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KAZAKHSTAN: "If they continue to pray, they'll be brought to legal responsibility"

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

The historic 19th century Din-Muhammad Mosque in Petropavl in North Kazakhstan has failed in its challenge to the state's court-ordered liquidation, while another mosque in the north-western city of Aktobe has been told it has nine months to gain re-registration to avoid liquidation. "We don't intend to close," a member of Aktobe's Nurdaulet Mosque insisted to Forum 18 News Service. "We have the right to gain registration as an independent religious organisation in accordance with the law." A state Agency of Religious Affairs (ARA) official claimed to Forum 18 that "praying isn't banned – we live in a democratic state". But he went on to threaten that, "if the liquidation decision [against the Din-Muhammad Mosque] comes into legal force and if they continue to pray, they'll be brought to legal responsibility". A community member told Forum 18 that "the authorities insist we have sermons only in Kazakh. But we hold sermons in the language of the people who attend the Mosque so that they can understand what is said". Also, a small seminary attached to an Almaty Baptist church has been liquidated.

A 19th century mosque in Petropavl [Petropavlovsk] in North Kazakhstan Region has failed in its challenge to the state's court-ordered liquidation, while another mosque in the north-western city of Aktobe [Aqtobe] has been told it has nine months to gain re-registration to avoid liquidation. "We don't intend to close," a member of Aktobe's Nurdaulet Mosque insisted to Forum 18 News Service on 25 February. "We have the right to gain registration as an independent religious organisation in accordance with the law." A state Agency of Religious Affairs (ARA) official has told Forum 18 that, if Muslims from the Din-Muhammad Mosque in Petropavl continue to meet for prayers when the liquidation decision comes into force, community leaders will be punished.

President insists he allows only state-controlled Islam

Officials have repeatedly insisted that insist that only Hanafi Sunni Muslim communities belonging to the state-backed Muslim Board are allowed to exist, despite no law or publicly-available regulation imposing this (see F18News 22 November 2012 http://www.forum18.org/Archive.php?article_id=1769).

During a 19 February meeting in the capital Astana with new Chief Mufti and head of the Muslim Board Erzhan Mayamerov, President Nursultan Nazarbaev repeated this claim. "The only recognised structure of traditional Islam in our country is the Spiritual Administration of Muslims of Kazakhstan [the Muslim Board]," he stated in remarks reproduced on the presidential website. Also present at the meeting were the head of the ARA, Kairat Lama Sharif, and other senior state officials. Nazarbaev has consistently opposed people being permitted to exercise the right to freedom of religion and belief and other fundamental rights (see eg. F18News 6 May 2011 http://www.forum18.org/Archive.php?article_id=1568).

Mosques are being denied re-registration – and so permission to exist – if they will not join the Muslim Board, with independent and ethnic minority mosques being particularly targeted (see F18News 25 January 2013 http://www.forum18.org/Archive.php?article_id=1794). All Ahmadi Muslim communities nationwide have been forcibly closed, and their meetings for worship banned (see F18News 22 November 2012 http://www.forum18.org/Archive.php?article_id=1769).

Kazakhstan also continues to ban all non-Hanafi Sunni Muslim literature, a Muslim Board spokesperson telling Forum 18 that "only Islamic literature from the Sunni Hanafi school can be distributed, as all other Muslim schools - including Ahmadis - are banned" (see F18News 21 February 2013 http://www.forum18.org/Archive.php?article_id=1804).

One Muslim told Forum 18 in late February that about 40 mosques are struggling to continue an independent existence outside the framework of the state-backed Muslim Board.

"Incomprehensible" court-ordered liquidation

Petropavl's historic Din-Muhammad Tatar-Bashkir Mosque, built in 1852, has lost the first stage of its legal battle to retain its legal status. On 20 February, Judge Damir Omarov of North Kazakhstan Region's Specialised Inter-District Economic Court upheld the Regional ARA Department's suit to liquidate the community, according to the decision seen by Forum 18.

