev on 29 January. This includes a proposal to introduce warnings as well as lower fines under Administrative Code Article 490 to punish exercising freedom of religion or belief.

It describes such a proposal – to be considered in 2020 - as "humanisation" of the law, according to the programme seen by Forum 18.

The programme of extra measures also includes a proposal – also to be considered in 2020 – to remove the requirement for religious objects to successfully pass a state "religious studies expert analysis" before registered religious organisations can distribute them.

Other proposals in the programme of extra measures cover the way the regime operates its censorship system, such as to hold a seminar on how to "improve" the system or the way "experts" are chosen. However, the programme includes no proposal to abolish

state censorship of or restrictions on distribution of literature about religion. (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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