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KAZAKHSTAN: No freedom of religion or belief "unless they have registration", Anti-Terrorism Police claim

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

Kazakhstan – in defiance of its binding international legal obligations – demands that groups of people can exist as a religious community and exercise freedom of religion or belief only if they have state permission. Permission to exist is gained via state registration, yet even this does not stop officials trying to stop people exercise this fundamental human rights, Forum 18 News Service notes. The most recent known examples of communities facing such official obstruction are: the Full Gospel Church in Atyrau where the Anti-Terrorism Police with the Justice Department are bullying people identifying themselves as founders on registration applications, and trying to stop the Church meeting for worship without state permission; the Din-Muhammad Mosque community in Petropavl whose Mosque has been liquidated, but are still struggling against "legal" and extra-legal harassment to try to gain registration; and the registered Hare Krishna community in Kostanai who have been raided by police and their leader fined, and has appealed to the United Nations (UN) Human Rights Committee to be able to exercise freedom of religion or belief without fear of criminal or administration punishment.

Kazakhstan – in defiance of its binding international legal obligations – demands that groups of people can exist as a religious community and exercise freedom of religion or belief only if they have state permission. Permission to exist is gained via state registration. Yet even religious communities who try to register or have registered are prevented by officials from exercising their freedom of religion or belief, Forum 18 News Service notes. The most recent known examples of communities facing such official obstruction are a Protestant church in Atyrau and an independent mosque community in Petropavl, both of which are yet again seeking registration, and a Hare Krishna community in Kostanai which is already registered.

The Kostanai Hare Krishna community's leader, Sergei Geller, has lodged an appeal to the United Nations (UN) Human Rights Committee. This calls among other things to be able to exercise freedom of religion or belief without fear of criminal or administration punishment, and for Kazakhstan to end its requirement that religious communities can only exercise freedom of religion or belief with state permission. Kazakhstan's Mission to the UN in Geneva confirmed it had received correspondence – however was unable to explain why it had not replied by a 5 December deadline (see below).

Denial of binding international obligation

Kazakhstan's Religion Law imposes a complex and restrictive state registration system, including state checks on a community's beliefs and demands for at least 50 people willing to identify themselves in writing to the authorities as founders. Many people are afraid to do this, for fear of state reprisals (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

Vladimir Ivanov, Head of the Culture Ministry's Religious Affairs Committee's Division of relations with Christian and other non-Muslim organisations claimed – in defiance of the facts - that the demand for compulsory state registration of religious communities is not in violation of Kazakhstan's international obligations. The demand also does not violate the Constitution, he claimed to Forum 18 on 18 December.

This ban on exercising human rights without state permission does violate international law, as UN Special Rapporteur on Freedom of Religion or Belief Heiner Bielefeldt made clear during his March-April visit to the country (see below). This is also clearly laid out in the Organisation for Security and Co-operation in Europe (OSCE)/Venice Commission Guidelines on the Legal Personality of Religious or Belief Communities (see http://www.legislationline.org/download/action/download/id/5719/file/VC_ODIHR_Guidelines_Legal_personality_religious_communities_2014_en.pdf). Kazakhstan is both an OSCE participating state and a Venice Commission member state.

Church seeking registration

The Full Gospel Church in the Caspian Sea port of Atyrau [Atyraü] in north-western Kazakhstan has made repeated attempts to apply for state permission to meet to exercise freedom of religion or belief. Its first application in 2014 was on 17 January and its

most recent on 14 October 2014.

"We do not want to violate the Religion Law and be punished, but the authorities put pressure on our members so we cannot get registration," Nurlubek Zhalgasbayev, the Church's leader, told Forum 18 on 10 December. "Now we don't know what to do."

He complained that the applications were each time turned down because the Justice Department in Atyrau arbitrarily removed names from the list of founders, bringing the number below the required 50 adult citizens.

Pastor Zhalgasbayev and his Kazakh-language Church have long faced pressure for exercising freedom of religion or belief without state permission. It has repeatedly sought state registration in vain since before 2005 (see F18News 30 May 2005 http://www.forum18.org/Archive.php?article_id=572).

Anti-terrorism?

"Each time we [in 2014] applied to the Justice Department with the list of 50 founders, Atyrau Anti-Terrorism Police officer Askar Rakhimov visited and compelled some of the founding members to write statements he dictated," Pastor Zhalgasbayev continued. Anti-Terrorism Police officer Rakhimov forced those founders to "confess that we had unauthorised meetings, or that they did not understand the full responsibility of being a founder and only signed because the Church or a family member asked them to".

Each time the Anti-Terrorism Police reduced the list of founders by these means, the Justice Department rejected the Church's applications for registration as "there is a problem with the list of founders".

"We were presented by the police with statements written by Church founders that they either were not Church members or just joined the Church and were asked to sign as founders", Nurlan Kuzenbayev, Deputy Head of Atyrau Justice Department told Forum 18 on 18 December. "They therefore wished to withdraw their signatures", he claimed. Asked why the authorities demand that religious communities must register and then pressure them not to register, he replied "you must ask that question to the police". Religious communities cannot meet "until they receive registration, which is what the Law demands", Kuzenbayev stated.

"Police did not pressure me"?

Anti-Terrorism Police officer Rakhimov visited a number of those who had signed the Church's registration application as founders, several who asked not to be named for fear of state reprisals confirmed to Forum 18 between 10 and 16 December. Some he visited in their workplaces or homes, while others he stopped on the street. Rakhimov compelled them to write the statements Pastor Zhalgasbayev described.

All the statements included phrases such as "Atyrau Police did not pressure me" and that they "wrote the statement of their free will". After writing these statements, the founders withdrew their names from the list of founders.

Anti-Terrorism Police officer Rakhimov asked "many questions about our church, members and leaders, why I attend the church, and why I decided to be a founder".

When one person refused to write a statement, Rakhimov said that "only he can decide what I should or should not do". He then warned that they will be "in trouble" unless they write the statement. "I was afraid, and wrote what he dictated to me," the individual told Forum 18. "I don't even remember exactly everything that I wrote."

Another told Forum 18 that Anti-Terrorism Police officer Rakhimov shouted at them at work, in the presence of their supervisor, that "unless I withhold my signature as a founder I will be dismissed from my job". The person later declined to be a founder.

Rakhimov compelled one person who is not a Church member to write a statement that "the Church is a destructive sect", and withdrawing the signature of a fellow family member (without consulting the family member).

"Help"?

"Rakhimov deceived me into writing a statement that we are a group of believers who regularly meet for worship, by promising that he will help with the registration of our Church," one Church member told Forum 18. "But I didn't know that he was lying to me, and that his purpose was to get a written confession from me that we violated the Religion Law."

Anti-Terrorism Police officer Rakhimov claimed to Forum 18 on 10 December that he visited people "because we received a complaint from neighbours of the church member in whose home they held unauthorised meetings". He refused to answer why he put pressure on people, claiming instead that "those meetings disturbed neighbours".

Rakhimov denied that he threatened people and forced them to write statements he dictated, claiming that "they all wrote of their free will".

Investigation – but of the police or their victims?

Some of the founders the Anti-Terrorism Police pressured into writing statements have written to the head of Atyrau Regional Police Arman Jalmukhanbetov, to whom Rakhimov reports, withdrawing their statements. Those founders told Jalmukhanbetov that they wrote them under pressure, and do not agree with what they wrote. The Justice Department has, however, ignored these protests.

Jalmukhanbetov was claimed to Forum 18 on 15 December as being "busy in a meeting". On 16 December Berik Aymurzin, Deputy Police Chief and Head of the police Investigations Division, claimed not to have heard of the case – even though Forum 18 had been told by Atyrau Police that Aymurzin was able to discuss it.

Anti-Terrorism Police officer Rakhimov told Forum 18 that "we had a commission, including the National Security Committee (KNB) secret police and Regional Administration officials, and they investigated the Church's complaint against our investigation".

Deputy Police Chief Aymurzin refused to tell Forum 18 whether the authorities will respond to citizens' complaints about the police, or discipline Rakhimov.

Rakhimov refused to say why the KNB secret police is involved, or whether the KNB or Justice Department asked him to investigate the Church, claiming that "I am not competent to answer you on this."

All religious communities are thought to be under surveillance by the ordinary police and KNB secret police. Many communities are reluctant to discuss this - including KNB attempts to recruit informers - for fear of state reprisals. There have also been apparent attempts to smear or blackmail members of some religious communities (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

No freedom of religion or belief "unless they have registration"

Anti-Terrorism Police officer Rakhimov refused to say why a religious community cannot meet for worship while applying for registration, claiming that "it's not our fault - the Justice Department rejected their application". He then claimed that people cannot meet together to exercise their freedom of religion or belief "unless they have registration from the Justice Department".

The Church may be targeted for more state action, Rakhimov indicated, claiming that people had "complained to the Prosecutor's Office that the authorities are not taking the case seriously, and not punishing the Church for illegal activity". One person Rakhimov claimed had done this denied to Forum 18 that they had done this.

Asked what charges are being brought against the Church, Rakhimov then claimed that "I cannot hear you" although Forum 18 could clearly hear him. He then put the phone down, and has not answered calls made since 10 December.

Pastor Zhalgabayev stated that "we are afraid to worship or pray together because we may be punished". He also noted that "we also are hesitant to apply for registration, because we fear that the authorities will put more pressure on our members".

Mosque community still trying to register

The Din-Muhammad Mosque community – which caters mainly to ethnic Tatars in the northern city of Petropavl – is once again trying to obtain state registration, despite being formally liquidated and its Mosque confiscated.

The Mosque was built in 1852 and forcibly closed by the state on 5 February 2014, the state claiming it "is to be handed over to another religious organisation". But the Muslims of the mosque community have decided to carry on holding namaz (prayers) together and to continue to exist. Marat Zhamaliyev, deputy head of the regional Finance Department, told Forum 18 on the day of the liquidation that "we're not liquidating the mosque, we're liquidating the community". He insisted that the juridical community had been liquidated by a court and therefore did not exist. The Din-Muhammad Mosque may be the last remaining publicly-accessible mosque independent of the state-backed Muslim Board (see F18News 5 February 2014 http://www.forum18.org/archive.php?article_id=1924).

"We live under constant fear that any time we will be thrown out of the Mosque since, according to court documents, it no longer belongs to us", Imam Rafael Ryazapov of the Mosque community told Forum 18 from Petropavl on 15 December.

"Unlawfulness of court decisions"

"The Supreme Court on 11 September rejected our petition to review the previous Court decisions supporting the authorities' refusal to register us", Imam Ryazapov stated. Two complaints to Kazakhstan's General Prosecutor's Office about the "unlawfulness of court decisions" were also rejected on 29 October and 27 November.

The Mosque community has strongly opposed the state's efforts to close them down, contesting the authorities' long-standing "legal" and extra-legal harassment of them (see eg. F18News 2 October 2013 http://www.forum18.org/archive.php?article_id=1882).

Despite failure to overturn court decisions, harassment of founders and arbitrary application rejections similar to that experienced by Atyrau's Full Gospel Church, the Din-Muhammad Mosque community is still trying to get state registration. "We have collected new documents as a community under a different name, and are planning to submit our documents for registration in early 2015", the Imam told Forum 18.

Asked whether the Mosque community can obtain registration, Yernar Seydimbekov, Head of North-Kazakhstan Regional Justice Department, which is responsible for registration, replied to Forum 18 on 18 December "why not if their documents are in accordance with the Laws of Kazakhstan and their teachings receive positive expert opinion?" Asked what the authorities did not like about previously applications, he claimed he does not remember. He then stated "let them submit their documents and we will see".

Denial of freedom of religion or belief's strong impact on Muslims

Kazakhstan's demand that religious communities can only exist or function with state permission has a strong impact on Muslims. The government has allowed only one Muslim religious community in all of Kazakhstan to gain state registration: the state-backed Muslim Board. Only mosque communities under its control are allowed to function, even though nowhere in the country's published law is this stated.

