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KAZAKHSTAN: Raid, filming, fingerprinting, insults, criminal case

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

"Anti-extremism" police raided Kyzylorda's New Life Church, halted Sunday worship, filmed those present, and forced them to state why they attend. Teachers from a Special School questioned adult former students why they were present and insulted their faith. Pastor Serik Bisembayev faces criminal investigation for "inciting discord".

Following an "anti-extremism" raid on New Life Protestant Church in the southern city of Kyzylorda [Qyzylorda], police are investigating the pastor Serik Bisembayev on criminal charges of "inciting discord". He faces up to ten years' imprisonment if eventually brought to trial and convicted.

The authorities often use prosecutions for "inciting discord" under the broadly-framed Criminal Code Article 174 against those they dislike (see below).

During the raid – which halted the Kyzylorda Church's 25 February Sunday meeting for worship – police filmed all those present against their wishes. They forced all those present at the service to write statements explaining why they came to church and when they had started coming, whether anyone had forced them to do so and whether they read any religious literature. About 20 were taken to the police station (see below).

During the raid, police summoned as witnesses two teachers from Kyzylorda's Special School No. 6 for Hearing Impaired Children. They questioned adults who used to attend the school why they were present at the service and insulted their faith, church members complain (see below).

Police searched for and seized religious and other literature from Pastor Bisembayev and his family, even though they had no search warrant. Police have sent this to the capital Astana for "expert analysis" (see below).

"Secrecy of the investigation"

The head of Kyzylorda Regional Police's Department for the Struggle with Extremism, Kuanishbek Urazov, defended the raid led by one of his deputies. "A report came in to the police from a citizen that a child was present at the church," he claimed to Forum 18 on 20 March. "It is our duty to respond."

Urazov refused to say why during the raid officers filmed all church members, why they insulted the faith of some of those present and why, if the police were concerned about the alleged presence of a child, police confiscated books and initiated a criminal case about "inciting religious discord".

The deputy head of Kyzylorda City Police Investigation Department, who did not give his name, refused to give any information about the criminal investigation of Pastor Bisembayev which his Department is leading. "This is because of the secrecy of the investigation," he told Forum 18 on 13 March. He refused to name the investigator.

Will Education Department take action against teachers?

Telephones at the city's Special School No. 6 for Hearing Impaired Children – from where police summoned the two teachers – went unanswered each time Forum 18 called between 13 and 26 March.

No official at Kyzylorda Region's Education Department – which oversees Special School No. 6 – would explain if it is acceptable for teachers to take part in police raids on places of worship and question those present. Officials also refused to say what action (if any) the Department intends to take.

Sholpan Zhunisova of the Education Department told Forum 18 on 20 March it was not within her sphere of authority. She asked Forum 18 to send questions to acting Department head Akzira Kasymova. However, Forum 18's questions sent to her on 20 March remained unanswered at the end of the working day in Kyzylorda on 26 March. (21-23 March were public holidays for the Novruz

spring festival.)

Frequent "inciting discord" criminal charges

The 47-year-old Pastor Bisembayev is the latest of a series of opposition political figures, trade unionists and individuals exercising the right to freedom of religion or belief to face charges under the broadly-framed Criminal Code Article 174.

Criminal Code Article 174 punishes: "Incitement of social, national, clan, racial, or religious discord, insult to the national honour and dignity or religious feelings of citizens, as well as propaganda of exclusivity, superiority or inferiority of citizens on grounds of their religion, class, national, generic or racial identity, committed publicly or with the use of mass media or information and communication networks, as well as by production or distribution of literature or other information media, promoting social, national, clan, racial, or religious discord".

Article 174, Part 2, under which Pastor Bisembayev is being investigated, punishes these actions "committed by a group of persons, a group with prior planning, repeatedly, with violence or threat of violence, or by an official, or by the leader of a public association". If convicted he faces five to 10 years' imprisonment, "with deprivation of the right to hold specified positions or to engage in specified activity for up to three years".

Seven of the 24 prisoners of conscience known to have been jailed or given other punishments in 2017 for exercising freedom of religion or belief were convicted under Criminal Code Article 174 (or its equivalent in the earlier Criminal Code). Five were Muslims and two Jehovah's Witnesses (see F18News 5 March 2018 http://www.forum18.org/archive.php?article_id=2359).

