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KAZAKHSTAN: Inviting to religious worship a new offence

By Mushfig Bayram, Forum 18

In what appears to be a new development under Kazakhstan's harsh controls on religious activity, Jehovah's Witness Zarina Burova was fined in June for illegal "missionary activity" after inviting friends by text message to attend a religious meeting. In a July case, four Jehovah's Witnesses were similarly fined after two or three attendees at a meeting raided by police were guests, according to the court verdicts seen by Forum 18 News Service. The five were among 13 Jehovah's Witnesses fined for illegal "missionary activity" between May and July under Administrative Code Article 375, Part 3. Judge Kuralai Tobelbasova dismissed complaints by one of those she fined that his rights had been violated, arguing that the requirement to have personal state registration as a missionary before sharing his faith "cannot be evaluated as an infringement of religious freedom". On 29 August Jehovah's Witnesses filed a further nine complaints to the United Nations (UN) Human Rights Committee in Geneva on behalf of 15 individuals punished for "missionary activity".

In the first such case known to Forum 18 News Service, an individual has been punished under Kazakhstan's harsh controls on religious activity simply for inviting friends to attend a registered religious meeting. Zarina Burova was fined for illegal "missionary activity" after inviting friends by text message. In another recent case, the presence of several guests at a religious meeting of a state-registered community was enough to cause four fines for illegal "missionary activity".

Among an upsurge of raids and fines during the summer months on members of religious communities, regardless of whether or not these are officially registered, those sharing their faith with strangers were also punished for "missionary activity".

Thirteen Jehovah's Witnesses, all members of locally registered communities, were fined for alleged "missionary activity without registration" between May and July, Jehovah's Witnesses told Forum 18 from Almaty on 26 August. They said they expect more fines since "prosecutions [of Jehovah's Witnesses] continue throughout Kazakhstan".

Each of the 13 Jehovah's Witnesses was fined 100 Minimum Financial Indicators (MFIs) or 173,100 Tenge (6,850 Norwegian Kroner, 860 Euros or 1,130 US Dollars). This is the maximum fine under Code of Administrative Offences Article 375, Part 3 and represents just over nine months' official minimum monthly wage.

Fined nine months' minimum wage

Inviting strangers to religious meetings has long attracted punishment. Two Muslim brothers Rafael and Kamil Bayshev - both in their twenties - were punished after inviting two passers-by outside the Central Mosque in Oral (Uralsk) in West Kazakhstan Region to attend night prayers on 13 June 2012. On 12 September 2012, Judge Roza Sariyeva of Oral Specialised Administrative Court found them guilty of conducting "missionary activity" under Administrative Code Article 375, Part 3, according to the verdicts seen by Forum 18. She fined each of them 100 MFIs or 161,800 Tenge.

The Bayshev brothers appealed to the Regional Court and to the General Prosecutor's Office. As they were waiting for these to be heard, and insisting they were not guilty of any offence, they did not pay the fines. On 4 March, the same Judge fined each of them one MFI for failing to fulfil a court order (Administrative Code Article 524), according to the decisions seen by Forum 18. Their appeals against these extra fines were rejected on 10 April.

Some of the thirteen Jehovah's Witnesses "were penalised for talking to people about God and the Bible, and sharing their personal religious beliefs", Jehovah's Witnesses complained to Forum 18. "Why do these believers need to be registered specifically as missionaries" to be able to share their views on religion with others, they asked. "It is our Constitutional right and also protected by Article 18 of International Covenant on Civil and Political Rights [ICCPR, signed by Kazakhstan]."

However, four of the thirteen punished Jehovah's Witnesses were fined for meeting together with other members of their registered community to read the Bible and pray. But as some non-members attended the meeting, the authorities qualified this as "illegal" missionary activity.

Also targeted under Article 375, Part 3 are members of the Tabligh Jamaat group, a Muslim missionary movement banned

throughout Kazakhstan by a court in the capital Astana in February.

Frequently targeted for conducting unapproved religious meetings or offering religious literature on the streets under Administrative Code Article 374-1 and other provisions of Article 375 are Council of Churches Baptists, who reject state demands that they register before conducting any religious activity, and other Protestant communities (see F18News 22 August 2013 http://www.forum18.org/archive.php?article_id=1868).

