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KAZAKHSTAN: "One nation – one religion"?

By Mushfig Bayram, Forum 18 (<https://www.forum18.org>)

Kazakhstan's President Nursultan Nazarbaev has called for increased surveillance of religious communities. Earlier, the head of the new state Agency of Religious Affairs (ARA) stated that the country had chosen "one nation – one religion" and that the ARA will "prepare a concept on the 'Development of moderate Islam in Kazakhstan"'. This may echo Muslim Board calls to "restrict permitted Islam to the Hanafi school". Local people have told Forum 18 that the ARA is also expected to work on legislation further restricting freedom of religion or belief in the country. Yesterday (27 July), a ban on Shymkent's Ahmadi Muslim Community's right to use its mosque was upheld, but the community can continue to use the building until an appeal is decided. "The authorities are not just going against us", an Ahmadi commented. Changes have also been made to the Criminal and Administrative Codes, whose overall impact is – a legal expert stated - to "give more freedom to state agencies to interfere with freedom of religion or belief and go unpunished". "Who will now protect us from 'law-enforcement' agencies breaking the law?" a Kazakh religious believer, who wished to remain unnamed, asked Forum 18.

Kazakhstan's President Nursultan Nazarbaev has called for increased surveillance of religious communities and for unspecified "extremist religious ideology" to be "strictly suppressed". Yesterday (27 July), South Kazakhstan Regional Court upheld an earlier ban on the Ahmadi Muslim Community's mosque and suspension of its rights to use its land for religious purposes, Forum 18 News Service has learned. Officials have refused to discuss these matters, along with calls by the Chair of the newly formed Agency of Religious Affairs (ARA) for "one nation – one religion".

Changes have also been made to the Criminal and Administrative Codes. Their overall impact is to "give more freedom to state agencies to interfere with freedom of religion or belief and go unpunished", an independent legal expert told Forum 18.

"It is necessary to strictly suppress.."

President Nazarbaev has followed his April speech, calling for greater controls on unspecified religious communities, with a further call for action against unspecified "extremist religious ideology". The April speech – and a subsequent speech by the Mayor of Almaty - was followed by smaller religious communities experiencing greater pressure including police and National Security Committee (KNB) secret police raids, as well as hostile media campaigns led by state-funded so-called anti-sect centres (see F18News 6 May 2011 http://www.forum18.org/Archive.php?article_id=1568).

On 22 July President Nazarbaev, according to his Press Service, stated that: "It is necessary to strictly suppress the spread of elements of extremist religious ideology in the country, especially, open actions which are aimed at undermining the constitutional system and which pose a threat to citizens' lives and health".

After praying for sick person, one Protestant pastor is currently facing criminal prosecution for allegedly endangering their health (see F18News 5 July 2011 http://www.forum18.org/Archive.php?article_id=1590).

President Nazarbaev was addressing a meeting of the country's Security Council, which was discussing what were described as discussed "further measures to strengthen stability in the religious sphere". The Presidential Press Service quoted Nazarbaev as saying that: "The mayors of Astana and Almaty as well as regional governors should step up educational and preventive measures, as well as keep a close watch on religious associations' strict compliance with the existing legal norms. The Agency for Religious Affairs is entrusted with a huge number of practical tasks".

"We are not authorised to comment on the President's statements"

Marat Raimkhanov of the Presidential Press Service refused on 27 July to comment on President Nazarbaev's statements. "We are not authorised to comment on the President's statements, I recommend that you talk to the Agency for Religious Affairs," he said.

Merekegul Karabayeva of the ARA, who handles media relations, claimed that the ARA was still in the process of reorganisation, and that its officials could not make comments. When asked whether or not the law-enforcement and other state agencies would target peaceful religious communities when suppressing "extremist religious ideology", she replied: "the question needs to be asked

to the law-enforcement agencies not to us," she told Forum 18 on 28 July. She then refused to talk further.

Ban on Ahmadi Muslim mosque upheld

Yesterday (27 July), South Kazakhstan Regional Court upheld a 12 May Economic Court decision to fine the southern city of Shymkent's Ahmadi Muslim community, and suspend its rights to use its mosque and land. Judge Sabit Zhaksylykov ruled that the suspension applies until the alleged violations of land usage claimed by the joint Zhambyl-Kyzylorda-South Kazakhstan inter-regional Land Inspection Agency are "eliminated", according to the verdict seen by Forum 18 (see F18News 7 June 2011 http://www.forum18.org/Archive.php?article_id=1577).

