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KAZAKHSTAN: Muslim Board Islamic monopoly, Catholic exemption

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Kazakhstan's Muslim and Catholic communities have been given different treatment to other communities in state decisions on whether they are allowed to exist, Forum 18 News Service has found. All Muslim communities must be part of the state-backed Muslim Board. No independent mosques or Shia Muslim communities have been given state permission to exist. Neither have any Ahmadi Muslim communities, all of whom having been forcibly closed by the state. The Ahmadis have only applied for re-registration for one of their communities, in Almaty. The Muslim Board's spokesperson told Forum 18 that all Islamic communities "must be Hanafi Sunni Muslim". "We don't have other sorts of Muslims here", he added. Asked about Shia mosques or mosques of other schools of Sunni Islam, he replied: "There aren't any." Explaining different treatment for Catholics under an Agreement with the Holy See, a Justice Ministry official stated that international agreements override the Religion Law. But he did not explain why this reasoning does not also apply to the International Covenant on Civil and Political Rights, whose provisions would abolish most of the Religion Law including its provisions on compulsory state registration to exercise human rights.

In contrast to all other religious communities, Kazakhstan's Muslim and Catholic communities have been given different treatment while the Religion Law's compulsory re-registration process is proceeding, Forum 18 News Service has found. All Muslim communities must be part of the state-backed Muslim Board, with no exceptions. No non-state-backed or non-Hanafi Sunni Muslim communities have succeeded in gaining re-registration. Catholic communities were exempted from the re-registration process because of an Agreement between the Holy See and Kazakhstan.

The differential treatment of Muslims and Catholics compared to all other religious communities comes despite a commitment in Article 3, Part 2 of the 2011 Religion Law that all religious communities are equal before the law. Government interference in the Muslim community is also in defiance of Religion Law Article 3, Part 1, which declares that "The state is separate from religion and religious associations" (see F18News 23 September 2011 http://www.forum18.org/Archive.php?article_id=1617).

National and regional organisations

The state-backed Muslim Board was the first community to gain re-registration as a national organisation, being given its certificate on 19 June. The Russian Orthodox Metropolitan Region was the second, receiving its certificate on 17 October. Kanat Myktybaev, of the Justice Ministry's Registration Service and Provision of Legal Assistance Committee (which is responsible for registration) in the capital Astana, told Forum 18 on 19 November that these are the only two re-registered national organisations.

Myktybaev said that the Jehovah's Witness national organisation had been refused continuation of such status after an "expert opinion" from the ARA. He declined to provide Forum 18 with a copy of the "expert opinion".

Under Religion Law Article 12, Part 4, national religious organisations need at least 5,000 adult citizens from all regions of the country, the capital and all major towns (with at least 300 members in each of those territories). It also needs branches all over the country. Under Article 12, Part 3, regional religious organisations need 500 adult citizens who belong to at least two different registered local religious organisations (each with at least 250 adult citizens) located in two different regions or main towns (see F18News 23 September 2011 http://www.forum18.org/Archive.php?article_id=1617).

Despite gaining national status, the Muslim Board suffered a fall in the number of its communities from 2,811 at the beginning of 2011 to 2,228 branches on 25 October 2012, according to ARA figures. ARA figures also claim large falls for many other faith communities (see F18News 21 November 2012 http://www.forum18.org/Archive.php?article_id=1768).

Myktybaev of the Justice Ministry added that three organisations – all of them Russian Orthodox dioceses – had received re-registration as regional organisations. He said Syn Bokym Protestant Church was the only other organisation to apply for regional status, and that the government's Agency of Religious Affairs (ARA) is reviewing this.

Only regional and national registered religious organisations are allowed to, under Religion Law Article 13, Part 3, train clergy in

institutions established – with state approval – by religious organisations. Under Article 13, Part 3, they are allowed to establish "professional educational programmes to prepare priests". It remains unclear whether religious education not involving training of "priests" will be allowed. The definition of "priests" also – as with so much else in the Law - lacks clarity, allowing room for arbitrary official decisions (see F18News 23 September 2011 http://www.forum18.org/Archive.php?article_id=1617).

Compulsory re-registration

The Religion Law gave all religious communities one year to apply to be re-registered, with a deadline for lodging applications of 25 October 2012. Registration and re-registration is under the control of the Justice Ministry, but there must also be a positive "expert analysis" of the community from the government's Agency of Religious Affairs (ARA), headed by Kairat Lama Sharif. Article 374-1 of the Code of Administrative Offences bans leading, participating in or financing an unregistered, halted or banned religious community or social organisation, and a Religion Law addition to Article 636 gives the ARA the right to prepare cases under Article 374-1 for prosecution (see F18News 23 September 2011 http://www.forum18.org/Archive.php?article_id=1617).