UN applications

On 29 August Jehovah's Witnesses filed nine separate complaints to the United Nations (UN) Human Rights Committee in Geneva on behalf of 15 individuals punished under Administrative Code Article 375, Part 3. "Three of the applications we filed are for raids on meetings, which officials claimed constituted 'missionary activity'," Jehovah's Witnesses told Forum 18. "The remaining six are for arrests for 'missionary activity' simply for peacefully speaking about religious beliefs with interested persons."

The applicants argue that the punishment for sharing their faith violated their rights to freedom of religion or belief, freedom of expression, peaceful assembly and association as set out in Articles 18, 19, 21 and 22 of the ICCPR.

These applications bring to 13 the number of separate applications Jehovah's Witnesses have filed with the UN Human Rights Committee, relating to 21 individuals in all. The first four applications were filed on 29 April.

"Further arrests have taken place and these cases will also be filed with the Human Rights Committee once the decisions enter into legal force," Jehovah's Witnesses told Forum 18.

Article 375, Part 3

"Missionary activity", whether by local citizens or foreigners, requires personal registration as a "missionary" under the harsh 2011 Religion Law and requires the individual to be appointed as such by a registered religious community (see F18News 23 September 2011 http://www.forum18.org/archive.php?article_id=1617).

Anyone carrying out "missionary activity" without registration, as well as use by missionaries of "religious literature, religious informational materials and religious items without approval of religious expertise", is subject to punishment under Article 375, Part 3 of the current Code of Administrative Offences. Punishments are a fine of up to 100 MFIs (currently 173,100 Tenge), while foreigners and stateless persons are also subject to deportation.

The same penalties would be applied under the new Article 481, Part 3 of the proposed new Code of Administrative Offences prepared by the Justice Ministry and due to reach parliament in autumn 2013. The latest draft text – dated 13 June – was made public on the Justice Ministry website on 3 July.

However, a new criminal offence of "missionary activity" without state permission is due to be introduced in the new Criminal Code, also due in parliament in autumn 2013. Under the latest available draft text, the maximum penalty would be four months' imprisonment (see F18News 18 March 2013 http://www.forum18.org/archive.php?article_id=1814).

Thirteen fines

The 13 fined Jehovah's Witnesses, according to the court decisions seen by Forum 18, are:

- in northern Akmola Region, Sergey Chuvashkin, by Esil District Court on 13 May. The Regional Court upheld his fine on 7 June. Andrey Korolev and Andrei Rakin by Kokshetau City Specialised Administrative Court on 21 June. The Regional Court upheld their fines on 22 July.

- in East Kazakhstan Region, Arman Abdullinov, Zhangazy Biyimbetov and Marat Seleubayev by Oskemen City Specialised Administrative Court between 20 and 21 May. The Regional Court upheld all three fines on 17 June.

- in western Atyrau Region, Zarina Burova by Atyrau City Specialised Administrative Court on 6 June. The Regional Court upheld the fine on 25 June.

- in northern Kostanai [Qostanay] Region, Eduard Malykhin, Irina Malykhina, Andrei Moiseyenko and Ivan Vengelevsky between 2 and 5 July by Karabalyk District Court. The Regional Court upheld Malykhin's fine on 1 August and Malykhina's on 2 August. The Regional Court upheld Moiseyenko and Vengelevsky's fines on 15 August.

- in central Karaganda [Qaraghandy] Region, Lyubov Artamonova and Anissa Tsimfer on 17 July by Karaganda City Inter-District Specialised Administrative Court. The Regional Court upheld their fines on 7 August.

Inviting people to meetings an offence?

Judge Askhat Saudabayev of Atyrau City Specialised Administrative Court fined Burova on 6 June. As indicated in the decision, the case against her was opened on the complaint on 2 April of Ali Seydov, Director of the Kazakh Society of the Deaf. Seydov asked Atyrau Police Department to "identify and punish those who propagate the ideas of Jehovah's Witnesses among members of the Society".

Atyrau's Terrorism Police "established as a result of operational search actions that since June 2011 Burova has carried out missionary activity among members of the Kazakh Society of the Deaf by propagating the ideas of Jehovah's Witnesses".

