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KAZAKHSTAN: Religious freedom survey, June 2022

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Freedom of religion and belief, with interlinked freedoms of expression, association, assembly, and other fundamental freedoms remain seriously restricted in Kazakhstan. Forum 18's survey analysis documents violations including: jailing and torturing prisoners of conscience for exercising their freedom of religion and belief; banning meetings for worship and sharing beliefs without state permission; state control of all expressions of Islam, including restrictions on how Muslims are allowed to pray; and religious literature and object censorship.

Freedom of religion and belief, with the interlinked freedoms of expression, association, and assembly, and other fundamental freedoms such as the right to free elections remains seriously restricted in Kazakhstan. Forum 18's survey analysis of freedom of religion and belief documents among other issues:

- Religion Law changes to widen state religious censorship and to make holding religious meetings away from state-registered places of worship more difficult came into force on 9 January 2022, as nationwide protests against the regime and its policies broke out;
- an interlocking web of laws, including the Religion Law and the Criminal and Administrative Codes making the exercise of freedom of religion and belief illegal without state permission;
- all religious communities being required to have to state permission to exist in the form of state registration. State permission is also required for the places people meet for worship, as well as for activities such as sharing beliefs with others;
- the use of unclear allegations of "extremism" to jail people exercising their freedom of religion and belief and other fundamental freedoms;
- all public expressions of Islam being under the state-controlled Muslim Board, with a ban on all expressions of Islam that are not Sunni Hanafi. This control extends to controlling how people pray by prosecuting and fining Muslims for saying the word "Amen" aloud in mosques;
- prisoners of conscience being jailed for exercising freedom of religion and belief, these prisoners being tortured with the use of techniques such as being banned from praying, physical violence, denials of medical care, refusals to allow them to visit dying close relatives or attend their funerals (such as the funeral of a prisoner's wife or father), and solitary confinement;
- banning former prisoners of conscience from a wide and often unspecified "social activity", which can include activities including visiting a place of worship, driving a car, going to a restaurant, or being involved in any group or association;
- adding those convicted for exercising freedom of religion or belief to the Financial Monitoring Agency List of individuals "connected with the financing of terrorism or extremism". Any bank accounts an individual may have are blocked, their families often finding out about the blocking of accounts only when they go to the bank. Individuals remain on the Financial Monitoring Agency List for six or eight years after their sentence has expired as they are deemed still to have a criminal record;
- a strict state censorship regime, imposing censorship of all religious literature (including in electronic form) and objects, strict restrictions on where such texts and objects may be sold or distributed, who may sell or distribute them, and court-ordered destruction - including book burning - of confiscated texts. This includes the use of state "expert analyses" to convict, fine, and jail people in unfair trials;
- state surveillance of all religious communities, one official claiming of surveillance including videoing of a Baptist Church and its congregation: "This isn't spying, this is monitoring, nothing more";
- the regime's use of claims aimed at foreigners of "religious tolerance" and "religious dialogue" to camouflage its serious violations of the freedom of religion and belief and other fundamental freedoms;

- the regime's election to the United Nations (UN) Human Rights Council, despite ignoring multiple recommendations from the UN Special Rapporteur on Freedom of Religion or Belief, Special Rapporteur on the rights to Freedom of Peaceful Assembly and of Association, the UN Special Rapporteur for Protecting Human Rights while Countering Terrorism, and the UN Human Rights Committee, among others.

Context

Kazakhstan has the largest surface area of the five Central Asia countries, and has over 19 million people, the second largest population of the five countries. Government statistics state that just under 70 per cent of the population are ethnic Kazakhs and just over 3 per cent ethnic Uzbeks (both regarded as being of mostly Sunni Muslim background), just under 20 per cent ethnic Russians (regarded as being of Russian Orthodox or other Christian background). Around 12 per cent of the population are other ethnicities regarded as having a variety of religious backgrounds, including around 50,000 ethnic Dungans regarded as being of Sunni Muslim background. The figures do not necessarily indicate active participation in any religious or belief group.

Nursultan Nazarbayev ruled Kazakhstan from 1989, when it was part of the Soviet Union, to 2019. His chosen successor Kasym-Zhomart Tokayev, also a Soviet-era official, claimed in the last June 2019 presidential election to have gained over 70 per cent of votes. No election in Kazakhstan 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.

In January 2022 there were large scale nationwide demonstrations against the regime, initially against fuel price rises but rapidly embraced issues such as corruption and lack of democracy (<https://www.rferl.org/a/kazakhstan-protests-analysis-poverty-corruption/31641045.html>). Tokayev banned mass meetings, without any evidence called peaceful protestors "terrorists" (<https://www.rferl.org/a/kazakhstan-deadly-unrest-missing-relatives/31663308.html>), and ordered "security" forces to shoot to kill peaceful protestors without warning (<https://www.rferl.org/a/kazakhstan-almaty-russia-csto-/31643323.html>). The peaceful protests were infiltrated and turned violent in some areas (<https://www.rferl.org/a/majlis-podcast-kazakhstan-unrest-analysis/31656576.html>), apparently connected to a power struggle in the government. Tokayev's order led to the killing (<https://www.rferl.org/a/kazakh-protester-body/31663627.html>), detention, and torture by the regime of unknown numbers of peaceful protestors (<https://www.rferl.org/a/kazakhstan-deadly-unrest-missing-relatives/31663308.html>). Against the regime's legally-binding international human rights obligations the torture of many detainees has not been investigated (<https://www.hrw.org/news/2022/05/05/kazakhstan-no-justice-january-protest-victims>), and the regime is prosecuting people the regime's forces tortured and shot (<https://eurasianet.org/shot-tortured-facing-jail-can-kazakhstan-deliver-justice-after-bloody-january>).

The regime has been described as a "kleptocracy" (<https://www.chathamhouse.org/sites/default/files/2022-03/2022-03-29-uk-kleptocracy-problem-heathershaw-mayne-et-al.pdf>) by Chatham House, and Transparency International's Corruption Perceptions Index 2021 ranked the country poorly at 102 out of 180 countries (<https://www.transparency.org/en/countries/kazakhstan>). Both the Nazarbayev and Tokayev families have amassed vast wealth (<https://www.occrp.org/en/suisse-secrets/the-offshore-secrets-of-kazakhstans-president-tokayev>). Similarly, Freedom House's Freedom in the World 2022 report (<https://freedomhouse.org/country/kazakhstan/freedom-world/2022>) noted that "corruption is widespread at all levels of government," and that "the media and civil society do not have a meaningful opportunity to provide independent commentary and input on pending laws and policies."

Human Rights Watch in its January 2022 World Report found that the regime "continued to claim it is pursuing human rights reforms, despite the absence of meaningful improvements in its rights record." (<https://www.hrw.org/world-report/2022/country-chapters/kazakhstan>) In October 2021 the country was elected to the UN Human Rights Council despite "serious restrictions" on fundamental rights (<https://www.hrw.org/news/2021/07/07/kazakhstan-crackdown-government-critics>) such as expression (<https://web.archive.org/web/20220623161932/http://www.adilsoz.kz/upload/FOE2020.doc>), peaceful assembly, and association (https://web.archive.org/web/20211204034631/https://bureau.kz/wp-content/uploads/2021/04/2021_report-pa.pdf) - for example the freedom to form non-state controlled independent trade unions (<https://www.hrw.org/news/2021/06/22/ilo-slams-kazakhstan-long-standing-labor-rights-abuses>). The regime continues to commit serious human rights violations (<https://www.hrw.org/europe/central-asia/kazakhstan>).

Making the exercise of human rights dependent on state permission

The regime's basic approach appears to be that society must be under state control and so human rights – including the freedom of religion and belief - may only be exercised with state permission. Former UN Special Rapporteur on Freedom of Religion or Belief Heiner Bielefeldt noted in his August 2016 report (A/71/269 (<https://undocs.org/A/71/269>)) that this freedom is linked to other freedoms, including the freedom of expression, of peaceful assembly, and of association. "There can be no free religious community life without respect for those other freedoms, which are closely intertwined with the right to freedom of religion or belief itself," he

observed. "This is exactly what worries authoritarian Governments and often causes them to curb freedom of religion or belief."

All exercise of freedom of religion and belief without state permission is illegal, all mosques outside state control are banned, and all forms of Islam apart from Sunni Hanafi Islam are banned. There is strict censorship of all religious books such as the Bible and Koran, objects such as Russian Orthodox icons, and a ban on Islamic literature that is neither Hanafi Muslim nor Muslim Board approved. There are also strict limits on where texts and objects can be bought or given away. Religious communities without state permission to exist and who have under 50 adults are illegal. All discussion of faith by people without state permission, or not using state-approved texts, or outside state-approved locations, is banned. These restrictions flagrantly break the regime's legally-binding international human rights obligations.

"Dialogue" and "tolerance" without human rights?

The regime claims what it calls "religious tolerance" and "religious dialogue" using propaganda vehicles such as the regime's so-called "Congress of Leaders of World and Traditional Religions". An official organising these meetings described them to Forum 18 as being "for foreigners".

One participant in a Congress planning process, who wished to remain anonymous, described them as prepared "in Soviet style top-down fashion". A secular guest of the regime from a well-known intergovernmental organisation described to Forum 18 their "horrified amazement" when they witnessed other foreign guests present – including foreign religious leaders – ignoring both the regime's human rights violations, and the reality that genuine dialogue and tolerance can only happen if everyone can freely exercise all human rights.

As the EU Guidelines on the promotion and protection of freedom of religion or belief (<https://www.eeas.europa.eu/sites/default/files/137585.pdf>) note: "Religious tolerance as well as inter-cultural and interreligious dialogue must be promoted in a human rights perspective, ensuring respect of freedom of religion or belief, freedom of expression and other human rights and fundamental freedoms." Similarly, the Council of Europe's Strasbourg principles for Inter-religious dialogue (<https://rm.coe.int/strasbourg-principles/1680a65e46>) stress that it is essential that such dialogues must be "based on the respect for human dignity, human rights and fundamental freedoms, democratic principles and the rule of law."

The regime dislikes genuine open dialogue about its human rights record by the people it rules. Officials have warned some religious communities and others against participating in UN Human Rights Council Universal Periodic Reviews, and against meeting UN Special Rapporteurs on country visits. This has led many people to avoid meeting Special Rapporteurs or taking part in UPRs.

It appears to people within Kazakhstan that the regime, in collaboration with foreign guests at its propaganda events, wants to empty the language of dialogue and tolerance of any connection with the regime's legally-binding international obligations to ensure that everyone can exercise their freedoms of religion and belief (<https://www.ohchr.org/en/special-procedures/sr-religion-or-belief/international-standards>), of expression, of peaceful assembly, and of association, along with other human rights and fundamental freedoms such as the right to participate in free elections.

Latest restrictions

Amendments to the Religion Law (see below) to widen state religious censorship and to make holding religious meetings away from state-registered places of worship more difficult came into force on 9 January 2022, as nationwide protests against the regime and its policies broke out. The Religion Law amendments do not change the current situation of religious communities without state registration having no permission to exist. All exercise of freedom of religion or belief by them remains illegal. Among the new restrictions are:

Under a new Religion Law Article 7-1, any state-registered religious community which wants to hold a pilgrimage or other event away from their own state-registered place of worship must:

- seek permission for such events 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, whether loud speakers will be used, and how many vehicles will be used as well as their travel route.

Local officials are given many ways to arbitrarily refuse such requests. Some fear local police might also apply the new rules to regular worship meetings in rented venues. Local officials 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 then 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 is 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 2021.

It appears that only one-off special events registered religious communities want to hold away from their normal places of worship now require official permission in advance. "Actually, they did not need to make the new rules," a legal specialist who wished to remain anonymous told Forum 18. "They just needed to apply the existing procedures for public gatherings to religious events in public and open spaces". The Kazakhstan International Bureau for Human Rights and the Rule of Law has documented, in a report published on 6 April 2021 (https://web.archive.org/web/20211204034631/https://bureau.kz/wp-content/uploads/2021/04/2021_report-pa.pdf), that the regime repeatedly severely restricts exercise of the right of peaceful assembly and to hold demonstrations.

The legal specialist stated that everything will depend on how the police and other state agencies enforce the new law. "If they apply these new rules only in cases of religious services in public and open spaces (such as events in public squares or big congresses at a stadium), I do not see serious problems," the legal specialist told Forum 18. "If they apply these rules to regular religious services in rented buildings or offices, it will negatively impact many religious communities".

The legal specialist also questioned whether ordinary police officers would know that the new requirements would not apply to religious communities meeting in rented premises. Many Protestant, Jehovah's Witness, and Hare Krishna communities are among those which do not own their own buildings and meet in such premises. "Much will depend on the instructions of religious affairs authorities and the discretion of local or national officials."

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.

Police and religious affairs officials in Karabalyk and Kostanai used these Religion Law amendments to threaten owners of venues who were planning to rent them to Jehovah's Witnesses for them to hold their most sacred annual event - the memorial of Christ's death - on 15 April 2022. They warned the venue owners of "serious trouble" if they allowed the meetings to go ahead. In Kachar, three police officers cited the amendments when they raided the memorial commemoration the same day. They took six participants to the police station and demanded that the owner stop renting the premises to the Jehovah's Witness community.

The amendments also widen the scope of religious material subject to prior compulsory state censorship (see State Censorship section below). 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".

The Information and Social Development Ministry (which the Religious Affairs Committee is part of) has separately prepared other draft amendments to the Religion Law and the Administrative Code. It is unclear if these are still under consideration.

Religion Law

The main justifications for freedom of religion and belief violations are the Religion Law with its corresponding Administrative Code Articles 489 ("Leading, participating in, or financing an unregistered, halted, or banned religious community or social organisation") and 490 ("Violating the Religion Law") (see below). The main currently relevant Religion Law provisions are outlined below.

In January 2017 new restrictions came into force, imposing among other things new Religion Law punishments for sharing the beliefs of religious communities which do not have state permission to exist, more religious literature censorship, and foreign pilgrimage controls. They were part of a wide-ranging Law on Amendments and Additions to Various Laws on Questions of Countering Extremism and Terrorism, prepared by the National Security Committee (NSC) secret police.

The law was rapidly produced after the regime arrested and jailed many who took part in nationwide land privatisation protests, and after June 2016 shootings in Aktobe. The regime immediately blamed "the non-traditional religious movement Salafism", without producing evidence for its claims.

Compulsory registration to gain state permission to exist

As noted in 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>): "State permission may not be made a condition for the

exercise of the freedom of religion or belief".

Yet under the Religion Law, all religious communities were required to apply for re-registration – state permission to exist – by 24 October 2012. The regime used this process to close many religious communities, including mosques, and announced closures with apparent pride. Communities complained of arbitrary and flawed decisions, as well as pressure exerted by local authorities on people to withdraw their signatures from founding documents.

Among the smaller communities "voluntarily" closed was a Methodist Church threatened with a fine that state officials admitted was unlawful. Similarly, a local official told the imam of the Tautan Molla Mosque in Prishakhtinsk that "he will close down our Mosque, and even demolish the Mosque building with a bulldozer".

The forced closures affected people's willingness to exercise their freedom of religion and belief in association with others. "Now our believers are afraid each time they gather for worship", a Kazakh religious leader told Forum 18.

Complex registration system

Members of many religious communities have described the registration process as "complex", "burdensome", "arbitrary", "unnecessary" and "expensive". But few religious communities were prepared to discuss the process, for fear of state reprisals.

Against international human rights law, all exercise of freedom of religion and belief by a group of people without state permission is banned.

