

2 September 2011

KAZAKHSTAN: New Religion Law to "bring order to our house"

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

Human rights defenders and members of religious communities the government does not like have already expressed concern to Forum 18 News Service over the proposed amendments to make the Religion Law harsher. President Nursultan Nazarbaev told Parliament on 1 September that the amendments are to be adopted "in the current session", which concludes in June 2012. He complained of unregistered communities which the state does not control, insisting: "We must bring order to our house." The head of the government's Agency of Religious Affairs, Kairat Lama Sharif, told the media the amendments his Agency has prepared (which have not been made public) will soon go to Parliament. Once adopted, the Law will require re-registration. "We are not expecting anything good from these new developments," one Protestant told Forum 18. Ninel Fokina of the Almaty Helsinki Committee told Forum 18 she fears the new amendments will be "essentially the same text" as the restrictive previous amendments declared unconstitutional by Kazakhstan's Constitutional Council in 2009. The OSCE told Forum 18 the Kazakh government has not asked for its assistance.

Following unequivocal rulings by Kazakhstan's Constitutional Council in 2002 and again in 2009 that harsh proposed new Religion Laws already approved by Parliament were unconstitutional, Parliament is again due to consider major revisions to the 1992 Religion Law to introduce new restrictions, Forum 18 News Service notes. President Nursultan Nazarbaev made the announcement to a joint session of the two houses of Parliament in the capital Astana yesterday (1 September). He demanded that deputies consider the amendments "in the current session", which lasts from 1 September until 30 June 2012. His newly-appointed head of the government's Agency of Religious Affairs, Kairat Lama Sharif, told the media the same day that, once adopted, the Law will require all registered religious organisations to re-register with the state.

Forum 18 has been unable to get a copy of the text due to be presented to Parliament. Officials have also refused to explain why the Religion Law needs to be amended.

Merekegul Karabayeva, press spokesperson of the Agency of Religious Affairs (ARA), declined to discuss anything with Forum 18 on 2 September. Telephones of other ARA officials, including both its deputy chairs Marat Azilkhanov and Ardak Doszhan, went unanswered each time Forum 18 called.

Serik Temirbulatov, the deputy who was a member of the Majilis (lower house of Parliament) working group which prepared the previous draft in 2008, said he had not seen the text of the latest proposed amendments. He told Forum 18 from Astana on 2 September he could only comment when the Agency of Religious Affairs – which has prepared the text – passes it to Parliament. He said he did not know when that would happen.

"We are not expecting anything good"

Human rights defenders and members of religious communities the government does not like have already expressed concern about the planned amendments. Ninel Fokina of the Almaty Helsinki Committee – who was active in opposing the previous attempted amendments – fears the new amendments will be "essentially the same text". She pointed out that neither she nor society at large has had the possibility to see and contribute comments on the text.

Fokina expressed particular concern at the promised re-registration requirement. "I see re-registration as an effective tool the government is using to get rid of religious groups it dislikes and regards as undesirable," she told Forum 18 from Almaty on 2 September. "It has been a familiar scheme ever since the 1990s, when the Religion Law was amended for the first time."

A member of the Grace Presbyterian Church in Karaganda [Qaraghandy] is equally concerned. "We are not expecting anything good from these new developments," the church member told Forum 18 on 2 September. "When we had a more or less normal Religion Law, we still experienced problems from the authorities. Now they want to make it stricter we can expect really unpleasant things."

The church member said that in recent months, state officials from various agencies, "even the fire department officials", told the church "we belong to the so-called risk-group organisations".

Among other religious communities Forum 18 has spoken to who are worried by the proposed amendments is a member of the Ahmadi Muslim community, who also expressed concern over re-registration. "If we have registration, why should we need to be re-registered?" the representative told Forum 18 on 2 September. "We have been registered in Kazakhstan for 17 years."

Text already prepared

Lama Sharif told journalists on 1 September that his Agency of Religious Affairs has already prepared the new draft Religion Law, which contains "many innovations". He said it would be presented to Parliament "in the near future".