During the hearing Burova did "not admit her guilt, and said that she is being incriminated for inviting her friends, whom she has known for a long time, to a worship meeting in a private conversation".

Burova also told the Court that the Jehovah's Witnesses organisation, of which she is a member, had "not authorised her to act on behalf of the organisation but that she acted on her own behalf".

A. Uzakbayeva and E. Tukeshov, two witnesses in the case, received sms messages on their mobile phones on 26 March inviting them to a Jehovah's Witness meeting to "commemorate Jesus' death". The two, as well as another witness V. Karamyshev, told the Court that they have known Burova since 2012 and they have had occasional conversations with her on religious themes.

Witness L. Lutshikova told the Court that she had known Burova and her mother since 2011. They had invited her to their religious meetings and the last time she attended was on 20 April. As indicated in the Court decision, all the witnesses in the case are from the Society of the Deaf.

Judge Saudabayev insisted in the court decision that punishment was necessary as "carrying out missionary activity without registration is banned. As seen from the case files, the local Jehovah's Witnesses community did not authorise Burova to act in the name of the organisation. However, Burova acted on her own behalf and spread her religious beliefs among the members of the Deaf Society."

Judge defends fine

Defending the fine on 29 August, Judge Saudabayev told Forum 18 that "Burova's missionary activity was investigated by the Prosecutor's office in conjunction with the KNB [National Security Committee secret police]." He pointed out that "even the Regional Court" upheld the fine. Asked why the KNB secret police follow a peaceful religious believer, the Judge refused to comment.

Asked why religious believers cannot even invite people to their registered meetings, Judge Saudabayev responded: "I already gave my decision, if she is not happy she can appeal further." Asked what kind of punishment will be given to Burova if she is again found inviting people to their meetings, he replied: "It will depend on what charges the Prosecutor's Office will bring."

"All religious activity outside building of registered community banned"

Nurali Kayrenbayev, Chief Specialist of Atyrau Religious Affairs Department, told Forum 18 on 29 August that Burova was punished because "all religious activity outside the building of a registered community is banned". He based his argument on the Religion Law's Article 7, Part 2. Told that this Article speaks of religious rites, ceremonies or other events which involve the community, and that Burova did not carry out any such activity but only gave invitations to people, and asked why she cannot do this, Kayrenbayev did not answer. He instead referred Forum 18 again to the same Article.

Told that most religious communities propagate their faith and inviting people is a fundamental element for this, and asked whether he does not think not allowing believers to do so is unwarranted, Kayrenbayev insisted: "This is the Law, and we need to obey it."

Ruslan Abirov, Deputy Prosecutor of Atyrau City, claimed to Forum 18 on 2 September that Burova was "not followed by Police or the KNB, but certain individuals wrote statements that she propagated the Jehovah's Witness religion to them." Asked why religious believers, who are members of an officially registered organisation, need to have an extra permission from the state to share their beliefs with others, Abirov replied: "The Religion Law demands that. If Burova receives that permission then she will have no problem in future."

Seydov of the Society of the Deaf defended his complaint against Burova that led to her punishment. "I do not know this Burova personally but I know their religion is an abomination, and their members have infected my people from the Society," he told Forum 18 from Atyrau on 2 September. "I complained to the authorities to take measures against their propagation. We have Islam as our accepted religion, and they must not propagate other religions to Kazakhs."

Seydov said that he saw Burova at the Court for the first time. Forum 18 tried to find out whether the complaint had been his

initiative or not. However, he refused to explain clearly and put the phone down.

Why no guests allowed?

Judge Amirgali Dosmukhambetov of Kostanai Regional Court on 1 August upheld the fine given to Malykhin by Judge Gulmira Tuksaitova of Karabalyk District Court on 5 July. In his decision, Judge Dosmukhambetov maintained that Malykhin's arguments that the "authorities attempted to limit his Constitutional right of holding a religious worship in his private home are correct", but that the charges brought against him are "not for holding worship in a private home but missionary activity without registration."