There are three permitted types of registration:

- local (which needs at least 50 adult citizen members within one region of the country or main town);
- regional (which needs 500 adult citizens belonging to at least two different registered local religious organisations);
- and national (which needs 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).

Local and regional organisations are only allowed to function in the geographic area they are registered in.

Among the registration requirements, a religious organisation must have "a united faith .. and spiritual orientation of its activity" and explain "the fundamental religious ideas .. attitude to marriage and the family, education and health .. and attitude to the realisation of the constitutional rights and obligations". Terms such as "a united faith" are unclear and undefined, facilitating arbitrary state refusals of permission to exist. Such official review and approval of beliefs as a precondition for exercising human rights is against international law.

Apart from the Muslim Board (see below), the only religious community to be re-registered without apparent problems was the Catholic Church under an agreement with the Holy See which Kazakhstan hastily ratified in September 2012.

Even if registered, freedom of religion and belief may only be exercised "in religious buildings and their assigned territory, in places of worship, offices and premises of religious associations, in cemeteries and in crematoriums, and inside homes and dining halls if needed on condition that they respect the rights and interests of nearby residents". Any new place of worship requires the approval of the local administration.

Sharing beliefs in any way can only be done by formally-designated "missionaries" appointed by registered religious organisations, and who must have state approval every year. They can only use state-approved material and can only operate in state-approved places. All discussion of faith by people without state permission, or not using state-approved texts, or outside state-approved locations, is banned.

Only regional and national registered religious organisations are allowed to train clergy, and only if they can gain state permission to do this.

Administrative Code Article 489

Official allegations that the Religion Law has been broken should invoke an article of the Administrative or Criminal Codes, and mainly need to be prepared by prosecutors or other agencies for trial in a court.

However, the 2015 Administrative Code Article 489 ("Leading, participating in, or financing an unregistered, halted, or banned religious community or social organisation") gave police new powers to fine people with no court hearing.

Article 489, Part 9 punishes: "Leadership of an unregistered, halted, or banned religious community or social organisation" with a fine of 100 Monthly Financial Indicators (MFIs).

The MFI is set annually, and currently (June 2022) 50 MFIs is equivalent to about one month's average wages for an individual in formal work.

Article 489, Part 10 punishes: "Participation in an unregistered, halted, or banned religious community or social organisation" with a fine of 50 MFIs.

Article 489, Part 11 punishes: "Financing an unregistered, halted, or banned religious community or social organisation" with a fine of 200 MFIs.

It is possible to challenge such police fines, however this is more difficult than lodging an appeal to a higher court against a lower court decision.

Administrative Code Article 490

Administrative Code Article 490 ("Violating the Religion Law") punishes a variety of "offences". As is usual with the Administrative and Criminal Codes, "offences" and "crimes" are often not precisely defined, leaving much room for arbitrary official actions.

Administrative Code Article 490 states:

"- Part 1. Violating the requirements of the Religion Law for:

1) conducting religious rites, ceremonies and/or meetings;

2) carrying out charitable activity;

3) import, manufacturing, production, publication and/or distribution of religious literature and other religious materials, and items for religious use;

[The January 2017 amendment to Point 3 added "manufacturing" to the list of banned activities.]

4) construction of religious buildings, and changing the profile (functional purpose) of a building into a religious building;

shall result in a fine on physical persons of 50 times the MFI;

and on legal persons [communities with state permission to exist] of 200 times the MFI with suspension of their activity for a term of three months."

"- Part 2. Impeding lawful religious activity as well as violation of the civil rights of physical persons on grounds of their religious views or insulting their feelings or profanation of items, buildings and places revered by followers of any religion, unless there are signs of criminally punishable actions,

shall result in a fine on physical persons of 50 times the MFI;

and on legal persons of 200 times the MFI.

- Part 3. Carrying out missionary activity without state registration (or re-registration), as well as the use by missionaries of religious literature, information materials with religious content or religious items without a positive assessment from a religious studies expert analysis, and spreading the teachings of a religious group which is not registered in Kazakhstan,

shall result in a fine on Kazakh citizens of 100 times the MFI;

and on foreigners and stateless persons of 100 times the MFI with administrative deportation from Kazakhstan.

- Part 4. A religious association carrying out activity which is not defined in its charter,

shall result in a fine of 300 times the MFI with suspension of activity for three months.

- Part 5. Engagement by a religious association in political activity as well as participation in the activity of political parties and/or rendering them financial assistance, interference in the activity of state agencies, or the assumption by members of religious

associations of the functions of state agencies or officials,

shall result in a fine of 300 times the MFI with suspension of activity for three months.

- Part 6. Creation of organisational structures of religious organisations in state agencies, organisations and entities, as well as in organisations carrying out health care and education,

shall result in a fine on officials of 100 times the MFI;

and on legal persons of 200 times the MFI.

- Part 7. Leadership of a religious association by a person assigned by a foreign religious centre without the consent of the authorised state agency,

as well as the leader of a religious association not taking measures not to allow the involvement and/or participation of children and young people under 18 in the activity of the religious association when one of the parents or their other legal representatives objects,

[Part 7 facilitates state pressure against children or young people, parents - even separated or divorced parents - and guardians involved in a religious community state officials dislike. It also allows pressure against anyone involved in such communities.]

shall result in a fine of 50 times the MFI with administrative deportation from Kazakhstan.

- Part 8. Actions or lack of actions resulting in repeated breaking of Parts 1, 2, 3, 4, 5 and 7 of this Article, repeated within one year of an administrative penalty being imposed,

shall carry a fine on physical persons of 200 times the MFI;

on officials of 300 times the MFI;

and on legal persons of 500 times the MFI with banning of their activity."

- Deportation from Kazakhstan for Kazakh citizens?

Part 7 imposes fines on and deportation of anyone breaking that part of Article 490. This could theoretically lead to a court ordering the deportation from Kazakhstan of a Kazakh citizen. Human rights defender Yevgeni Zhovtis, of the Kazakhstan International Bureau for Human Rights and the Rule of Law, told Forum 18 that he thinks that this is "just carelessness on the part of the officials working on the text. Probably deportation will only be imposed if the concerned person is a foreigner or a stateless person."

Exit bans

People who refuse to pay Administrative Code Articles 489 and 490 fines – which as those fined frequently note violate international human rights obligations – are often placed on Justice Ministry lists banning foreign travel.

Human rights defender Zhovtis, of the Kazakhstan International Bureau for Human Rights and the Rule of Law, noted that this "double punishment" is not governed by any law. He pointed out that "officials of the Justice Ministry's Committee for the Execution of Court Judgments simply take the decision and individuals don't have the proper opportunity to challenge this in court".

Criminal Code Article 174

Criminal Code Article 174 is often used against the political opposition, trade unionists, and people exercising their freedom of religion or belief. This 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".

Part 1 punishes these actions committed by individuals, who if convicted face two to seven years' imprisonment, or two to seven years' restricted freedom. Restricted freedom means individuals living at home, but without being able to leave their town or city without state permission and often with a ban on visiting restaurants, cafes, bars, or places of public entertainment.

Part 2 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". Those convicted face 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".

All known prisoners of conscience convicted under Article 174 have been added to the Finance Ministry Financial Monitoring Committee List of individuals "connected with the financing of terrorism or extremism" (see below).

Criminal Code Article 174 has been strongly criticised by Kazakh and international human rights defenders, including the United Nations (UN) Human Rights Committee, the UN Special Rapporteur on the Freedom of Religion and Belief, the UN Special Rapporteur on the rights to Freedom of Peaceful Assembly and of Association. For example, Fionnuala Ní Aoláin, UN Special Rapporteur for Protecting Human Rights while Countering Terrorism, in her January 2020 report (A/HRC/43/46/Add.1 (<https://undocs.org/A/HRC/43/46/Add.1>)) after her 2019 country visit found that Article 174 is "the most commonly used article against civil society activists in Kazakhstan, broadly criminalizes incitement to social, national, tribal, class, racial or religious discord, all of which are extremely vague grounds, and fails to provide genuine protection to individuals belonging to minority groups."

