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KAZAKHSTAN: What restrictive legal changes will pass Senate "within days"?

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Kazakhstan's controversial new restrictions on freedom of thought, conscience and belief have passed the lower house of parliament, the Majilis, Forum 18 News Service has learnt. "The Senate will consider the Law within days, then it will go to the President," Kayrat Tulesov, Deputy Head of the state Religious Affairs Committee told Forum 18. "We're trying to have this law adopted in its current form." He brushed aside the many strong criticisms from human rights defenders and religious organisations of the draft Law, which amends the Religion Law, the Administrative Code, and other laws. Kamal Burkhanov, who leads the Majilis Working Group preparing the text of the Law, is finalising the text. He refused to make it public, telling Forum 18: "We cannot provide you with a copy of the text - it is our law after all, and it should be none of your concern." Kazakh human rights defenders, such as Ninel Fokina, head of the Almaty Helsinki Committee, strongly criticise the lack of openness and delay in releasing the text. She pointed out to Forum 18 that "clarifications" can still be introduced into the draft before it is sent to the Senate. A senior official has allegedly suggested that the authorities plan to "very delicately, very exactly, in a very coordinated way and without noise" close some religious organisations.

Kazakhstan's controversial draft Law amending the Religion Law, Code of Administrative Offences and other laws has completed its passage through the lower house of parliament, the Majilis. It passed its second reading in a plenary session of the Majilis on 24 September, parliamentary officials told Forum 18 News Service on 26 September. The draft Law has already provoked fierce opposition from human rights defenders and a range of religious organisations across the country.

"The Senate will consider the Law within days, then it will go to the President," Kayrat Tulesov, Deputy Head of the Religious Affairs Committee in the Justice Ministry, told Forum 18 from the capital Astana on 26 September. "We're trying to have this law adopted in its current form." He brushed aside complaints from religious organisations.

Kamal Burkhanov, the Majilis deputy who leads the parliamentary Working Group preparing the text of the Law, told Forum 18 from Astana on 29 September that the Law was approved with 80 deputies in favour, one against and one abstaining.

Burkhanov vigorously defended the wideranging Law. "I don't believe the law discriminates against any believer," he insisted to Forum 18. "Religion is free in Kazakhstan, anyone can believe in Christ, Islam, the Moon or the Sun or whatever they want to." Asked about reported discrimination in the law between different categories of registered organisations he responded: "This is Kazakhstan and we take into account our own traditions and mentality."

Burkhanov had told the local news organisation KTK in the wake of the approval of the new Law that administrative punishments should first be used against religious communities that violate the law, then criminal penalties. Asked about the tone of his comments, Burkhanov told Forum 18: "People should know if they violate the law they will be punished."

Burkhanov explained that under parliamentary regulations, experts working on the text of draft laws to be sent to the upper chamber have 10 days to finalise all the technicalities. "I do not whether this law has reached the Senate yet, but it should be there within 10 days."

"The text is still with the deputy who was leading it, Kamal Burkhanov," the Majilis press service told Forum 18 on 29 September. "He will have to sign off the final version, but he's still working on it."

Asked to make public the text of the law as approved on 24 September, Burkhanov told Forum 18: "We cannot provide you with a copy of text - it is our law after all, and it should be none of your concern." No other parliamentary official was able to supply the text to Forum 18 either.

Ninel Fokina, head of the Almaty Helsinki Committee, criticises the lack of openness and delay in releasing the text. She pointed out to Forum 18 from Almaty on 29 September that "clarifications" can still be introduced into the draft before it is sent to the Senate.

The draft Law on Amendments and Additions to Several Legislative Acts on Questions of Freedom of Conscience and Religious Associations – prepared by a group of parliamentary deputies - was approved for consideration by parliament on 2 April. The new Law aims to amend numerous articles of the current Religion Law, the Code of Administrative Offences and several other laws. The draft Law, which received the backing of Prime Minister Karim Masimov, passed its first reading in the Majilis in June (see F18News 10 June 2008 http://www.forum18.org/Archive.php?article_id=1141).

Kazakhstan's parliament has no opposition deputies, the only party to have deputies in the lower house being the Nur Otan Party of President Nursultan Nazarbaev. The Senate is selected by regional and local officials and President Nazarbaev.

One Majilis deputy, Aygul Solovyova, insisted she was opposed to this Law from the beginning. "I cannot say what could be made better in this law because it would be senseless to talk about that," she told Forum 18 from Astana on 26 September. "The entire law needs to change." She fears that the upper house will soon adopt it without any major changes, and it will go to the President. "The President might not sign it and might send it back - that's what I'm really hoping for now."

Several religious communities which have already expressed concern about earlier versions of the law – including the Lutherans and Jehovah's Witnesses – told Forum 18 on 26 September that they cannot comment as they have not had the opportunity yet to see the text of the Law as adopted in the second reading.

Presidential Administration plan to close religious organisations "without noise"?

The Almaty-based Respublika newspaper published on 26 September a leaked speech, from several weeks before the second reading of the Law, by Maulem Ashimbaev, deputy head of the Presidential Administration covering internal policy. Ashimbaev was speaking at the meeting of the Presidential Administration attended by all the deputy Akims of Kazakhstan's regions on the issue of internal policies, as well as representatives of the related sections of appropriate ministries and government agencies.

According to Respublika, Ashimbaev told officials that the authorities plan to re-register all religious organisations, closing many, under the new Law. "A range of organisations must be closed and a range of organisations must be supported," he was quoted as saying. "But here the work must be done very delicately, very exactly, in a very coordinated way and without noise." He reportedly told the officials that everything must be coordinated "from the centre" and that officials of the Religious Affairs Committee must go to each region and "take everything under personal control".