Former UN Special Rapporteur on the rights to Freedom of Peaceful Assembly and of Association Maina Kiai, the UN Human Rights Committee, and Kazakh human rights defenders have all strongly criticised the broad and unclear formulation of Article 174 and other laws, as well as the prosecution of a wide range of individuals under Article 174 (see F18News 2 February 2017 http://www.forum18.org/archive.php?article_id=2252).

It began with a raid

Trouble began for Kyzylorda's New Life Protestant Church during the Sunday morning meeting for worship on 25 February, church members told Forum 18. About 30 church members had gathered in a home owned by the wife of Pastor Serik Bisembayev.

The first visitors at about 12 noon were two women, who told Pastor Bisembayev that they were the mother and grandmother of a girl with them. They said they were there for the first time and had come because someone had told the girl (who is deaf) that a church meets there. They "aggressively" told the pastor not to allow children to attend without their parents' permission.

Pastor Bisembayev calmly informed the women that he abides by the law and does not allow children to attend unless at least one parent is present and the other parent has not objected.

Then the father of the girl arrived, together with three police officers. One was Yerkin Saginbayev, the deputy head of the Regional Department for the Struggle with Extremism, who appeared to be leading the raid. Other officers of the same department, as well as the city police, then joined them and halted the service.

"This whole beginning looked like a stunt and pre-prepared move against the community," one church member noted.

Without a search warrant or any other documentation justifying the raid, or explanation for it, officers began demanding that individuals show their identity documents. They also demanded to see copies of the registered church's documents.

Officer Saginbayev's phone went unanswered each time Forum 18 called between 13 and 26 March. His colleagues refused to give Forum 18 a mobile number for him.

"Why are children allowed here?"

"Seeing children present at the service, police officers began asking: why are children allowed here and where are their parents?" the church member recounted. Officers required each child to identify their parents. "The children were very frightened."

The church member described this intimidation of children as "a crude interference and de facto obstruction of religious activity". The church member pointed out that neither the Religion Law nor the Law on the Rights of the Child bans children from being present at religious events.

As the child brought by the mother and grandmother is deaf, officer Saginbayev then summoned two teachers from the city's Special School No. 6 for Hearing Impaired Children to provide sign interpretation. Officers appeared to believe that attendance at a religious service by a deaf child was "a serious violation", the church member noted.

Half an hour later, two teachers arrived from the Special School, Galiya Bismenova and Indira Koishibayeva.

The authorities have long tried to pressure religious communities not to allow children to attend places of worship. At least seven administrative cases were brought in 2017 to punish religious leaders for allowing children to be present or conducting religious rites against the wishes of one parent. Five of these cases ended with fines (see F18News 30 January 2018 http://www.forum18.org/archive.php?article_id=2347).

Amendments to the Religion Law and a range of others laws are likely to include new restrictions on and punishments for attendance by children at meetings for worship (see F18News 29 November 2017 http://www.forum18.org/archive.php?article_id=2335). The proposed text from late 2017 has already been amended in the Working Group in the lower house of Parliament, and it remains unclear what final provisions will be proposed when the amendments finally reach the full lower house.

Forced to write statements

One officer from the city police, Senior Sergeant Nurlan Beisembayev, then started filming the church's meeting place from the street and the yard, and then inside, including every room. He also filmed each person present, despite Pastor Bisembayev's objections. Another Sergeant, Talant Kazybek, stopped church members filming the police actions and threatened to seize their mobile phones.

Officers surrounded the house with yellow tape and prevented church members from leaving. One of the Special School teachers then – without permission - began searching the parts of the house where the family live.

When she saw adults present who had earlier studied at the Special School, the teacher turned on Pastor Bisembayev, asking why they were present. "Without stopping her insults towards him, she shouted about what kind of a sect this is and threatened to lodge a complaint to the police about him," the church member complained.

Pastor Bisembayev then learnt that the two teachers were present as official witnesses. Police officers present did not stop the two teachers from conducting "illegal" activity, the church member noted. Koishibayeva filmed Pastor Bisembayev as he read the declaration by the mother of the deaf girl, despite his objections. When he complained to the local police officer, who was also present, he promised to delete the recording Koishibayeva had made, but the pastor did not see him do so.

The two teachers insulted the faith of those present, searched the house without permission and filmed people present without cause. They also called for the Church not to be allowed to gather people in the premises.

Officer Saginbayev forced each church member to write a statement explaining why they came to church and when they had started coming, whether anyone had forced them to do so and whether they read any religious literature. About 20 of those present were ferried in cars to the District police station for further questioning. They were held there until about 3.30 pm and freed only after each had written a statement about how they had become a Christian and how long they had attended the church.

Books seized with no warrant

Officers seized from Pastor Bisembayev's home his personal Bible, as well as about 18 Kazakh-language books owned by the family. The religious books had already successfully passed through the state's prior compulsory censorship of all religious literature. Officers also seized four volumes of a Soviet encyclopedia.

The head of Kyzylorda Regional Police's Department for the Struggle with Extremism, Kuanishbek Urazov, said that Pastor Bisembayev's books had subsequently been sent for "expert analysis" to the capital Astana. "We don't have qualified theologians here who can do such analyses," he told Forum 18.

An official of the Justice Ministry's Institute of Judicial Expertise in Astana – which often conducts "expert analyses" of religious literature seized in criminal cases – refused to tell Forum 18 on 20 March if Kyzylorda Police had sent Pastor Bisembayev's books there.

Astana's Institute of Judicial Expertise conducted "expert analysis" of Muslim materials confiscated from three men in Karaganda, Kazbek Laubayev, Marat Konyrbayev and Taskali Naurzgaliev. The three are accused of membership of the banned Muslim missionary movement Tabligh Jamaat. Their trial began on 12 March, with the next hearing due on 27 March (see F18News 5 March 2018 http://www.forum18.org/archive.php?article_id=2359).

Alcohol test, questioning, criminal investigation

At about 3.30 pm on 25 February, officers took Pastor Bisembayev to the drugs testing centre, where they forced him to undergo an

alcohol test. This proved he was not drunk. At 4.47 pm they took him to the District police station, where officers took his fingerprints and photographed him. As he was waiting to be questioned by an investigator, one officer asked him why he became a Christian and not a Muslim.

Only when questioning was ending after 7 pm, Pastor Bisembayev saw that a case was being opened against him under Criminal Code Article 174, Part 2 ("Incitement of social, national, clan, racial, or religious discord"). When he noted on the record that he had not been provided with a lawyer, the investigator became angry, church members told Forum 18. Pastor Bisembayev then insisted that he would respond to any further questions not in Kazakh but in Russian. The investigator then had to find another investigator able to prepare the documentation in Russian.

As they waited for a lawyer and a new investigator, an officer invited Pastor Bisembayev outside, as the officer was going for a smoke. When they came back in, officers logged the pastor's new time of arrival as 7.47 pm, allowing them to hold him for longer than the maximum three hours.

The new investigator then questioned Pastor Bisembayev in the presence of the duty lawyer. The pastor insisted that the record show that he had been detained from 3.30 to 9.30 pm (twice as long as the three hours allowed). The investigator did not want to give Pastor Bisembayev a copy of the record, but eventually did so. The pastor complained it was drawn up inadequately, did not give the name of the investigator and had misspelt his surname.

Pastor Bisembayev's wife had meanwhile grown worried by his prolonged absence and had phoned the duty Prosecutor. The pastor was freed only after the Prosecutor had called the police station. Both the Prosecutor and the Police refused to accept the Bisembayevs' complaint about the illegal length of his detention.

Earlier punishment

Pastor Bisembayev was punished in July 2013 for exercising the right to freedom of religion or belief. A Kyzylorda court fined him 100 Monthly Financial Indicators – about two months' average wages - under the then Administrative Code Article 375, Part 1 (see F18News 11 November 2013 http://www.forum18.org/archive.php?article_id=1895).

Article 375, Part 1 punished "Violation of the demands established in law for the conducting of religious rites, ceremonies and/or meetings; carrying out of charitable activity; the import, production, publication and/or distribution of religious literature and other materials of religious content (designation) and objects of religious significance; and building of places of worship and changing the designation of buildings into places of worship". (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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