In his remarks to Parliament, President Nazarbaev claimed that it is necessary to make the Religion Law harsher. "We are not talking about banning freedom of conscience," he insisted. "Talk is rather of defending the state from religious extremism, which all states do, especially those which have adopted Islam as the state religion."

Forum 18 notes that Kazakhstan has no state religion and is described in its Constitution as a secular state. The current Religion Law declares that all religions and religious communities are equal before the state.

Nazarbaev expressed his anger over what he claims some religious communities and individuals are doing. "What they want to do, they do, whoever wants to come here comes," he told parliamentarians. "They name mosques after their fathers! What these mosques are up to, no one knows. No one confirms them, no one registers them! This is a state! We must bring order to our house. I believe you will approach this question seriously and we will all do what needs to be done."

While parliamentarians have some input into the content of Laws, Forum 18 notes that the Religion Law amendments are unlikely to face opposition in Parliament. The Nur Otan (Light of the Fatherland) party, led by Nazarbaev, is the only party to have representation in the two-chamber Parliament.

After the Constitutional Council rejected the latest proposed amendments in 2009, officials have repeatedly promised that they would try again. 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 in 2010 – would return (see F18News 30 September 2010 http://www.forum18.org/Archive.php?article_id=1493).

No help sought from OSCE

Although the proposed amendments to the Religion Law have already been prepared, the Kazakh government has not asked for any assistance in reviewing them either from the OSCE Office for Democratic Institutions and Human Rights (ODIHR) or from the OSCE Centre in Astana, ODIHR and the Centre separately confirmed to Forum 18 on 2 September.

"The OSCE Office for Democratic Institutions and Human Rights stands ready to provide any assistance to the government of Kazakhstan, upon request, to help it ensure that the proposed amendments to the Religion Law fall in line with Kazakhstan's OSCE commitments," Thomas Rymer, ODIHR deputy spokesperson, told Forum 18 from Warsaw.

Both the proposed Religion Law amendments rejected by the Constitutional Council 2002 and 2009 had been the subject of heavy criticism by the OSCE. When the OSCE Legal Opinion requested by the Kazakh government in 2008 – prepared by the OSCE/ODIHR Advisory Council on Freedom of Religion or Belief – turned out to be highly critical, the Kazakh government tried to prevent its publication. It was finally made public in February 2009, when the Constitutional Council had already begun its review (see F18News 4 February 2009 http://www.forum18.org/Archive.php?article_id=1249).

Just the Religion Law to be amended?

Although President Nazarbaev and Lama Sharif of the Agency of Religious Affairs both spoke only of amendments to the Religion Law, and as long as no texts have been made public, it remains unclear whether amendments are being prepared to other Laws relating to religion.

The "Law on Amendments and Additions to Several Legislative Acts on Questions of Freedom of Conscience and Religious Associations" – rejected by the Constitutional Council in 2009 – would have amended not only numerous articles of the current Religion Law, but the Code of Administrative Offences and several other laws.

Growing power of Agency of Religious Affairs

The new Agency of Religious Affairs (ARA) which has prepared the new amendments was established by Presidential Decree in May and reports directly to Prime Minister Karim Masimov. On 7 June Masimov appointed Lama Sharif, a career diplomat, to head the new Agency (see F18News 28 July 2011 http://www.forum18.org/Archive.php?article_id=1599).

Lama Sharif insisted in his 1 September comments to journalists that his Agency had been created "to increase the religious literacy of the population. To explain what the threat of religious extremism and what the development of normal religion represent."

Concern has already been expressed over his comments at a press conference in June 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'" (see F18News 28 July 2011 http://www.forum18.org/Archive.php?article_id=1599).

Lama Sharif revealed that during the Muslim holy month of Ramadan, which coincided this year with August, his Agency had travelled to every Region of Kazakhstan and conducted "informational analytical work" on the religious situation. "The reports of the analytical groups note that the religious situation in Kazakhstan is stable," he declared.

However, Lama Sharif expressed concern about unnamed "destructive movements which propagate extremism," he was quoted by the Tengrinews agency as declaring. "Of course in this connection the Agency of Religious Affairs conducts work in the area of warning against these extremist-minded people, especially among youth." He insisted that politicisation of religion was "unacceptable".

Will only Hanafi Islam be permitted?

It remains unclear if the proposed amendments will include the demand of the state-backed Muslim Board that only Islam of the Hanafi school will be permitted. Its spokesperson Ongar Omirbek declared in July that it had long pushed for a more restrictive Religion Law and hoped that it would include a monopoly among Muslims for Hanafi Islam (see F18News 28 July 2011 http://www.forum18.org/Archive.php?article_id=1599).

Forum 18 notes that Lama Sharif focused in his 1 September statements mainly on mosques rather than communities of other faiths, while his June comments about preparing concept of moderate Islam have worried some Muslims set to be excluded by any Muslim Board monopoly.

Re-registration – only for those that "benefit society"

Although he spoke mainly about mosques, insisting that none would be closed as a result of re-registration, Lama Sharif insisted the Law will require compulsory state re-registration for all communities.

Lama Sharif claimed that re-registration is needed because many religious communities were created before Kazakhstan gained independence in 1991. "This is why after the adoption of the Law re-registration of religious associations will be carried out, and we will in addition carry out thorough religious expert analyses of all religious associations on the subject of their accordance with basic legislative acts of Kazakhstan and over what benefit or harm they cause to society," he was quoted by Interfax-Kazakhstan on 1 September as declaring.

Repeated amendments to laws on religion

Despite the failures in 2002 and 2009 in proposed comprehensive reviews of the Religion Law, the 1992 Law has been amended by various Decrees and Laws eight times since its original adoption (twice in 1995, in 1997, in 2004, twice in 2005, in 2007 and in 2011). None of the amendments made life easier for religious communities and many restricted individuals' and communities' rights to freedom of religion or belief.

In particular, "national security" amendments to a variety of Laws in 2005 introduced harsh new restrictions in the Religion Law, including a ban on unregistered religious organisations. Criticism of these amendments from human rights defenders, religious communities and the OSCE was ignored (see F18News 8 December 2005 http://www.forum18.org/Archive.php?article_id=701).

The 2011 Religion Law amendment – approved on 5 July and which comes into force on 13 October – adds "other responsibilities" (unspecified) to existing responsibilities the ARA and local authorities have to control religious activity.

Also amended in the 2005 "national security" amendments was the Code of Administrative Offences, introducing penalties for leading or participating in unregistered religious activity and for religious activity by foreigners without permission. These penalties have been widely used, most recently in August, with a fine of nearly five months' official minimum wage for a religious service in a private home without state registration (see F18News 1 September 2011 http://www.forum18.org/Archive.php?article_id=1607).

Constitutional amendments in 2007 introduced new state controls on religious leaders appointed from abroad (such as the Russian Orthodox and Catholic Churches).

Legal amendments this year removed possible protection for religious communities attacked by state officials. Amid amendments to the Criminal and Administrative Codes approved by Parliament on 18 January, Criminal Code Article 149 supposedly defending parts of the internationally recognised right to freedom of religion or belief was abolished. Although it had never been used to Forum

18's knowledge to defend communities attacked by officials, observers viewed its removal as symbolic (see F18News 28 July 2011 http://www.forum18.org/Archive.php?article_id=1599).

The government is still proposing a full revision of the Code of Administrative Offences. The Government presented its proposed new version to Parliament in November 2009. The retention in the proposed new Code of the two Articles which punish religious activity was widely criticised by human rights defenders and religious communities which have suffered from these provisions. However, the Government withdrew the proposed new Code for technical reasons in August 2010, though work on it could be renewed (see F18News 8 September 2010 http://www.forum18.org/Archive.php?article_id=1486). (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