Respublika said it had tried but failed to verify the authenticity of the transcript. Forum 18 has also been unable to establish its authenticity. Tulesov of the Religious Affairs Committee confirmed to Forum 18 that the meeting had taken place, and that he had been among 60 or 70 officials present, but denied these and other reported comments.

Immediate criticism of the new Law

Fokina of the Almaty Helsinki Committee, which has long campaigned against plans to restrict religious freedom in Kazakhstan, is highly critical of the version of the Law approved by the Majilis. "It is conceptually wrong and defies all the religious freedom principles of the Organisation for Security and Co-operation in Europe," she told Forum 18.

Fokina said that the Almaty Helsinki Committee had found many "discriminatory points" in the new Law. She complained about tighter restrictions on religious organisations compared to other legal entities and individuals, as well as distinctions between different categories of religious entity with differing rights. She also complained that the new Law requires a "religious expert opinion" of the founding documents, all the religious literature and religious items before a community can register. She also stated that religious communities would not be able to import or print any religious literature without permission of the State Committee. "That sounds like censorship."

Fokina's concerns were echoed by Aleksandr Klyushev, who heads the Association of Religious Organisations of Kazakhstan (AROK). "There is nothing good about the new law," he complained to Forum 18 on 26 September. "It is anti-constitutional and should be recalled from Parliament."

On 11 September, in the run-up to the second reading, AROK wrote to all Majilis deputies expressing "deep concern" over the "unfounded restrictions on basic religious rights and freedoms provided by the Constitution and current law". The letter, of which Forum 18 has seen a copy, called on deputies to display "political wisdom" and reject the draft. AROK told deputies that in the time when the draft was being considered by parliament, numerous reports of the worsening situation for religious communities had come in from across Kazakhstan, especially from those not professing "traditional Islam and Orthodoxy".

"A Law on Non-Freedom of Conscience"

Kazakh human rights defenders and a wide range of religious communities have strongly and publicly condemned the draft Law. Among numerous aspects of the Law to have drawn criticism are increased penalties for unregistered religious activity, and a requirement that 50 adult citizen members will be required to register local religious communities. These will be banned from

engaging in many peaceful religious activities, including educational or publishing activity, and sharing their beliefs (see F18News 10 June 2008 http://www.forum18.org/Archive.php?article_id=1141). Lutheran Bishop Yuri Novgorodov described the draft text as "a Law on Non-Freedom of Conscience" (see F18News 6 May 2008 http://www.forum18.org/Archive.php?article_id=1125).

OSCE / Council of Europe Venice Commission legal review

Following the sustained criticism, Kazakhstan asked the Organisation for Security and Co-operation in Europe (OSCE) Office for Democratic Institutions and Human Rights (ODIHR) to supply a legal review of the draft Law, which was supplied on 10 June. The Venice Commission of the Council of Europe - Kazakhstan has observer status with the Venice Commission – also participated in the review. Burkhanov, of the Majilis Working Group, claimed to Forum 18 on 10 June that any criticisms in the legal review would be taken into account (see F18News 10 June 2008 http://www.forum18.org/Archive.php?article_id=1141).

The draft Law flagrantly 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>).

The Law's wider context

The draft Religion Law is being considered in a climate of ongoing formal officially-incited intolerance of religious minorities, in a "State Programme of Patriotic Education," approved by a decree of President Nazarbaev, and a Justice Ministry booklet "How not to fall under the influence of religious sects" (see F18News 3 April 2007 http://www.forum18.org/Archive.php?article_id=939). This intolerance is also incited through the mass media, which is being used by the state to encourage support for both the draft Law (see eg. F18News 10 June 2008 http://www.forum18.org/Archive.php?article_id=1141) and police raids on religious communities (see eg. F18News 22 February 2008 http://www.forum18.org/Archive.php?article_id=1091).

In recent months, the authorities have seemed to be particularly keen to deprive minority religious communities of places of worship and other buildings. Communities so targeted have included Protestants and Hare Krishna devotees (see eg. F18News 20 August 2008 http://www.forum18.org/Archive.php?article_id=1174).

Religious communities in Kazakhstan have also been disturbed by increased official demands that they and their leaders complete highly intrusive questionnaires covering an extremely wide range of personal, political, religious and other matters, including who the close friends of leaders are (see F18News 25 February 2008 http://www.forum18.org/Archive.php?article_id=1093). Official demands that answers must be given to such questions violates the Kazakh Constitution (see F18News 25 February 2008 http://www.forum18.org/Archive.php?article_id=1092).

Neither international human rights standards nor published Kazakh laws guide the actions of officials and courts. Currently, Kazakh law contradicts itself over whether or not registration is actually compulsory (see F18News 8 December 2005 http://www.forum18.org/Archive.php?article_id=701). But this has not stopped members of unregistered communities being fined (see eg. F18News 11 September 2008 http://www.forum18.org/Archive.php?article_id=1186).

The administration of those rights supposedly guaranteed in Kazakhstan is open to serious criticism. For example, the OSCE has found that court proceedings in the country do not offer the guaranteed right to a fair trial. In a February 2007 report on trial monitoring, the OSCE found that Kazakh court proceedings needed to offer "the right of the public to attend court, equality between the parties and the presumption of innocence" (see <http://www.osce.org/astana/24153>).

Similarly, legal experts have told Forum 18 that terrorism charges brought against 15 devout Muslims – which resulted in jail sentences of up to 19 and a half years - were not proven, and that at least fourteen of the accused are completely innocent (see F18News 8 April 2008 http://www.forum18.org/Archive.php?article_id=1110). (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>.

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