

United Nations Human Rights Council
Universal Periodic Review – 20th Session
Kazakhstan

Submission of the International Human Rights Committee

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The International Human Rights Committee (“IHRC”) is a Human Rights Organisation with a special interest in freedom of religion, conscience and belief.

A. EXECUTIVE SUMMARY

- 1. Kazakhstan Authorities have refused to re-register the Ahmadiyya Muslim Community in Kazakhstan as a religious organisation. This criminalises any practice of their faith. The mistreatment of Ahmadi Muslims pursuant to such denial is in flagrant violation of Kazakhstan Authorities obligations under international law, most notably the International Covenant on Civil and Political Rights (ICCPR). Kazakhstan's Constitution provides for religious freedom yet its application of registration laws particularly in relation to Ahmadi Muslims violates both the Kazakhstan Constitution and Article 18 of the ICCPR. Kazakhstan Authorities also deny Ahmadi Muslims the right to free assembly, guaranteed under Article 21 of the ICCPR by preventing them from gathering together to engage in prayer or any other religious activity.*

B. INTRODUCTION

2. The Ahmadiyya Muslim Community firmly adheres to Islam. Ahmadi Muslims believe that the founder of their Community, Hadhrat Mirza Ghulam Ahmad of Qadian, India, was a subordinate non-law bearing prophet who claimed to be the same Messiah and reformer foretold by Prophet Muhammad and awaited by all Muslims.
3. Ahmadi Muslims firmly believe that they are Muslim and fall within the pale of Islam. They believe in the five pillars of Islam universally accepted by all Muslims and believe that the Prophet Muhammad is the last law bearing and greatest prophet.
4. On 2 December 2003, Kazakhstan took the positive step to sign the ICCPR. Its Parliament ratified it in November 2005. Very little progress, however, has been made to respect, protect and fulfil the rights of Ahmadi Muslims in Kazakhstan. Since, October 2011, when formal registration requirements

were introduced¹, despite considerable efforts through attempted negotiations, approaches to politicians and legal challenges, the Ahmadiyya Muslim Community has been unsuccessful in securing re-registration. In refusing re-registration and denying Ahmadi Muslims the right to lawfully engage in the peaceful practise of their faith, Kazakhstan Authorities have failed in their duty to live up to their international human rights obligations.

5. Ahmadi Muslims have been established in Kazakhstan as a registered religious organisation since 1994. They continued to be registered as such until 15 November 2012 when their application for re-registration was refused. 600 indigenous Ahmadi Muslims live in Kazakhstan. During the eight year period of registration, the Ahmadiyya Muslim Community operated peacefully and without incident. Ahmadi Muslims in Kazakhstan are loyal to their nation of Kazakhstan and have an excellent relationship with all religious and non-religious groups in Kazakhstan. They wish to maintain that excellent relationship. Ahmadi Muslims attribute responsibility for the denial of their religious freedom to the Kazakhstan Authorities. Ahmadi Muslims have no concerns or disputes with the nation of Kazakhstan.
6. The refusal to re-register Ahmadi Muslims stems from the assertion by some Muslim sects that Ahmadis are not Muslim and the Kazakhstan Authorities' views that Ahmadi Muslim beliefs are not traditional in Kazakhstan. Despite the peaceful and harmless nature of Ahmadi Muslims' religious practice, in refusing re-registration, Kazakhstan Authorities have denied Ahmadi Muslims the right to practice their faith because to do so,

¹ Decree No. 20 of the Government of Kazakhstan from 21 January 2011. This establishes state standards for informal registration and re-registration of missionaries and small religious groups that are absent characteristics of a legal entity.

would mean that Ahmadi Muslims are committing a criminal offence subjecting them to criminal sanction.

7. Article 18 of the ICCPR protects freedom of belief, conscience and religion, and article 26 of the Covenant protects the right to equality before the law prohibiting discrimination on the basis of religion and other grounds. Although the language is different to that set out in the ICCPR, these rights are guaranteed by the Constitution of Kazakhstan in both article 14 and article 22. Notwithstanding that, the enacted legislation and implementation of that legislation violates both of these universal and inalienable human rights. Such implementation further violates the Kazakhstan Constitution which provides at Article 4(3) that the ICCPR and other international treaties shall have priority over national laws unless a law is required in order to implement that.
8. The situation of Ahmadi Muslims is unique among other groups that have been denied registration. The scrutiny of Ahmadi Muslim's application for re-registration is not limited to procedural requirements such as minimum numbers and locations. Ahmadi Muslims are subjected to a second level of scrutiny by the Spiritual Administration of Muslims which assesses the veracity and validity of Ahmadi Muslims religious beliefs. It has concluded that Ahmadi Muslims are non-traditional Muslims and therefore cannot practice their religious beliefs; that is, they do not align with their own interpretations of Islam. This scrutiny of a personal religious belief to assess its validity is in direct contravention of Article 18 of the ICCPR which does not under any circumstances permit restrictions on the freedom hold a religious belief. To subject Ahmadi Muslims' peaceful religious beliefs to scrutiny in order to identify whether they fit with the view of the majority is

