

26 November 2008

KAZAKHSTAN: Restrictive amendments on religion go to President

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

Kazakhstan's parliament finally adopted today (26 November) a Law seriously restricting freedom of religion or belief, Forum 18 News Service has learnt. Immediate deep concern about the Law, which changes the Religion Law and other laws, was expressed by Kazakh human rights defenders and Lutheran, Hare Krishna, Baptist and Ahmadi Muslim representatives. "We expect persecution in the future because of this very harsh Law," Baptist Pastor Yaroslav Senyushkevich told Forum 18, "not just on us but on others too. It will be like under Stalin." More measured is Archbishop Tomasz Peta, who leads the Catholic diocese in Astana. "We hope that the President – who will have the last word on this – won't allow Kazakhstan after 17 years to return to the path of restrictions on religious freedom," he told Forum 18. Ambassador Janez Lenarcic of the Organisation for Security and Co-operation in Europe (OSCE) expressed disappointment at the "hasty" adoption of the Law. He added that he hopes President Nursultan Nazarbaev "will use his constitutional power to allow for a more transparent and inclusive law-making process that would lead to the adoption of legislation fully reflecting OSCE commitments and other international standards".

Kazakhstan's Parliament today (26 November) completed its consideration of a harsh Law which will seriously restrict freedom of religion or belief, Forum 18 News Service has learnt. The Parliament passed the Law despite an agreement reached on 25 November for the Organisation for Security and Co-operation in Europe (OSCE) to conduct a legislative review of the latest text of the controversial new amendments, which are now on their way to President Nursultan Nazarbaev for him to sign or reject.

"It is very strange that the Justice Ministry asks for a new review from the OSCE and then Parliament adopts the Law," human rights activist Yevgeny Zhovtis told Forum 18 from Almaty on 26 November. "I'm very disappointed. This Law is not in conformity with OSCE or any other international human rights norms."

Although the OSCE's Advisory Council of Experts on Freedom of Religion or Belief produced a review of the earlier version of the draft Law at the request of the Kazakh government, the Kazakh government refused to allow it to be made public, despite ODIHR's urging (see F18News 21 November 2008 http://www.forum18.org/Archive.php?article_id=1220).

The "Law on Amendments and Additions to Several Legislative Acts on Questions of Freedom of Conscience and Religious Associations" amends numerous articles of the current Religion Law, the Code of Administrative Offences and several other laws. It 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>).

Zhovtis - who heads the Almaty-based Kazakhstan International Bureau for Human Rights and Rule of Law - warned that if approved by the President, the Law will take Kazakhstan back to Soviet times. "Its way of controlling religious communities is absolutely terrible," he told Forum 18. The Law has been strongly condemned by human rights defenders and religious communities (see F18News 6 May 2008 http://www.forum18.org/Archive.php?article_id=1125).

Maksim Varfolomeev of the Hare Krishna community also regards Parliament's adoption of the Law as a "complete step back to Soviet times", but said he is not surprised by it. "We've seen a steady worsening of the situation," he told Forum 18 on 26 November. "Kazakhstan will be chair of the OSCE in 2010, but this Law is completely against OSCE principles and our own Constitution. It will be the end for all religious minorities."

Ambassador Janez Lenarcic, the Director of the OSCE's Office for Democratic Institutions and Human Rights (ODIHR), immediately expressed his disappointment at what he called the "hasty" adoption of the Law by Parliament "without making full use of broad consultations with civil society and expertise from the international community".

Lenarcic added: "We hope the President of Kazakhstan will use his constitutional power to allow for a more transparent and inclusive law-making process that would lead to the adoption of legislation fully reflecting OSCE commitments and other international standards." He said this would send a "positive signal" in view of Kazakhstan's chairmanship of the OSCE in 2010.

The draft Law's restrictions on freedom of thought, conscience and belief were significantly increased by the Senate (the upper chamber) (see F18News 18 November 2008 http://www.forum18.org/Archive.php?article_id=1218), even though the version as passed by the Majilis (the lower chamber) already broke many of Kazakhstan's international human rights commitments (see F18News 14 October 2008 http://www.forum18.org/Archive.php?article_id=1202).

