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The right to believe, to worship and witness
The right to change one's belief or religion
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KAZAKHSTAN: "We don't have censorship", but three books banned

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

Kazakhstan has banned three books by authors associated with the banned Tabligh Jamaat Muslim missionary movement. A Prosecutor's Office official claimed to Forum 18 that the three books include calls to "extremism and terrorism", but neither the court nor "expert analyses" backed this. "We don't have censorship, we just check the content of religious publications," another official claimed.

On 8 May a court in the city of Karaganda banned three Muslim books as "extremist", not because they called for harm to anyone's human rights but because the authors are associated with the banned Tabligh Jamaat Muslim missionary movement. The decision came into force on 11 June.

The Prosecutor's Office official who led the case in court in May 2019 claimed to Forum 18 that the three books include calls to "extremism and terrorism". She refused to explain how they call for this. However, despite her claim that they include calls to "terrorism", the court did not find the books to be "terrorist". Two of the "expert analyses" prepared for the case specifically say that the books contain no incitement to hatred (see below).

One of the newly-banned books is by a former prisoner of conscience associated with Tabligh Jamaat, who completed a two-year jail term in 2017 (see below).

The three Muslim books were among religious items seized in raids on six Muslims in Karaganda in October 2017. Three of the men were sentenced to three years' jail each in April 2018. The other three were fined (see below).

Courts have banned numerous Muslim and Christian books and websites as "extremist". Court hearings often take place without any publicity, making it difficult for anyone to challenge the decisions (see below).

In addition, courts on occasion order religious literature confiscated from individuals in police raids as part of administrative proceedings to be destroyed. In the most recent known case, on 8 May a court in Kyzylorda ordered 29 Muslim books seized from a commercial seller to be destroyed (see below).

No religious literature or object can be printed, published or imported without passing state censorship. An official of the "Religious Studies Expert Analysis [Censorship] and Co-operation with Religious Educational Establishments Organisations Department" of the state Religious Affairs Committee denied to Forum 18 that such compulsory state censorship amounts to censorship. "We don't have censorship, we just check the content of religious publications," she claimed (see below).

Jehovah's Witnesses have not faced bans on importing specific religious texts into Kazakhstan since 2015. Four of their complaints concerning the earlier censorship and banning of 19 of their publications are pending with the United Nations Human Rights Committee (see below).

Tight censorship on all religious literature and objects

In defiance of its international human rights commitments – and against the country's Constitution, which bans censorship – Kazakhstan imposes tight censorship on all religious literature and objects. The government's Religious Affairs Committee (former Social Harmony Committee) needs to approve in advance the publication, import and distribution of all religious literature and other materials. (http://www.forum18.org/archive.php?article_id=2409)

Anyone or any shop, religious or other organisation which distributes, sells or offers religious literature – and items such as pictures, icons or jewellery which have a religious motif – without specific state permission or in locations that the state has not specifically approved is punished. The state regularly imposes such punishments, and for individuals this can be a fine of up to several months' average wages. (http://www.forum18.org/archive.php?article_id=2409)

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Of the 171 individuals, companies and charities known to have faced administrative prosecution in 2018 for exercising freedom of religion or belief, 10 individuals and charities were prosecuted for offering religious literature to others for free; 34 individuals and companies for offering religious literature, icons or other items for sale; 18 individuals for offering religious items for sale online; and 23 individuals for posting religious materials online. (http://www.forum18.org/archive.php?article_id=2448)

In addition, courts on occasion order religious literature confiscated from individuals in police raids as part of administrative proceedings to be destroyed.

In the most recent known case, on 8 May Kyzylorda Specialised Administrative Court ordered 29 Muslim books seized from commercial seller Aruzhan Omirbai in a police raid on 29 January to be destroyed, according to the decision seen by Forum 18. Judge Gulmira Iskakova also fined Omirbai 88,375 Tenge (three weeks' average wages) under Administrative Code Article 490, Part 1, Point 3 ("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").

In an earlier case, on 3 January Zhambyl District Court ordered two Muslim books seized from an individual to be destroyed. The owner was fined. Both books were also by members of the Kandhlawi family, instrumental in founding and leading the Tabligh Jamaat movement. (http://www.forum18.org/archive.php?article_id=2442)

In 2015, Yevgeny Zhovtis of the Kazakhstan International Bureau for Human Rights and the Rule of Law condemned such court-ordered book destruction as "barbarism". (http://www.forum18.org/archive.php?article_id=2130)

"We don't have censorship, we just check the content of religious publications"

Guldana (who refused to give her last name), an "Expert" of the "Religious Studies Expert Analysis [Censorship] and Co-operation with Religious Educational Establishments Organisations Department" of the Religious Affairs Committee in the capital Nur-Sultan, denied to Forum 18 that the compulsory state censorship amounts to censorship. The Committee is part of the Information and Social Development Ministry.

"We don't have censorship, we just check the content of religious publications," Guldana told Forum 18 on 20 June. She said that in the first quarter of 2019, her Department had checked nearly 2,000 publications. She refused to say how many of those had been approved and how many rejected.

Guldana declined to discuss the court-ordered bans on books associated with the Tabligh Jamaat movement. "That's a matter for the courts," she told Forum 18.

Systematic (as against the previous occasional) state censorship was brought in with the 2011 Religion Law. (http://www.forum18.org/archive.php?article_id=2409) Asked whether pre-2011 books on religious themes – such as those by the nineteenth-century Russian writer Leo Tolstoy – needed to undergo her Department's censorship, Guldana responded: "Tolstoy would not need to be checked."

Asked whether books by the late Russian Orthodox Patriarch Aleksy II (who died in 2008) would need to undergo state censorship, Guldana put the phone down.

Colleagues of Yerzhan Nukezhanov, appointed to head the Religious Affairs Committee on 11 April 2019, told Forum 18 on 21 June that he was busy and unable to talk.

Tamara Kaleyeva of the free speech organisation Adil Soz (Free Word) condemns this state censorship of religious materials. "This censorship contradicts international human rights standards," she told Forum 18 in January (http://www.forum18.org/archive.php?article_id=2442), "but unfortunately it is in the law. All attempts to change this have not resulted in any change so far."

Books seized in 2017 Karaganda raids

Police arrested six Muslim men in Karaganda on 30 October 2017. As part of its "special operation", police found and confiscated religious literature, "technical equipment", mobile phones and flashcards at their homes. The National Security Committee (NSC) secret police and the ordinary police worked together on the cases. (http://www.forum18.org/archive.php?article_id=2359)

A Karaganda court jailed three of the men - Kazbek Laubayev, Marat Konyrbayev and Taskali Naurzgaliyev – for three years each in April 2018 for participation in the banned religious organisation Tabligh Jamaat (http://www.forum18.org/archive.php?article_id=2379). The other three men were each fined.

Tabligh Jamaat was banned in 2013 even though the leader of a NSC secret police study of the movement found that it was "not an

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extremist or terrorist organisation .. speaking out against all forms of violence against individuals". (http://www.forum18.org/archive.php?article_id=2409)

In November 2017, Karaganda Police had handed the seized Muslim books to the Justice Ministry's Centre for Judicial "Expert" Analysis in Astana. The Police asked the Centre to determine which religious community the books were associated with and whether they contained incitement to hatred.

Two of the publications eventually banned in May 2019 were by Muhammad Saad Kandhlawi, a leading figure in the Tabligh Jamaat movement. The third was a 24-page book "Awakening from Sleep" by Kubaidolla Tyulyubayev.

Tyulyubayev – who was from Karaganda - was arrested in the southern city of Taldykurgan in September 2015 and sentenced with four other Muslims in the capital in February 2016 to two years' imprisonment (http://www.forum18.org/archive.php?article_id=2156) under Criminal Code Article 405, Part 1 ("Organising the activity of a social or religious association or other organisation after a court decision banning their activity or their liquidation in connection with extremism or terrorism they have carried out").

Tyulyubayev completed his sentence in 2017 but, as is normal for ex-prisoners of conscience, he remains on the Finance Ministry Financial Monitoring Committee List of individuals "connected with the financing of terrorism or extremism" so any bank account he has is blocked. (http://www.forum18.org/archive.php?article_id=2409)

The Centre for Judicial "Expert" Analysis conducted at least four "expert" analyses. In two dated 19 January 2018, seen by Forum 18, the "experts" found that none of the books seized in the Karaganda raids and presented by the Police contained calls to restrict other people's human rights, to commit violence or to incite hatred.

Other books seized in the October 2017 Karaganda raids had already been banned as "extremist". One was a Russian translation of "Selected Hadith" by Muhammad Yusuf Kandhlawi and Muhammad Saad Kandhlawi. The "experts" found in January 2018 that this did not include "incitement of social, national, clan, racial, or religious discord, insult to the national honour and dignity or religious feelings of citizens, as well as propaganda of exclusivity, superiority or inferiority of citizens on grounds of their religion, class, national, generic or racial identity".

Curiously, in its decision to ban "Selected Hadith" on 2 August 2016, Alakol District Court in Almaty Region found that it was among Tabligh Jamaat-related books which "contain statements of an incitement nature, containing calls to destroy Islam. Politological research confirms propaganda to subvert the security of the state." The decision added that the book "propagandises negative ideas about Islam and the Arab nation" and incites readers to "extremism".

However, the 2016 Alakol court decision makes clear that the only reason for banning it and two other books was that members of the Kandhlawi family were instrumental in founding and leading the Tabligh Jamaat movement. (http://www.forum18.org/archive.php?article_id=2225)

"Open" hearing bans three Muslim books

Following the January 2018 "expert analyses" of the books seized from the six Muslims in Karaganda in October 2017, the Prosecutor of Karaganda's October District sent a suit to the District Court on 29 March 2019. Prosecutor Erzhan Koshanov asked the court to declare five books "extremist" and ban their import into, publication in and distribution in Kazakhstan, according to the letter seen by Forum 18.

Prosecutor Koshanov cites the conclusions of three of the four known "expert analyses" of the five books that they "contain attributes of the religious organisation Tabligh Jamaat". Koshanov – who seems unaware that two of the five books had already been banned by Alakol Court in 2016 – made no claim that any of the books contain calls to violate others' human rights.

On 8 May 2019, Judge Dulat Burabayev of Karaganda's October District Court acceded to the Prosecutor's request and banned the three Muslim books that had not already been banned. The court decision, seen by Forum 18, claims the hearing was "open". However, court listings for the hearing dates contain no information about the plaintiff (or any respondent).

Karlygash Turabai, who represented the Prosecutor's Office in court, argued that the three Muslim books should be banned only because they "contain attributes of the religious organisation Tabligh Jamaat".

Curiously, Duman Basharov, a self-described theologian from the Study and Analysis Centre for Inter-Confessional Relations of the Karaganda Regional Religious Affairs Department, told the court that the books "contain attributes of extremism in the form of incitement to inter-ethnic discord, racial and ethnic division, contradicting the constitutional order and non-recognition of the state", the court decision quotes him as declaring.

"As a theologian, I can say that as the Tabligh Jamaat organisation has been recognised as extremist, the religious literature which it

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promotes should likewise be recognised as extremist," Bosharov concluded.

"How can [the Prosecutor] be wrong?"

Turabai, the Prosecutor's Office official who led the case in court in May 2019, claimed to Forum 18 from Karaganda on 20 June that the three books include "pages where there are calls to extremism and terrorism". She refused to explain how they call for this.

Forum 18 pointed out to Turabai that despite her claim that the books include calls to "terrorism", the court did not find them to be "terrorist", while the court decision also made no mention of any calls in the books to violations of the rights of others. Forum 18 also pointed out that two of the "expert analyses" prepared for the case specifically say that the books contain no incitement to hatred.

"Prosecutor Koshanov signed off on the suit to court," Turabai told Forum 18. "How can he be wrong?" She referred all further enquiries to him. However, his phone went unanswered on 20 June.

Forum 18 was unable to find out who had invited Basharov from the Study and Analysis Centre for Inter-Confessional Relations to take part in the hearing.

Officials of the Study and Analysis Centre for Inter-Confessional Relations told Forum 18 on 20 June that Basharov (an employee of its Rehabilitation Department) is now on holiday. However, the head of the Rehabilitation Department, Dulat Tulegenov, insisted that Forum 18 needed to direct its questions to Basharov. "He is a theologian with higher education – he's had a good education," he claimed.

Tulegenov insisted that the Muslim Tabligh Jamaat movement is "extremist", though he stressed that he has not studied the reasons for the state ban on it. "I've not personally encountered any victims of Tabligh Jamaat," he added.

"Following the correct path"

Asked to explain what his Rehabilitation Department does, Tulegenov said theologians work with people who come to it voluntarily, "finding out if they are following the correct path". Asked why it is the role of state employees to determine if an individual's way of following a religion or none is "correct" or not, he insisted it is important to prevent individuals getting involved in terrorism.

Tulegenov cited the case of a mother who brought her 17-year-old son to the Rehabilitation Department because he has started to pray the namaz. "She is not religious and is not orientated in this," he claimed to Forum 18. "She wanted to check everything was OK. Everyone was in agreement." Although Tulegenov would not clarify his comments to Forum 18, he implied that the son was praying in a way the state does not dislike.

Asked if anyone who attended a mosque, Russian Orthodox church, or other place of worship could be brought to his Rehabilitation Department, Tulegenov responded: "Not if it's the Russian Orthodox church." He would not explain whether his comment meant that people who attend non-Muslim places of worship do not commit offences. Tulegenov claimed again that any attendance at his Department was voluntary.

Unannounced hearings to ban materials as "extremist"

Prosecutor's Offices as well as Ministries have initiated suits in court to ban religious literature as "extremist". Hearings are not announced and publishers or others who might wish to defend the works are not even informed that the cases are underway. Appealing against such decisions is also usually impossible as the results are not made public until the decisions have entered into legal force, after the deadline for lodging appeals has passed.

Lists of religious works banned as "extremist" or any works banned as "terrorist" appear on the General Prosecutor's Office website. Many of the works appear to be "extremist" or "terrorist". But it is unclear why Adolf Hitler's "Mein Kampf", banned as "extremist" in 2014, appears as a "religious work".

However, among the Muslim, Christian and other materials banned books, recordings and websites are some that do not appear to call for the violation of others' human rights. (http://www.forum18.org/archive.php?article_id=2158)

On 3 March 2015, the Scientific Research and Analytical Centre on Religious Issues of the then Culture and Sport Ministry claimed that a Russian Christian site aimed at Muslim readers Isamasih.ru contained material "infringing on the rights, freedoms and legal interests of the individual and the citizen depending on the social, racial, ethnic and religious adherence and attitude to religion". It "did not recommend" the site for use in Kazakhstan.

On 30 June 2015, Isamasih.ru was among a wide range of sites banned by Esil District Court in Astana (now Nur-Sultan) at the request of the Investment and Development Ministry, according to the decision seen by Forum 18. Internet users in several locations

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told Forum 18 on 20 June 2019 that the site remains inaccessible.

Complaints to United Nations over religious censorship

In August 2015, the then Religious Affairs Committee banned the import of a further three Jehovah's Witness publications. In all, the authorities banned 19 of their publications between 2013 and 2015. Jehovah's Witnesses have not faced bans on importing specific religious texts into Kazakhstan since 2015, they told Forum 18 on 20 June.

Jehovah's Witnesses consistently tried to challenge the literature import denials through the local courts, but without success (http://www.forum18.org/archive.php?article_id=2130). They then lodged complaints to the United Nations Human Rights Committee. Four of their complaints are pending with the Committee, Jehovah's Witnesses told Forum 18. (END)

Full reports on freedom of thought, conscience and belief in Kazakhstan (http://www.forum18.org/archive.php?query=&religion=all&country=29)

For more background, see Forum 18's Kazakhstan religious freedom survey (http://www.forum18.org/archive.php?article_id=2409)

Forum 18's compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments (http://www.forum18.org/archive.php?article_id=1351)

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