Special Rapporteur Ní Aoláin noted that "prison sentences for those successfully convicted are significant, particularly for leaders of public associations. This latter element appears to target civil society groups and activists." She also noted the regime's "subjectivity in determining what can be considered extremist." She observed that "this is largely done on the basis of the opinions of government-appointed and security-cleared "experts" (linguists, philologists, psychologists, theologians and political scientists) who are called upon to determine whether any document, statement or group contains an extremist element. Once this opinion is obtained, it is very difficult in practice to refute or counter."

Special Rapporteur Ní Aoláin stated that she "fully concurs" with the 2016 UN Human Rights Committee Concluding Observations (CCPR/C/KAZ/CO/2 (<https://undocs.org/CCPR/C/KAZ/CO/2>)) that "the broad formulation of the concepts of 'extremism', 'inciting social or class hatred', and 'religious hatred or enmity' in national law are used to unduly restrict freedoms of religion, expression, assembly and association".

Special Rapporteur Ní Aoláin added that "the counter-terrorism and extremism regimes provide excessive leeway to the authorities to target and silence those who peacefully question the established order, including various civil society actors, human rights defenders, trade unionists, journalists, bloggers, and members of marginalized communities or of communities legitimately exercising their religious freedoms. The overwhelming focus on extremism has no justification under international law".

Restrictions on the majority religious community

The regime has closed all independent and ethnic mosques, as well as Ahmadi Muslim communities. Only one Islamic organisation – the state-controlled Muslim Board – is permitted to exist. The state insists that all mosques must be controlled by the Board and be Sunni Hanafi. All other mosques and Islamic literature are banned. In at least one case, state officials threatened to use a bulldozer to demolish an independent mosque if it did not join the Muslim Board. One objection mosques had to joining the Board is that it takes one third of mosque financial income. The state tries to control how people pray by prosecuting and fining Muslims for saying the word "Amen" aloud in mosques.

Even before the Religion Law was adopted, officials were insisting that all independent mosques must close. There is no "legal" basis for such demands, or evidence for official claims that "they will breed terrorists". The Justice Ministry has denied all re-registration applications by non-Muslim Board Islamic communities. The Muslim Board is registered as one legal entity with all mosques in the country as its branches. Islam is the only religious community on which the state imposes such a monopoly.

Regime and Muslim Board officials used a variety of tactics to force independent mosques to join the Board or close – including as noted above threats to use bulldozers to demolish an independent mosque. In the case of the Din-Muhammad Tatar-Bashkir Mosque in Petropavl, heavy state pressure caused attendance at prayers to drop from hundreds to tens because "people are afraid of the authorities", community members told Forum 18. They also thought the pressure caused the June 2015 death from a heart attack of their Imam, Rafael Ryazapov. Later that year the Mosque joined the Board.

All Ahmadi Muslim mosques throughout Kazakhstan were closed in April 2012, re-registration being refused as their Almaty community's "statute did not qualify under the expert opinion". Religious Affairs Committee "expert analysis" is required for any community to be permitted to exist. It is now illegal for Ahmadi Muslims to meet for worship.

All mosques are controlled by the Board and must be Sunni Hanafi. All other mosques are banned, including other schools of Sunni Islam (such as Hanbali or Shafi), Shia, Ahmadi, or independent Sunni Hanafi mosques. State censorship has banned all Islamic literature that is neither Hanafi Muslim nor Muslim Board approved (see below).

All mosques must give the Board 30 per cent of their income, and have their imams appointed by the Board with no consultation. Imams must only read out sermons at Friday prayers which have been provided by the Board. Independent mosques strongly objected to these restrictions, which make Muslim exercise of freedom of religion and belief even more restricted than the freedom of religion and belief of those who follow other beliefs.

The state also subjects Muslim communities to language restrictions which do not apply to other communities. Mosques must use Kazakh rather than other languages such as Russian, Tatar, Chechen, or Azeri for sermons. Unlike communities of other faiths (eg. Russian Orthodox, Armenian Apostolic, or Jewish) mosques cannot have an ethnic affiliation in their name.

State control also includes targeting ethnic minorities. In Kordai District of Zhambyl Region, along the southern border with Kyrgyzstan, three ethnic Dungan Muslims who taught the Koran to children in their village were each fined about 7 weeks' average local wages in 2021. These two prosecutions bring to 11 the number of known prosecutions of ethnic Dungan Muslims from Kordai District for leading such Koran classes for children since August 2018. All were identified by police conducting "preventative measures", but Maksat Erezhepov, the then head of Kordai District Police, denied to Forum 18 in April 2021 that there was any "ethnic factor" in the prosecutions.

The state also restricts the ways Muslims can pray. In November 2016 the state-controlled Muslim Board banned saying out loud the word "Amen" ("Amin" in Kazakh, derived from Arabic) in mosques. In 2021 at least 12 Muslims are known to have been prosecuted and fined for praying in ways that the state-controlled Muslim Board has banned, for example by using the word "Amen". Most fines in 2021 for this "offence" were the equivalent of about three weeks' average wages, with some being the equivalent of about a month's average wages.

"I am an adherent of the Hanbali school and consider it necessary to pray the word 'Amen' aloud," a Muslim who wished to remain anonymous for fear of state reprisals told Forum 18. "But after imams halted the prayers because I prayed the word aloud I had to stop and say it to myself just to avoid conflict."

A lawyer in one case unsuccessfully argued that the ban on saying Amen aloud "violates the constitutional rights of citizens who belong to the Shafi or Hanbali schools as, in those schools, saying the word 'Amen' aloud is permitted". After being contacted by Muslim Board-appointed imams, local religious affairs officials prepare prosecution cases under Administrative Code Article 490 ("Violating the Religion Law") (see above). Attempting to justify the state dictating how people should pray, Meiram Kikimbayev, Chief Specialist of Atyrau Region's Religious Affairs Department, told Forum 18 that "the word 'Amen' is not important. What is important is the violation of collective prayers, which represents obstruction of lawful religious activity".

Prisoners of conscience jailed for exercising freedom of religion and belief

Prisoners of conscience jailed for exercising freedom of religion and belief have in the past primarily been alleged adherents of Muslim missionary movement Tabligh Jamaat. Independent observers in the country state that its activities peacefully encourage greater Muslim religious observance. The regime has repeatedly refused to explain what, if any, crime the alleged Tabligh Jamaat adherents have committed. One verdict claimed that the movement is "intolerant" towards Shia Islam – even though the regime itself has banned all Shia mosques and literature. Other Muslims not associated with Tabligh Jamaat, a Seventh-day Adventist, and Jehovah's Witnesses have also been jailed for their exercise of freedom of religion and belief.

There are currently (June 2022) known to be 9 Sunni Muslim men jailed as prisoners of conscience for their exercise of freedom of religion or belief (see below).

In January 2010 the NSC secret police and the then Religious Affairs Committee under the Justice Ministry commissioned a study of the movement by a committee led by the rector of the Ruhaniyat Islamic University, Murat Mynbayev. It spent months on extensive travel within Kazakhstan and to the movement's religious centres in Pakistan, India and Bangladesh, from March to June 2010 and from October 2011 to March 2012.

After the committee finished its research, Professor Mynbayev was summoned as a witness in a criminal case in Almaty in spring 2012 of a man accused of financing the Tabligh Jamaat movement. The man was acquitted, partly as a result of Professor Mynbayev's testimony, according to the decision and transcript of the trial hearings seen by Forum 18.

According to Professor Mynbayev's testimony, as summarised in the verdict, "as a result of this study, the commission concluded that the Tabligh Jamaat religious missionary movement is not an extremist or terrorist organisation. The Tabligh Jamaat international movement represents a purely peaceful preaching social and international movement, strongly adhering to the principle of a non-political social and educational movement, speaking out against all forms of violence against individuals, including spiritual violence."

