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Kazakhstan

Submission by:

ADF International
Chemin du Petit-Saconnex 28
1209 Geneva, Switzerland

Web: www.ADFinternational.org
Email: gmazzoli@ADFinternational.org

Introduction

1. ADF International is a faith-based legal advocacy organization that protects fundamental freedoms and promotes the inherent dignity of all people.
2. The information in this report shows that many Kazakh Christians and Muslims are being persecuted for privately worshipping and meeting, for possessing unapproved religious literature, and for disseminating or talking about the same. It also explains why Kazakhstan must revise its 2011 Religion Law as well as its amendments; clearly and narrowly define certain criminal offences that have been used to limit its citizens' freedom of religion and belief; and release or pardon all those fined or incarcerated under those laws.

a) Religious Freedom

3. Kazakhstan has a population of approximately 18.5 million. It is a majority Hanafi Sunni Muslim country with a significant Christian minority of Eastern Orthodox, Protestants, Catholics, and Jehovah's Witnesses, and a small minority of non-Hanafi Muslims, Jews, Buddhists, Bahai's, and Hare Krishnas.
4. Article 1 of Kazakhstan's Constitution establishes the state as a secular state 'whose highest values are an individual, his life, rights and freedoms.' Article 4 recognizes the primacy of international treaties when they have been ratified by the State. While a number of articles of the Constitution are problematic from the standpoint of religious freedom, such as the restrictions on foreign religious organizations set forth in article 5, other articles recognize religious freedom, such as article 14's protections against religious discrimination and article 19's protection of the choice of religious affiliation.
5. Among the core international human rights treaties which Kazakhstan is a party to is the International Covenant on Civil and Political Rights (ICCPR), signed in 2003 and ratified in 2006. Article 18 guarantees the right to manifest one's religion or belief in worship, observance, practice, and teaching, and also protects the right of parents and legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.
6. Article 27 of the ICCPR further guarantees that '[i]n those States in which religious minorities exist, persons belonging to such minorities shall not be denied the right, in community, with the other members of their own group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.'
7. International law clarifies that the exercise of this fundamental human right can be limited only for the sake of national security and public health and morals, and mere hostility on the part of the government towards religion is not sufficient justification for limiting the ability of individuals to freely live out their faith and share it with others.
8. Despite this, in 2011 Kazakhstan adopted a law on freedom of conscience and religious organizations (the '2011 Religion Law'), which grants the government broad control over all religious groups and their activity. Although it recalls the principles enshrined in the Constitution, the 2011 Religion Law requires all persons to register their religion, subjects

them to government oversight, restricts religious practice and teachings, and censors religious literature.¹

9. In September 2016, Kazakhstan formed the Religion and Civil Society ministry and gave it oversight of the Religious Affairs Committee (now the Social Harmony Committee), which oversees official policies on religion.² In December 2016, Kazakhstan amended the 2011 Religion Law to increase penalties and state controls of religious literature. Kazakhstan also widened the definitions of ‘missionary activity’ and ‘religious teaching’ under Article 490 of the Administrative Code so as to include a broader range of individuals and religious activities.³
10. Kazakhstan is currently considering legislation that would impose, among other things, further restrictions on parents’ and children’s freedom to attend worship meetings and teach their beliefs; new limitations on and penalties for religious teaching without state permission; as well as new restrictions on sharing beliefs and increased confiscation of unapproved religious literature.⁴
11. Kazakhstan passed the 2011 Religion Law and its relevant amendments in spite of numerous recommendations and reviews from the Organization for Security and Co-operation in Europe and the United Nations Human Rights Committee.

b) Discrimination against Religious Minorities

12. According to Forum 18, Kazakhstan prosecuted 79 people for practicing their faith in the first half of 2018, and punished 61 people. In 2017, Kazakhstan prosecuted 284 individuals, groups, and organizations for religious activity, and punished 263. Violations included meeting for worship, offering religious literature to others for free or for sale, allowing children to be at religious gatherings against the wishes of one parent, and conducting religious prayer in a manner unapproved by the state. Punishments included fines, jail sentences, deportations, bans on foreign travel, and confiscation and destruction of literature, and were usually accompanied by raids by police and state officials. Fines averaged three to six months of an average working person’s wages.⁵
13. After the 2011 Religion Law was passed, all religious communities were required to apply for re-registration to obtain the State’s permission to exist. Many complained that the re-registration requirements were confusing and vague. For example, Kazakhstan requires that the tenets of each religious organization receive approval from state authorities. Furthermore, organizations are restricted geographically depending on the number of members within the organization. Heavy restrictions are placed on organizations which may train clergy, and only pre-approved ‘missionaries’—who must re-register annually—are allowed to share the organization’s faith with others. The government has ‘used this

¹ Felix Corley, *Forum 18*, “Kazakhstan: President signs two laws restricting freedom of religion or belief,” 13th October 2011, available at http://www.forum18.org/archive.php?article_id=1624.

² Felix Corley, *Forum 18*, “Kazakhstan: Religious freedom survey, September 18,” 4th September 2018, available at http://www.forum18.org/archive.php?article_id=2409.

³ Felix Corley, *Forum 18*, “Kazakhstan: New controls on religious travel and literature,” 5th January 2017, available at http://www.forum18.org/archive.php?article_id=2243.

⁴ Felix Corley, *Forum 18*, “Kazakhstan, Senate approves more religious freedom restrictions,” 28th September 2018, available at http://www.forum18.org/archive.php?article_id=2419.

⁵ Felix Corley, *Forum 18*, “Kazakhstan: Religious freedom survey, September 2018,” 4th September 2018, available at http://www.forum18.org/archive.php?article_id=2409.

process to close many religious communities, including mosques, and announced closures with apparent pride.⁶ Closures included 163 places of worship in prison.⁷

14. Numerous raids have been conducted on Baptist and Jehovah's Witness congregations for meeting privately because they are not State-approved religions. On April 16, 2017—Easter Sunday—police raided at least two Baptist churches in Temirtau and Taraz. At one of the raids, police and members of the anti-terrorist team forced over twenty Baptists to sign a form saying that they were at the 'illegal' meeting, and they fined the church leader \$900.⁸ On May 17, 2017, police—including a masked SWAT team armed with machine guns—raided the national headquarters of Jehovah's Witnesses 'in broad daylight' under the pretext of conducting a security inspection.⁹
15. Worship practices of religious groups are also heavily restricted. For example, the state allows only one registered Muslim organization, the state-controlled Muslim Board, which adheres only to Sunni Hanafi Islam. In November 2016, the Board banned saying the word 'Amen' out loud in mosques. In early 2017, two Muslims in Zhanozen, Kazakhstan's south-western Mangistau Region, were fined nearly a month's wages for violating this regulation. This is indicative of a larger trend: in 2017, twenty-two Muslims were prosecuted for not praying in accordance with the Muslim Board's regulations.¹⁰
16. Schools also increasingly deny access to girls who wear headscarves for religious observance. The Education and Science Ministry has imposed a national uniform that does not allow any deviations. Many parents have challenged this as a denial of education, but none have had success.¹¹
17. When individuals are convicted for unapproved religious practices, Kazakh authorities continue to violate their rights while they languish in prison. Many Muslim prisoners of conscience are not allowed to read the Koran or conduct their daily prayers, and their beards are forcibly shaven. Prisoners of conscience are also added to a Finance Ministry list of individuals 'connected with the financing of terrorism or extremism'. Such individuals cannot access their bank account and find it difficult to reintegrate into society, since anyone who tries to help them, including their families, might themselves be accused of financing terrorism.¹²
18. Kazakh authorities stringently censor all religious texts. Possessing or disseminating any religious literature not approved by the government's Social Harmony Committee is illegal. This includes all non-Hanafi Islamic literature, as well as many Christian and Hare

⁶ Felix Corley, *Forum 18*, "Kazakhstan: Religious freedom survey, September 2018," 4th September 2018, available at http://www.forum18.org/archive.php?article_id=2409.

⁷ *AsiaNews.it*, "Churches and mosques in Kazakh prisons closed. Solitary confinement for praying in cells," 11th December 2011, available at <http://www.asianews.it/news-en/Churches-and-mosques-in-Kazakh-prisons-closed.-Solitary-confinement-for-praying-in-cells-23158.html>.