Karabalyk Court officials told Forum 18 on 2 September that Judge Tuksaitova is on holiday, and referred Forum 18 to Judge Batyrbek Kudabayev, Chair of the Court.

Judge Kudabayev, echoing Judge Dosmukhambetov, told Forum 18 that Jehovah's Witnesses were "not fined for holding worship in a private home but unauthorised missionary activity." Asked why non-members of Jehovah's Witnesses, who are an officially registered community, cannot visit their meetings, and what the point of official registration is if communities cannot invite new people to attend, Judge Kudabayev declined to comment. "I am in the middle of a consultation. I have no time to discuss this."

Asked whether this case is a precedent for Kazakhstan and whether the authorities will from now on be able to interpret the attendance by guests at registered religious communities as "missionary activity", Judge Kudabayev refused to say. Declining to talk further, he referred Forum 18 to the Regional Court.

Kostanai Regional Court officials said on 2 September that Judge Dosmukhambetov is on holiday and referred Forum 18 to Gaukhar Yeremberdiyeva, Secretary of the Court on Administrative cases. Asked why a registered community cannot invite new people to their meetings, Yeremberdiyeva refused to say. "Karabalyk Court gave its decision, and the Regional Court upheld it," she told Forum 18. "All the argumentation is in the decisions."

Fines followed raid

The fines followed a police raid on 6 April of a worship meeting in the Malykhins' private home in Karabalyk, attended by about 30 Jehovah's Witnesses and two or three guests. Raiding the meeting were more than a dozen police officers, including from the Anti-Terrorism Police, accompanied by Kostanai Religious Affairs Department officials Arman Mustafin and Yuliya Denisenko. Even Malykhin's elderly mother – confined to her bed after a stroke – was questioned.

The Malykhins and two others present were summoned to the police, forced to write statements and were photographed and fingerprinted (see F18News 22 April 2013 http://www.forum18.org/archive.php?article_id=1827).

Denisenko – formerly head of a state-backed "anti-sect" centre in Kostanai – told the local media in the days after the raid that an unspecified number of the more than 900 publications seized from the Malykhins' home were found on "expert analysis" to be "extremist".

Lt-Colonel Nikolai Narkhov, Chief of Karabalyk Police, again refused to say why his officers raided a peaceful worship meeting of the registered Jehovah's Witness community. "We are not the one to fine but the Court," he told Forum 18 on 2 September. He refused to reveal who had instructed the police to raid the community and put the phone down.

"Banned from giving comments"

Judge Kuralai Tobelbasova of Oskemen City Specialised Administrative Court, who fined Abdullinov and Seleubayev, refused to comment on her decision to Forum 18 on 29 August. "We judges are banned from giving comments to journalists over the phone." She asked Forum 18 to send its questions in writing.

Manarbek Mukhamedjanov, Director of East Kazakhstan Religious Affairs Department, refused to comment on the case on 29 August.

Oskemen City's Irtysh District Police on 22 April opened an administrative case against Abdullinov and Seleubayev after they were stopped by a police officer on 20 February while they were going from door to door in a residential building. "When the suspects were stopped the police officers established that Abdullinov and Seleubayev were sharing their religious beliefs with the residents, and they had religious literature," the court decision notes. Their religious literature was confiscated and the Religious Affairs Department brought the administrative case against them.

"Constitution gives right to share personal convictions with others"

Abdullinov told the Court that Kazakhstan's "Constitution gives each person the right to share their personal beliefs with others," and that he did not "act as a missionary but only shared his own beliefs with the residents."

However, Judge Tobelbasova pointed out that "missionary activity" requires state registration of the individual. "Abdullinov does not have such registration." The Judge added that he "used religious literature, for which he did not obtain positive religious expertise." She dismissed his complaints that his rights had been violated, arguing that the requirement to have registration "cannot be evaluated as an infringement of religious freedom". (END)

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

For more background, see Forum 18's Kazakhstan religious freedom survey at http://www.forum18.org/Archive.php?article_id=1352.

Reports on freedom of thought, conscience and belief in Kazakhstan can be found at <http://www.forum18.org/Archive.php?query=&religion=all&country=29>.

A compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments can be found at http://www.forum18.org/Archive.php?article_id=1351.

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

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY