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KAZAKHSTAN: New religious meeting restrictions now in Senate

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

Religion Law changes to widen state religious censorship and make holding religious meetings more difficult are now in parliament's upper house. Any religious community which does not own its own building, or wants to hold a pilgrimage or other event away from their own place of worship, would have to have advance state permission for the meeting or event – including regular meetings for worship - if the amendments are adopted.

Amendments to the Religion Law to widen state religious censorship and to make holding religious meetings away from state-registered places of worship more difficult were approved on 6 October by the lower house of Kazakhstan's Parliament, the Majilis. They are now in the upper house, the Senate.

Any state-registered religious community which does not own its own building, or wants to hold a pilgrimage or other event away from their own place of worship, would have to have advance state permission for the meeting or event, if these amendments are adopted by the Senate and signed by President Kasym-Zhomart Tokayev (see below).

Against international law, the regime already bans the exercise of freedom of religion by communities which do not have state registration or permission to exist. Members of many religious communities have described the state registration process as "complex", "burdensome", "arbitrary", "unnecessary" and "expensive".

The new provision requiring seeking permission to hold religious meetings away from state-registered places of worship "particularly harshens the law", one legal expert told Forum 18. "For religious associations which have no place of worship, each time they want to organise a meeting - for example for worship - they will need to ask the authorities in advance" (see below).

The Religion Law changes would require state-registered religious communities to seek permission for such meetings at least 10 working days in advance, and provide exhaustive detail about the proposed event, according to the text published on the Senate website on 8 October. Officials are given many ways to arbitrarily refuse such requests (see below).

The draft amendments describe seeking permission for such religious meetings from local administrations as "notification". But as officials must give permission before such meetings are allowed, this represents a requirement for advance state permission to exercise human rights, one human rights defender told Forum 18 (see below).

The draft amendments would also widen the scope of religious material subject to prior compulsory state censorship. They include an addition to the Religion Law to define "informational material of religious content" as "printed, electronic and other information of religious character on any device, including textual links" (see below).

Kazakhstan is standing for election to the United Nations Human Rights Council for 2022-4, with the election due on 14 October 2021. The regime has pledged that if elected it would "actively engage in the work of the Council to universalize and effectively implement all civil and political, as well as economic, social and cultural rights". Among rights it claimed it would put "particular emphasis" on was freedom of religion and belief (see below).

The Bureau of the Senate decided on 11 October to allocate the amendments to its Social and Cultural Development and Science Committee. A Working Group will be formed which will report its conclusions before the amendments are sent to a Plenary Session for adoption, a Senate spokesperson told Forum 18 from the capital Nur-Sultan on 8 October (see below).

The Information and Social Development Ministry – whose role includes restricting freedom of religion or belief – initially included the amendments in a proposed new Law on Social Control made public in January. The Prime Minister's Office sent the draft Law for revision on 29 June, ordering that the provisions amending the Religion Law be removed from that Law (see below).

Yet the Religion Law amendments were suddenly added to amendments to Laws on Visual Information more than seven months after the Majilis had adopted the Visual Information amendments in the first reading and just before they were due for their second reading on 6 October. "They're behaving very strangely," one individual who has been monitoring the proposed amendments told

Forum 18 from Nur-Sultan on 6 October (see below).

No election in Kazakhstan – including January 2021 parliamentary elections - has ever been found to be free and fair (<https://www.osce.org/odihr/elections/kazakhstan>) by Organisation for Security and Co-operation in Europe (OSCE) election observers. The Parliament has always been controlled by the ruling Nur Otan Party.

All the other provisions of the amendments on Visual Information and Religious Activity – which were prepared by the Culture and Sports Ministry - are directed at ensuring that announcements, advertisements and menus are published in both Kazakh and Russian. It remains unclear why the Religion Law amendments were included in amendments connected with language.

Beimbet Manetov, head of the Department of Law Enforcement Practice in the Field of Religious Activities at the Information and Social Development Ministry's Religious Affairs Committee, has been leading the work on the Religion Law amendments. He did not answer his phone each time Forum 18 called on 8 October.

Bauyrzhan Bakirov, a Deputy Chair of the Religious Affairs Committee, refused to answer any questions. "I've told you before you have to send an official request via the Foreign Ministry," he told Forum 18 on 8 October. He then put the phone down.

The Information and Social Development Ministry has separately prepared other draft amendments to both the Religion Law and the Administrative Code.

According to July drafts seen by Forum 18, the Religion Law changes would remove the requirement for religious objects (such as icons, prayer mats, Koran stands, religious pictures or jewellery) to need state approval before they can be sold or distributed. Many people have been fined for offering such items for sale without state permission. The requirement for religious literature published by state-registered religious organisations to undergo state censorship before it could be published, distributed or imported would be removed. However, anyone else producing written religious materials would have to submit them for prior compulsory state censorship (see below).

According to July drafts seen by Forum 18, the Administrative Code changes would halve fines for some "offences" for violating the Religion Law under Article 490 of the Administrative Code, and the possibility of a warning on the first occasion would be introduced. The Information and Social Development Ministry also prepared these amendments, and in August a Justice Ministry official told Forum 18 that "these amendments haven't been discussed and approved yet" (see below).

The Information and Social Development Ministry's Religious Affairs Committee refused on 8 October to answer questions, so it is unclear if the July changes Religion Law and Administrative Code are still being considered. If they are, other ministries and then the government as a whole would have to approve any draft laws before they are sent to Parliament for adoption (see below).

Standing for UN Human Rights Council "to .. effectively implement all .. rights" ?

Kazakhstan is standing for election to the United Nations Human Rights Council for 2022-4, with the election due on 14 October 2021. As part of its Voluntary Pledges and Commitments (A/76/86 (<https://undocs.org/A/76/86>)), submitted to the UN General Assembly on 14 June, it pledged that if elected, it would "actively engage in the work of the Council to universalize and effectively implement all civil and political, as well as economic, social and cultural rights". Among rights it claimed it would put "particular emphasis" on was freedom of religion and belief.

Already tight restrictions on exercising freedom of religion or belief

Against international law, the regime bans the exercise of freedom of religion or belief without state permission (https://www.forum18.org/archive.php?article_id=2409). Members of many religious communities have described the state registration process as "complex", "burdensome", "arbitrary", "unnecessary" and "expensive".

Even communities that have state permission need permission for the location of where they hold meetings for worship. Those who violate these provisions, and those who choose to meet for worship without seeking state permission, face punishment.

In February 2019, police raided a group of Hare Krishna devotees as they were meeting for devotional chants (https://www.forum18.org/archive.php?article_id=2464) in an Atyrau flat. The Regional Religious Affairs Department drew up a record of an "offence" against the community and sent it to court. However, the court sent the case back. The Department later withdrew the case. The raid came four months after the Hare Krishna community had gained state registration.

The regime also imposes tight restrictions on religious literature and other materials (https://www.forum18.org/archive.php?article_id=2409). Religious literature is subject to compulsory pre-publication censorship and – together with icons, pictures and jewellery with religious inscriptions - can be distributed only in state-approved venues. Sharing faith with others without state permission is also banned.

In January 2021, a court in Pavlodar fined Alyona Aidina for offering a copy of the Koran for sale online (https://www.forum18.org/archive.php?article_id=2634).

New restrictions on religious meetings and events

The changes to the Religion Law in the draft now in the Senate would make the ability of state-registered religious communities to hold meetings away from their state-registered places of worship more difficult. Under a new Religion Law Article 7-1, any religious community which does not own its own building, or wants to hold a pilgrimage or other event away from their own place of worship, must have state permission for the meeting or event in advance, were these amendments to be adopted.

