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KAZAKHSTAN: Fined for praying "Amen" in mosque

By Felix Corley, Forum 18

The state is prosecuting and fining Muslims for saying the word "Amen" aloud in mosques, after November 2016 Muslim Board behaviour regulations were imposed. Also, moves have begun in one region for the state-backed Muslim Board to seize mosque building ownership.

At least five Muslims in Zhanozen, in Kazakhstan's south-western Mangistau Region, were fined in February and March for saying "Amen" aloud at the end of their prayers in the city mosque. A regional religious affairs official who brought the cases, with the support of the state-appointed imam and the police, claimed the men thereby obstructed other people's prayers. All five men deny this allegation, and one has managed to overturn his fine on appeal.

In November 2016 the state-controlled Muslim Board - which adheres to Sunni Hanafi Islam only - banned saying the word "Amen" out loud in mosques. Human rights defenders in Kazakhstan, who wish to remain anonymous for fear of state reprisals, state that fines for saying "Amen" aloud in mosques are common in Mangistau Region and elsewhere in Kazakhstan.

A state religious affairs official in the neighbouring Atyrau Region confirmed to Forum 18 that "of course" such punishments have also been imposed in his Region. An official of Atyrau Specialised Administrative Court confirmed "many" such cases in 2016, but the Court refused to say exactly how many (see below).

"I am an adherent of the Hanbali school and consider it necessary to pray the word 'Amen' aloud," one of the Muslims affected told Forum 18 on 27 March, asking not to be identified. "But after imams halted the prayers because I prayed the word aloud I had to stop and say it to myself just to avoid conflict."

"Amen" ("Amin" in Kazakh, derived from Arabic) is used by Muslims asking God to accept a prayer. A lawyer in one case unsuccessfully argued that the ban on saying the word aloud "violates the constitutional rights of citizens who belong to the Shafi or Hanbali schools as, in those schools, saying the word 'Amen' aloud is permitted" (see below).

Moves have now begun in one region for the Muslim Board to take over the ownership of mosque buildings and property. In another region a prosecution official has proposed imposing controls on mosque donations (see below).

State-imposed Muslim Board monopoly

The state allows only one registered Muslim organisation in all of Kazakhstan: the Muslim Board. The Board is Hanafi Sunni and bans any other expressions of Islam. The state imposes an extra-legal ban on all non-Board controlled mosques, whether of other schools of Sunni Islam (such as Hanbali or Shafi), Shia, Ahmadi, or independent Sunni Hanafi mosques. All mosques must give the Board one third of their financial income, and accept imams appointed by the Board with no consultation.

This makes Muslim exercise of freedom of religion and belief even more restricted than the freedom of religion and belief of those who follow other beliefs (see Forum 18's Kazakhstan religious freedom survey <http://www.forum18.org/archive.php?article_id=1939>).

Numbers of prisoners of conscience jailed for exercising freedom of religion and belief are increasing, primarily but not exclusively Muslims who allegedly adhere to the Tabligh Jamaat missionary movement (see eg. F18News 21 February 2017 <http://forum18.org/archive.php?article_id=2259>).

Only Board's idea of Hanafi Islamic behaviour allowed

At a meeting in Almaty, the Muslim Board's Council of Scholars approved new Regulations for the Internal Order of Mosques on 16 November 2016. Point 3.4 of the Regulations states: "In accordance with the Hanafi school, visitors to the mosque say the word 'Amen' to themselves."

The telephone at the Muslim Board in Almaty of Head of Mosques, Zhandula Begzhigitov, went unanswered on 27 March. So too did the phone of Muslim Board spokesperson Agabek Sydykov.

Meiram Kikimbayev, Chief Specialist of Atyrau Region's Religious Affairs Department, admitted that no law exists banning the registration of Muslim communities which exist outside the framework of the Muslim Board. "But I'm just an official of a regional Religious Affairs Department," he told Forum 18 from Atyrau on 24 March "This decision was taken at a higher level."

But Kikimbayev claimed the ban on non-Muslim Board mosques does not violate the rights of Muslims who do not adhere to the Hanafi Sunni school of Islam. "They can come to mosques and observe their traditions quietly and respectfully," he claimed to Forum 18. He accused those of praying "Amen" aloud of being Salafis who want to make a demonstration of their difference.

"Impeding lawful religious activity"?

Esenali Isa of Mangistau Region's Religious Affairs Department brought the five known February and March cases in Zhanaozen, and attended at least four of those hearings, according to the decisions seen by Forum 18.

Isa accused the men of violating Administrative Code Article 490, Part 2. This punishes: "Impeding lawful religious activity as well as violation of the civil rights of physical persons on grounds of their religious views or insulting their feelings or profanation of items, buildings and places revered by followers of any religion, unless there are signs of criminally punishable actions". The punishment for individuals is 50 Monthly Financial Indicators (MFIs), and for legal entities 200 MFIs (see F18News 21 July 2014 <http://www.forum18.org/archive.php?article_id=1979>).

A fine of 50 MFIs, currently 113,450 Tenge (3,000 Norwegian Kroner, 330 Euros or 360 US Dollars), represents about one month's average wage.

Administrative Code Article 490, Part 2 is mainly used to punish individuals who cause disruption in mosques, such as by shouting or fighting. No cases are known where it has been used against people - such as officials - impeding people who follow other beliefs from exercising freedom of religion and belief.

Police officers, National Security Committee (KNB) officers and state religious affairs officials have frequently raided religious communities, halting worship and confiscating religious literature. All these actions should lead to officials being investigated and tried under Administrative Code Article 490, Part 2 (see Forum 18's Kazakhstan religious freedom survey <http://www.forum18.org/archive.php?article_id=1939>).

"It is not a question of the word 'Amen'"

Isa of Mangistau Region's Religious Affairs Department said that imams had complained to the police about those praying with the word "Amen" aloud, and the police had handed the material to his Department. He admitted to Forum 18 from Mangistau on 24 March that he had personally signed the records of an offence and attended court hearings.

However, Isa refused to say how many such cases he had presented to court since the new Muslim Board Regulations had been adopted in November 2016.

Kikimbayev from Atyrau Region's Religious Affairs Department similarly refused to tell Forum 18 how many cases his Department had initiated. He said his superior, Mukhtar Izgaliyev, prepares the records of an offence under Administrative Code Article 490, Part 2 and one or other of them attends hearings in court, depending who has prepared the case.

"We get the materials in these cases from the police," Kikimbayev told Forum 18. "They get the initial information, which is usually more than half the case. We interview relevant people also. If there is a confirmed violation, we prepare the record of an offence and it goes to court."

Kikimbayev insisted that, in the cases his Department had initiated, "it is not a question of the word 'Amen'. The word 'Amen' is not important. What is important is the violation of collective prayers, which represents obstruction of lawful religious activity".

December 2016 Zhanaozen cases

On the evening of Thursday 29 December 2016, local Muslim Ilyas Zhalimbet concluded his prayers in the city mosque with the word "Amen". An imam at the mosque warned him that if Zhalimbet continued to use the word "Amen" he would go to the police. After chief imam Kairat Mamanbayev complained about Zhalimbet, Isa of the Regional Religious Affairs Department drew up a record of an offence under Administrative Code Article 490, Part 2.

The case against Zhalimbet was handed to court on 8 February 2017. On 14 March, Judge Marat Kuzdeubayev of Zhanaozen Specialised Administrative Court handed Zhalimbet the prescribed fine of 50 MFIs, 106,050 Tenge. The Judge dismissed the

argument by Zhalimbet's lawyer Galym Nurpeisov that he cannot have disturbed the imam through saying "Amen" aloud, according to the court decision seen by Forum 18.

The following evening, 30 December 2016, another local Muslim was praying in the same mosque and similarly concluded his prayers by saying "Amen" aloud. On 19 January 2017 the Regional Religious Affairs Department drew up a record of an offence against him under Administrative Code Article 490, Part 2.

The case against the second Muslim was handed to court on 25 January 2017. On 2 February, Judge Kenzhekul Kalauova of Zhanozen Specialised Administrative Court handed him the prescribed fine of 50 MFIs, 113,450 Tenge, according to the decision seen by Forum 18. On 20 February the Judge was obliged to correct her decision, reducing the fine to 106,050 Tenge, the rate that applied in 2016 when he committed his "offence".

January 2017 Zhanaozen cases

At evening prayers on Sunday 8 January 2017 in Zhanozen's city mosque, Nurlan Nurdzhanov and Ulugbek Baytursunov similarly used the word "Amen" at the conclusion of their prayers. Their use of the word similarly defied Imam Mamanbayev's public announcement in the mosque on 29 December 2016 and again on the evening of 8 January 2017 that worshippers should not say the word "amen" aloud at the conclusion of prayers.

Isa of Mangistau Region's Religious Affairs Department drew up the record of an offence against Nurdzhanov on 1 February under Article 490, Part 2. He handed the case to court on 8 February. On 14 March, Judge Kalauova of Zhanozen Specialised Administrative Court found Nurdzhanov guilty. She gave him a reduced fine of 79,415 Tenge as he had committed an offence for the first time.

Religious Affairs official Isa also drew up a record of an offence against Baytursunov on 6 February under Article 490, Part 2. He handed the case to court on 8 February. On 14 March, Judge Kuzdeubayev of Zhanozen Specialised Administrative Court found Baytursunov guilty. He fined him the prescribed 50 MFIs, 113,450 Tenge.

In court, Imam Mamanbayev insisted that Baytursunov had violated the Muslim Board's Regulations for the Internal Order of Mosques, adopted on 16 November 2016. Point 3.4 of the Regulations states: "In accordance with the Hanafi school, visitors to the mosque say the word 'Amen' to themselves." The Imam claimed that by saying the word aloud, Baytursunov had "prevented the chief imam of the mosque from carrying out the legal religious activity of praying the namaz".

Baytursunov's lawyer Nurpeisov contested this, according to the court decision seen by Forum 18. He noted that his client was 30 metres away from Imam Mamanbayev, who probably could not hear him. He also argued that the Muslim Board's Regulations "violate the constitutional rights of citizens who belong to the Shafi or Hanbali schools as, in those schools, saying the word 'Amen' aloud is permitted". The Judge dismissed both these arguments.

Also on 14 March, Judge Kalauova found another local Muslim Zharas Bayeshev guilty under Article 490, Part 2 for praying with the word "Amen" aloud at evening prayers on 6 January. She fined him the prescribed 50 MFIs, 113,450 Tenge.

First Zhanaozen appeal overturns fine

The first of the five Muslims to appeal against the fines was successful. On 27 February, Judge Bekzat Shokanova of Mangistau Regional Court overturned the fine and acquitted the Muslim, according to the decision seen by Forum 18.

The other four men have challenged their fines also, Forum 18 has learned. They each had ten days from the 14 March decisions to lodge any appeal to Mangistau Regional Court.

How many other cases?

State religious affairs officials have confirmed to Forum 18 that punishments for praying "Amen" aloud in mosques have occurred in Mangistau and Atyrau Regions. The cases all appear to have arisen after the November 2016 Muslim Board Regulations were adopted.

An official of Atyrau Specialised Administrative Court told Forum 18 on 27 March that "many" cases to punish individuals for saying the word "Amen" aloud during prayers in mosques were heard at the Court in 2016, especially in autumn 2016. "Judge Zamira Bainazarova alone heard two such cases and there are many other judges." No similar cases have been heard in 2017, the official added.

However, the head of the Court chancellery Zharnagul Kiyarova claimed to Forum 18 from Atyrau on 28 March that it "does not have information" on the number of such cases.

The Almaty-based lawyer Nurpeisov, who defended the five men in court in Zhanaozen, first learned about the court cases for praying with the word "Amen" aloud in early February 2017. "I then decided that I had to go there," he told Sputnik Kazakhstan on 16 March. "For me it was a shock - I hadn't understood that it was so serious."

Nurpeisov noted that he chose five cases to defend in Zhanaozen as he was not able to defend all the people who had appealed to him. "I physically wasn't able to work in other districts, so just picked on one town."

The cases of the five men already fined related to prayers at Zhanaozen's city mosque, but cases had arisen in other mosques. Nurpeisov said he was aware of about 20 cases in Mangistau Region, including Zhanaozen and the regional capital Aktau, as well as other cases in Atyrau, capital of the neighbouring Region.

"Terrorism" used to justify state mosque building and property grab

The state-controlled Muslim Board already controls the activity and leadership of all mosques, as well as taking one third of their financial income (see Forum 18's Kazakhstan religious freedom survey <http://www.forum18.org/archive.php?article_id=1939>).

Moves have now begun for the Muslim Board also to take over the ownership of mosque buildings and property. Bekbolat Orynbekov, the First Deputy Akim (administration chief) of the southern Zhambyl Region, told a 10 March meeting in the regional capital Taraz that district Akims need to "coordinate the work of handing over mosques at present owned by organisations and individuals to the ownership of the Spiritual Administration of Muslims of Kazakhstan [Muslim Board]", according to the Regional Administration website. The website described his remarks as an "instruction".

Orynbekov denied that he had instructed Akims to seize the ownership of mosque buildings and property from individuals and other existing owners, and hand the ownership over to the Muslim Board. "We're just preparing to listen to the views of the population," he claimed to Forum 18 from Taraz on 27 March. "No one is preparing to confiscate any property - we won't use force. Any transfer must be voluntary."

Asked why individuals and organisations other than the Muslim Board cannot own mosque buildings, Orynbekov responded: "In many countries there are terrorist acts. We've asked all mosques and churches to install videocameras, because these are places where many people gather. It's a question of the safety of worshippers."

Muslim Board and state officials have already used alleged "terrorism" to justify forcibly closing down independent mosques and other freedom of religion and belief violations, without providing any proof of these claims (see Forum 18's Kazakhstan religious freedom survey <http://www.forum18.org/archive.php?article_id=1939>).

When Forum 18 repeated its question as to why mosques cannot be owned by anyone other than the Muslim Board, Orynbekov said he had people in his office and ended the call.

"Advantages" of religious education inside Kazakhstan

At the 10 March meeting, Zhambyl Region First Deputy Akim Orynbekov also instructed the district Akims to conduct "informational/explanatory work" to outline the "advantages" of religious education inside Kazakhstan rather than abroad.

Religious organisations which send people abroad for study in religious educational institutions already require a state licence for this (see Forum 18's Kazakhstan religious freedom survey <http://www.forum18.org/archive.php?article_id=1939>). Restrictions on other foreign religious travel and pilgrimages were introduced as part of allegedly "anti-terrorist" legal changes in January (see F18News 5 January 2017 <http://forum18.org/archive.php?article_id=2243>).

Control to be imposed over mosque funds?

The state-controlled Muslim Board already takes one third of all mosques' financial income (see Forum 18's Kazakhstan religious freedom survey <http://www.forum18.org/archive.php?article_id=1939>).

In the central Karaganda Region, Regional Prosecutor's Office official Margulan Kaliakparov told a 14 March meeting of the Consultative Council for Countering Extremism of the Regional Akimat that councils of elders will be imposed on mosques to check all donations of money, livestock and food. "It is important to know how donations are spent."

Kaliakparov did not explain how such controls would be enacted, Kazinform news agency noted the same day.

Anti-corruption organisation Transparency International ranked Kazakhstan 131 out of 176 of the world's countries in its 2016 Corruption Perceptions Index (see <https://www.transparency.org/country/KAZ>).

Kaliakparov's telephone at the Regional Prosecutor's Office went unanswered each time Forum 18 called on 27 March.

Serik Tlekbayev of the Regional Religious Affairs Department dismissed Kaliakparov's proposals. "He doesn't understand the situation and expressed himself incorrectly," Tlekbayev told Forum 18 on 27 March. "Mosques have their own controls. Religion here is separate from the state." (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.

A printer-friendly map of Kazakhstan is available at <http://nationalgeographic.org/education/mapping/outline-map/?map=Kazakhstan>.

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