

1. Before the October-November 2014 UN Human Rights Council Universal Periodic Review (UPR) of Kazakhstan, Forum 18 notes continuing violations of freedom of religion or belief and other linked rights, including freedoms of expression, assembly, and speech.

2. Violations include: making exercising human rights conditional on state permission; closing independent mosques and other smaller religious communities; censorship of religious literature and objects, and restricting where they can be distributed; misuse of psychiatry against people the authorities dislike; exit bans and jailings for those convicted of exercising freedom of religion or belief without state permission; and co-operation with other states which violate human rights.

3. Fear of expressing views the government dislikes has increased. Such fears caused some religious communities to decide not to participate in the UPR, Forum 18 was told in 2014.

“Terrorism”?

4. Officials often associate religious freedom victims with words with negative overtones. Officials defended the 2011 laws restricting freedom of religion or belief as necessary counter-terrorism measures.

5. Police Departments for the Struggle against Extremism, Separatism and Terrorism led 2013 raids on three Baptist congregations refusing to seek state permission to exercise freedom of religion. North Kazakhstan Regional Police described the raids, a joint operation with the Regional Religious Affairs Department, as "operational/prophylactic activity to counter manifestations of religious extremism and terrorism".

More repressive mechanisms in 2014?

6. The “legal” mechanisms used to justify official violations of freedom of religion or belief may be added to. A new Criminal Implementation Code (which includes a draft provision banning prisoners from having any religious literature of their own), Criminal Code, Administrative Code and Criminal Procedure Code are expected to be adopted in 2014 and planned to take effect from January 2015.

Current main “legal” mechanisms of repression

7. The main “legal” mechanisms – as of March 2014 - used to justify state violations of freedom of religion or belief are the 2011 Religion Law, and the Administrative Code.

The Religion Law

- "Historical role" of Hanafi Islam and Orthodox Christianity

8. The preamble states that Kazakhstan "recognises the historical role of Islam of the Hanafi school and Orthodox Christianity in the development of the culture and spiritual life of the nation". Officials have long spoken of a duopoly of Islam for ethnic Kazakhs and Orthodoxy for the country's Slavic population, describing them – without any basis in law – as "traditional faiths". The Muslim Board enforces the Hanafi school as the only permitted form of Islam.

- Compulsory re-registration

9. Article 24 required all religious communities to apply for re-registration in 2011. Failure to re-register within one year – by October 2012 - led to many communities being forcibly closed.

- Unregistered activity banned

10. Article 3, Part 11 bans unregistered religious activity. Communities too small, unable, or – like Baptist Council of Churches congregations – unwilling to seek state registration face punishment for any exercise of freedom of religion or belief.

- Censorship

11. Article 9, Part 2 restricts distribution of religious literature and objects to registered places of worship, approved religious education institutions and "special stationary premises determined by local executive authorities". For non-approved bookshops to sell religious literature and other materials is illegal.

12. Article 9, Part 3 restricts imports of "informational materials of religious content" – apart from small quantities for personal use – to registered religious organisations with prior approval from the government's Agency of Religious Affairs (ARA), which has to conduct an "expert analysis" of each title. "Expert analyses" – by the ARA – are required not only for all imported religious literature, but for any religious literature (imported or not) libraries acquire.

- Restrictions on where meetings can happen

13. Article 7, Part 2 restricts where religious activity can take place. Defending a 2013 fine of two months' average wages on a Jehovah's Witness for exercising freedom of religion or belief without state permission by sending text messages to friends, an Atyrau Religious Affairs Department official told Forum 18 she was punished because "all religious activity outside the building of a registered community is banned". He based his argument on Article 7, Part 2.

- Restrictions on new places of worship

14. Any new place of worship requires, under Article 5, Part 5, both ARA and local administration approval. This covers not only whether a religious community can build, but exactly where, as well as whether it can gain official change of usage for a building it wants to turn into a place of worship.

- Restrictions on sharing beliefs

15. Article 1, Part 5 defines "spreading a faith" as "missionary activity", done "in the name of a religious organisation registered in Kazakhstan", whether by a local citizen or a foreigner. Article 8, Part 1 states that all individuals engaged in spreading their faith - whether local or foreign - must have registration. Only registered religious organisations can appoint "missionaries", who must act in the name of the organisation. All the religious literature they use to promote their faith needs to be presented when applying for registration as missionaries.

- Restrictions on foreigners

16. Founders of religious communities must be Kazakh citizens. Foreigners, even with the right of legal residence, appear to have no right to be official founders. In 2013 two legally resident foreigners were fined and deported for exercising the right to freedom of religion or belief. Polish cardiologist

Robert Panczykowski had preached at a Jehovah's Witness meeting, while Kyrgyz citizen Shamurat Toktoraliyev discussed his faith in a private flat. Anti-"Extremism" officer Smayil Konyrbai who raided the meeting singled out Panczykowski because he spoke "with an accent". "It's not racism, it's my job," Konyrbai told Forum 18.

- Prisons and other state institutions

17. Article 7, Part 3 bans prayer rooms in state institutions, like hospitals, prisons or old people's homes. Under Article 7, Part 4 only state-registered communities' clergy can be invited to provide pastoral care for residents or inmates. In 2011 the state closed mosques and churches in prisons and state social care institutions. "Mosques and Russian Orthodox churches were built in prisons in violation of building regulations and the law", an Interior Ministry official told Forum 18. "They are illegal – that's why they are being closed down."

- Compulsory re-registration process

18. The 2011-2 re-registration process was used to close many religious communities. Members of many communities complained to Forum 18 of the "complex", "burdensome", "arbitrary", "unnecessary" and "expensive" process. The ARA and local Justice Departments repeatedly asked many communities to change their charters on arbitrary grounds.

19. Some founders were asked why they had signed applications. Officials pressured nearly a quarter of the signatories of Grace Protestant Church in Karaturyk to remove their names. "It seems the authorities especially chose to target those founders who are of Kazakh and Uygur ethnicity," Pastor Zhursyn Koshkinov told Forum 18.

20. Some smaller communities were forced to "voluntarily" close: one Methodist Church was threatened with a fine state officials admitted was unlawful. The Pastor's wife was fined for using her private home – the Church's legal address - for worship. The Church had to pay for a newspaper announcement that it was liquidating itself. In 2012 ARA regional departments demanded that District Administrations strip small religious communities of registration and warned them that they must stop any activity. Then ARA chief Kairat Lama Sharif described the 13 per cent fall in the number of registered communities as a "positive dynamic" after 579 small groups (with fewer than 50 adult citizen members) were stripped of registration. One religious community lost two-thirds of pre-2011 registered communities. An independent mosque - the Tautan Molla Mosque in Prishakhtinsk - was threatened with being bulldozed after refusing to join the Muslim Board.

Mosques

21. Even before the Religion Law was adopted, officials insisted – with no "legal" basis - that mosques catering for a particular ethnicity or independent of the state-backed Muslim Board must close. The Justice Ministry – backed by the ARA – rejected all re-registration applications by non-Muslim Board Muslim communities. Under its Statute, endorsed at a 2012 meeting addressed by then ARA Chair Lama Sharif, the Muslim Board registered as one legal entity, with all mosques deemed to be its branches. It is the only religious community given a state-backed monopoly.

22. Under the Statute, the Muslim Board appoints all imams, who must only read out at Friday prayers sermons it provides. All mosques must give it 30 per cent of their income. The state imposes on mosques language restrictions not applied to other faiths. Officials demand that sermons use Kazakh

rather than the language of their choice (eg. Russian, Tatar, Chechen, Azeri). Unlike communities of other faiths, mosque names cannot include an ethnic affiliation.

23. All Islamic communities "must be Hanafi Sunni Muslim", the Muslim Board told Forum 18 in 2012. "We don't have other sorts of Muslims here." (Several Shia communities struggle to continue.)

24. The Din-Muhammad Tatar-Bashkir Mosque in Petropavl was stripped of legal status for wanting to exist independently. Its re-registration application was rejected. Community members gathered for prayers even after a court liquidated the community in 2013. Attendance dropped from hundreds to tens because "people are afraid of the authorities", members told Forum 18. In 2014, Liquidation Commission officials prepared an inventory of all the Mosque's possessions. "The mosque is to be handed over to another religious organisation," a Finance Department official told Forum 18. The Mosque is possibly the last publicly-accessible independent mosque.

25. All Ahmadi Muslim mosques were closed in 2012. Just one of their communities, in Almaty, applied for re-registration. ARA's then Chair Lama Sharif stated in 2012 that Ahmadis were among communities for which ARA had given negative "expert opinions".

Still closing communities down

26. State pressure aims to close other communities. New Life Church members in Arkalyk - particularly state employees - faced interrogations and threats. From December 2013, Arkalyk's Deputy Prosecutor or Deputy Akim summoned all 52 signatories to its successful re-registration application. The Pastor fears that if the number goes below the required 50, the authorities may strip the congregation of registration.

27. In December 2013, a KNB secret police officer attended New Life's Sunday service, filming those present with a hidden camera. All religious communities are thought to be under surveillance by the ordinary police and KNB secret police. Many communities decline to discuss this - including KNB attempts to recruit informers - for fear of state reprisals.

Censorship

28. Local authorities and "law enforcement" agencies enforce censorship with raids and fines. Courts fine commercial booksellers and individuals for distributing religious literature outside approved venues. Forum 18 knows of 12 booksellers fined in 2013.

29. The ARA website lists works in Kazakh and Russian it has approved for distribution. No works in other languages have been approved. Not all works that have been approved – such as the few Jehovah's Witness magazines – appear in the list.

30. Also banned are "extremist" works. Because court hearings to rule whether materials are "extremist" take place unannounced and because no published list of banned books exists, people remain unaware of what has been banned. The unannounced nature of court hearings makes it impossible to challenge such bans.

31. In 2013, the ARA forced an Astana Muslim bookshop to cancel a book presentation by Moscow imam Shamil Alyautdinov. Officials insisted that as a foreigner he needed an invitation from the Muslim Board, and personal registration as a "missionary".

32. Censorship also includes religious objects. In 2013 twelve icons and three Bibles were seized from a bookseller in Oral, who narrowly escaped prosecution. "Everything is OK now – he has agreed not to sell religious materials," the state religious affairs official who seized the items told Forum 18. Asked whether he has known icons which are harmful, ARA spokesperson Saktagan Sadvokasov told Forum 18: "We have experts to check icons."

33. In 2013, books confiscated from a bookseller in East Kazakhstan Region – including two with prayers to Russian Orthodox saints Serafim of Sarov and Sergius of Radonezh – were ordered destroyed when she was fined. If carried out, this would have been the first known court-ordered religious book destruction to be carried out.

Misuse of psychiatry

34. Two freedom of religion or belief cases - of atheist writer Aleksandr Kharlamov and retired Presbyterian pastor Bakhytzhan Kashkumbayev - involve apparent misuse of psychiatry. Both were held for a month in psychiatric hospital.

35. The criminal case against Kashkumbayev, Pastor of Astana's Grace Church, claimed he harmed the health of church member Lyazzat Almenova. Masked police searched the Church in 2012 and seized computers, valuables and religious books they insisted were "extremist" (though they could not explain what was "extremist" or who had declared them so). Police requested church members to give blood specimens to see if the Church uses "hallucinogenic" substances for Communion. The alleged "hallucinogens" were a red tea used as non-alcoholic communion wine. Almenova repeatedly insisted she had not been harmed and that Kashkumbayev was "totally innocent". In 2014 – after nine months' pre-trial detention - Kashkumbayev was convicted of harming Almenova's health and ordered to pay large "moral damages". Kashkumbayev's lawyer told Forum 18 it was "one of the strangest cases I have seen in terms of legality", adding: "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".

36. Kharlamov was similarly subjected to arrest and forcible psychiatric examination. He was freed in 2013 after six months' pre-trial detention. One doctor told him he had been sent to psychiatric hospital "because you are an inconvenient person for the authorities". Kharlamov still faces charges under Criminal Code Article 164, Part 1 of "inciting religious hatred" for articles he wrote defending atheism. The Ridder police investigator leading the case admitted to Forum 18 in 2013 that "no-one suffered from what he wrote on religion". He refused to explain on what, if any, medically-relevant evidence he ordered two psychiatric examinations of Kharlamov.

Administrative Code Article 375

37. Administrative Code Article 375 punishes "violating the Religion Law". "Offences" in Part 1 include: breaking the Religion Law; violating provisions for holding religious ceremonies or meetings for worship; violating procedure for conducting charitable activity; violating procedure for importing, publishing or distributing religious literature and other materials; building places of worship or changing a building's usage; or conducting missionary activity. Penalties for breaking Article 375, Part 1 are fines of 50 Monthly Financial Indicators (MFIs) for physical persons, 100 MFIs for leaders of religious associations, and 200 MFIs for groups with state registration with three-month suspension of their activity. 50 MFIs represent about one month's wages for those in work.

- "Missionary activities" punished

38. Article 375 Part 3 punishes "carrying out of missionary activity by citizens, foreigners and persons without citizenship without registration, as well as use by missionaries of religious literature, informational materials of religious content or religious objects without a positive religious studies expert analysis". The fine for this "offence" is 100 MFIs with, for non-citizens, the extra penalty of deportation. Article 375, Part 9 punishes such offences committed again within a year with fines of 200 MFIs.

39. Poorly-defined "offences" allow officials to expand the range of activities they can punish. Two Muslim brothers, Rafael and Kamil Bayshev, were each fined two months' wages after inviting passers-by outside the Central Mosque in Oral to attend night prayers in 2012. In 2013 Zarina Burova was fined after inviting friends to a religious meeting by text message. The case rested on surveillance by the police Department for the Struggle against Extremism, Separatism and Terrorism and the KNB secret police. In an August 2013 case, the presence of guests at a meeting of a state-registered Jehovah's Witness community led to four fines.

Administrative Code Article 374-1

40. Article 374-1 punishes "Leading, participating in, or financing an unregistered, suspended, or banned religious community or social organisation". Forum 18 knows of 78 such fines on named individuals in 2013.

Numerous fines

41. Over 150 people (mostly Baptists, Jehovah's Witnesses and Muslims) were fined in 2013 under Articles 374-1 and 375 and more than 35 in early 2014. Fines are of one or two months' average wages, depending on whether the authorities identify the person concerned as playing a leading role in the "offence".

Exit bans and jail

42. People refusing to pay fines imposed under Articles 374-1 and 375 can be placed on Justice Ministry lists banning travel abroad. "This is a method of pressure on those who don't pay these unjust fines", Aleksei Buka – one Baptist banned from travelling abroad – told Forum 18 in 2013.

43. Individuals can also be given a small fine or up to 10 days' administrative arrest under Administrative Code Article 524 ("Failure to carry out court decisions"). Four Council of Churches Baptists and two Muslims are known to have punished in 2013, with two being imprisoned. Seven Baptists were imprisoned for up to 10 days in early 2014 and an eighth fined.

Co-operation with other human rights offenders

44. In 2013 – against a written request by the UN Committee Against Torture – Kazakhstan extradited Khayrullo Tursunov to his native Uzbekistan, where he was sentenced to 12 years' imprisonment for alleged "extremist" religious activity. Relatives complained that the case was "fabricated" to punish him for his religious activity. In a similar case, the UN Committee against Torture is investigating Kazakhstan's illegal extradition of 29 Muslims to Uzbekistan in 2011. (END)