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KAZAKHSTAN: Parliament to go against international human rights commitments?

By Felix Corley, Forum 18

Following a police raid on his ordination service, Baptist pastor Oleg Voropaev in Kazakhstan's northern Pavlodar Region has become the latest victim of the Administrative Code's punishments for leading unregistered worship, Forum 18 News Service has learnt. Voropaev told the court that he considered himself not guilty, as Kazakhstan's Constitution guarantees the right to worship individually or collectively. As a community without a bank account the church does not need legal status, and does not need or want registration to exist or meet. Human rights defenders and religious communities are concerned that punishments for religious activity under the current Administrative Code are retained under the proposed new Code now in Parliament. Deputy Serik Temirbulatov, who chairs the Majilis working group preparing the new draft, expects a draft to be presented to the Majilis' Legislative and Judicial-Legal Committee in late October, and a draft to reach the full Majilis in December. Asked if the majority view among deputies will prevail even if proposed Articles still violate Kazakhstan's international human rights commitments, Temirbulatov responded: "Yes."

Following a police raid on his ordination service as a Baptist pastor in April, Oleg Voropaev is the latest victim of Kazakhstan's Code of Administrative Offences punishment of leading unregistered worship, Forum 18 News Service has learnt. Pastor Voropaev was fined about seven months' average wages on 8 June, a fine upheld on appeal on 22 June, Pavlodar Regional Court told Forum 18. It is the fourth time he has been fined in the past decade, but each time he has refused to pay the fine after being convicted of leading, participating in or financing an unregistered, halted or banned religious community or social organisation.

Voropaev leads a Council of Churches Baptist congregation, who refuse on principle to register with the authorities, arguing that this leads to unwarranted state interference in their internal affairs. Many of their leaders and members have been fined for their religious activity in Kazakhstan in recent years.

Not only the ordinary police, but also Internal Policy Departments of local Akimats (administrations), Prosecutor's Offices, the National Security Committee (KNB) secret police and police Departments for the Fight against Extremism, Separatism and Terrorism take part in raids and pressure on unregistered religious communities.

Police Departments for the Fight against Extremism, Separatism and Terrorism in at least three of Kazakhstan's regions are known to have raided or pressured Muslim and Baptist communities since the beginning of 2010 (see F18News 23 June 2010 http://www.forum18.org/Archive.php?article_id=1459).

Punishments for religious activity to be retained

Human rights defenders and religious communities are concerned that punishments for religious activity under the current Code of Administrative Offences are retained under the proposed new Code now in Parliament. The government draft of the new Code presented to Parliament in late 2009 preserved unchanged the content of the current Article 374-1 (which was used to fine Voropaev) and almost unchanged the content of Article 375 (see F18News 10 February 2010 http://www.forum18.org/Archive.php?article_id=1407).

Both Article 374-1 – first introduced in 2005 – and the proposed new Article 451 set to replace it punish leading, participating in or financing an unregistered, halted or banned religious community or social organisation.

Article 375, a broadly framed article, punishes "violating the Law on Religion" (including by leaders who reject state registration) by communities whose activity "contradicts their aims and tasks" or which is not listed in their state-approved statutes, and by individuals who conduct "missionary activity" without a special licence from the state. Although some clauses of the current Article 375 are scheduled for deletion, these "offences" are all retained in the proposed new Article 452 set to replace it.

Among other provisions, Article 452 still punishes: "refusal by leaders of religious associations to register them with state bodies, carrying out of activity by religious associations not in accordance with their statute, participating in the activity of or financing

political parties, violating the rules governing holding of religious events outside the location of a religious association, organising of special children's or youth meetings not related to worship, and forcing individuals to carry out religious rituals".

Other "offences" punished include foreign citizens or those without citizenship conducting unauthorised missionary activity. Obstructing the conducting of religious rituals and offending religious feelings is also continued as an offence.

Offences under these Articles are punishable by fines of up to 300 times the minimum monthly wage and temporary or permanent bans on a religious organisation's activity. Foreign citizens or those without citizenship found guilty of conducting unauthorised missionary activity are liable to deportation.

Parliament to go against international human rights commitments?

Serik Temirbulatov, the deputy chairing the Majilis (lower house of Parliament) working group preparing the new draft, insists that much work still needs to be done before it is ready to be presented to the Majilis' Legislative and Judicial-Legal Committee. He expects this to happen in late October, and said it was unlikely to reach the full Majilis until December.

President Nursultan Nazarbaev's Nur Otan political party holds every seat in the Majilis.

Deputy Temirbulatov told Forum 18 from the capital Astana on 23 June that of the more than 600 Articles in the proposed new Code, the working group has only collated proposed amendments on about 100. He said the working group has not yet considered the replacements for Articles 374-1 (the proposed new Article 451) and 375 (the proposed new Article 452).

While deputies have proposed various amendments to these two articles, Temirbulatov told Forum 18, so far no one has proposed their abolition, as many human rights defenders and religious communities are advocating. When Forum 18 told him of such calls, he responded that no such proposals had come in from non-governmental organisations either.

Asked why the government draft continued to include two Articles that violate Kazakhstan's international human rights commitments in the area of freedom of religion and belief, Temirbulatov replied: "The government adopted that draft, not us. Once deputies have put forward their proposals the majority view will prevail." Asked if the majority view among deputies will prevail even if proposed Articles still violate Kazakhstan's international human rights commitments, he responded: "Yes."

The Parliament is also working on a draft law similar to the draft declared unconstitutional by the Constitutional Council in 2009. That draft would have severely restricted freedom of religion or belief (see F18News 18 June 2010 http://www.forum18.org/Archive.php?article_id=1458).

"Soviet approaches to state-confessional relations"

Deputy Temirbulatov claimed to Forum 18 that, in late 2009 before the draft was presented to Parliament, Kazakhstan's government sent it for legislative review by the Office for Democratic Institutions and Human Rights (ODIHR) of the Organisation for Security and Co-operation in Europe (OSCE). He said that the OSCE's review had made some positive and some negative comments on the draft and the government had changed some aspects of the draft as a result of the review.

However, Vera Tkachenko, head of the Legal Policy Research Centre in Almaty, says that – despite repeated calls from human rights defenders – Kazakhstan's government and the Justice Ministry did not seek a legal review of the proposed new Code from the OSCE. She told Forum 18 from Almaty on 24 June that her Centre had repeated this call to Parliament this year.

Tkachenko said that Temirbulatov was probably referring to an analysis by Ukrainian legal scholar Aleksandr Banchuk which her Centre produced in August 2009, which had outlined a number of concerns over the draft Code. She said Temirbulatov should also have copies of three papers her Centre prepared – with support from the OSCE Centre in Astana – for a 3 June conference in Parliament on the new Code.

One of the three papers specifically covered religious punishments in the proposed new Code. The paper was prepared by law professor Roman Podoprighora of the Caspian Public University in Almaty and issued on 30 April 2010 http://lprc.kz/ru/images/docs/008_04_10_KoaP_i_svo boda_veroisповedaniya_R_Podoprighora_april2010_RUS_COR.doc.

Professor Podoprighora's paper concluded that in the proposed Articles 451 and 452 there "can still be detected Soviet approaches to state-confessional relations, based on the absolute subjugation of believers and religious communities to the state". The paper called for the proposed Article 451 to be abolished entirely and for all but two clauses of Article 452 ("punishing involvement of religious organisations in party political activity and obstructing others from lawful religious activity") to be abolished.

The Almaty Helsinki Committee and a number of religious communities have also called for the abolition of these Articles.

Ordination service raid

The latest trouble for Council of Churches Baptist Voropaev began on 19 April, during his ordination as a pastor in the village of Evgenevka in Pavlodar Region of northern Kazakhstan. About five police officers arrived during the ceremony in his home, which the small congregation uses for worship, Voropaev told Forum 18 on 22 June. He refused to allow them to interrupt the service or to take statements from those present inside the church. "We told them today is a celebration and we would talk to them another day," he noted. He said he does not know if the police knew in advance his ordination was taking place and, if so, how they knew.

The police summoned four of those present to the police station on 20 April, where they demanded that they write statements. Voropaev was accused of violating Article 374-1 Part 1 of the Code of Administrative Offences ("leading, participating in or financing an unregistered, halted or banned religious community or social organisation"). At his trial on 8 June, Voropaev told Aksu District Court that he considered himself not guilty as Kazakhstan's Constitution guarantees the right to worship individually or collectively. As a community without a bank account it does not need legal status, and does not need or want registration to exist or meet.

According to the verdict, police testified in court that Voropaev had organised religious worship on 20 April, even though the service they raided was held on 19 April. Also appearing in court was Mekeke Duysenbi, the village Akim (administration chief). However, he told the court he knew little about the community as he had been in office for less than a year.

Fourth fine

Voropaev was found guilty and fined 100 times the minimum monthly wage of 141,300 Tenge (6,208 Norwegian Kroner, 781 Euros or 961 US Dollars), which he and an official of Pavlodar Regional Court estimated to Forum 18 to be about seven months' average local wages. "I am married with eight children. I need to buy clothes and food," he told Forum 18.

Pastor Voropaev appealed against the verdict but, on 22 June, Judge Erkesh Temirova of Pavlodar Regional Court rejected the appeal, the court's chancellery told Forum 18 in the wake of the hearing.

Voropaev told Forum 18 that he has already been fined three times in the past decade for his religious activity, most recently in August 2008. Each time he has refused to pay the fines (see F18News 11 September 2008 http://www.forum18.org/Archive.php?article_id=1186).

"Christ was punished and we should expect to be punished for our faith also," Voropaev told Forum 18. He said as soon as he gets the written decision from Pavlodar Regional Court he will challenge the fine further.

Aksu District Police refused to comment on the case to Forum 18 on 22 June. Duysenbi, Evgenevka's Akim who attended the court hearing, told Forum 18 he was driving and unable to speak on 22 June. Subsequent calls to his mobile phone went unanswered.

One fine annulled, cows restrained

Meanwhile, Zhanna-Tereza Raudovich, a Baptist similarly fined 100 times the minimum monthly wage under Article 374-1 Part 1 of the Code of Administrative Offences, finally succeeded in having her conviction annulled, Baptists told Forum 18.

Fined in January for hosting a Sunday morning service in her home in the village of Ayteke Bi in Kazaly District of Kyzylorda Region attended by several local Baptist women and their children, Raudovich's appeal was rejected in February (see F18News 31 March 2010 http://www.forum18.org/Archive.php?article_id=1427).

On 17 March the Supervisory Judicial Collegium for Civil and Administrative Cases of Kazakhstan's Supreme Court in the capital Astana reviewed the verdict and decided to cancel it. She was instead to be given a "verbal reprimand".

However, in another case, Council of Churches Baptist Didrikh Leven has had a restraining order issued against three of his cows for refusing to pay a fine of 100 times the minimum monthly wage imposed for his religious activity, Baptists told Forum 18. Pastor of a congregation in the village of Zaporozhe in Zhaksy District of Akmola Region, he was fined under Article 374-1 in October 2009 (see F18News 5 November 2009 http://www.forum18.org/Archive.php?article_id=1372).

Deportation threat remains

Another of Leven's brothers, Viktor Leven, is still under threat of deportation to punish him for his religious activity. "Officials demand that he leave Kazakhstan and he has been left with no identity documents," one Baptist told Forum 18 on 22 June. "They won't accept his application for Kazakh citizenship either. But they are not taking any steps to remove him from the country either.

Viktor Leven – who was born in Kazakhstan but gained German citizenship when living there between 1992 and 2000 – leads the Council of Churches Baptist congregation in the town of Esil in Akmola Region.

He was ordered to be deported after he was convicted under Article 375 Part 3 of the Code of Administrative Offences of "missionary activity" without state permission, an "offence" mandating deportation when conducted by a foreign citizen. He has renounced German citizenship and is currently stateless (see F18News 31 March 2010 http://www.forum18.org/Archive.php?article_id=1427). (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.

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 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.

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