Between 1 January and 31 August 2021, the regime fined at least 15 people (one twice) and three organisations for holding meetings for worship, hosting such meetings, maintaining places for such meetings, or holding other religious rituals without state permission (https://www.forum18.org/archive.php?article_id=2680). After a Muslim was fined for leading Friday prayers, a police officer told Forum 18: "It is not allowed to pray at any location unless it's approved." Challenged about open surveillance of Baptists meeting for worship, an official claimed: "This isn't spying, this is monitoring," adding "we go to mosques, churches."

The new Religion Law Article 7-1 requirement to seek advance state permission to hold religious meetings away from state-registered places of worship "particularly harshens the law", one legal expert told Forum 18 on 8 October. "For religious associations which have no place of worship, each time they want to organise a meeting - for example for worship - they will need to ask the authorities in advance."

Many Protestant, Jehovah's Witness, and Hare Krishna communities are among those which do not own their own buildings, and would therefore be among those subject to these new state restrictions on exercising their human rights.

According to the amendments published on the Senate website on 8 October, the Religion Law changes require state-registered religious communities:

- to seek permission for such meetings from local administrations at least 10 working days in advance;
- and provide precise and exhaustive detail about the proposed event, some of which the religious community will find difficult to provide in advance. The precise details required include the date, start and end time, how people will get there, fire and medical precautions envisaged, whether loud speakers will be used, and how many people will travel in each vehicle.

Local officials are given many ways to arbitrarily refuse such requests. They have five working days from receiving the application to request extra information if they think the planned activity or the information supplied is not in accordance with state requirements.

The state-registered religious community would have two working days to submit a revised application. If the community fails to lodge the revised application on time, or fails to remove any unspecified inconsistencies in the application, officials can withhold permission up to two calendar days before the meeting or event was due to take place.

Decisions on whether an application does not meet state requirements, has unspecified inconsistencies, or the information supplied is incomplete or unacceptable in any way, are made by state officials. The only possibility of appeal is to resubmit an application.

"Communities would have arranged transport and amplifying equipment, and advertised the event, and then at the last minute receive news that the local authority had banned it, when it would be too late to get their money back," one religious leader told Forum 18 in August (https://www.forum18.org/archive.php?article_id=2680).

The amendments describe seeking permission for such religious meetings from local administrations as "notification". But as officials must give permission before such meetings are allowed, this represents a requirement for advance state permission to exercise human rights, one human rights defender told Forum 18 in August (https://www.forum18.org/archive.php?article_id=2680).

More state censorship

The regime's existing prior state censorship of religious texts and objects – including places where they may be sold or distributed (https://www.forum18.org/archive.php?article_id=2409) - is already severe. The amendments now in the Senate would also widen the scope of religious material subject to prior compulsory state censorship. They include an addition to Article 1 of the Religion Law to define "informational material of religious content" as "printed, electronic and other information of religious character on any device, including textual links".

Between January and August 2021, the regime is known to have fined 26 people and given 2 verbal reprimands for online and

offline offering for sale religious literature or other religious objects, such as icons, vinyl records and Koran stands, without state permission. (https://www.forum18.org/archive.php?article_id=2683). It remains unclear if the amendments would make it possible for individuals to be punished even for sending a weblink to a religious publication.

The amendments revised Religion Law Article 3 specifically claims to protect the rights of non-believers as well as believers in a religion or belief. However, in practice officials are not under any constraint in violating the freedom of religion or belief (<https://www.forum18.org/archive.php?country=29>) of those with or without religious beliefs.

If the amendments are adopted and signed by President Kasym-Zhomart Tokayev, the new provisions would come into force 10 days after official publication.

Violating human rights obligations

Kazakhstan's international human rights obligations require the regime to protect the right to freedom of assembly, and of the interlinked freedom of religion and belief. "The right to freedom of peaceful assembly can be enjoyed and exercised by individuals and groups (informal or ad hoc), legal entities and corporate bodies, and unregistered or registered associations, including trade unions, political parties and religious groups," states the Guidelines on Freedom of Peaceful Assembly ([https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2019\)017-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2019)017-e)), produced by the Organisation for Security and Co-operation in Europe (OSCE) and the Council of Europe's Venice Commission.

