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KAZAKHSTAN: Restrictive draft Religion Law to reach full parliament tomorrow

By Mushfig Bayram, Forum 18 (<https://www.forum18.org/>)

Despite recent changes to Kazakhstan's draft Religion Law, the text still contains many violations of international human rights commitments, Forum 18 News Service has found. It is due to be presented to parliament for its first reading tomorrow (11 June) by the parliamentary Working Group, "They put many distracting points in the draft to take away our attention from the real pitfalls," Aleksandr Klyushev of the Association of Religious Organisations complained to Forum 18. "We need to do everything in our power to stop this Law from being adopted." Penalties for unregistered religious activity will be stepped up, and 50 adult citizen members will be required to register local religious communities. Local religious groups will not have the right to engage in educational, publishing or missionary activity. Kamal Burkhanov, who leads the Working Group, defended the restrictions on sharing one's faith in public. "Do people go to the toilet on a bus?" he told Forum 18. "No, they go to a toilet. Therefore whoever needs to meet their religious needs should go to a synagogue, mosque or a church." He showed no sympathy for those – like Baptists – who are often fined for unregistered religious activity. "They should not violate the law." Burkhanov said the OSCE's review of the draft Law has not yet been received, but he claimed that any criticism of any provisions would be taken into account.

Kamal Burkhanov, the deputy of the Majilis (Lower House of Parliament) who leads the parliamentary Working Group preparing the text of the controversial draft Religion Law, confirmed to Forum 18 News Service on 10 June that the text is due to be presented formally to parliament tomorrow (11 June). He said the first reading could begin immediately, although this will be decided by the parliamentary authorities. He dismissed any concerns about restrictive provisions in the draft Law. Critics of the draft Law have told Forum 18 that recent changes to the text may have removed some of the most outrageous provisions, but it has done little to remove the violations of international human rights commitments.

Burkhanov insisted that the parliamentary process would allow plenty of time for debate. "The draft Law has to go through three readings in the Majilis and only then it will go to the Senate [the Upper Chamber of Parliament]," he told Forum 18. However, contradicting Burkhanov's statement, the published procedures of the Parliament state that only two readings are necessary. Burkhanov went on to state that "The Senate will then discuss it for another six months before adopting it. This means there's still chances to correct things on the way."

There are no opposition deputies, the only party to have deputies in the lower house of Kazakhstan's parliament being the Nur Otan Party of President Nursultan Nazarbaev. The Senate is selected by regional and local officials and President Nazarbaev.

Earlier versions of the draft Law were fiercely criticised by many religious communities – including Lutheran, Baptist, Catholic, Hare Krishna and other representatives – as well as by legal specialists and human rights activists (see F18News 6 May 2008 http://www.forum18.org/Archive.php?article_id=1125). A Working Group draft from 2 June – which Forum 18 has seen – removes or softens some of the provisions that clearly violate Kazakhstan's international human rights commitments, but many violations of these commitments remain.

Unregistered religious activity banned / Registration requirements changed

All unregistered religious activity will remain banned and subject to punishment, while missionary, educational and publishing rights will be restricted. Territorial restrictions on the activity of religious organisations will, for example, strip two of the country's four Catholic dioceses of the possibility of registering as "centralised religious organisations", which have the exclusive right to conduct religious education and publishing.

Article 7 of the draft Law would require centralised religious organisations to have existed for ten years and to function in at least five of Kazakhstan's 16 regions. Catholic officials told Forum 18 that their diocese of Karaganda functions in only two regions (Karaganda and East Kazakhstan), while the Apostolic Administration of Atyrau functions in only four regions (Aktobe, Atyrau, West Kazakhstan and Mangistau). Besides, the current jurisdictions were only established in July 1999, so have not existed for ten years.

Forum 18 notes that Article 7 has been changed since the previous version to prevent the three Russian Orthodox dioceses in Kazakhstan becoming illegal and depriving the Russian Orthodox Church of the right to conduct educational and publishing activity (see F18News 6 May 2008 http://www.forum18.org/Archive.php?article_id=1125). One of the three dioceses works in six regions and the other two in five each.