a clear and indefensible contravention of all international laws and conventions relating to religious freedom.

9. The above-referenced legal restrictions constitute clear violations of Article 18 and Article 21 of the ICCPR.

C. DENIAL OF THE RIGHT TO FREE ASSEMBLY (ICCPR ART. 21)

10. Since the refusal of Ahmadi Muslim re-registration, Kazakhstan Authorities have prohibited the Ahmadiyya Muslim Community from any gathering for any religious purpose and have through the Courts issued a Liquidation Order against the Ahmadiyya Muslim Community's legal entity sealing its place of worship and preventing the use of any religious books. This ban is a flagrant violation of the right of Ahmadi Muslims to peacefully assemble. There is no justification under Article 21 for the restriction that has been placed on the exercise of this right of Ahmadi Muslims.

D. ISSUES OF CONCERN SINCE PREVIOUS REVIEW

11. Legal Restrictions on Freedom of Religion of Ahmadi Muslims have been exacerbated through the formalisation of government rules on registration in 2011. (ICCPR Art. 18)
12. According to recommendations made in the Report of the Working Group on the Universal Periodic Review (UPR) in May 2008, Member States had called on Kazakhstan Authorities to abolish requirements of registration. The recommendations upon which Kazakhstan was due to comment provide:

“To abolish requirements for the registration of religious groups from the existing Administrative Code, in accordance with the laws adopted in 2005 on the elimination of extremism and the strengthening national security, and to review the provisions of the Law on Freedom of Religion and Religious Associations in order to effectively guarantee freedom of belief and a non-discriminatory legal system for the registration of religious entities (Mexico)”

13. Since the last UPR, Kazakhstan Authorities have yet to implement such review; and on the contrary, the restrictions on religious freedom suffered by the Ahmadiyya Muslim Community have been exacerbated through no other reason than Kazakhstan Authorities view of Ahmadi Muslims’ religious beliefs.

14. To the extent Kazakhstan Authorities purport to justify these provisions under Article 18(3), such justification is without any basis in fact. Ahmadi Muslims are a peaceful group: indeed, they are required to renounce all forms of violence as a condition of initiation. As to the argument that any manifestation of Ahmadi Muslim faith is offensive to other Muslims, such justification is not a recognized basis under Article 18(3) neither has this manifested itself during the eight years that the Ahmadiyya Muslim Community was registered. As the UNHRC has observed, "*paragraph 3 of article 18 is to be strictly interpreted; restrictions are not allowed on grounds not specified there.*" Finally, it bears note that even if the Kazakhstan Authorities purport to justify their position, they must set forth in their report "*information on the full scope and effects of limitations under article 18.3, both as a matter of law and their application in specific circumstances.*"

E. RECOMMENDATIONS TO THE KAZAKHSTAN AUTHORITIES

15. We recommend that, without delay, the Kazakhstan Authorities:

- a. Protect and promote the rights of Ahmadi Muslims.
- b. Remove restrictions on freedom of religion or belief and allow Ahmadi Muslims to be registered as a religious organisation thereby entitling it to practice its peaceful religious beliefs.

F. CONCLUSION

16. The International Human Rights Committee respectfully submits that the foregoing demonstrates that the Kazakhstan Authorities are in fundamental breach of their obligations under international law, in particular the ICCPR. We call upon the Council to hold Kazakhstan Authorities to account for its unacceptable denial of the religious freedom of Ahmadi Muslim citizens. As UN Secretary General Ban Ki-moon has stated, the Universal Periodic Review *"has great potential to promote and protect human rights in the darkest corners of the world."* We expect that the United Nations Human Rights Council will heed that call and act swiftly to safeguard the rights of Ahmadi Muslims in Kazakhstan.

END.