"A prior notice requirement is a de facto interference with the right to freedom of assembly, and any such requirement should therefore be prescribed by law, necessary and proportionate," the OSCE/Venice Commission Guidelines add. "A notification regime should never be turned into a de facto authorization procedure. The procedure for providing advance notification to the public authorities should not be onerous or overly bureaucratic."

Similarly, the OSCE / Council of Europe Venice Commission Guidelines on the Legal Personality of Religious or Belief Communities (<https://www.osce.org/files/f/documents/9/9/139046.pdf>) note that under international human rights law: "State permission may not be made a condition for the exercise of the freedom of religion or belief. The freedom of religion or belief, whether manifested alone or in community with others, in public or in private, cannot be made subject to prior registration or other similar procedures, since it belongs to human beings and communities as rights holders and does not depend on official authorization."

The Guidelines also note that this includes "pilgrimages and participation in assemblies and other religious events," and in paragraphs 5 to 9 outline the only legally permissible grounds on which the freedom can be limited. The regime's Visual Information and Religious Activity amendments ignore these grounds.

"They're behaving very strangely"

The Information and Social Development Ministry – whose role includes restricting freedom of religion or belief – proposed a new Law on Social Control which would amend the Health Code and 16 laws including the Religion Law. The draft Law was published for public consultation on the government's draft Law website on 15 January. A deadline of 29 January was given for comments. The website includes comments from only one person, all related to other aspects of the draft Law.

The Information and Social Development Ministry initially included the amendments in a proposed new Law on Social Control made public in January. The Prime Minister's Office sent the draft Law for revision on 29 June, ordering that the Religion Law amendments be removed from that Law.

Just before Visual Information amendments to the Health Code and 15 laws were due for second reading on 6 October (having had their first reading seven months earlier on 24 February), the same Religion Law amendments were added to the Visual Information amendments. At the same time the title of all the amendments was changed to "Visual Information and Religious Activity".

The Majilis approved the Visual Information and Religious Activity amendments on 6 October, and sent them to the Senate which registered them on 8 October.

The Bureau of the Senate decided on 11 October to allocate the amendments to its Social and Cultural Development and Science Committee. A Working Group will be formed which will report its conclusions before the amendments are sent to a Plenary Session for adoption, a Senate spokesperson told Forum 18 from the capital Nur-Sultan on 8 October.

"They're behaving very strangely," one individual who has been monitoring the proposed amendments told Forum 18 from Nur-Sultan on 6 October.

Separate proposed Religion Law amendments still current?

The Information and Social Development Ministry also prepared separate amendments to the Religion Law. These have not been made public. Forum 18 has seen a draft text from late July. As officials at the Ministry's Religious Affairs Committee refused to answer any questions on 6 October, Forum 18 was unable to find out if these proposed amendments are still being considered.

An amendment in the July draft to Religion Law Articles 1 and 6 would remove the requirement for religious objects (such as icons, prayer mats, Koran stands, religious pictures or jewellery) to need approval before they can be sold or distributed (https://www.forum18.org/archive.php?article_id=2409). Article 5 would be amended to remove the requirement for local administrations to approve where religious objects can be sold or distributed.

Another amendment to Article 6 would also remove the requirement for religious literature published by state-registered religious organisations to undergo state censorship (https://www.forum18.org/archive.php?article_id=2409) before it could be published, distributed or imported. However, anyone else producing written religious materials would have to submit them for prior compulsory state censorship.

Aibar Abilov of the Expertise (Censorship) Department of the Religious Affairs Department refused to explain why the regime imposes prior compulsory state censorship of religious materials. "That is a question not to me," he told Forum 18 from Nur-Sultan in August (https://www.forum18.org/archive.php?article_id=2680). He refused to say how many books, icons or other materials his Department had analysed in 2021 or give any other information about the Department's activity.

Proposed Administrative Code amendments still current?