Yet in February 2013, without prior public announcement, the capital Astana's Saryarka District Court granted Astana City Prosecutor's Office suit to have Tabligh Jamaat banned throughout Kazakhstan as "extremist". The prosecutor claimed – without making any evidence public – that the group's "real aim" was the seizure of territory and creation on it of a caliphate, "including in Kazakhstan", which "presumes a violent change to the constitutional order". The ban was backed in court by the NSC secret police and the Interior Ministry.

Forum 18 tried to find out from the NSC secret police why it had ignored the views of the study it had sponsored and pushed for the movement to be banned. But the NSC did not respond to repeated questions.

The UN Human Rights Committee's July 2016 Concluding Observations (CCPR/C/KAZ/CO/2 (<https://undocs.org/CCPR/C/KAZ/CO/2>)) expressed concern at state targeting of "members or presumed members of banned or unregistered Islamic groups, such as the Tabligh Jamaat", referring to ICCPR Articles 9 ("Right to liberty and security of person"), 14 ("Right to equality before courts and tribunals and to a fair trial"), 18 ("Freedom of thought, conscience and religion"), 19 ("Freedom of opinion and expression"), and 21 ("Right of peaceful assembly").

Currently, in June 2022, there are 9 individuals (all of them Sunni Muslim men) known to be serving prison sentences to punish them for exercising freedom of religion or belief. None are known to be associated with Tabligh Jamaat.

Five of the 9 prisoners of conscience were members of an online Muslim discussion group: Beket Mynbasov, Samat Adilov, Nazim Abdrakhmanov, Ernar Samatov and Bolatbek Nurgaliyev. In October 2018, the NSC secret police arrested nine Muslim men from different parts of the country who had been among the 171 members of a Muslim discussion group on the WhatsApp messaging service. The members had exchanged thousands of messages since it was set up in December 2013. The NSC started looking at the messages in August 2018, and all nine Muslims were jailed in 2019 and 2020.

The five prisoners of conscience remain jailed despite the United Nations Working Group on Arbitrary Detention in October 2021 calling (Opinion A/HRC/WGAD/2021/33 (https://www.ohchr.org/sites/default/files/2021-11/A_HRC_WGAD_2021_33_AdvanceEditedVersion.pdf)) for them to be "immediately" freed and compensated for their imprisonment. The Working Group "established that their arrest, detention and imprisonment resulted from their exercise of the rights to freedom of religion or belief and to opinion and expression", and stressed that "no trial" of the men "should have taken place".

A further four Muslim men from the online Islamic discussion group have been freed from prison, but are serving the rest of their sentences at home under restrictions. None have had their sentences overturned or been compensated for being wrongly prosecuted and jailed.

The remaining four current prisoners of conscience were mainly jailed for posting Islamic talks online: Galymzhan Abilkairov, Dilmurat Makhmatov, and Dadash Mazhenov. In one case (Imam Abdulkhalil Abduzhabbarov) the charges appear to stem from peaceful disagreements with official imams between 2004 and 2006 before he moved to Saudi Arabia. Imam Abduzhabbarov was extradited from Saudi Arabia before being jailed.

In the most recent known jailing, after being arrested in April 2018, jailed, tortured, acquitted, and put on trial again, 30-year-old Sunni Muslim Dadash Mazhenov was on 13 October 2020 jailed for seven years and eight months on the same "terrorism" charges he faced in 2018. His "crime" was that in 2015 he posted on his VKontakte social media page four talks by Muslim teacher Kuanysh Bashpayev, but had removed them before a court in 2017 banned the talks as "extremist".

Yevgeny Zhovtis of the Kazakhstan International Bureau for Human Rights and Rule of Law told Forum 18 in October 2018 that the trials were not "free and fair", and noted that "there is no evidence that .. Mazhenov practised any terrorism or extremism. Such trials are promoting radicalisation because of injustice".

Three leaders of Almaty's New Life Pentecostal Church (who currently live in the United States) were given jail terms in absentia in July 2019 for between four and five years. Zhovtis of the Kazakhstan International Bureau for Human Rights and the Rule of Law described the case as "complete drivel". New Life Church was told its problems would end if it paid money to officials or collaborated with the NSC secret police. Should the three pastors return to Kazakhstan they expect to be arrested and jailed.

Post-prison continuing punishments

Even when jail sentences are complete, punishment does not stop. Many individuals who have completed prison terms or restricted freedom sentences are still under often vague post-jail bans on specific activity.

Post-prison bans on specific activity, such as visiting specific places or sharing faith, can be handed down when the prison sentence is imposed. For those convicted of exercising their freedom of religion or belief, such bans – which can be vaguely worded - often include bans on visiting places of worship or sharing their faith with others. Prisoners facing post-prison bans on unspecified "social activity" have been left without any information about what is banned, or only told of specific conditions two days before release.

At least some of those jailed for exercising freedom of religion or belief face other restrictions on a wide range of activities. Typically, during sentences of restricted freedom individuals live at home, but are not able to leave their town or city without state permission. They are often also banned from visiting restaurants, cafes, bars, or places of public entertainment. Some have had their driving licences taken away on conviction, depriving them of the right to drive. Zhasulan Iskakov, who is serving the rest of his term under probation after early release from prison, is one of those affected.

Such post-prison bans are also used against individuals punished for activities other than exercising freedom of religion or belief. On

4 February 2021, prisoner of conscience Maks Bokayev left his prison in Atyrau after completing a five-year term to punish him for planning to hold demonstrations against proposed changes to the Land Code which would have allowed the sale of farmland to foreigners. Part of his sentence was a post-prison three-year ban on engaging in then-unspecified "social activity".

On 2 February 2021, Bokayev was banned from taking part in a wide range of public activities, including "membership and participation in the activity of social organisations, including political parties, religious organisations, public movements, professional unions, and self-regulating organisations founded on voluntary membership (participation)". "They tried to close all loopholes," he told Forum 18. "They want to exclude me from having any public stage. This includes preventing me from being in any religious organisation". Another released prisoner of conscience jailed at the same time for the same reason has never been told what "social activity" they are banned from.

Bokayev stressed that the restriction on any religious activity remains unclear. "I'm not a religious person – I don't go to mosque and don't recite prayers," he told Forum 18. Yet he remains concerned about the denial of his rights. "Maybe one day I'll have a revelation and will want to attend or build a place of worship. Officially I wouldn't be able to do so".

Almost all those convicted for exercising freedom of religion or belief are added to the Financial Monitoring Agency List of individuals "connected with the financing of terrorism or extremism". Being added to the List means that any bank accounts an individual may have are blocked with no further legal process. Their families often find out about the blocking of accounts only when they go to the bank. Families are allowed to withdraw only small amounts for daily living if they do not have other sources of income.

Individuals remain on the Financial Monitoring Agency List for six or eight years after their sentence has expired as they are deemed still to have a criminal record. All nine of the jailed Muslims are on the List. So too are many more former prisoners of conscience jailed for exercising freedom of religion or belief. The regime has shared such information with other countries, such as Kyrgyzstan and Tajikistan, and some prisoners of conscience have their bank accounts also blocked in those states.

"The Financial Monitoring Agency List says it relates to finance, but it's in fact about everything," Zhasulan Iskakov (one of the Muslims convicted for joining an online Islamic discussion group) told Forum 18. "When you want to get a job or open a bank account, indeed to avail yourself of your rights, there's a block everywhere!".

The Labour Code bans those with "extremism" convictions from working in educational and social service institutions, holiday and sports venues, and cultural institutions which involve young people. This ban appears to be life-long. Others who have completed their prison terms but remain on the Financial Monitoring Agency List have earlier told Forum 18 that they cannot get a job. Potential employers find them on the List and then refuse to offer them a job.