Many religious communities have variously described the re-registration process to Forum 18 as "complex", "burdensome", "arbitrary", "unnecessary" and "expensive". They have also noted that it breaks Kazakhstan's international human rights obligations. Few were prepared to give their names when making criticisms, for fear of state reprisals (see F18News 21 November 2012 http://www.forum18.org/Archive.php?article_id=1768).

Only one Muslim organisation allowed

The Justice Ministry – backed by the ARA – will not allow re-registration applications by non-Muslim Board Muslim communities. This yet again violates Kazakhstan's international human rights commitments to implement the right to freedom of religion or belief of all. But the decision is in line with extremely senior state officials' decisions to control the Board and through the Board control all publicly allowed expressions of Islam (see F18News 29 November 2011 http://www.forum18.org/Archive.php?article_id=1640).

In early April the Muslim Board approved a new Statute, endorsed at a 14 April meeting at which ARA Chair Lama Sharif spoke, which specified that the Muslim Board would register as one legal entity, with all mosques in the country being deemed to be its branches. The Muslim Board is the only religious community given such a state-backed monopoly.

One independent Muslim community, which asked not to be identified, told Forum 18 on 21 November that it is still awaiting a decision on its re-registration application. "Officials say we must be part of the Muslim Board, but we uphold our right to be independent. We are law-abiding, and the Religion Law specifies that religious communities are 'voluntary groupings of citizens'. That's exactly what we are."

State officials and the Board have also long been trying to close mosques which have traditionally catered to worshippers of one ethnic background (see F18News 4 November 2010 http://www.forum18.org/Archive.php?article_id=1506).

All Ahmadi Muslim mosques throughout Kazakhstan have been closed (see F18News 24 April 2012 http://www.forum18.org/Archive.php?article_id=1692). ARA Press Spokesperson Svetlana Penkova told Forum 18 on 5 November that she "cannot guarantee that the Ahmadi Community will be re-registered. But I can guarantee that whatever decision the ARA will make will be based strictly on the Law" (see F18News 5 November 2012 http://www.forum18.org/Archive.php?article_id=1763).

The Ahmadis have applied for re-registration for just one of their communities in the country, in Almaty. Speaking at the Second Forum of Religious Scholars of Kazakhstan on 15 November, ARA Chair Lama Sharif of ARA stated that the Ahmadis were among the communities for which his agency had given negative "expert opinions". On 19 November the community received a response from the regional Justice Department that "the statute did not qualify under the expert opinion". The community is now seeking legal advice, they told Forum 18 on 21 November.

Even before the Religion Law was adopted, officials were making repeated threats to independent Muslim communities to join the Muslim Board or be closed. One of those mosques is the Akyt kazhy Mosque in Karaganda, led by Imam Zhanarbek Mambar (see F18News 14 October 2010 http://www.forum18.org/Archive.php?article_id=1498). Imam Mambar told Kazis Toguzbayev of Radio Free Europe for a 12 November report that he would have preferred his mosque to have remained independent, but saw that it had no choice other than to join the Board.

Under the Muslim Board's new Statute, all mosques must now have their imams appointed by the Muslim Board, and these imams must only read out sermons at Friday prayers which have been provided to them by the Board. All mosques must also give the Board 30 per cent of their financial income. Independent mosques have strongly objected to these state-backed restrictions being imposed on them (see F18News 14 October 2010 http://www.forum18.org/Archive.php?article_id=1498).

Join or be closed down

State officials, along with Muslim Board officials, are using a variety of tactics to force independent mosques to join the Board or close. For example, Karaganda [Qaraghandy] regional Justice Department officials have lodged a suit in court to close the Tautan Molla Mosque in Abai District. Asked why his Department had brought the case against the Mosque, regional Justice Department Head Murat Abilov on 22 November told Forum 18 that he cannot discuss the case. "I cannot give information over the phone" he said, before putting the phone down.

The Tautan Molla Mosque, which is in the small town of Prishakhtinsk, has been threatened with demolition with a bulldozer if it does not join the state-backed Muslim Board. Other independent mosques are still being pressured into joining the Muslim Board (see F18News 5 November 2012 http://www.forum18.org/Archive.php?article_id=1763).

Imam Kinayat Ismailov of Tautan Molla Mosque told Forum 18 on 22 November that Judge Indira Kuspayeva of Karaganda Regional Inter-District Economic Court would be considering whether the Mosque should be closed in response to a suit brought by Karaganda regional Justice Department.