The Information and Social Development Ministry also prepared amendments to Administrative Code Article 490 of the Administrative Code, which punishes "Violating the Religion Law" (https://www.forum18.org/archive.php?article_id=2409) with fines and, in the case of foreigners, deportation. Courts have also ordered that religious literature seized as part of such administrative prosecutions be destroyed. Communities and individuals found guilty can also face bans on their activity for up to three months.

Individuals, companies and charities are regularly punished under Administrative Code Article 490 for:

- meeting for worship without state permission, hosting such meetings or maintaining places for such meetings;
- offering religious materials to others for free without state permission;
- offering religious literature, icons or other items for sale without state permission;
- offering religious items for sale online without state permission;
- posting religious materials online without state permission;
- trying to import religious literature without state permission;
- sharing faith with others without state permission;
- praying in mosques in ways that the state-controlled Muslim Board has banned, for example by using the word "Amen";
- teaching their faith to children without state permission.

Known administrative cases for exercising freedom of religion and belief in the 2020 calendar year totalled 134 (https://www.forum18.org/archive.php?article_id=2634) (in comparison to 168 in 2019 (https://www.forum18.org/archive.php?article_id=2532), 171 in 2018 (https://www.forum18.org/archive.php?article_id=2448) and 284 in 2017 (https://www.forum18.org/archive.php?article_id=2347)). Almost all of these prosecutions were under Administrative Code Article 490.

The Information and Social Development Ministry prepared these amendments, Nazken Zhamaladin, Deputy Head of the Justice Ministry's Legislative Department told Forum 18 from Nur-Sultan in August (https://www.forum18.org/archive.php?article_id=2680). However, the Information and Social Development Ministry has not made them public. Forum 18 has seen a draft text from late July. "These amendments haven't been discussed and approved yet," Zhamaladin added.

As officials at the Ministry's Religious Affairs Committee refused to answer any questions on 6 October, Forum 18 was unable to find out if these proposed amendments are still being considered. Forum 18 was also unable to find out why the Ministry had decided to change but not to remove punishments for people exercising their freedom of religion or belief.

Under the July draft, punishments would be reduced for individuals for meeting for worship without state permission, hosting such meetings or maintaining places for such meetings, offering religious materials to others for free without state permission, offering religious literature, icons or other items for sale without state permission, offering religious items for sale online without state permission, posting religious materials online without state permission, trying to import religious literature without state permission, or praying in mosques in ways that the state-controlled Muslim Board has banned, for example by using the word "Amen".

Currently individuals face fines of 50 Monthly Financial Indicators, about 1 month's average wage for those in formal work. This would be halved to 25 MFIs, with the new possibility of an official warning instead.

Under the July draft, punishments would be reduced for individuals for sharing faith with others without state permission.

Currently individuals face fines of 100 MFIs, about 2 months' average wage for those in formal work. This would be halved to 50 MFIs, with the new possibility of an official warning instead.

Fines under all these provisions for registered religious organisations and companies would also be halved from 200 to 100 MFIs.

An amendment to the provision punishing leaders of state-registered religious communities which fail to prevent children from attending meetings for worship against the wishes of one or both parents would remove the possibility of deportation (which is currently envisaged even for Kazakh citizens). The amendment would halve the fine to 25 MFIs and also allow for a warning instead, but would introduce an additional punishment of one month's ban on the religious community's activity.

The Information and Social Development Ministry does not appear to have proposed any amendments to Administrative Code Article 489 (https://www.forum18.org/archive.php?article_id=2409). Part 9 punishes "Leadership of an unregistered, halted, or banned religious community or social organisation" with a fine of 100 MFIs. Part 10 punishes "Participation in an unregistered, halted, or banned religious community or social organisation" with a fine of 50 MFIs. (END)

Full reports on freedom of thought, conscience and belief in Kazakhstan
(<https://www.forum18.org/archive.php?query=&religion=all&country=29>)

For more background, see Forum 18's Kazakhstan religious freedom survey (https://www.forum18.org/archive.php?article_id=2409)

Forum 18's compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments
(https://www.forum18.org/archive.php?article_id=1351)

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