Former prisoner of conscience Iskakov tried to regain his job as a hospital doctor where he had worked for 12 years. "The hospital director wants me to be able to return, but the hospital's lawyers refuse," he told Forum 18.

Torture

Many Muslim prisoners of conscience jailed for exercising their freedom of religion or belief have been tortured in a variety of ways. These include: being banned from reading the Koran and other religious books; being prevented from saying the namaz (obligatory Muslim daily prayers); being denied visits by relatives, or the possibility to visit dying relatives and attend their funerals; denial of necessary medical care; beards being forcibly shaved off; and solitary confinement. The tortures used and the prisoners selected for torture appear to be arbitrarily chosen by regime officials, but torture as such appears to be common. Officials routinely deny that torture has or is taking place.

In one example, prisoner of conscience Mazhenov has stated that he was tortured in 2019 for marking Eid al-Fitr and praying the namaz while he was held in Labour Camp ICh-167/3 in the southern city of Shymkent. An official from the Shymkent Criminal Implementation Department on 6 May 2020 insisted to Forum 18: "He hit his head on a wall". The official, who would not give his name, claimed that prisoners often allege torture, something he described as "slander" aimed at "destabilising the situation in prison". Bakytzhan Dzhunisbekov, who was appointed head of Labour Camp ICh-167/3 in mid-August 2020, insisted to Forum 18 that "There was no such incident and there won't be. There aren't tortures here".

In January 2022, camp officials tortured Mazhenov again by beating him with truncheons, breaking his jaw, his family said. He was treated afterwards in the camp clinic. The officials described him as "Cargo 200" (Gruz-200 in Russian), a term used in the military for the transport of coffins. The family, who learned of the torture only in April, told Forum 18 they fear for Mazhenov's life. Kairat Olzhabayev, acting head of the labour camp ZK-169/1 in Kyzylorda, refused to answer Forum 18's questions why Mazhenov was being tortured by putting him in solitary confinement, and why he had been tortured by being beaten in early 2022. Olzhabayev claimed on 22 April that "it didn't happen" and put the phone down. Maya Simbayeva, head of the Special Department at the camp, similarly refused to answer any questions about Mazhenov and put the phone down.

Forum 18 called acting labour camp head Olzhabayev again on 18 May to find out whether any camp official had - in line with

Kazakhstan's international obligations - been put on criminal trial for torturing Mazhenov, including by breaking his jaw. Olzhabayev repeated to Forum 18 his earlier insistence that "it didn't happen". He then put the phone down.

An official of the Prison Department in Kyzylorda, who refused to give his name, refused to discuss the physical torture of Mazhenov. The official insisted to Forum 18 on 22 April that "no-one beat him", and referred all further questions to the Department's Deputy Head, Murat Nakenov. His phone went unanswered each time Forum 18 called between 22 April and 18 May.

Prisoner of conscience Mazhenov is still being tortured, having been held since 21 July 2019 in solitary confinement in an isolation cell for "fabricated violations", his family have told Forum 18. Similarly, prisoner of conscience Abdukhalil Abduzhabbarov was in October 2017 transferred to the harsh general regime prison camp ZK-169/1. Since then, he is being tortured by being held in solitary confinement in a cell, and is allowed only a 20 or 30 minute walk each day. On 31 January 2018 the Committee for the Criminal Execution System wrongly claimed to relatives that the exercise period each day lasts 90 minutes. He is banned from receiving parcels from relatives, and the prison has no shop where he might buy food or other necessary items. Officials have given no explanation as to why he is being tortured by being held in solitary confinement.

In an August 2011 report to the UN General Assembly on solitary confinement (A/66/268 (<https://daccess-ods.un.org/access.nsf/Get?OpenAgent&DS=A/66/268&Lang=E>)), then-UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Juan Mendez, after examining cases in Kazakhstan and elsewhere, stated that even "short-term solitary confinement can amount to torture or cruel, inhuman or degrading treatment or punishment". On 18 October 2011 he cited Kazakhstan again (<https://news.un.org/en/story/2011/10/392012-solitary-confinement-should-be-banned-most-cases-un-expert-says>) and stated: "Segregation, isolation, separation .. whatever the name, solitary confinement should be banned by States as a punishment or extortion technique".

Rule 43 of the UN Standard Minimum Rules for the Treatment of Prisoners (known as the Mandela Rules – A/C.3/70/L.3 (https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf)) notes: "In no circumstances may restrictions or disciplinary sanctions amount to torture or other cruel, inhuman or degrading treatment or punishment." Among the practices that "in particular, shall be prohibited" are indefinite solitary confinement and prolonged solitary confinement.

Then-Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Mendez found in 2011 that "solitary confinement exceeding 15 days is prolonged" (<https://daccess-ods.un.org/access.nsf/Get?OpenAgent&DS=A/66/268&Lang=E>).

Prisoners of conscience have also been tortured by being denied permission to visit dying relatives or attend their funerals. In July 2021, prisoner of conscience Abduzhabbarov's 82-year-old father died and he was barred from attending the funeral. "He was unable to see or say goodbye to his father," his family told Forum 18. "Had they given him conditional early release or a transfer to a lesser form of punishment, he could have seen and said goodbye to his father. It was very painful for him."

Similarly, prisoner of conscience Abilkairov was not allowed to attend his wife's funeral when she died in 2019.

Rule 70 of the UN Standard Minimum Rules for the Treatment of Prisoners (known as the Mandela Rules – A/C.3/70/L.3 (https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf)) includes the provision: "Whenever circumstances allow, the prisoner should be authorized to go, either under escort or alone, to the bedside of a near relative or significant other who is critically ill, or to attend the funeral of a near relative or significant other."

Labour camp officials have refused to answer Forum 18's questions about these cases.

Against the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading>), no officials have been arrested and tried for torturing prisoners of conscience jailed for exercising freedom of religion and belief.

Prisoners are also denied medical care. Following his October 2018 arrest, prisoner of conscience Zhuldyzbek Abikenovich Taurbekov (born 20 September 1978) developed serious heart problems. In July 2019, Taurbekov's mother and lay defender testified at his trial that he had been diagnosed as needing a heart transplant. The chief doctor of Pavlodar Labour Camp medical unit confirmed this diagnosis to Forum 18 in October 2020. "Due to his bad heart, Taurbekov has throughout this process had pulmonary edema", one source told Forum 18 on 3 November 2020. "When an exacerbation of pulmonary edema occurs, he cannot breathe in a horizontal position - that is, he cannot sleep lying down and breathe, because at such moments he can only breathe while sitting. And his heart is enlarged. And the release of blood sometimes drops to 9 per cent - compared to a normal rate of 66 per cent". The source noted: "Critically, Taurbekov developed this symptom in prison, from which he is not being released under various pretexts".

The UN Standard Minimum Rules for the Treatment of Prisoners (known as the Mandela Rules – A/C.3/70/L.3 (https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf)) apply to people who have been sentenced as well as those in pre-trial detention. Rule 27 states in part: "Prisoners who require specialized treatment or surgery shall

be transferred to specialized institutions or to civil hospitals .. Clinical decisions may only be taken by the responsible health-care professionals and may not be overruled or ignored by non-medical prison staff".

Prisoner of conscience Taurbekov repeatedly sought release on health grounds, but on 26 November 2020 North Kazakhstan Regional Court rejected his appeal against an earlier denial, even though "his illness is on the list of illnesses for which prisoners should be freed", his lawyer told Forum 18. Neither the judge nor any official explained why the Mandela Rules are ignored. In December 2021, Taurbekov was released from prison to serve the rest of his sentence under restrictions.

"Expert analyses"

Prisoner of conscience Mazhenov was convicted in November 2018 and in 2020 with state "expert analyses". On 29 April 2020, Akmola Regional Court allocated this task to Roza Akbarova, a deputy director of the Justice Ministry's Institute of Judicial Expertise. She had provided "expert analyses" which helped jail three prisoners of conscience for speaking about their beliefs with NSC secret police informers: Seventh-day Adventist Yklas Kabduakasov, jailed for two years in December 2015; Jehovah's Witness Teymur Akhmedov, jailed for five years with a ban on "ideological/preaching activity" for three more years in May 2017; and Sunni Muslim Satymzhan Azatov, jailed for four years eight months in July 2017. When Forum 18 pointed this out to Prosecutor Darkhan Sansyzbai, he claimed that "she is well-known and well-qualified".

Akbarova's "expert analysis" claimed: "The materials presented for examination contain texts directed at propaganda of terrorism, though absent are elements of public calls to conduct acts of terrorism, the creation and leadership of a terrorist group, or participation in its activity in financing terrorist or extremist activity, or other facilitating of terrorism or extremism".

Such "expert analyses" are also used in cases which do not carry the threat of imprisonment. Two married couples, who claim their mental health was harmed by reading Jehovah's Witness texts, in March and April 2021 won compensation of just over three years and four months' average wages for those in work from the Jehovah's Witnesses. This was gained with the help of a Justice Ministry "expert analysis", 63 per cent of which was found by a defence analysis to have been plagiarised from a 2008 Russian "analysis" with no reference to the source. The Kazakh Justice Ministry "analysis" claimed to have found in 16 Jehovah's Witness publications "hidden commands for the full subjugation to and carrying out of all necessary recommendations and orders by elders".

Another similar case, also involving state-backed alleged "victims" and state "expert analyses", is now (June 2022) underway against the Jehovah's Witnesses community in the capital Nur-Sultan. [From 23 March 2019 to 17 September 2022 Astana was called Nur-Sultan.] As before, the trial appears to be unfair and defence expert testimony is being ignored.

The use of "victims" has been an occasional regime tactic against religious communities it dislikes. In one such case in 2014, the defence lawyer told Forum 18 that "in my experience as a lawyer, this is one of the strangest cases I have seen in terms of legality." He added that "it was not just strange, but from the standpoint of the law, all types of violations occurred, when the case was opened, when it was being investigated, and during the trial."

State permission to exercise human rights imposed

As noted above, religious communities which do not have state permission to exist are banned, including the Baptist network which insists (rightly) that under international law they do not need state permission to meet and exist (<https://www.osce.org/files/f/documents/9/9/139046.pdf>). Permission for communities to exist is gained via state registration, yet people who give their names as founders of religious organisations applying for legal status can face harassment. If officials succeed in reducing the number of adult founders to below 50, communities are blocked from obtaining legal status.

Also, all discussion of faith by people without state permission, or not using state-approved texts, or outside state-approved locations, is banned.

Between January and December 2021, at least 130 administrative prosecutions were brought against 124 individuals (one twice), two charities, two schools and one company for their exercise of freedom of religion or belief without state permission. Of these, 120 prosecutions ended with convictions, with 114 individuals (one twice), two charities, two schools and one company being punished. However, the true number of such administrative cases is likely to be higher. In addition to the administrative cases actually brought, police and prosecutors often use the threat of such cases to intimidate individuals who have been exercising their right to freedom of religion or belief.

Many of the prosecutions were to punish meetings for worship without state permission. In October 2021, a court in the western city of Aktau fined three Muslims who had prayed the namaz with others at their place of work on 10 August 2021, the festival of al-Hijra, the Islamic New Year. Council of Churches Baptists – who refuse to seek state permission to exercise their right to freedom of religion or belief – were similarly fined for holding worship meetings. Other "offences" included selling Bibles, Korans, and icons online, teaching children to read the Koran without state permission, saying the word Amen in mosques, and posting the sermons of clerics of the state-controlled Muslim Board online.

For example, Oskemen Police "Struggle with Extremism and Terrorism Department" identified two people offering icons for sale online, who were both fined in June. Police seized the icons and sent them to the Regional Religious Affairs Department for state "expert" analysis which found that they were both religious pictures. The cases were then sent to court, and both people were fined about three weeks' average wage for those in work. One of those fined told the court that he had inherited the icon from his grandmother and had offered it for sale because he needed the money. In the case of Sergei Ogonkov, police in Petropavl detained him on 19 April as he went to meet what he thought would be a person interested in buying his old Children's Bible. A subsequent state "expert" analysis noted of the Bible edition: "There is no obstacle to its use and distribution on the territory of Kazakhstan." Petropavl Specialised Administrative Court fined Ogonkov three weeks' average wages on 13 July. His fine was 29 times the amount of money he was hoping to gain by selling the Children's Bible.

On 8 January 2021, police and officials of West Kazakhstan Region Religious Affairs Department raided a Christmas service of a Baptist congregation in Oral (Uralsk). The congregation – like all Council of Churches Baptist congregations – chooses not to seek state registration. "They waited until the end of the service, then took several church members to the police station," a local Baptist told Forum 18. "There they issued summary fines to Dmitry Isayev and Vladimir Nelepin." Police fined each one month's average wage for those in formal work.

"We don't consider we have done anything wrong, so we don't pay such fines," the Baptist added. "They took the money for the fine from Isayev's wages." He said the regime can demand that employers hand over up to half a person's wage to pay off such fines. "Businesses can't refuse such demands." Azat Karatai of West Kazakhstan Region Religious Affairs Department said his officials and the police raided the Baptists "because they're not registered and they act not in accordance with the law", he told Forum 18. "We're just fulfilling our job. They must have registration."

Similarly, Mukhammed Toleu – who is now 57 – was fined about six weeks' average wages for holding Muslim Friday prayers on 12 February 2021. He told the court that "he did not gather people for a special Friday prayer at his house, that day his relatives and acquaintances came to his house to drink tea, and when it was time for prayer, everyone prayed". When Forum 18 asked police why Toleu was prosecuted, an officer told Forum 18: "It is not allowed to pray at any location unless it's approved".

Almost all of the punishments included fines of between three weeks' and four months' average salaries for those in formal work. For pensioners and those without formal work, such fines can be a heavy burden. Individuals who are punished for offering religious materials for sale online often tell the courts that they are desperately short of money, and are trying to sell any property they no longer need. This does not stop judges from fining them.

In addition to fines, courts often ban individuals from activity for three months. Sometimes the ban is unspecific, leaving individuals unclear about what they can and cannot do. In other cases courts ban specific activities, for example distributing religious materials (which is in any case illegal without state permission). The hardest-hitting bans are on those running shops, as a three-month ban could leave owners and employees with no income. There was also one court order to destroy print-outs of religious texts.

Those who refuse or fail to pay fines can be placed on the list of debtors who are banned from leaving the country. Council of Churches Baptists refuse to pay fines on principle, arguing that they should not be punished for exercising their right to freedom of religion or belief. Many have spent years on the exit ban list.

State censorship

The Religion Law claims everyone has the right to acquire and use "religious literature, other informational materials of religious content, and objects of religious significance at their own discretion". However, distribution is only permitted in registered places of worship, approved religious education institutions and "special stationary premises [bookshops] determined by local executive authorities" (Akimats). Local executive authorities (Akimats) must approve any bookshop which wants to sell religious literature and other materials such as icons.

The numbers of permitted bookshops are small, and even some shops with permission to sell religious items have told Forum 18 that they will not do so. "As soon as we sell the few books we have left, we will stop selling any religious materials," one such bookshop that wished to remain anonymous for fear of state reprisals told Forum 18. "I do not want to get in trouble with the authorities because of religious books." Another bookseller told Forum 18 that "I did not like all the hassle when a large group of officials with men in military uniforms visited my shop".

The requirement to have a state licence means that online book retailers cannot sell religious literature. However, the confusion around what is banned or "religious" means that some titles are still available. Police raid shops selling religious items without state permission, and also raid people (such as Baptists) distributing such literature on the street.

In January 2017, Religion Law Article 9, Part 3 was rewritten to state: "The import into the territory of Kazakhstan of religious literature and informational materials of religious content, with the exception of that dedicated to personal use in one copy of each named title, is carried out only by registered religious associations after receiving a positive conclusion of a [state] religious-studies expert analysis". Previously, there was no limit on the number of copies.

A new Article 9, Part 3-1 was added: "The production, publication and distribution of religious literature and other informational materials of religious content is allowed only after receiving a positive conclusion of a religious-studies expert analysis". This requirement is also repeated in a new Article 6, Point 1-6 specifying what literature on religious themes is subject to compulsory censorship by the Religion and Civil Society Ministry.

This states more bluntly the situation of controls on literature about religion that already existed. Many booksellers and others offering religious literature have been punished for violating these controls.

Religious Affairs Committee "expert analyses" are required for all religious literature or "other informational materials of religious content", any religious literature acquired by any library, and "Objects of religious significance". The exact terms of this requirement are unclear, and can include Koran stands, crosses, crucifixes, icons and religious clothing. After a raid confiscated a Russian Orthodox icon, Forum 18 asked an official whether he has known icons to be harmful. He replied: "We have experts to check icons".

Censorship of Islamic texts is also imposed by the state along with the state-controlled Muslim Board. The Board told Forum 18 that "only Islamic literature from the Sunni Hanafi school can be distributed, as all other Muslim schools - including Ahmadis - are banned". Shia Muslims across Kazakhstan, who asked not to be named for fear of state reprisals, have told Forum 18 that Shia literature cannot be found on sale.

Confiscated texts – including Bibles - have been ordered by courts to be destroyed, but such orders are sometimes overturned on appeal. A court bailiff in Astana told Forum 18 that bailiffs throw books ordered destroyed – including religious books – into the rubbish bin. "They are normally disposed off at a general rubbish dump outside the city." In another case the Justice Ministry stated that "most likely the books would be burnt". Religious Affairs Committee officials have refused to discuss court-ordered religious book destructions.

Such literature destruction has been condemned by human rights defenders. Yevgeni Zhovtis of the Kazakhstan International Bureau for Human Rights and the Rule of Law told Forum 18: "It is barbarism to destroy books, and it makes the authorities in Kazakhstan - who position themselves as modernising the country - look from the cultural point of view like the Taliban or ISIS." Similarly, Tamara Kaleyeva, head of the free speech organisation Adil Soz (Free Word), told Forum 18 that such religious book confiscation and destruction orders "are not in accord with international standards – that's obvious. We of course condemn this."

There is confusion among officials about what is censored, what is involved and what if anything is exempt. As noted above, courts frequently fine commercial booksellers and individuals for distributing religious literature outside state-approved venues (state-registered places of worship and state-licensed shops). Allegedly "extremist" works are also banned, but because court hearings to rule whether materials are "extremist" take place unannounced and because no full, up-to-date published list of banned books appears to exist, people in Kazakhstan remain unaware of what has and has not been banned. The unannounced nature of court hearings also makes it impossible for such bans to be challenged. The General Prosecutor's Office and district administrations sometimes publish lists of books and materials described as "extremist", including many books which are not religious. These have included Muslim, Ahmadi Muslim, Christian, Hare Krishna, and Jehovah's Witness publications. Officials have been unable to explain whether items on the lists are banned and, if so, when and where they were banned.

In recent examples in 2021, a May court decision in Aktau ordered that four Islamic books seized from an individual seller be confiscated. State "expert analyses", which were used in some cases to impose fines, found that copies of the Koran and books about the Bible were religious books. There is confusion among officials about what is censored, what is involved and what if anything is exempt. In 2021 one person was fined for selling a Children's Bible which the Religious Affairs Committee stated was not banned.

On 10 June 2021, the UN Human Rights Committee found (CCPR/C/130/D/2661/2015 (https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2F130%2FD%2F2661%2F2015&Lang=en)) that the regime had violated the International Covenant on Civil and Political Rights (ICCPR) Article 18 ("Freedom of thought, conscience and religion") and potentially Article 19 ("Freedom of expression") by refusing permission for the import of 10 Jehovah's Witness publications in 2012. A state "expert analysis" claimed the publications "contained ideas that discouraged secular education, could cause family break-up, promoted the superiority of the religion over traditional Christianity and rejected the fundamental teachings of traditional Christianity." The Human Rights Committee strongly criticised both the censorship system as a whole and the "reasons" for the ban which "suggest that permission may be refused for arbitrary or other prohibited [under the ICCPR] reasons, such as disagreement by the State or other religions with the religious principles expressed in the literature."

The Human Rights Committee stated that the regime must among other things: "remove the restrictions on the right of the authors to import the 10 religious publications"; and "review its legislation [including the Religion Law], regulations and practices with a view to ensuring that the rights under article 18 of the Covenant may be fully enjoyed .. The State party is also under an obligation to take all steps necessary to prevent similar violations from occurring in the future."

There is no indication that the regime is taking the actions that the Human Rights Committee required it to take.

Surveillance

In 2021 a Baptist Church in Oral which does not seek state permission to meet was fined after a police raid. Officials regularly visit it during meetings for worship, an official telling Forum 18: "We go to mosques, churches". One Baptist told Forum 18 that "she doesn't intervene, but counts how many people are there, watches who is there and records with a device". Church members have asked her not to do this, "but she still does it." However, Azat Karatai of West Kazakhstan Region Religious Affairs Department claimed to Forum 18: "This isn't spying, this is monitoring, nothing more".

Many Muslims the government thinks are Salafis – either because of their theological views or because of the way they dress – are under tight state scrutiny. The Interior Ministry claimed in 2018 that 22,945 people were adherents of alleged "destructive religious movements", found "in the course of joint work by local executive bodies (religious affairs departments), police and national security agencies drawing on professional theologians and religious studies experts".

Human rights defender Zhovtis of the Kazakhstan International Bureau for Human Rights and the Rule of Law commented to Forum 18: "'Destructive religious movements' is not a legal term. It is absolutely unclear what criteria are used to designate any particular religious group as 'destructive'."

Violating human rights obligations, elected to UN Human Rights Council

Kazakhstan was elected to the United Nations (UN) Human Rights Council on 14 October 2021, for a term lasting until 2024. It pledged 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".

The regime has long attempted to disguise its violations of freedom of religion and belief and interlinked human rights. Others have noted this, such as Fionnuala Ní Aoláin, the UN Special Rapporteur for Protecting Human Rights while Countering Terrorism. In her January 2020 report (A/HRC/43/46/Add.1 (<https://undocs.org/A/HRC/43/46/Add.1>)) after her 2019 country visit she described "an overly bloated security sector, numerous overlapping layers of legislation and bodies that exist primarily to provide the appearance of a system based on the rule of law and a professed adherence to the principle of equality".

Among her 11 recommendations, the Special Rapporteur stated:

- "Religious practice must be protected and never be criminalized as extremism. The recommendations of the Special Rapporteur on Freedom of Religion or Belief (A/HRC/28/66/Add.1 (<https://undocs.org/A/HRC/28/66/Add.1>)) should be implemented in full."

- "The peaceful exercise of the right to freedom of expression must never be construed as terrorism or extremism. No one should be criminalized for exercising the rights to freedom of peaceful assembly and of association. The recommendations of the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association (A/HRC/29/25/Add.2 (<https://undocs.org/A/HRC/29/25/Add.2>)) should be implemented in full."

The future?

Kazakhstan tries to make exercising human rights conditional upon state permission. It systematically violates intertwined fundamental rights - such as the freedoms of religion or belief, of expression, of assembly, of the right to free and fair elections - it has solemn international obligations to respect and defend. There is a culture of impunity for such violations among officials, which makes it likely that the unelected regime will continue violating the human rights of the people it rules. (END)

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

Previous Forum 18 Kazakhstan religious freedom surveys (<https://www.forum18.org/analyses.php?region=29>).

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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