Aygul Tilhodjayeva, Secretary of the Court's Panel, on 27 July told Forum 18 that the Court will not make any comment on the decision. However, she said that "the Ahmadiyya Community may within a year file a cassation appeal". She also stated that the Appeal Court's decision will not enter into force until after the case is heard by the Cassation Court. This means that the community can for the moment continue to use the building.

Ahmadi Muslims from Shymkent, who wished to remain unnamed for fear of state reprisals, told Forum 18 on 28 July that "as soon we receive a copy of the Court decision, we will prepare our appeal and file it". Tilhodjayeva of the Court's Panel told Forum 18 that the Ahmadis will soon receive a copy of the decision.

"The authorities are not just going against us"

Asked why the authorities are trying to stop the Ahmadis using their mosque, community members said that: "Perhaps they want to stop our activities. The authorities are not just going against us. They are also nationwide going against Jehovah's Witnesses, many Protestant churches, and other minority religions" (see eg. F18News 5 July 2011 http://www.forum18.org/Archive.php?article_id=1590).

Karabayeva of the ARA did not want to comment on the case. When Forum 18 asked how long the ARA's re-organisation will continue, and who is going to defend the right to freedom of religion or belief in the meantime, she put the phone down.

Church forced to move

Shymkent authorities in 2010 also banned the local New Life Protestant Church from using its registered building. As with the Ahmadis, the authorities claimed that the building could not be used for religious purposes (see F18News 31 March 2011 http://www.forum18.org/Archive.php?article_id=1557).

Church members told Forum 18 on 28 July that the Church had to move to a new location in Shymkent and receive a new registration. But they received this "only a few days ago". "So far we have not had any problems meeting in the new place", they told Forum 18.

New state Agency of Religious Affairs

Following President Nazarbaev's April speech calling for greater controls on unspecified religious communities, statement that the Minister of Education and Science should take charge of this, and pressure on smaller religious communities, an Agency of Religious Affairs (ARA) was established by Presidential Decree on 18 May. The new Agency reports direct to the Prime Minister, Karim Masimov, and replaced the Committee for Religious Affairs. The Committee itself, in what some saw as a downgrading of its importance, was moved to the Culture Ministry from the Justice Ministry in March 2010 (see F18News 18 June 2010 http://www.forum18.org/Archive.php?article_id=1458).

Kairat Lama Sharif, a career diplomat and previously Kazakh Ambassador to Saudi Arabia, Bahrain, Kuwait, Oman, Qatar, and the United Emirates, was on 7 June appointed Chair of the ARA by the Prime Minister.

Forum 18 repeatedly tried to find out whether the ARA intends to act against violations of freedom of religion or belief, but has received no answer despite submitting written questions on 8 July. On that day Karabayeva of the ARA told Forum 18 that "the Agency is only being formed, and it would not be appropriate to answer questions over the phone".

Local people have told Forum 18 that ARA officials say that the new body will prepare a policy document on relations between Islam and the state, then work on long-threatened legal changes to restrict even further the exercise of freedom of religion or belief.

A 2010 document of the ruling presidential Nur Otan Party, a member of the Senate who was in 2010 working on legal changes, and the country's 2009 "National Human Rights Action Plan" have all indicated that proposed restrictions – rejected to avoid bad publicity while the country was Organisation for Security and Co-operation in Europe (OSCE) Chair-in-Office – will return (see F18News 30 September 2010 http://www.forum18.org/Archive.php?article_id=1493).

"One nation - one religion"

ARA Chair Lama Sharif himself on 17 June claimed in a press conference that: "each citizen of Kazakhstan has a right to freedom of conscience and choice, and we have made our own choice. Our choice is objective and based on the principle of 'one nation – one religion', and it is exactly this principle that makes us one nation. In this context, we will prepare a concept on the 'Development of moderate Islam in Kazakhstan'."

The newly-formed ARA will also, Lama Sharif stated, "develop proposals to improve legislation on religious associations" and "organise and conduct activities to promote the stability and spiritual enlightenment of Kazakhstan's society". He went on to state that "particular emphasis will be placed on preventing religious extremism".

Prime Minister Masimov was reported in the Kazakh media as introducing Lama Sharif to ARA personnel on 8 June with the comment that "we have to have a responsible policy so that all religion-related issues are well-coordinated". He also claimed in relation to Islam that "we have to dot all the 'i's, so that there are no misinterpretations. Islam is a clear and correct religion. It just needs to be interpreted correctly."

Lama Sharif defended his "one nation – one religion" comment by stating that "many secular states give preference to one religion, if the majority of its population confess that religion. Majority confessions in Kazakhstan are Islam and [Russian] Orthodox". He also claimed that "we acknowledge the beneficial role of Catholicism, Protestantism and Judaism. These confessions were given opportunities to realise their activity more freely in Kazakhstan after the country's independence".

He also stated that society needs to support the secularity of the State, "the foundation of stability and prosperity of Kazakhstan".

Ninel Fokina of the Almaty Helsinki Committee told Forum 18 on 11 July that the establishment of the ARA indicates that the state will increase control over religious activity in the country. Lama Sharif "is the protégé of Absattar Derbisali [Head of the Muslim Board and Chief Mufti], and his successor as the ambassador to Saudi Arabia and the Gulf Countries".

She described his first statements as showing that "he does not have any understanding of freedom of conscience and religion. I do not see anything, which would give hope for future in this appointment." But, she continued, "we will have to wait and see what happens."

"Careless statements"

Lama Sharif's comments stirred some controversy. On 29 June a deputy of the ruling presidential Nur Otan Party – the only party in the Majilis (Lower House of Parliament) – criticised Lama Sharif's comments. "Careless statements of responsible state officials, who are not only scholars of Arabic studies, may disturb public stability and inter-religious accord in Kazakhstan," Serik Temirbulatov told the Majilis on 29 June. "Why do persons representing the state and government in relations with religious communities publicly express preference for one religion, and give state support to one religion to the detriment of all others?"

He was also reported as asking: "Why does the [religious affairs] Agency of a multi-confessional country, against its mandate, want to prepare a concept of developing one concrete religion?"

Temirbulatov also reportedly claimed that Lama Sharif's statement "contradicts the Constitution of Kazakhstan, and violate the principle of non-interference of the state in the affairs of religious communities". He went on to claim that: "It is necessary to take measures that in the future leaders of state agencies, whose competence is to implement state policies in the sphere of ensuring rights of citizens to the freedom of religion, do not allow statements or actions, which undermine inter-religious accord in the country."

Temirbulatov has previously stated that if the Majilis votes to retain articles in the Code of Administrative Offences which violate Kazakhstan's international human rights commitments, this vote will prevail (see F18News 24 June 2010 http://www.forum18.org/Archive.php?article_id=1460). Government plans to revise the entire Administrative Code were postponed when the draft was withdrawn in August 2010. It remains unclear when – or if - the entire Code will be revised.

Muslim Board pressure for restrictions

The state-backed Muslim Board has long been pushing for a more restrictive Religion Law, its spokesperson Ongar Omirbek told the Russian news agency Interfax on 13 July. Its particular desire is for a Law that would restrict permitted Islam to the Hanafi school, the school mostly represented in Kazakhstan. "We hope that it will be adopted this year."

Muhammadhuseyn Asylbekov, Deputy Chief Mufti of Kazakhstan, on 27 July refused to comment on Omirbek's statement, and referred Forum 18 to Omirbek whose phones went unanswered on the same day.

Forum 18 was unable to find out whether the threatened legal changes will aim to ban versions of Islam other than the Hanafi school. ARA officials and officials of the Justice Ministry declined to discuss the content of the promised amendments with Forum

18.

Pressure has been exerted on independent Muslim communities to join the Muslim Board (see F18News 14 October 2010 http://www.forum18.org/Archive.php?article_id=1498), and both Sunni and Shia Muslims from Kazakhstan's ethnic minorities have told Forum 18 of great difficulties they face from the state and the Muslim Board in opening mosques (see F18News 4 November 2010 http://www.forum18.org/Archive.php?article_id=1506).

Changes to the Criminal and Administrative Codes

However, parts of the Criminal and Administrative Codes were changed by Parliament on 18 January. As part of a large package of changes, the Criminal Code article supposedly defending parts of the internationally recognised right to freedom of religion or belief was abolished. Article 149 ("Obstructing the realisation of the right to freedom of conscience and religious confession") read:

"Obstructing the legal activity of religious organisations or the performance of religious rituals is punishable with a fine of 50 to 200 times the minimum monthly unit, or of the level of pay or of other income of the sentenced person for a period of one to three months, or of corrective labour for a period of up to one year, or arrest for a period of up to three months."

State officials were "never" convicted

Article 149 is not known to have been ever used during its existence. Talgar Akhmetov, Deputy Chair of the Justice Ministry's Penal System Committee, did not want to discuss the question with Forum 18 on 11 July. He would only comment that state officials were "never" convicted of such a crime. When asked why, he quickly put the phone down. Subsequent calls to him went unanswered.

Asan Sagadiyev and other officials of the Justice Ministry's Press Service, who did not give their names, also refused to discuss with Forum 18 on 11 July whether anyone had ever been prosecuted under this Article.

Marat Ahmedjanov, Head of the Prosecutor General's Department of Legal Statistics, told Forum 18 on 11 July that he could not answer the question immediately. He asked Forum 18 to call another number to receive the answer. The number Ahmedjanov gave was a private telephone number, and subsequent calls to his office went unanswered.

Jandos Umiraliyev and another official who would not give his name, both from the Chancellery of the Prosecutor General, also said they could not answer the question and referred Forum 18 to Ahmedjanov.

Unused Administrative Code article?

The only remaining article in the Criminal or Administrative Codes which specifically supposedly defends freedom of religion or belief is paragraph 2 of Article 375 ("Violating the Religion Law"). Paragraph 2 of this Article reads:

"Obstructing the performance of religious rites, other religious activity carried out in accordance with the law, the violation of the rights of physical persons based on their attitude to religion, desecrating objects, buildings and places venerated by followers of one or another religion, and offending the religious feelings of a physical person carries a fine on physical persons of up to eight times, and on officials up to 15 times, the minimum monthly unit."

Just as with Criminal Code Article 149, no official is known to have been prosecuted, convicted, and punished under Administrative Code Article 375 Paragraph 2, and no official was willing to discuss this with Forum 18. But other parts of Article 375 have been used by officials to prosecute people exercising their right to freedom of religion or belief (see eg. F18News 23 June 2010 http://www.forum18.org/Archive.php?article_id=1459).

Administrative Code change

Also on 18 January, parliament added an extra clause to Article 375 of the Administrative Code. A new Paragraph 2-1 reads:

"Obstructing the legal activity of religious organisations carries a fine on physical persons of 200 to 500 times the minimum monthly financial unit, or administrative arrest of up to 45 days."

It remains to be seen whether any officials will ever be prosecuted or convicted under Paragraph 2-1.

"More freedom to state agencies to interfere"

An independent legal expert in Kazakhstan, who wished to remain unnamed for fear of state reprisals, told Forum 18 on 8 July that the removal of Criminal Code Article 149 is "a serious deficiency" in the law. "Public officials must be made more responsible in law for any violations they commit." The expert was unaware of any occasion when an official had been prosecuted, convicted, and punished for violating the right to freedom of religion or belief.

The expert commented that Administrative Code Article 375 does not "technically" provide for serious punishments to be imposed on state officials who violate the right to freedom of religion or belief. The overall impact of the Criminal and Administrative Code changes is to "give more freedom to state agencies to interfere with freedom of religion or belief and go unpunished".

There have been increasing violations by state officials of the right to freedom of religion or belief (see eg. F18News 5 July 2011 http://www.forum18.org/Archive.php?article_id=1590). "Who will now protect us from 'law-enforcement' agencies breaking the law?" a Kazakh religious believer, who wished to remain unnamed, asked Forum 18 on 4 July. (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://education.nationalgeographic.com/education/mapping/outline-map/?map=Kazakhstan>.

If you need to contact F18News, please email us at:
f18news @ editor.forum18.org

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY