

Institute on Religion and Public Policy Report: Religious Freedom in Kazakhstan

Executive Summary

(1) The Republic of Kazakhstan is a secular nation whose Constitution provides broad protections for religious freedom. Kazakhstan has also pledged to protect religious liberty as member in a number of international organizations, such as the United Nations and the Organization for Security and Cooperation in Europe Despite the broad protections set forth in the Constitution and international agreements, Kazakhstan's domestic laws and policies demonstrate a steady trend towards government regulation and restriction of religious freedom. In 2005, claiming national security concerns, the Kazakh Parliament amended the Religion Law placing additional barriers to the free practice of religion. This law is again under review and proposals have been set forth which would create the most significant restrictions on religious freedom that Kazakhstan has ever imposed. However, infringement of religious liberty has not been limited to legislative action. The government appears to be pursuing unofficial policies aimed at limiting religious practice through its registration process, property disputes, increased scrutiny for compliance with laws and regulations, and anti-religion propaganda campaigns.

Institute on Religion and Public Policy

(2) Twice nominated for the Nobel Peace Prize, the Institute on Religion and Public Policy is an international, inter-religious non-profit organization dedicated to ensuring freedom of religion as the foundation for security, stability, and democracy. The Institute works globally to promote fundamental rights and religious freedom in particular, with government policy-makers, religious leaders, business executives, academics, non-governmental organizations and others. The Institute encourages and assists in the effective and cooperative advancement of religious freedom throughout the world.

Legal Status

(3) The legal framework for religious freedoms in Kazakhstan begins with the Constitution. Through a combination of provisions it provides a broad protection for freedom of religion. Starting with Article 12, the Constitution states that all "human rights and freedoms in the Republic of Kazakhstan shall be recognized." Similarly, Article 14, Section 2, states that no one may be discriminated against based on religion. Then Article 19, section 1, declares, "Everyone shall have the right to determine and indicate or not to indicate his national, party and religious

affiliation." Finally, Article 22 sets forth the notion that "Everyone shall have the right to freedom of conscience."

- (4) Despite the broad protections for human rights that the Constitution and international agreements provide, domestic laws and regulations narrow those protections significantly. The current Religion Law, as it was amended in 2005, requires all religious organizations to register with both the local and central Ministry of Justice. As part of the registration process the religious organization must have at least 10 members and must submit all literature and recordings for approval by the state.
- (5) In addition to the Religion Law, religious organizations are also governed by Articles 375 and 374-1 of the Administrative Code. Article 374-1 allows the government to fine anyone for participating in or leading an unregistered religious organization. Fines can be as high as 200 times the average monthly salary for individuals. Article 375 of the Administrative Code allows for fines up to 15 times the average monthly salary and expulsion from the country for unauthorized missionary work for foreigners. Article 375 also authorizes fines for religious leaders who violate any laws of up to 30 times the average monthly salary and up to 200 times the average monthly salary for religious organizations.
- (6) Currently, Parliament is considering a new draft of the Religion Law, which would place the highest restrictions yet on religious organizations. The draft law was written by a handful of deputies and was approved for consideration on April 2, 2008. On September 24, 2008, the lower house passed the draft law and it was expected the Senate would follow suit. If fully adopted, this new law would amend the Religion law, Article 375 of the Administrative Code, as well as various other laws related to religious practice. In May 2008, Kazakh officials sent the proposed law to the OSCE requesting a legal review after significant criticism.
- (7) One change that the draft law deals with is the number of members a religious organization must have to register. Early in the year the proposed law maintained the requirement of 10 people. However, Parliament took this into discussion and minimal limits were at times as high as 5,000. Currently, the draft law is set at a 50 member minimum. Article 4 allows for "religious groups" smaller than the required 50 members. However, these groups' activities are restricted "only within their circle to conduct religious rites and ceremonies, and study their religion and provide religious education within premises belonging to their members and in the territory for which they have formal registration." In this sense, if the membership minimum for religious organizations is raised to 50, organizations unable to meet that number would be forced to restrict their activity.
- (8) The draft law continues the ban on unregistered religious activity that was set up in the 2005 amendments to the Religion Law.

- (9) The draft law will criminalize any unauthorized missionary work. The law defines missionary work as "religious/educational activity by local people or foreigners aimed at spreading a faith in the name of a religious association outside the territory of its activity." Anyone who wishes to do this must obtain permission from their registered religious organization. If the religious group is not registered then there is no way for an individual to perform any missionary work. In addition, before performing any type of missionary work an individual must obtain a personal registration from the state for missionary work. Local governments will be in charge of maintaining a quota of missionaries for their region. Anyone found violating this law will be subject to a fine of up to 15 months' wages, possible deportation, and a suspension of activities. This provision will severely burden organizations for which missionary work is a key aspect of religious practice.
- (10) Article 7 of the proposed law states that a group eligible to register as a religious organization "conducts divine services, religious rituals and preaching and other religious ceremonies." There is debate about whether this will exclude certain religious organizations, including Buddhist groups.
- (11) Article 7 also creates a new distinction between local and centralized religious organizations. A centralized organization operates across multiple regions, whereas a local organization operates within only one region. This new section will make it illegal for a local organization to operate in more than one region. A central organization must be founded by a group of local organizations that have operated in at least nine regions for at least 10 years. As a result, groups that operate in multiple regions, but do not meet the requirements of operating in nine regions for at least 10 years, would not be able to re-register, and thus would not be able to continue to function as religious organizations.
- (12) Article 9 governs the registration process and requires submission of a charter that explains the organization's history, beliefs, and views on certain issues such as marriage, family, education, and health. Furthermore, if an organization has never been registered before, the new law will extend the registration process out to six months. Consequently, the group in question would have to wait for six months in order to fully practice its faith.
- (13) Article 4 requires that all applications must go through an "expert assessment" by state officials, legal specialists, and sometimes members of other religious groups. Hence, Articles 4 and 9 suggest that the registration process entails an intrusive government review of an organization's beliefs that can easily be taken beyond the scope of protecting national interests. Moreover, the presence of members of other religious organizations on the committee reviewing the registration application may encourage the committee to make value judgments reflecting the beliefs of those organizations.

- (14) Article 12 requires any religious organization to obtain local official approval before building any kind of house of worship or modifying an existing structure.
- (15) Article 5 governs religious education. It requires any religious educational establishment to submit a detailed plan of organization, intent, curriculum, and language of instruction. If children wish to attend an event targeting youth that is sponsored by a religious organization, they will be required to have the signed consent of both parents or a legal guardian.
- (16) Article 13 states that only registered organizations can publish religious literature. Furthermore, any religious literature imported into the country is subject to heavy censorship by the state.
- (17) Article 16 prohibits donations from any anonymous or foreign sources. It also requires that all religious organizations keep a strict record of any donations. They also must install a cash register machine, which must be in accordance with Tax Ministry guidelines, in order to keep track of any donations.
- (18) Article 3 requires all existing religious organizations to re-register with the Ministry of Justice within two years or they will face liquidation.¹

Official Instances of Discrimination and Abuse

- (19) The Kazakh government's registration process is the primary limitation preventing religious organizations from fully practicing their religion. On multiple occasions, the government in Atyrau denied a Jehovah's Witness group's registration application and provided questionable reasons for the denials. This is, in fact, the only region in the country where Jehovah's Witnesses have not been allowed to register. The most recent denial occurred on November 24, 2007 when the government claimed the forms were not filled out correctly because the founding members' work phone numbers were missing. Several Kazakh legal analysts think this missing information should not be sufficient to deny an otherwise complete application. As an unregistered organization the group is not a legal person and cannot own property, which means that they meet in member homes for religious services. As a result of their unregistered religious activities the group has been fined and meetings have been raided.
- (20) The Atyrau region appears to be extremely resistant to approving any new religious organizations, particularly Protestants, and some speculate whether they are pursuing an unofficial anti-religion policy. The Grace Presbyterian Church, which is registered in other regions of Kazakhstan, has been denied registration in Atyrau without reasoning since 2002. Because the group is not registered and is not a legal person it does not own a church building. As a result the members hold worship services in their homes, which have been raided multiple times.

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¹ In this report, the word "liquidation" will be used to describe the dissolution of a religious organization.

- (21) While most religious groups attempt to comply with the registration requirement, one group contends that this requirement violates their right to freedom of religion. The Baptist Council of Churches claims an ideological objection to the registration requirement and refuses to register in any former Soviet republic. Although their position may accurately reflect the questionable legality of the law, it allows local officials to appear impartial in applying the law. Members of this group face ongoing administrative prosecution, fines, and imprisonment. Because they do not believe the registration requirement is legal, members of the church usually refuse to pay any fines levied against them, which results in government confiscation of personal property to pay the fines. Some of the members of the community claim the government is waging an "economic war" against religion.
- (22) Religion in Kazakhstan has never been highly politicized as it is in many other Central Asian nations. Due to the global scrutiny of politicized extremist religious groups and its geographical location, Kazakhstan has become increasingly concerned with any form of religious extremism. In 2005 the government implemented a new Extremism Law, which contains provisions targeting politicized and extremist religious groups. The government is using this law as a means to investigate and persecute duly registered religious organizations. On January 25, 2008 the Grace Presbyterian Church in Almaty was subject to a 15-hour raid by the Central National Security Committee (KNB) during which computer equipment was confiscated. Other Grace Presbyterian congregations around Kazakhstan have experienced similar harassment and raids. The government claims the church leadership is involved in espionage and treason. However, no charges have been filed in any criminal court on these charges. The government has also been engaged in a campaign to discredit the group through the state-run media calling the group "spies in cassocks" and a "cult organization."
- (23) Actions of the Kazakh government and officials demonstrate a troubling trend towards infringing upon religious freedom. On January 17, 2008, President Nazarbaev said that, "it is necessary to suppress the activity of illegal religious movements in Kazakhstan. Today, tens of thousands of different missionary organizations work in Kazakhstan. We don't know their purposes and intentions, and we should not allow such unchecked activity. We are a secular state, religion is separate from the state, but this does not mean that Kazakhstan should become the dumping ground for religious movements of all kinds." A government program aimed at dealing with this issue, the State Program of Patriotic Education of Citizens for 2006-08, contains a section addressing the growth of "non-traditional" faiths in Kazakhstan which states that the government is extremely concerned with the growth of extremist organizations targeting youth populations such as Hare Krishnas, Jehovah's Witnesses, and the outlawed Islamic group Hizb-ut-Tahrir. Another government publication from 2006 entitled, "How not to fall under the influence of religious sects" lists Jehovah's Witnesses,

Baptists, and Ahmadi Muslims as sects of which one should be careful. This booklet and the Program of Patriotic Education continue to be distributed to children and youth in Kazakhstan.

- (24) As part of the government's increased interest in national security it is ramping up efforts to "check up" on religious organizations, but there is no clear legal mandate for these check-ups. The International Bureau for Human Rights and Rule of Law states, "The General Prosecutor's office, KNB and Interior Ministry may use regulations and their own internal instructions to check up on organizations under the guise of controlling radicalism and terrorism." Due to the focus on national security the small and non-traditional religions in Kazakhstan have been disproportionately targeted. In Almaty city in February 2008, 14 Protestant and one Hare Krishna group were subject to check-ups. Correspondingly, the heads of Kazakhstan's two biggest religious groups stated that their congregations are not being subjected to any check-ups. Father Aleksandr Ivlev of the Russian Orthodox Church blames the churches that are being investigated, "I assure you that those that are being checked up must have violated some laws. The authorities usually make check-ups on marginal During a check-up the police usually request information about membership, employees, finances, and the groups charter.
- (25) In addition to the check-ups the government is also increasing its pressure on religious organizations to fill out intrusive questionnaires about their community. These questionnaires are only being handed out to non-Muslim groups, and the government claims this is for a sociological survey. Although the government says participation is voluntary, some religious leaders claim they have been pressured to complete the surveys. The surveys ask for general information about the organization and its leader. Then they continue to ask about more in-depth information including member names, ethnicity, age, gender, profession, foreign contacts, contacts with the media, and problems in the community. Many groups are apprehensive about filling these out because they feel the questionnaires violate their Constitutional right to privacy.
- (26) In April, 15 Muslims were sentenced for alleged terrorist activity in Shymkent. These Muslims are part of an independent Muslim group and claim they are completely innocent. The entire trial procedure was held in secret leading to concerns about protections for a fair trial. Family members claim the police planted evidence and made pretextual arrests. The case is being appealed. In addition to this religion-based trial, the government's check-ups of small and non-traditional groups are also resulting in prosecutions.
- (27) The government gave public safety concerns when interrupting a congress of Ethnic Kazakhs at the Jehovah's Witness facilities in Aktobe. The police and safety services claimed that there was a bomb scare and shut the building down. Although they swept the building and found nothing, they kept the building shut for two days.

- (28) In addition to fines and imprisonment, some religious communities are facing the prospect of losing their property. The most prominent case involves a Hare Krishna commune outside the city of Almaty. The dispute arose when local police raided the commune several times as part of a passport investigation. The government's reasons for continuing to investigate the Hare Krishnas included health code violations, trade violations, safety violations, construction violations, and extremist activities. Eventually the government filed a complaint to expropriate the property. The case made its way into the Supreme Court where the Hare Krishnas lost and the government seized the property without providing any compensation. Although the group lodged official complaints, the government proceeded to demolish some of the buildings on the commune. The government is now demanding that they leave the property entirely.
- (29) The New Life Church in Aktobe is about to lose its building. The church was given the building by the former mayor in 1998. The government now claims this transfer was illegal and is seeking judicial remedy. The Agafe Church in Almaty is being threatened loss of their building due to allegedly fraudulent or illegal property transfers that occurred many years ago despite the fact the statute of limitations expired.

Conclusion

(30) The Republic of Kazakhstan is showing a slow and steady trend towards greater interference with religious freedom. The government must implement steps to create a more transparent process for dealing with religions. Trials must become more fair and impartial. Maintaining an open courtroom is one step towards that end. Targeting small and non-traditional religions for increased scrutiny must stop. Kazakhstan touts its religious diversity, but then makes no efforts to promote or support this diversity internally. Increased understanding and acceptance of alternative faith beliefs is a necessity.