The Mosque community received the written court decision on 22 February, a community member told Forum 18 from Petropavl the same day. "Sensible people find incomprehensible this speedy and shameful decision taken in one day. This proves that there is no law in Kazakhstan."

The decision notes that the Mosque representative (Imam Rafail Ryazapov) had not been able to attend because of illness, and had requested a postponement until he recovered. However, the court ignored this. The community member lamented to Forum 18 that the court ignored the imam's health problems and went ahead with the hearing.

Judge Omarov was unavailable when Forum 18 called, but an aide to the Judge rejected the Mosque community's complaint that the case was heard in its absence. "The Mosque could have sent someone else," the aide – who did not give her name - insisted to Forum 18 from the court on 25 February.

The community member told Forum 18 that it is appealing against the liquidation to North Kazakhstan Regional Court. "Prayers continue in the Mosque."

Heavy pressure has been used by officials against Imam Ryazapov and others in the Mosque community, to force them into the state-controlled Muslim Board (see F18News 25 January 2013 http://www.forum18.org/Archive.php?article_id=1794).

Imposed court fee

According to numerous liquidation decisions seen by Forum 18, liquidated religious communities also have to pay a court fee. This is even though they neither initiated nor wanted the court hearings, and is currently 866 Tenge (about 30 Norwegian Kroner, 4 Euros, or 6 US Dollars).

Risk of raids and fines, planned new penalties for exercising religious freedom

Both registered and especially unregistered religious communities the authorities dislike face the constant risk of raids by police Departments for the Struggle against Extremism, Separatism and Terrorism, the National Security Committee (KNB) secret police, and other state agencies such as the Prosecutor's Office. Such raids often occur during meetings for worship. At least eight such meetings were raided in January. Three religious leaders – all Council of Churches Baptist pastors in North Kazakhstan Region - were punished for leading these meetings with the maximum administrative fine of 100 Minimum Financial Indicators (MFIs). This is currently equivalent to nearly two months' average wages as measured nationwide by the state (see F18News 5 February 2013 http://www.forum18.org/Archive.php?article_id=1798).

New criminal penalties for exercising freedom of religion and belief are set out in Articles 410, 411 and 412 of the draft new Criminal Code released for public discussion on 10 January. The new Code is expected to be considered in parliament, the Majilis, in August and adopted by the end of 2013 (see F18News 18 March 2013 http://www.forum18.org/Archive.php?article_id=1814).

"If they continue to pray, they'll be brought to legal responsibility"

Bulat Omarov, chief specialist at North Kazakhstan Regional ARA Department (no relation of the judge), defended the court-ordered liquidation of Din-Muhammad Mosque. "The court took the decision and it was in accordance with the law," he told Forum 18 from Petropavl on 25 February.

He said the regional Justice Department had been decisive in rejecting the Mosque's re-registration application, not the ARA. Reminded that the liquidation had followed a suit lodged by the regional ARA Department, not the Justice Department, he repeated his assertion.

ARA specialist Omarov rejected suggestions that the ARA and the Justice Department were "specially looking for excuses" to reject the Mosque's application.

Asked what would happen to the Mosque community if they continue to pray in their Mosque, as they have consistently told Forum 18 they would do, Omarov responded: "If the liquidation decision comes into legal force and if they continue to pray, they'll be brought to legal responsibility."

He repeatedly refused to say if the Mosque will be raided, if religious books will be confiscated, and if individuals will be fined. This has happened to numerous religious communities across Kazakhstan (see eg. F18News 5 February 2013 http://www.forum18.org/Archive.php?article_id=1798).

"We live in a democratic state" ?

Asked why people who come together to pray and listen to sermons should be punished, Omarov claimed: "Praying isn't banned –

we live in a democratic state. But if a religious organisation continues to function when it does not have registration, its leaders – not ordinary members - will have committed an offence."

All unregistered exercise of freedom of religion and belief by groups of people is illegal, against Kazakhstan's binding international human rights obligations (see F18News 23 September 2011 http://www.forum18.org/Archive.php?article_id=1617).

Forum 18 was unable to reach for questioning any official at the North Kazakhstan Regional Justice Department.