⁸ *World Watch Monitor*, "Kazakh Baptists raided, fined on Easter Sunday as 'illegal,'" 4th May 2017, available at <https://www.worldwatchmonitor.org/2017/05/kazakh-baptists-raided-fined-easter-sunday-illegal/>.

⁹ *JW.org*, "Kazakhstan Suspends Activity of Witnesses' National Headquarters," 6th July 2017, available at <https://www.jw.org/en/news/legal/by-region/kazakhstan/court-suspends-activity-national-headquarters-jehovahs-witnesses/>.

¹⁰ Felix Corley, *Forum 18*, "Kazakhstan: Fined for praying 'Amen' in mosque," 28th March 2017, available at http://www.forum18.org/archive.php?article_id=2267.

¹¹ Felix Corley, *Forum 18*, "Kazakhstan: Religious freedom survey, September 2018," 4th September 2018, available at http://www.forum18.org/archive.php?article_id=2409.

¹² Felix Corley, *Forum 18*, "Kazakhstan: Religious freedom survey, September 2018," 4th September 2018, available at http://www.forum18.org/archive.php?article_id=2409.

Krishna publications. In 2017, Kazakhstan punished 101 individuals for possessing, transporting, or disseminating such religious literature with heavy fines, jail sentences, bans on religious activity, deportation, and confiscation and destruction of religious literature.¹³

19. On 22 June 2018, police discovered that Askarbek Sarsenov, a 64-year-old commercial seller in Kyzylorda, was selling 85 copies of six unapproved Islamic booklets. On 4 September, the police prosecuted Sarsenov under Administrative Code Article 490 for unapproved distribution of religious literature. Fifteen days later, Judge Olzhas Abdukalikov found him guilty, fined him, imposed a three-month ban on unspecified activity, and ordered the destruction of the 85 books. When asked why he ordered destruction of the books, Judge Abdukalikov stated, '[b]ecause [Sarsenov] doesn't need these books, plus he sold them where it wasn't allowed'.¹⁴
20. In a similar case, Zairash Amanova, a 53-year-old resident of the village of Kalbatau in East Kazakhstan, offered her 'Bible Stories' and a book on prayer for sale online. On 29 December 2018, the judge found that she violated Article 490 of the Administrative Code for unauthorized missionary activity, fined her about three weeks of wages, and ordered the books to be destroyed.¹⁵
21. These practices violate not only Kazakhstan's Constitution, but also international human rights law, by denying citizens, particularly religious minorities, their freedom to worship, practice, and teach their faith.

Recommendations

22. In light of the aforementioned, ADF International suggests the following recommendations be made to Kazakhstan:
 - a. Enhance the promotion and protection of the right to freedom of thought, conscience and religion, including the right to manifest such individually or in community with others in public or private, in worship, observance, practice and teaching, in line with all the provisions under article 18 of ICCPR, to which Kazakhstan is a State party;
 - b. Remove the burdensome religious registration requirements and rescind intrusive governmental practices, including monitoring and raiding, which infringe upon the right to freedom of religion and belief;
 - c. Reform its legal framework on freedom of religion by streamlining, facilitating and increasing the transparency of the registration process for religious organizations, including eliminating the obligation for religious groups to seek prior authorization to gather, and removing limitations on the printing, import and distribution of religious materials;
 - d. Request assistance from the OSCE's Office for Democratic Institutions and Human Rights in drafting legislation that will promote the freedom of religion or belief;

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

- e. Remove criminal prohibitions on religious or belief communities operating on an unregistered basis;
- f. Amend the Criminal Code in order to decriminalize missionary activities and to put an end to any form of discrimination against non-registered religious groups;
- g. Remove restrictions imposed on religious education and literature, activities of religious organizations, and religious dress;
- h. Release all prisoners of conscience who are incarcerated or arbitrarily detained on account of their faith;
- i. Cease all other restrictions on the right to freedom of opinion and expression, and ensure that the right to manifest one's religion in private and in public is fully protected and realized; and
- j. Take measures to promote interreligious dialogue.



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