Among the new restrictions on human rights, the current form of the Law would for the first time explicitly ban unregistered religious activity. It would also ban anyone from sharing their beliefs without both the written backing of a registered religious association and also personal state registration as a missionary. It would require permission from both parents for children to attend any religious event.

Small "religious groups" – the lowest level of registered community - would only be authorised to carry out religious activity with existing members and would not be allowed to maintain places of worship "open to a wide access". Nor would they be allowed to conduct missionary activity. Apart from a few personal items, all religious literature imported into the country would require approval through a "religious expert assessment".

Penalties for holding religious services, conducting charitable work, importing, publishing or distributing religious literature or building or opening places of worship in violation of "demands established in law" would be increased. Repeat "offences" – if the current draft is adopted – would lead to a religious community being banned.

The draft Law – which officials have repeatedly refused to release for public discussion – was passed by the Senate on 7 November, and then sent to the Majilis for final approval (see F18News 18 November 2008 http://www.forum18.org/Archive.php?article_id=1218).

The Majilis press service told Forum 18 from the capital Astana that deputies unanimously approved the final text, including the Senate's amendments, on 26 November with no changes. The Law was being sent back to the Senate for it to send on to the President.

Askar Beisenbaev, President Nazarbaev's representative to Parliament, told Forum 18 on 26 November that the Senate has ten days to send on the draft Law to the President. He said the President has one month from receipt of the draft to sign it, reject it or send it to the Constitutional Council.

Beisenbaev would not be drawn on whether President Nazarbaev is likely to sign the Law. "No one can speak on behalf of another person, still less on behalf of the President," he told Forum 18. He said the President "will make his decision once he has studied the text". Asked whether any indications had emerged of whether the President is minded to sign the Law, given the months the latest version has been considered by Parliament, Beisenbaev refused to say.

President Nazarbaev has publicly backed restricting freedom of thought, conscience and belief, as have other state officials, in line with Kazakhstan's state hostility to religious freedom for all (see F18News 5 February 2008 http://www.forum18.org/Archive.php?article_id=1081).

Human rights defender Zhovtis, of the Kazakhstan International Bureau for Human Rights and Rule of Law, says the "only hope" is for President Nazarbaev to send the draft Law to the Constitutional Council, as he has done over a number of other controversial laws, including an earlier Religion Law in 2002.

However, Zhovtis said it is difficult to determine how the President will respond. "It will depend on how he assesses the overall external political climate," Zhovtis told Forum 18. "If he sees the possibility that signing this Law will harm relations with the West he might pass it to the Constitutional Council. But he might only look at the internal political situation and sign the Law, hastening the slide to greater authoritarianism."

Vyacheslav Kalyuzhny of the Human Rights Ombudsperson's Office in Astana said that he had not seen the text of the draft Law. "We will study it when it arrives," he told Forum 18 on 26 November. He said the Ombudsperson Askar Shakirov could make comments or recommendations on the draft to the President. "He has appealed in the past to the Presidential Administration on certain laws."

Kalyuzhny said the Office had received some complaints from religious communities about the proposed Law during the summer. "Unfortunately people just wrote that they don't like the Law without giving any concrete examples." However, he said the Office had drawn on these complaints when presenting its views during earlier discussion of the draft Law.

He said most of the complaints the Office currently receives are from Baptists complaining about fines and from the Hare Krishna community complaining about the crushing of its commune near Almaty (see F18News 21 November 2008 http://www.forum18.org/Archive.php?article_id=1220).

Forum 18 was unable to find out from the Justice Ministry's Religious Affairs Committee in Astana on 26 November whether the

Ministry had agreed to work with the OSCE on a further review in good faith or not and whether it had done anything to alert Majilis deputies to this review before they went ahead and approved the final version of the Law.

Committee chair Ardak Doszhan was in a meeting when Forum 18 called. One of his deputies, Kayrat Tulesov, is on the hajj pilgrimage to Mecca, while the other, Amanbek Mukhashev, told Forum 18 that he was not present on 25 November when Doszhan met the OSCE experts and had no information about what was agreed.