"We rebuilt the Mosque from bare walls"

Community members have repeatedly told Forum 18 of their pride that they were able to rebuild the 19th century Din-Muhammad Mosque with their own resources, after extensive damage during the Mosque's confiscation in Soviet times (see F18News 7 December 2012 http://www.forum18.org/Archive.php?article_id=1778). "We rebuilt the Mosque from bare walls," one community member told Forum 18. "It had no floor, nor ceiling nor roof when we got it back."

The Hanafi Sunni community prays in Arabic, but holds sermons in Russian, Tatar and Kazakh. "The authorities insist we have sermons only in Kazakh," the community member told Forum 18. "But we hold sermons in the language of the people who attend the Mosque so that they can understand what is said."

The state has long tried to close down mosques which cater to worshippers of one ethnic background (see eg. F18News 4 November 2010 http://www.forum18.org/Archive.php?article_id=1506).

Support for "historical justice" for Mosque

Community members told Forum 18 they are grateful for the widespread support they have had. The Mosque has received vocal support from fellow-Muslims in the Russian Republic of Tatarstan and elsewhere. In a 15 February letter to the then head of the Muslim Board Absattar Derbisali, seen by Forum 18, one of Russia's Chief Muftis Talgat Tadzhuiddin asked for the Board's support for the Mosque's re-registration.

In a 22 February letter to the Mosque's Imam Ryazapov seen by Forum 18, Tatarstan's representative in Kazakhstan, Ayrat Khasanov, hoped that "historical justice" for the Mosque will be restored. He noted that while he is a secular diplomat and cannot interfere in the activities of a religious organisation, "it is impossible to ignore the problem of suffering of ethnic kin".

Human rights defender Vadim Kuramshin, whose father was an ethnic Tatar, visited the Mosque in October 2012 and made a donation. He intended to call a press conference to discuss the Mosque's concerns on 3 November 2012. However, he was arrested three days beforehand, after speaking about torture in Kazakhstan at the Organisation for Security and Co-operation in Europe's Human Dimension Implementation Meeting in Warsaw in September. In December 2012 Kuramshin, a prisoners' rights campaigner, was sentenced to 12 years in jail after a rigged trial. The trial and sentence has been widely condemned by human rights defenders in Kazakhstan and internationally (see <http://www.nhc.no/en/kazakhstan-nhc-calls-on-authorities-to-put-an-end-to-ongoing-crackdown-on-free-speech-and-alternative-views/>).

Aktobe mosque liquidation

Aktobe's Nurdaulet Mosque – a Hanafi Sunni community in the city centre – was first registered in September 2001. After the 2011 Religion Law imposed compulsory re-registration, the Mosque lodged its re-registration application in September 2012. However, the Regional Justice Department rejected the application on 5 November 2012, citing a "negative" so-called "expert analysis" of its statute (see F18News 21 November 2012 http://www.forum18.org/Archive.php?article_id=1768).

The Regional Justice Department then lodged a suit in court to liquidate the Mosque community. On 20 December 2012, Judge Lyazzat Bisenova of Aktobe Region Specialised Inter-District Economic Court upheld the liquidation, according to the decision seen by Forum 18. However, in a surprise move, she set a term for the liquidation of nine months.

In no other court-ordered liquidation seen by Forum 18 has anything other than immediate liquidation been ordered.

The Mosque community then lodged an appeal to Aktobe Regional Court. At the hearing on 29 January 2013, the community argued that the "expert analysis" had been prepared on 23 August 2012, before the community had even lodged its re-registration application. The ARA told the court the "expert analysis" had been wrongly dated, and was completed on 23 October 2012. The community also rejected the claim by the ARA that no founders' meeting had taken place to approve the application and the statute.

The ARA told the court that the Mosque statute failed to match the competences and organisation allowed for a local religious community, and failed to set out the community's attitude to marriage and the family, education and the health of its members.

Such state examinations of beliefs are required by the 20011 Religion Law, which breaks Kazakhstan's binding international human rights obligations (see F18News 23 September 2011 http://www.forum18.org/Archive.php?article_id=1617).

A panel of judges chaired by Judge Zhanlai Mambetova rejected the Mosque community's appeal on 29 January, in a decision seen by Forum 18.

Mosque "will pray on"

The Mosque community has chosen not to challenge the 29 January Regional Court decision, a community member told Forum 18 from Aktobe on 25 February. "We are applying for new registration." The community lodged a new application on 17 February. The ARA demanded changes to the statute and extra information on 26 February.

A community member insisted the life of the Mosque is "normal" and "we are and will pray on". About 1,500 worshippers attend Friday prayers.

A community member told Forum 18 that the Mosque is insisting on its right to remain an independent community. "We have told the Muslim Board and the ARA that we are independent and that we will choose our own imam. We respect the Muslim Board and fulfil its fatwas [religious rulings]. We are simply insisting on being able to calmly enjoy our Constitutional rights."

The Muslim Board has been insisting that all mosques belong to it, the Board must appoint all imams, and the Board must take 30 per cent of all mosque's financial income (see F18News 25 January 2013 http://www.forum18.org/Archive.php?article_id=1794).

A community member noted that the Mosque's insistence on its independence had led some officials to "look for dirt – reasons not to register us". However, "they can't find any violations – we have never had a warning in more than a decade".

The community member acknowledged that "it would be better without all these legal issues", but stressed that "we don't want conflict with anyone".

Will ARA obstruct independent registration?

The Nurdaulet Mosque was one of seven Islamic communities in Aktobe Region liquidated through the courts for failing to get the required re-registration. All were denied re-registration because they are independent of the Muslim Board. Officials have long been insisting – even before the text of the 2011 Religion Law was known – that "mosques cannot be independent" (see eg. F18News 14 October 2010 http://www.forum18.org/Archive.php?article_id=1498).

Bauyrzhan Esmakhan, the head of Aktobe Regional ARA Department, claimed that it is hoping to "find a common language" with the Nurdaulet Mosque. "If they want to be part of the Muslim Board, let them. But we can register them as independent as well if that is what they want," he told Forum 18 from Aktobe on 25 February.

Told by Forum 18 that it is not aware of any other mosque which has been allowed to re-register independently of the Muslim Board, Esmakhan repeated his assurance. He defended the denial of re-registration in 2012. "There were mistakes in their application and we told them so," he said. "If there are mistakes again, we will reject the application again."

Esmakhan was the Muslim Board's Imam for Aktobe Region and imam of Nur Gasyr Mosque in Aktobe until May 2011, when he was among eight regional imams removed from office.

Asked what would happen to the Nurdaulet Mosque building if the community fails to gain re-registration within nine months, Esmakhan responded: "If the community is re-registered, the Mosque will remain. If it was built as a mosque it should remain as a mosque." He declined to say what would happen if the community fails to get re-registration but continues to worship.

Forum 18 was unable to reach any official of the Aktobe Regional Justice Department for questioning.

"Upset" at enforced liquidation

A small seminary attached to a Baptist congregation in Almaty was "upset" at being subjected to court-ordered liquidation, one Protestant familiar with the liquidation told Forum 18 on 23 February.

On 9 January, Judge Alibek Bilispaev of Almaty's Specialised Inter-District Economic Court upheld the Regional Justice Department suit to liquidate Almaty Baptist Seminary, according to the verdict seen by Forum 18.

The Seminary's representative told the court it recognised that under the 2011 Religion Law its parent religious organisation had been unable to register a religious education establishment (see F18News 23 September 2011 http://www.forum18.org/Archive.php?article_id=1617). It had therefore not applied for re-registration and had "liquidated itself",

according to the record of the hearing seen by Forum 18.

Asked in court by Prosecutor's Office official A. Tilepova why the Seminary objected to being liquidated on court orders, the Seminary representative responded: "It would show our dishonesty."

The Protestant told Forum 18 the Seminary is seeking to continue its activity with registration under the umbrella of a registered regional religious organisation. (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.

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