All other Muslim communities and organisations – including Ahmadi Muslim congregations, independent mosques (such as the Tatar-Bashkir mosque in Petropavl), and mosques catering to specific ethnic communities (such as Azerbaijanis, Chechens, or Uighurs) – are banned from exercising their right to freedom of religion or belief (see Forum 18's religious freedom survey of Kazakhstan http://www.forum18.org/archive.php?article_id=1939).

The independent Tabligh Jamaat Islamic missionary movement is particularly targeted by the state. Mamurzhan Turashov was given a three-year prison term on 2 December in south Kazakhstan, and a similar criminal trial began in Taldykurgan on 9 December of five apparent Tabligh Jamaat adherents. Twenty suspected Tabligh Jamaat adherents were detained in Almaty in late November. Officials have refused to discuss any aspect of the cases with Forum 18. Tabligh Jamaat was banned in February 2013, even though the KNB secret police admitted that Tabligh Jamaat literature did not have "extremist, terrorist, or any other calls against Kazakhstan's laws". However, the KNB claimed that "all their activity could be characterised as subversive in the ideological sphere, forming in the population anti-social or anti-civil positions" (see F18News 12 December 2014 http://www.forum18.org/archive.php?article_id=2023).

Registered community appeals to UN Human Rights Committee

Kostanai's Hare Krishna community's leader Sergei Geller has appealed to the UN Human Rights Committee, after he was one of two Hare Krishna devotees fined for participating in a community meeting in his private flat in Kostanai in June 2013. The Human Rights Committee received the complaint on 5 June 2014 and resolved that Kazakhstan should respond to the Committee and Geller by 5 December, Yelizaveta Moksheva, a lawyer from the Kostanai branch of the Kazakhstan International Bureau for Human Rights and the Rule of Law who prepared the complaint, told Forum 18 on 18 December. "However, we have not received any response from the state", she observed.

Bakbergen Koishybayev, a Prosecutor's Office official attached to Kazakhstan's Mission to the UN in Geneva to liaise on such complaints, confirmed that Kazakhstan had had official correspondence from the Human Rights Committee on Geller's case. But he was unable to explain why his government did not respond on Geller's complaint on time. "I know that the deadline was 5 December," he told Forum 18 from Geneva on 19 December. "We are preparing our response and the government is due to present it to the United Nations by the end of next week." He said he was unsure whether the response was being prepared on behalf of the government by the Prosecutor's Office, or by the police.

Raided and fined for meeting

The state registered religious community was holding a private meeting to resolve internal issues, but not at the community's registered address. The Hare Krishna community had invited to officials – from the police and the regional administration – to observe the meeting. After the officials left, the meeting was raided by police and in September 2013 a visiting Hare Krishna devotee was fined for "illegal missionary activity" for attending the meeting. The same month Geller was fined for organising an "illegal religious meeting". The community's activity was also banned for three months, though this ban was overturned on appeal (see F18News 30 December 2013 http://www.forum18.org/archive.php?article_id=1891).

Geller's 12 May 2014 UN appeal notes that although the law does not require it, the Regional Religious Affairs Department has insisted since 2008, that the community informs it, the ordinary police, the KNB secret police and the Justice Department of every meeting for worship or other purposes. Indeed, at the September 2013 court hearing both the prosecution and the judge accused him

of holding an "illegal" meeting because of an alleged failure to inform the authorities – even though at the meeting two officials were present at the invitation of the community. The prosecution refused to specify what law required such notification.

Nurikan Nugurbekov, Head of the Regional Administration's Religious Affairs Department, claimed to Forum 18 on 18 December that he did not know whether the Regional Administration or the KNB secret police had demanded prior notification of Hare Krishna meetings – even though his Department's officials have been at such meetings. "If they did it is wrong", he stated.

Geller also learnt just before the court hearing that prosecutors had considered bringing a criminal case against him under Criminal Code Article 164, which punishes "Deliberate actions aimed at the incitement of social, national, clan, racial, or religious hatred or antagonism, or at offence to the national honour and dignity, or religious feelings of citizens, as well as propaganda of exclusiveness, superiority, or inferiority of citizens based on their attitude towards religion, or their genetic or racial belonging, if these acts are committed publicly or with the use of the mass information media". Punishments range from a fine to imprisonment of up to seven years. However, prosecutors decided not to use this charge against Geller.

Retired Presbyterian Pastor Bakhytzhan Kashkumbayev and atheist writer Aleksandr Kharlamov are still being investigated on criminal charges including Article 164, to punish them for exercising the right to freedom of religion or belief. Both have been detained in a psychiatric hospital for no medical reason. Article 164 and other articles of the Criminal Code which punish the exercise of freedom of religion or belief are (along with similar articles of the Code of Administrative Offences) being replaced with similar articles in the new Criminal and Administrative Codes which mainly come into force on 1 January 2015 (see F18News 9 July 2014 http://www.forum18.org/archive.php?article_id=1976).

Moksheva from the Kazakhstan International Bureau for Human Rights and the Rule of Law attended Geller's appeal hearing. She noted that the judge was "prejudiced" against both him and the Hare Krishna community.

Government's violations of international law

Geller UN appeal states, among other things, that he was punished for exercising his right to freedom of religion or belief even though this right is laid down in the International Covenant on Civil and Political Rights' (ICCPR) Article 18 ("Freedom of thought, conscience and religion"). Kazakhstan ratified the ICCPR in 2006, and it is legally binding on the state. Geller argues that the government's restrictions are not permitted under Article 18. He also maintains that the government is treating his community differently from others, in violation of ICCPR Article 26 ("Equality before the law"). Geller notes that both the state-backed Muslim Board and the Russian Orthodox Church are able to conduct meetings for religious purposes outside registered places of worship without official permission.

Geller also noted that the local Administration has published (using material from the Culture Ministry) and sponsored the distribution of brochures and other leaflets describing the Hare Krishna community (and other communities they regard as "non-traditional") as dangerous.

The appeal calls on the UN Human Rights Committee to declare Geller's punishment for exercising his right to freedom of religion or belief a violation of his rights under the ICCPR, and to affirm his right to exercise freedom of religion or belief without fear of criminal or administration punishment. It also calls for the Human Rights Committee to recommend that Kazakhstan change the Religion Law to end the requirement that religious communities can only exercise freedom of religion or belief with state permission. Geller also asks the Human Right Committee to recommend an end to the Kostanai Administration's unlawful demands that it be notified before each Hare Krishna meeting.

UN Special Rapporteur on Freedom of Religion or Belief

UN Special Rapporteur on Freedom of Religion or Belief Heiner Bielefeldt criticised the government's demand for state permission to exercise human rights at the end of his March-April visit to Kazakhstan. "Registration procedures should in any case be based on the clear understanding that freedom of religion or belief, due to its nature as a human right, inheres to all human beings and can never be rendered dependent on any specific acts of State approval or administrative registration. (...) registration should be an offer by the State, not a mandatory legal requirement".

He noted that: "A main problem concerning the administration of religious registration is that non-registered religious groups can hardly exercise any collective religious functions in Kazakhstan". Continuing, he observed that: "Any of their activities, even the common performance of prayers and rituals in private homes, are deemed illegal and can incur serious administrative sanctions."

UN Special Rapporteur Bielefeldt also stated that during his 11-day visit, he had heard "credible stories about police raids in the premises of some non-registered groups, leading to confiscation of literature, computers and other property" (see F18News 22 April 2014 http://www.forum18.org/archive.php?article_id=1950). (END)

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>.

For more background, see Forum 18's Kazakhstan religious freedom survey at http://www.forum18.org/Archive.php?article_id=1939.

For a personal commentary from 2005 on how attacking religious freedom damages national security in Kazakhstan, see F18News http://www.forum18.org/Archive.php?article_id=564.

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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