Other restrictions on freedom of thought, conscience and belief - for example on the building of places of worship and the sharing of beliefs - will also be imposed (see F18News 6 May 2008 http://www.forum18.org/Archive.php?article_id=1125).

OSCE / Council of Europe Venice Commission legislative review

In the wake of the widespread criticism, on 16 May Kazakhstan's government sent an official request to the Organisation for Security and Co-operation in Europe (OSCE) Office for Democratic Institutions and Human Rights (ODIHR) to conduct a legal review of the draft. The Venice Commission of the Council of Europe – on which Kazakhstan has observer status – confirmed to Forum 18 from Strasbourg that although no official request was made to it, it too had been sent the text and was participating in the review.

The draft Law flagrantly ignores the suggestions contained in the OSCE / Venice Commission Guidelines for Review of Legislation Pertaining to Religion or Belief (see <http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD%282004%29028-e>).

Parliamentary deputy Burkhanov said the OSCE / Venice Commission review has not yet been received, but he claimed that if it criticises any provisions these criticisms would be taken into account.

The OSCE's Office for Democratic Institutions and Human Rights in Warsaw told Forum 18 on 10 June that the review of the draft Law requested by the Kazakh authorities is now complete and is about to be provided to the government. As usual with such reviews, the government will be given the chance to study it before the text of the review is made public, it said.

Opposition to the draft Law

Opponents of the draft Law and human rights defenders, including Ninel Fokina who heads the Almaty Helsinki Committee, have not given up. Aleksandr Klyushev, the head of the Association of Religious Organisations of Kazakhstan (AROK), who also participated in the sessions of the Working Group which drew up the draft Law, expressed his total dissatisfaction with it. "If the new Law is adopted it will seriously curtail the activities of existing religious organisations and largely cut down the number of them," he told Forum 18 on 4 June from Almaty. "We need to do everything in our power to stop this Law from being adopted."

Klyushev said a petition had been sent to President Nursultan Nazarbaev, as well as letters to human rights organisations asking them to put pressure on Parliament not to adopt "this anti-freedom Law".

Klyushev described the law-makers in the Working Group as "sneaky". "They put many distracting points in the draft to take away our attention from the real pitfalls," he complained to Forum 18. "All those ridiculous points - such as a requirement for cash register machines and 5,000 members for registration - were 'the big things' many of us were concentrating on. All those points were put there just so we would think when the Working Group deleted them from the draft we had won." He believes that the purpose was that religious organisations and human rights advocates would be "euphoric" at their removal and would not pay attention to the smallest details that would cause big practical changes.

The Baptist Council of Churches – which has a network of congregations across Kazakhstan that refuse on principle to register – called its members to hold a day of prayer and fasting throughout Central Asia on 6 June, Baptists told Forum 18. They expressed concern about "increasing persecution of believers in Kazakhstan and the intention of the government to adopt an even harsher Law" (see eg. F18News 30 May 2008 http://www.forum18.org/Archive.php?article_id=1137).

Changes to the draft Law increase current restrictions

The new Law intends to divide religious entities into two categories, Klyushev complained. Those that have 50 and more members will be classified as "religious communities" if registered. Others with less than 50 members will remain as "religious groups".

"The number of adult citizen members for religious organisations required to be registered as a legal entity was fixed at 50," said Klyushev. "It may look like a little victory since the Working Group lowered the number from the proposed 5,000 to 50. But it is actually a deception. In reality they raised the number from 10 to 50 compared to the current Religion Law."

Many of the restrictions envisaged in the current draft Law - including raising the number required to found "religious communities" to 50 - echo 2007 drafts of the Law (see F18News 21 February 2007 http://www.forum18.org/Archive.php?article_id=916).

Individuals would not be able to be involved in any religious activity - such as teaching others one's beliefs, converting others to one's faith, and so forth - if they are not part of a group, which has more than 50 members and is registered as a legal entity,

Klyushev told Forum 18. Groups with fewer than 50 members will not be entitled to have private property or rent public places for religious activity.

"This effectively means that all those numerous small groups, which will not be able to get the signatures of at least 50 people, will be forced to exist illegally or even worse to dissolve," Klyushev said. They will also be forced to give up whatever property they have, including buildings, materials and books.

Even registered organisations will find it difficult to do missionary work, Klyushev noted. Based on the draft Law, for instance, sharing religious beliefs in public places will be illegal without the consent of the citizens. "If you are in a park and want to share your faith with others, then you have to run around the whole park, and get the consent of the public, I guess," said Klyushev. "It's impossible and ridiculous."

Religious communities will also be deprived of their rights to run social funds and unite around religious associations such as AROK, complained Klyushev. "This will mean that religious organisations will not be able to effectively campaign for their rights. It will also mean people like me as part of AROK will have to stop their activity."

Punishments for peaceful religious activity increased

Punishments for violations of the new Law will be more severe, Klyushev complained. The Code of Administrative Violations established punishments for religious organisations violating the Law, with fines or six-month suspensions of activity. Compared to the earlier version of the draft, the Working Group took away the option of a fine without suspension. "This means if caught for a violation then you will definitely get punished," he said. Also the sizes of fines have significantly increased. For those – like the Council of Churches Baptists – who repeatedly refuse to register, fines will range from 200 to 500 times the minimum monthly salary, Klyushev stated.

Compulsory re-registration and registration requirements harshened

All organisations, including registered ones, will have to re-register within 18 months of the new Law coming into effect. "Why should organisations already registered, which have existed for a number of years, go through the same hassle of registering again and again?" asked Klyushev. "Many organisations will stumble into the same problem of not having a legal address to register, since they must own a building, which some don't."

Government's powers increased

Ninel Fokina of the Almaty Helsinki Committee also complained that, based on the Article 6-1 point 10 of the draft Law, the state Religious Affairs Committee's competences will be broadened. Fokina told Forum 18 on 5 June that if the new Law is adopted, the Committee will assume the role of the Public Prosecutor to initiate administrative cases against violators.

The Committee will also be authorised to liquidate organisations which could not register or re-register within the 18 months after the Law comes into effect. "We think this is the State directly interfering in Religion," Fokina complained to Forum 18. "And it is anti-constitutional." The State Committee by definition is supposed to help religious organisations to enjoy their rights but we are now talking about the Committee prosecuting organisations, she insisted. "It's absurd."

Fokina warned that administrative penalties for religious violations will become more severe. She said that at the instigation of parliamentary deputy Serik Temirbulatov, law-makers are even looking into changing Article 336 of the Criminal Code to be able to bring criminal law-suits against religious organisations and their members. This article envisages criminal penalties for public organisations which impede the work of state agencies.

"Imagine the police come to a community during their prayer or other religious meeting wanting to do a check-up and the community does not allow them to," Fokina said. "Then, I guess, the community will be liable for impeding the work of the police." She said this contradicts Article 5.2 of Kazakhstan's Constitution, which has excluded religious organisations from this responsibility on the principle of separation of State and Religion.

Parliamentary Working Group head dismisses concerns

Burkhanov, the parliamentary Working Group's head, dismisses all these concerns. Asked whether religious groups would be able to carry on meeting in private houses to study their religious literature or share their faith with others, Burkhanov responded; "Why not?" But when Forum 18 pointed out that the draft Law clearly specifies that religious groups are only allowed to share their faith with those within their group, he responded: "Why should they want to share their faith with Muslims, for instance? They think only they are smart and the Muslims are stupid. Do not worry, religious groups will be able to meet and pray to their God as much as they want."

Asked about the ban on religious "propaganda" in public places, Burkhanov said there was no need to propagate religion in public

transport, for instance. "Do people go to the toilet on a bus?" he asked. "No, they go to a toilet. Therefore whoever needs to meet their religious needs should go to a synagogue, mosque or a church."

Burkhanov told Forum 18 that, once registered, religious communities would not need to unite in associations. He brushed aside suggestions that this might help them more effectively defend their rights. "Kazakhstan has a very good laws and court system," he told Forum 18. "You just need to find the right lawyer. Our courts make decisions based on the law, not on which organisation appeals."

The OSCE has found that court proceedings in Kazakhstan - which is due to become the organisations' Chairman-in-Office for 2010 - do not offer the guaranteed right to a fair trial. In a February 2007 report on trial monitoring, the OSCE found that Kazakh court proceedings needed to offer "the right of the public to attend court, equality between the parties and the presumption of innocence" (see <http://www.osce.org/astana/24153>). Similarly, legal experts have told Forum 18 that terrorism charges brought against 15 devout Muslims – which resulted in jail sentences of up to 19 and a half years – were not proven, and that at least fourteen of the accused are completely innocent (see F18News 8 April 2008 http://www.forum18.org/Archive.php?article_id=1110).

Deputy Burkhanov of the parliamentary Working Group showed no sympathy for those who receive large fines and other punishment for peaceful religious activity, especially for repeat "violations" (see eg. F18News 30 May 2008 http://www.forum18.org/Archive.php?article_id=1137). These can take years for an average Kazakh citizen to pay, as in the case of the unregistered Baptists. "They should not violate the law," Burkhanov declared. "Every state has laws and its citizens are supposed to obey those laws."

When Forum 18 pointed out that practising one's faith was much simpler and easier in many democratic countries, and some did not even have a Religion Law, Burkhanov said those countries were not a standard for Kazakhstan. "Every country has its own sovereignty, and no-one can dictate to us what our laws should look like."

Mass media inciting intolerance and restrictions on freedom

Klyushev of the Association of Religious Organisations of Kazakhstan complained to Forum 18 that since the second half of the last year the mass media in the country has whipped up a campaign against religious organisations with the purpose of influencing law-makers to call for a new Religion Law that would restrict freedoms given to "dangerous religious sects".

One Astana-based newspaper, "Tselina" of 16 April, was among several newspapers that have listed peaceful religious communities like New Life, Grace Protestant Church, Baptist churches, Jehovah's Witnesses and AROK as prohibited terrorist organisations. The state-controlled mass media has been used to promote intolerance of religious organisations the authorities dislike, as well as support for restrictions on freedom of thought, conscience and belief (see eg. F18News 30 April 2008 http://www.forum18.org/Archive.php?article_id=1123). "All of this has influenced law-makers and now we are about to witness one of the most restrictive laws ever being adopted," Klyushev said.

Parliamentary deputies think "they will be able to force us to stop believing."

Klyushev said that in discussion, many Protestant Churches had also expressed their utter dissatisfaction with the activity of the Working Group and the draft Law. "Protestants tell me that even the Roman Empire feeding Christians to the lions could not stop their faith," he told Forum 18. "Now Kazakh law-makers think that by putting a new Law in place they will be able to force us to stop believing."

Strong opposition to the new Law has been expressed by a wide range of religious communities and human rights defenders (see F18News 30 April 2008 http://www.forum18.org/Archive.php?article_id=1123). In some cases criticism has not been expressed publicly, for fear of state reactions (see F18News 6 May 2008 http://www.forum18.org/Archive.php?article_id=1125). (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=701.

More 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 survey of the religious freedom decline in the eastern part of the Organisation for Security and Co-operation in Europe (OSCE) area is at http://www.forum18.org/Archive.php?article_id=806 and a survey of religious intolerance in Central Asia is at http://www.forum18.org/Archive.php?article_id=815.

A printer-friendly map of Kazakhstan is available at <http://www.nationalgeographic.com/xpeditions/atlas/index.html?Parent=asia&Rootmap=kazakh>

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

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY