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KAZAKHSTAN: New controls on religious travel and literature

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

"Anti-terrorism" legal changes ignoring OSCE recommendations impose foreign religious travel controls, restrict religion book imports "for personal use" to one copy per title, and reinforce state censorship of books and materials on religion. An "anti-extremism" campaign against freedom of religion and belief is planned.

New restrictions on foreign religious travel and more explicit provisions banning and punishing the production or distribution of literature about religion in Kazakhstan without undergoing the compulsory state censorship come into force in early January, Forum 18 notes. The Law also restricts the number of copies of publications about religion an individual is allowed to import "for personal use" without being subject to state censorship. Only one copy of any individual publication can now be imported without undergoing censorship.

The new restrictions are part of a wide-ranging Law on Amendments and Additions to Various Laws on Questions of Countering Extremism and Terrorism, prepared by the National Security Committee (KNB) secret police, ostensibly aimed at fighting "extremism and terrorism". President Nursultan Nazarbayev signed it into law on 22 December 2016. The Amending Law mostly comes into force ten days after its official publication on 27 December 2016. The Law amends five Codes and 20 individual Laws, including the 2011 Religion Law.

The Kazakh authorities ignored many recommendations from the Organisation for Security and Co-operation in Europe (OSCE) that restrictions on the exercise of freedom of religion or belief – particularly over censorship of literature about religion and foreign travel for religious purposes – be removed from the Amending Law and from existing Law (see below).

An "anti-extremism" campaign against freedom of religion and belief is planned, based around a State Programme to Counter Religious Extremism and Terrorism for 2017-2020. This will continue the current State Programme to Counter Religious Extremism and Terrorism for 2013-2017 (see below).

Many provisions of the new Law widen or increase punishments for those involved in violence – such as attacking foreign diplomats, distributing illegal weapons or committing acts of terrorism that kill or maim people. However, some provisions – including those which restrict still further the exercise of freedom of religion or belief – are unrelated to the stated goal of "countering extremism and terrorism".

The amendments removed none of the existing restrictions on exercising freedom of religion or belief already enshrined in the 2011 Religion Law and punishable under the Administrative Code or Criminal Code. These restrictions and punishments already violated Kazakhstan's international human rights commitments (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

The press office of the Religion and Civil Society Ministry's Religious Affairs Committee in the capital Astana refused to discuss the new Law – or indeed anything else – with Forum 18 on 5 January. The official said they were not authorised to speak to the media. "Only the Minister or his official spokesperson can speak, but the spokesperson is on leave at the moment."

The amendments come as officials increasingly see the exercise of the right to freedom of religion or belief as a state security issue. State agencies tasked with punishing or warning those who talk about their faith with others are the KNB secret police, the Police, the Prosecutor's Office and Regional Religious Affairs Departments (see F18News 12 August 2016 http://www.forum18.org/archive.php?article_id=2207).

Presidential order to adopt new restrictions

Following killings in the north-western city of Aktobe [Aqtobe] on 5 June 2016, President Nazarbayev told a meeting of the Security Council in Astana on 10 June 2016 that in response legal changes would be made to a range of laws "to ensure national security". Under Kazakhstan's international human rights obligations, "national security" is not a permissible reason to restrict freedom of religion and belief.

President Nazarbayev instructed the government "within a two-month period to draft a package of legislative initiatives in the sphere of countering terrorism and extremism, production, storage and sale of weapons, in the area of regulating migration and religious associations". He added that it was "necessary" to include the entire legislative package in the legislative plan for 2016 (see F18News 31 August 2016 http://www.forum18.org/archive.php?article_id=2212).

When wide-ranging increased restrictions on freedom of religion and belief were imposed in the 2011 Religion Law along with changes to other laws, they were introduced into parliament on 5 September 2011 and in a rushed process with little discussion were signed into law on 11 October, despite strong criticism from national and international human rights defenders. Officials claimed the restrictions breaking international human rights obligations and the rushed process were needed as alleged "counter-terrorism" measures (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

The text of the Amending Law – as prepared by the KNB secret police - reached the Majilis, the lower house of parliament, on 1 September 2016, was finally approved there on 9 November 2016. It was then sent to the upper house, the Senate, which finally approved it on 9 December 2016, according to the parliamentary website.

President Nazarbayev signed the Amending Law into law on 22 December 2016, according to the presidential website. It was officially published on 27 December 2016 in the Kazakh-language paper "Egemen Kazakhstan" and the Russian-language paper "Kazakhstanskaya Pravda".

Tighter state religious censorship

Of the 20 Laws which the Amending Law changed, the 2011 Religion Law was amended to tighten state controls over producing, distributing and importing literature about religion.

State censorship of religious literature is enacted by the Religious Affairs Committee, which is part of the Religion and Civil Society Ministry. The new Ministry was created by a presidential decree of 13 September 2016 and the Religious Affairs Committee was transferred to it from the Culture and Sports Ministry. Appointed on 13 September 2016 as the new Religion and Civil Society Minister was Nurlan Yermekbayev, previously secretary of Kazakhstan's Security Council.

Article 9, Part 3 of the Religion Law was rewritten to state: "The import into the territory of Kazakhstan of religious literature and informational materials of religious content, with the exception of that dedicated to personal use in one copy of each named title, is carried out only by registered religious associations after receiving a positive conclusion of a religious-studies expert analysis".

This provision limiting to just one the number of copies of any single title anyone wished to import into Kazakhstan without having to submit it for censorship by the Religion and Civil Society Ministry is repeated in the amended wording of Article 6, Point 1-4. This now specifies the same limit on what constitutes literature on religious themes being imported "for personal use" and which is therefore exempt from the otherwise compulsory censorship by the Religion and Civil Society Ministry.

The previous versions of these Articles did not specify a limit on the number of copies deemed to be for "personal use" (see Forum 18's Kazakhstan religious freedom survey at http://www.forum18.org/Archive.php?article_id=1939).

A new Article 9, Part 3-1 was added: "The production, publication and distribution of religious literature and other informational materials of religious content is allowed only after receiving a positive conclusion of a religious-studies expert analysis". This requirement is also repeated in a new Article 6, Point 1-6 specifying what literature on religious themes is subject to compulsory censorship by the Religion and Civil Society Ministry.

This states more bluntly the situation of controls on literature about religion that already existed. Many booksellers and others offering religious literature have been punished for violating these controls (see F18News 16 December 2016 http://www.forum18.org/archive.php?article_id=2240).

An amendment to Article 490, Part 1, Point 3 of the Administrative Code now also punishes "manufacturing" religious literature or other items. The Point now reads: "Violating the requirements of the Religion Law for .. import, manufacturing, production, publication and/or distribution of religious literature and other religious materials, and items for religious use". The punishment for individuals remains a fine of 50 Monthly Financial Indicators (MFIs).

New, revised definitions of "missionary activity" and "spreading a religious teaching"

Amendments to Article 1 of the Religion Law introduce a new definition of "spreading a religious teaching". This is defined in Article 1, Point 4-1 as: "activity directed at making available or passing on information on the basic dogmas, ideas, views or practices of a specific religion".

Religion Law Article 1, Point 5 is reworded to define "missionary activity" not just as spreading a religious teaching by local

citizens or foreigners "in the name of a religious association registered in Kazakhstan" but by anyone.

During the parliamentary passage of the Amending Law a proposed provision to broaden punishments under Administrative Code Article 490, Part 3 to punish not "missionary activity" but the broader "spreading a religious teaching" was dropped.

The impact of these new definitions therefore remains unclear.

State control over foreign religious travel

Among the 20 Laws the new amendments amend is the 2011 Tourism Law. An additional Point 5 was added to Article 15, requiring that tour firms organising "religious tourism" do so under regulations to be drawn up by the Religion and Civil Society Ministry in agreement with the Investment and Development Ministry (the state oversight body over tourism).

An additional Point 2-1 to Article 1 defines "religious tourism" as "the form of tourism envisaging the conducting of a pilgrimage or rituals in a country (place) of temporary stay".

An official of the Investment and Development Ministry's Monitoring and Regulation of the Tourism Market Department told Forum 18 on 4 January from Astana that this definition appears to cover only "religious tourism" to foreign countries, not visits to other places within Kazakhstan.

This imposes state control over, for example, Muslims wanting to go on the haj or umra pilgrimages to Mecca or Russian Orthodox wanting to go on pilgrimage to a monastery in Russia. While the haj pilgrimage in particular might be easy for the state to control, it remains unclear how the state could control individuals or groups travelling abroad to visit holy sites.

This was one of the changes promised by Culture and Sport Minister Arystanbek Mukhamediuli in his remarks to a government meeting on 19 July 2016 (see F18News 22 July 2016 http://www.forum18.org/archive.php?article_id=2201).

State controls already existed on sending people abroad for religious study. Under Article 27, Part 15 of the Licensing Law, religious organisations which send people abroad for study in religious educational institutions require a state licence (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

Regulations on foreign "religious tourism" in preparation, secret police involvement

The official of the Monitoring and Regulation of the Tourism Market Department told Forum 18 that the Religion and Civil Society Ministry is preparing the regulations which will govern the activity of tourist firms offering "religious tourism". However, the Religion and Civil Society Ministry has not yet handed over any draft or adopted them yet. The official noted that not only the two Ministries but the KNB secret police will also be required to approve these regulations.

"The KNB is also involved in the issue of foreign religious tourism because it is connected with extremism and terrorism," the official added. "It is connected with the security of the state. The KNB will definitely be involved."

Asked why a visit by Muslims to a Muslim holy site abroad, a Russian Orthodox visit to a monastery in Russia or a visit by Hare Krishna devotees to a Krishna settlement in India was a state security issue, the official responded: "People travel abroad using all kinds of pretexts."

The director of one tour company which organises haj and umra pilgrimages told Forum 18 on 5 January that officials have already informed the company of the new controls. However, the director declined to discuss the details. The director added that the haj and the umra are already under the control of the state-backed Muslim Board, as well as state officials.

Foreigners

An addition to Article 7 of the 2011 Migration Law, a new Part 6-1, bans foreign members of organisations banned in Kazakhstan from applying for legal residence. While many of the banned organisations are violent, one of them – the Muslim missionary movement Tablighi Jamaat – does not appear to have been involved in any violence or deprivation of the human rights of others.

Despite this, 46 alleged Tablighi Jamaat adherents (all of them Kazakh citizens) are known to have been given criminal convictions since December 2014. Of these, 32 were given prison terms while 14 were given restricted freedom sentences. These include five men sentenced in Almaty Region in December 2016 to up to three years' imprisonment (see F18News 9 January 2017 http://www.forum18.org/archive.php?article_id=2245).

Revised wording of Article 28 of the Law on the Legal Status of Foreigners covers deportation of foreigners ordered by a court. This would therefore affect foreign citizens ordered deported in punishment for conducting "missionary activity" without personal registration as a "missionary" under Administrative Code Article 490, Part 3.

The new wording of Article 28 notes that initially an individual ordered deported is not just to leave under "controlled individual departure", but introduces the option of "enforced departure of the individual from the Republic of Kazakhstan". Presumably this might involve detention in a holding centre to enforce deportation, something available at present only for those who fail to leave Kazakhstan in the prescribed period.

Among those ordered deported for exercising the right to freedom of religion or belief are individuals who were legally resident in Kazakhstan, including one who is married to a Kazakh citizen (see F18News 12 August 2016 http://www.forum18.org/archive.php?article_id=2207).

OSCE recommendations ignored

The Organisation for Security and Co-operation in Europe (OSCE) called on Kazakhstan to remove legal provisions which enforce the compulsory prior religious censorship, including in the Amending Law. The call came in its Preliminary Opinion on the Draft Amendments to the Legal Framework on Countering Extremism and Terrorism, issued on 6 October 2016 while Parliament was considering the Law (http://legislationline.org/download/action/download/id/6423/file/296_TERR-KAZ_6Oct2016_en.pdf).

The OSCE Preliminary Opinion points out that "it is generally questionable whether a state body is able to or should be involved in assessing any material with religious content". And it adds: "The rights to freedom of religion or belief, and to freedom of expression exclude any discretion on the part of the State to determine whether religious beliefs or the means used to express such beliefs, including religious literature or any other materials containing so-called 'religious content', are legitimate."

The OSCE described the state religious censorship as "a system of authorization which appears to be an excessive, disproportionate and unnecessary limitation to the right to acquire, possess, use, produce, import and disseminate religious publications and materials, which is an integral component of the right to freedom of religion or belief".

The OSCE Preliminary Opinion called on Kazakhstan to delete proposed amendments to Article 9, Parts 3 and 3-1, of the Religion Law and Article 490, Part 3 of the Administrative Code, "thereby removing the requirement of obtaining an 'expert opinion' prior to the use of religious material or literature and excluding administrative liability for failure to do so".

To implement this recommendation, provisions in the existing Religion Law and Administrative Code enacting such religious censorship would also have needed to be amended (see F18News 17 October 2016 http://www.forum18.org/archive.php?article_id=2225).

The OSCE Preliminary Opinion also called on the drafters of the Amending Law to "reconsider" the introduction of measures imposing state controls on those who organise "religious tourism". It pointed out that imposing such controls "has the potential to unduly restrict the freedom of everyone to leave any country, including his/her own" and to maintain communication between believers, including through travel.

While some of the provisions of the Amending Law were changed during its passage through parliament, almost all the new restrictions on the exercise of freedom of religion or belief were adopted, either with the same wording as in the July 2016 draft text or with different wording in different Articles of a Law.

Kazakhstan's authorities ignored the OSCE recommendations for a wider abolition of restrictions on exercising freedom of religion or belief.

New anti-"religious extremism" campaign

The government is preparing a State Programme to Counter Religious Extremism and Terrorism in the Republic of Kazakhstan for 2017-2020. Prime Minister Bakytzhan Sagintayev discussed the proposed plan at a 29 November 2016 meeting attended by parliamentary deputies, leaders of the KNB secret police and other state bodies, according to the Prime Minister's website.

A draft decree on the KNB secret police website – to be signed by the Prime Minister – indicates that the working group to prepare the new State Programme includes officials from the KNB itself, the General Prosecutor's Office, and the KNB's Anti-Terrorist Centre, as well as numerous ministries, including the Religion and Civil Society Ministry.

The previous State Programme to Counter Religious Extremism and Terrorism for 2013-2017, approved in September 2013, promoted increased government restrictions on freedom of religion and belief. It justified these by claiming they were to tackle alleged "religious extremism" and terrorism (see F18News 6 May 2013 http://www.forum18.org/archive.php?article_id=1831).

"The widespread distribution of religious literature and other informational materials of dubious content create certain conditions for spreading religious extremist ideology," the State Programme to Counter Religious Extremism and Terrorism for 2013-2017 claimed. "Alongside this, the functioning of places of worship (premises) without consideration of the practical demand for them and

low level of professional training of clergy harms the preventative work underway."

Among many actions the State Programme called for were: "Uncover and halt the activity of illegally functioning places of worship"; "Uncover and halt the distribution of religious literature and informational materials of religious content in non-approved locations"; "Uncover and halt the carrying out on the territory of the country of illegal missionary activity.". It also called for training for all school-age children and many adults over what constitutes "religious extremism", as well as ordering "the publication and formation of a mass of native religious literature and series of cultural entertainment products propagating spiritual and moral values traditional for Kazakhstan".

The State Programme also called for the establishment of further alleged rehabilitation centres for purported "victims of religious extremism and terrorism". These state-backed alleged "anti-sect" centres often criticise Protestants, Jehovah's Witnesses and Ahmadi Muslims and participate in prosecutions of their members in court (see F18News 8 February 2016 http://www.forum18.org/archive.php?article_id=2147) These centres have also been thought by local people to be used "to prepare the ground for restrictive laws against freedom of religion or belief" (see F18News 6 May 2011 http://www.forum18.org/archive.php?article_id=1568). (END)

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>.

For more background, see Forum 18's Kazakhstan religious freedom survey at http://www.forum18.org/Archive.php?article_id=1939.

For a personal commentary from 2005 on how attacking religious freedom damages national security in Kazakhstan, see F18News http://www.forum18.org/Archive.php?article_id=564.

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.

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