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KAZAKHSTAN: New controls on religious meetings: delayed, abandoned or imminent?

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

The Information and Social Development Ministry is proposing various amendments to the Religion Law and the Administrative Code. One Religion Law amendment would impose new bureaucratic procedures on state-registered religious communities wanting to hold religious meetings away from state-registered places of worship. This would affect any religious community which does not own its own building, as well as communities that want to hold a pilgrimage or other event away from their place of worship. The Prime Minister's Office ordered the Religion Law amendments be removed from the proposed Law on Social Control, but the provision remains in draft amendments from July, seen by Forum 18.

Kazakhstan's Information and Social Development Ministry – whose role includes restricting freedom of religion or belief - has prepared changes to the Religion Law to make holding religious meetings away from state-registered places of worship more difficult. Any religious community which does not own its own building, as well as communities that want to hold a pilgrimage or other event away from their own place of worship, would be subject to the new bureaucratic procedures, were these amendments to be sent to Parliament and adopted.

The changes were initially included in a proposed new Law on Social Control made public in January. The Prime Minister's Office sent the draft Law for revision on 29 June, apparently ordering that the provisions amending the Religion Law be removed, two sources told Forum 18 separately. Yet the provision remains in a July draft seen by Forum 18 (see below).

Forum 18 has been unable to find out whether the Religion Law amendments have indeed been removed from that draft Law and whether the regime intends to continue with them and, if so, in which draft Law they are now included (see below).

The Religion Law changes would require registered religious communities to seek permission for such meetings at least ten days in advance and provide exhaustive detail about the proposed event, according to the July version of the draft amendments. Officials are given many ways to refuse such requests (see below).

The draft amendments describe seeking permission for such religious meetings from local administrations as "notification". But as officials must give permission before such meetings are allowed, this represents a requirement for advance state permission to exercise human rights, one human rights defender told Forum 18 (see below).

The draft amendments would also widen the scope of religious material subject to prior compulsory state censorship. They include an addition to the Religion Law to define "informational material of religious content" as "printed, electronic and other information of religious character on any device, including textual links" (see below).

The draft Law on Social Control – which was prepared by the Information and Social Development Ministry and first published for public consultation in January - contains a wide range of provisions unrelated to controlling religious activity.

According to the government's 2021 Legislative Work Plan, the draft Law on Social Control is being overseen by Information and Social Development Deputy Minister Bolat Tlepov. His assistant told Forum 18 on 19 August that he was away. Telephones of the leaders of the Ministry's Religious Affairs Committee (https://www.forum18.org/archive.php?article_id=2409) - including its head, Yerzhan Nukezhanov - went unanswered (see below).

A Justice Ministry official told Forum 18 that Beimbet Manetov, head of the Religious Affairs Committee's Department of Law Enforcement Practice in the Field of Religious Activities, is leading the work on the Religion Law amendments. His phone went unanswered each time Forum 18 called on 20 August.

At the same time, the Information and Social Development Ministry has separately prepared draft amendments to the Religion Law. According to the July draft seen by Forum 18, these would remove the requirement for religious objects (such as icons, prayer mats, Koran stands, religious pictures or jewellery) to need state approval before they can be sold or distributed. Many people have been

fined for offering such items for sale without state permission (see below).

The July draft of the Religion Law amendments would also remove the requirement for religious literature published by state-registered religious organisations to undergo state censorship before it could be published, distributed or imported. However, anyone else producing written religious materials would have to submit them for prior compulsory state censorship (see below).

These two Religion Law changes would represent "a slight liberalisation", one legal expert told Forum 18 from Almaty (see below).

An official of the Expertise (Censorship) Department of the Religious Affairs Department refused to explain why the regime imposes prior compulsory state censorship of religious materials (see below).

And in another set of amendments, fines for some "offences" for violating the Religion Law under Article 490 of the Administrative Code would be halved and the possibility of a warning on the first occasion would be introduced. The Information and Social Development Ministry also prepared these amendments, a Justice Ministry official told Forum 18. "These amendments haven't been discussed and approved yet," the official added (see below).

Other ministries and then the government as a whole would have to approve any draft Laws before they are sent to Parliament for adoption. Parliament is due to resume its activity in September after the summer break.

Kazakhstan is standing for election to the United Nations Human Rights Council for 2022-4, with the election due in October 2021. As part of its Voluntary Pledges and Commitments (A/76/86 (<https://undocs.org/A/76/86>)), submitted to the UN General Assembly on 14 June, it pledged that if elected, it would "actively engage in the work of the Council to universalize and effectively implement all civil and political, as well as economic, social and cultural rights". Among rights it claimed it would put "particular emphasis" on was freedom of religion and belief.

Tight controls on exercising freedom of religion or belief

The regime bans the exercise of freedom of religion or belief without state permission (https://www.forum18.org/archive.php?article_id=2409). Even communities that have state permission need permission for the location of where they hold meetings for worship. Those who violate these provisions, and those who choose to meet for worship without seeking state permission, face punishment.