Joining the Hare Krishna community in expressing immediate concern about Parliament's adoption of the restrictive Law were numerous other religious communities. "We expect persecution in the future because of this very harsh Law," Pastor Yaroslav Senyushkevich of the Baptist Council of Churches told Forum 18 from Astana on 26 November, "not just on us but on others too. It will be like under Stalin."

Council of Churches Baptists refuse on principle to seek legal status with the authorities and are already being widely fined across Kazakhstan. In one recent case, Pastor Andrei Blok was given 150 hours' compulsory labour in Akmola Region for refusing to pay fines imposed to punish him for leading unregistered worship (see F18News 28 October 2008 http://www.forum18.org/Archive.php?article_id=1210).

Senyushkevich points out that the new Law will ban all unregistered religious activity and will require all religious communities to seek re-registration. "They're hope many of them will not succeed – especially the Jehovah's Witnesses. The government doesn't like them."

Echoing his concern was Nurym Taibek of the Ahmadi Muslim community. "This Law clearly violates our Constitution, the course the President has set out, OSCE and other human rights commitments," he told Forum 18 from Almaty on 26 November. "If it is adopted it will mean our country will leave civilised society. We very much hope that the President won't sign it." He pointed out that President Nazarbaev refused to sign a restrictive new Religion Law in 2002 after it had been criticised by the Constitutional Council.

Taibek said he believed the amendments in the Law "do not reflect the view of the majority of the population". He complained that views of religious communities such as his own have not been taken into account. Asked whether the four Ahmadi communities in Kazakhstan are already facing pressure from the authorities, he responded: "Yes, a little bit."

The head of Kazakhstan's Lutherans, Bishop Yuri Novgorodov, says it would be "very sad" if the Law were adopted. "It would not be the best decision taken by my country," he told Forum 18 on 26 November.

Archbishop Tomasz Peta, who leads the Catholic diocese in Astana, was more measured. "We hope that the President – who will have the last word on this – won't allow Kazakhstan after 17 years to return to the path of restrictions on religious freedom," he told Forum 18 from the capital on 26 November. "Many people share this concern." He said he would not like Kazakhstan to "lose its image" around the world. He stressed that the Law has not yet finally been adopted.

However, representatives of the Muftiate and the Russian Orthodox Church broadly welcomed the new Law. "It is very positive," Nurzhan Makhanov, an aide to Kazakhstan's Chief Mufti Absattar Derbisali, told Forum 18 from Almaty on 26 November, stressing that this was his personal view. He said the Muftiate has been urging the President and Parliament to amend the Religion Law since 2000.

"There are many sects of various sorts which have caused undesirable developments, not only in Kazakhstan but in Russia and Uzbekistan," he insisted. "They've caused very many problems in families when one family member joined a sect. Children and marriages have suffered. We can't leave this without consideration – we don't have the moral right to be silent." He then stressed that he does believe that each individual must be free to choose their own faith. "But we don't need a second Lebanon."

Makhanov dismissed the concerns of many other faiths. "No one will suffer because of this Law, I can assure you," he claimed to Forum 18.

More cautious was Fr Aleksandr Ievlev of the Almaty Russian Orthodox Diocese, who stressed that the President has not yet signed the Law. "After the President signs it we will have to get to know all the laws which will be amended by it," he told Forum 18 from Almaty on 26 November. He said his Church would not lobby the President on whether to sign the Law or not.

But he insisted that "odious provisions" in earlier versions of the Law which the Russian Orthodox Church, the Muslims and others had complained about have been removed or amended. "They listened to us."

Fr Ievlev stressed that his Church has long argued that the Religion Law needed amending "to restrict the activities of totalitarian sects". He said "not everyone would be happy" over any such legal changes.

Similarly guarded were representatives of the Rabbinate. "The Law is necessary," a representative told Forum 18 on 26 November.

"It will give the state the possibility to protect the safety of citizens." He said the new Law – which he maintained was better than earlier versions - would allow the "extremist movements which hide behind religion" to be banned, although he was unable to name any which could not already be dealt with by current laws. "We understand that in the fight against them it is necessary to make the Law harsher for all, including for law-abiding communities." (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