Imam Ismailov explained that he found out during the hearing on 20 November that the ARA's Karaganda Regional Department had refused re-registration of the Mosque, and appealed to the Court to close it down. However the Imam had not received a written notification of the refusal from the ARA Department.

The Imam said that he is now considering joining the Muslim Board, as regional ARA Head Serik Tlekbayev had promised him during the hearing that this would be possible.

A regional ARA official, who would not give his name, refused on 22 November to comment on the proposed closure of the Mosque. He also said that neither the Chief Specialist Karlygash Akhmetova nor ARA regional Head Tlekbayev were available to comment.

Officials of the Karaganda Economic Court on 22 November also refused to comment on the case. An official of the Court, who would not give his name, told Forum 18 that Judge Kuspayeva is on holiday and referred Forum 18 to the Court's Chancellery. A Chancellery official in her turn, who also would not give her name, declined to give any details of the case. "Please talk to the Justice Department and ask them why they wanted to close Tautan Molla Mosque," she said.

"Only Hanafi Sunni Muslims"

Agabek Sydykov, spokesperson for the Muslim Board, says that its communities "must be Hanafi Sunni Muslim". "We don't have other sorts of Muslims here," he told Forum 18 from Almaty on 21 November. Asked about Shia mosques or mosques affiliated with other schools of Sunni Islam, he responded: "There aren't any." Sydykov declined to answer any other questions by telephone.

Given the state-backed monopoly the Muslim Board enjoys, this means that no non-Hanafi Sunni Muslim communities are now legally allowed to exist in Kazakhstan.

Members of two Shia Muslim communities told Forum 18 on 21 November that their re-registration applications – lodged with the Regional Justice Department before the 25 October deadline – have been sent for "expert opinions" from the ARA. The Justice Department notifications gave no indication when such "expert opinions" are likely to be completed.

The Catholic exemption

The Catholic Church gained exemption from the re-registration system imposed on all other communities after the Agreement on Mutual Relations between the Holy See and Kazakhstan – signed on 24 September 1998 – was hastily ratified by Kazakhstan's lower house of Parliament on 19 September 2012 and the upper house on 27 September.

Despite claims by ARA Chair Lama Sharif that the text of the Agreement needed to be brought into line with the Religion Law, and unhappiness over the agreement from some parliamentary deputies, it was approved unchanged.

Former Holy See Secretary of State [who, reporting to the Pope, has overall responsibility for political and diplomatic affairs] Cardinal Angelo Sodano, who signed the Agreement during his time as Secretary of State, visited Kazakhstan just before Parliament ratified the Agreement. He claimed on 9 September that "Europe and America, the whole world knows that there is religious freedom here in Kazakhstan", according to a KazTAG report. In a joint communiqué after he met President Nursultan Nazarbaev, Sodano stated that the Holy See valued Kazakhstan's contribution to what was described as inter-religious dialogue and tolerance. More recently, Catholic bishops in Kazakhstan have with other religious leaders written to the President praising him for ensuring what they claim is "religious tolerance" in the country (see F18News 21 November 2012 http://www.forum18.org/Archive.php?article_id=1768).

President Nazarbaev signed the ratification into law on 18 October, the presidential website noted, and came into force on 20 October.

The Agreement gives the Catholic Church the right to establish entities, maintain places of worship, send clergy and other personnel and establish church schools and charitable agencies "in conformity with the legislation of Kazakhstan". The Church is required to provide copies of documents establishing such entities to the Kazakh authorities, so that such bodies can be duly registered.

Catholic entities are the only ones exempted from the normal re-registration procedures. Justifying this differential treatment of the Catholic Church, Myktybaev of the Justice Ministry pointed to Article 2, Part 2 of the Religion Law, which declares that in cases where an international agreement signed by Kazakhstan exists, this overrides other provisions of the Religion Law. He said because of the Agreement, Catholic communities instead get "technical registration" with the ARA.

Part of Article 4 of the Constitution does indeed state: "International treaties ratified by the Republic shall have priority over its laws and be directly implemented except in cases when the application of an international treaty shall require the promulgation of a law." However, Myktybaev of the Justice Ministry did not explain why Kazakhstan is not also implementing the International Covenant on Civil and Political Rights (ICCPR), which the country ratified in 2006. If implemented, the ICCPR would abolish most of the Religion Law including its provisions on compulsory state registration to exercise human rights.

The ARA stated on 25 October that 79 Catholic entities had recognised status. ARA Press Spokesperson Penkova refused to discuss the topic with Forum 18 on 22 November. (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>.

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