In February 2019, police raided a group of Hare Krishna devotees as they were meeting for devotional chants (https://www.forum18.org/archive.php?article_id=2464) in an Atyrau flat. The Regional Religious Affairs Department drew up a record of an "offence" against the community and sent it to court. However, the court sent the case back. The Department later withdrew the case. The raid came four months after the Hare Krishna community had gained state registration.

The regime also imposes tight restrictions on religious literature and other materials (https://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.

In January 2021, a court in Pavlodar fined Alyona Aidina for offering a copy of the Koran for sale online (https://www.forum18.org/archive.php?article_id=2634).

New controls on religious meetings in proposed Social Control Law?

The Information and Social Development Ministry proposed a new Law on Social Control which would amend a range of other laws, including the Religion Law. The draft Law was published for public consultation on the government's draft Law website on 15 January. A deadline of 29 January was given for comments. The website includes comments from only one person, all related to other aspects of the draft Law.

Forum 18 has seen the text of the draft Religion Law amendments from late July. They are mostly the same as in the January draft published on the government website, though some of the harsher provisions related to controlling religious meetings away from state-registered places of worship were softened.

The changes to the Religion Law in the July draft would make holding religious meetings away from state-registered places of worship more difficult. Under a new Article 7-1, any religious community which does not own its own building, as well as communities that want to hold a pilgrimage or other event away from their own place of worship, would be subject to the new bureaucratic procedures, were these amendments to be sent to Parliament and adopted.

Protestant, Jehovah's Witness and Hare Krishna communities are among many that do not own their own buildings and would therefore be likely to be subject to these new bureaucratic demands.

The Religion Law changes would require registered religious communities to seek permission for such meetings from local administrations at least ten days in advance and provide exhaustive detail about the proposed event (including the date, start and end time, how people will get there, fire and medical precautions envisaged, and how many people will travel in each vehicle), according to the July version of the draft amendments.

Local officials are given many ways to refuse such requests. They have five working days from receiving the application to request extra information if they believe the planned activity or information supplied is not in accordance with procedures. The registered religious community would have two working days to submit a revised application. If the community fails to lodge the revised application on time or fails to remove any inconsistencies in the application (in the view of the local administration), officials can withhold permission up to two calendar days before the religious event was due to take place.

"Communities would have arranged transport and amplifying equipment, and advertised the event, and then at the last minute receive news that the local authority had banned it, when it would be too late to get their money back," one religious leader told Forum 18 on 19 August.

The draft amendments describe seeking permission for such religious meetings from local administrations as "notification". But as officials must give permission before such meetings are allowed, this represents a requirement for advance state permission to exercise human rights, one human rights defender told Forum 18 on 18 August.

International human rights commitments Kazakhstan has agreed to abide by require the regime to protect the right to freedom of assembly. "The right to freedom of peaceful assembly can be enjoyed and exercised by individuals and groups (informal or ad hoc), legal entities and corporate bodies, and unregistered or registered associations, including trade unions, political parties and religious groups," declare the Guidelines on Freedom of Peaceful Assembly ([https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2019\)017-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2019)017-e)), produced by the Organisation for Security and Co-operation in Europe (OSCE) and the Council of Europe's Venice Commission.

"A prior notice requirement is a de facto interference with the right to freedom of assembly, and any such requirement should therefore be prescribed by law, necessary and proportionate," the OSCE/Venice Commission Guidelines add. "A notification regime should never be turned into a de facto authorization procedure. The procedure for providing advance notification to the public authorities should not be onerous or overly bureaucratic."

The draft amendments would also widen the scope of religious material subject to prior compulsory state censorship. They include an addition to Article 1 of the Religion Law to define "informational material of religious content" as "printed, electronic and other information of religious character on any device, including textual links".

The Prime Minister's Office sent the draft Law for revision on 29 June, apparently ordering that the provisions amending the Religion Law be removed, two sources told Forum 18 separately. Yet the provision remains in the July draft seen by Forum 18.

Forum 18 has been unable to find out whether the Religion Law amendments have indeed been removed from that draft Law and whether the regime intends to continue with them and, if so, in which draft Law they are now included.

According to the government's 2021 Legislative Work Plan, the draft Law on Social Control is being overseen by Information and Social Development Deputy Minister Bolat Tlepov. It was due to be approved by the Justice Ministry in August, the government as a whole in September and Parliament in October. Tlepov's assistant told Forum 18 on 19 August that he was away. Telephones of the leaders of the Ministry's Religious Affairs Committee went unanswered on 19 and 20 August.

Mirgul Kalabayeva, chief expert of the Religious Affairs Committee's Department of Law Enforcement Practice in the Field of Religious Activities, answered her phone on 20 August. However, the connection was cut. Forum 18's subsequent calls went unanswered.

Separate Religion Law amendments

The Information and Social Development Ministry also prepared separate amendments to the Religion Law. These have not been made public. Forum 18 has seen a draft text from late July.

An amendment in the July draft to Religion Law Articles 1 and 6 would remove the requirement for religious objects (such as icons, prayer mats, Koran stands, religious pictures or jewellery) to need approval before they can be sold or distributed (https://www.forum18.org/archive.php?article_id=2409). Article 5 would be amended to remove the requirement for local administrations to approve where religious objects can be sold or distributed.

Another amendment to Article 6 would also remove the requirement for religious literature published by state-registered religious organisations to undergo state censorship (https://www.forum18.org/archive.php?article_id=2409) before it could be published, distributed or imported. However, anyone else producing written religious materials would have to submit them for prior compulsory state censorship.

These two Religion Law changes – if adopted - would represent "a slight liberalisation", one legal expert told Forum 18 from Almaty on 19 August.

Aibar Abilov of the Expertise (Censorship) Department of the Religious Affairs Department refused to explain why the regime imposes prior compulsory state censorship of religious materials. "That is a question not to me," he told Forum 18 from Nur-Sultan on 20 August. He refused to say how many books, icons or other materials his Department had analysed in 2021 or give any other information about the Department's activity.

Administrative Code amendments: New warnings and some reduced fines

The Information and Social Development Ministry also prepared amendments to Article 490 of the Administrative Code, which punishes "Violating the Religion Law" with fines and, in the case of foreigners, deportation. Courts have also ordered that religious literature seized as part of such administrative prosecutions be destroyed. Communities and individuals found guilty can also face bans on their activity for up to three months.

Individuals, companies and charities are regularly punished under Administrative Code Article 490 for:

- meeting for worship without state permission, hosting such meetings or maintaining places for such meetings;
- offering religious materials to others for free without state permission;
- offering religious literature, icons or other items for sale without state permission;
- offering religious items for sale online without state permission;
- posting religious materials online without state permission;
- trying to import religious literature without state permission;
- sharing faith with others without state permission;
- praying in mosques in ways that the state-controlled Muslim Board has banned, for example by using the word "Amen";
- teaching their faith to children without state permission.

Known administrative cases for exercising freedom of religion and belief in the 2020 calendar year totalled 134 (https://www.forum18.org/archive.php?article_id=2634) (in comparison to 168 in 2019 (https://www.forum18.org/archive.php?article_id=2532), 171 in 2018 (https://www.forum18.org/archive.php?article_id=2448) and 284 in 2017 (https://www.forum18.org/archive.php?article_id=2347)). Almost all of these prosecutions were under Administrative Code Article 490.

The Information and Social Development Ministry prepared these amendments, Nazken Zhamaladin, Deputy Head of the Justice Ministry's Legislative Department told Forum 18 from Nur-Sultan on 20 August. However, the Information and Social Development Ministry has not made them public. Forum 18 has seen a draft text from late July. "These amendments haven't been discussed and approved yet," Zhamaladin added.

Under the July draft, punishments would be reduced for individuals for meeting for worship without state permission, hosting such meetings or maintaining places for such meetings, offering religious materials to others for free without state permission, offering religious literature, icons or other items for sale without state permission, offering religious items for sale online without state permission, posting religious materials online without state permission, trying to import religious literature without state permission, or praying in mosques in ways that the state-controlled Muslim Board has banned, for example by using the word "Amen". Currently individuals face fines of 50 Monthly Financial Indicators, about 1 month's average wage for those in formal work. This would be halved to 25 MFIs, with the new possibility of an official warning instead.

Under the July draft, punishments would be reduced for individuals for sharing faith with others without state permission. Currently individuals face fines of 100 MFIs, about 2 months' average wage for those in formal work. This would be halved to 50 MFIs, with the new possibility of an official warning instead.

Fines under all these provisions for registered religious organisations and companies would also be halved from 200 to 100 MFIs.

An amendment to the provision punishing leaders of registered religious communities which fail to prevent children from attending meetings for worship against the wishes of one or both parents would remove the possibility of deportation (which is currently envisaged even for Kazakh citizens). The amendment would halve the fine to 25 MFIs and also allow for a warning instead, but would introduce an additional punishment of one month's ban on the religious community's activity.

The Information and Social Development Ministry does not appear to have proposed any amendments to Administrative Code Article 489 (https://www.forum18.org/archive.php?article_id=2409). Part 9 punishes "Leadership of an unregistered, halted, or banned religious community or social organisation" with a fine of 100 MFIs. Part 10 punishes "Participation in an unregistered, halted, or banned religious community or social organisation" with a fine of 50 MFIs.

Because no officials at the Information and Social Development Ministry (including its Religious Affairs Committee) answered their phones on 19 and 20 August, Forum 18 was unable to find out why the Ministry had decided to change but not to remove punishments for people exercising their freedom of religion or belief. (END)

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

For more background, see Forum 18's Kazakhstan religious freedom survey (https://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
(https://www.forum18.org/archive.php?article_id=1351)

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