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KAZAKHSTAN: Court-ordered religious book burning a first?

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

In what may be the first such instance in Kazakhstan, a court has ordered religious literature to be destroyed. A total of 121 books confiscated from a Baptist, Vyacheslav Cherkasov, were ordered destroyed in the northern Akmola Region, according to the verdict seen by Forum 18 News Service. The books comprise Bibles, Children's Bibles, and other books and leaflets on the Christian faith, mainly in the Kazakh language. Cherkasov was also fined one month's average wage. If he loses his appeal, court executors will carry out the destruction. A Justice Ministry official in the capital Astana told Forum 18 that "most likely the books would be burnt". A state Agency of Religious Affairs (ARA) official told Forum 18 that "I'm not interested in whether court executors are bothered by having to destroy religious literature". Local Council of Churches Baptists told Forum 18 that "we were shocked - this is sacrilege and illegality". Human rights defender Yevgeni Zhovtis of the Kazakhstan International Bureau for Human Rights and the Rule of Law sounded distressed, telling Forum 18 that "this is terrible, terrible". Religious literature is frequently confiscated, and the state appears committed to using censorship and other freedom of religion or belief violations as a means to control society.

In what appears to be the first such instance since Kazakhstan gained independence in 1991, a court has ordered religious literature to be destroyed. A total of 121 religious books confiscated from a Baptist, Vyacheslav Cherkasov, were ordered destroyed by a court in the northern Akmola Region, according to the verdict seen by Forum 18 News Service. He was also fined one month's average wage. If Cherkasov loses his appeal to Akmola Regional Court, court executors will carry out the destruction. A Justice Ministry official in the capital Astana told Forum 18 that the books – which include Bibles - are likely to be burnt.

Local Council of Churches Baptists who attended Cherkasov's hearing told Forum 18 on 14 March that "we were shocked - this is sacrilege and illegality". One stated that "we are worried and are praying about this". They stated the confiscated books were Bibles, Children's Bibles, and other books and leaflets on the Christian faith, mostly in Kazakh.

Human rights defender Yevgeni Zhovtis of the Kazakhstan International Bureau for Human Rights and the Rule of Law sounded distressed over the court-ordered destruction of religious literature. "This is terrible, terrible," he told Forum 18 from Almaty on 14 March.

First court-ordered destruction?

Forum 18 can recall no other court decision in Kazakhstan ordering religious literature to be destroyed. In April 2012 a court initially ordered two religious books – including a Bible - to be destroyed as part of an administrative case, according to the decision seen by Forum 18. However, exactly two weeks later the same judge reversed their decision when the individual from whom they had been confiscated complained. The individual was acquitted of any wrongdoing and the destruction decision was later annulled.

Similarly, no officials, members of religious communities, or human rights defenders contacted by Forum 18 could recall such court-ordered destructions either. "We know that religious literature has frequently been confiscated since the new Religion Law came into force in 2011," Zhovtis told Forum 18. "But I've never heard that religious literature is being destroyed, unless it is extremist."

Kazakhstan now joins two of its neighbours, Uzbekistan and Russia, as a state where courts have ordered religious literature to be destroyed. Courts in Uzbekistan routinely order religious literature – including Korans and Bibles – to be destroyed (see eg. F18News 31 January 2013 http://www.forum18.org/Archive.php?article_id=1797).

In Russia such destruction is not routine. But courts have, however, ordered Jehovah's Witness literature, as well as works by the Turkish Muslim theologian Said Nursi, which have been added to Russia's Federal List of Extremist Materials, to be destroyed (see F18News 21 March 2102 http://www.forum18.org/Archive.php?article_id=1682).

Detained after "anonymous call"

Cherkasov, a Baptist from Shchuchinsk [Shchüinsk] in northern Kazakhstan, was detained by police on the street in the town on 20 October 2012, for offering Christian literature to passers-by. The court decision finding him guilty of this "offence" said that police

had been alerted to this by an "anonymous call". Police then seized a suitcase of 121 items of religious literature from his parked car. Baptists state they are Bibles, Children's Bibles, and other books and leaflets on the Christian faith, mostly in Kazakh.

He admitted to Burabai District Specialised Administrative Court on 5 March that he had been offering literature free of charge, citing in defence his rights under Kazakhstan's Constitution. The Court insisted that only two bookshops in Shchuchinsk are, on the orders of Akmola Region's Akim [Head of local government], allowed to sell religious literature.

In summer and autumn 2012, local Akimats (local government authorities) throughout Kazakhstan issued decrees authorising named local bookshops which they had approved and licensed to sell religious literature. Such bookshop licences are required under Article 5, Part 4 of the Religion Law, and it is illegal to sell books and other religious material in other places without a licence (see F18News 23 September 2011 http://www.forum18.org/Archive.php?article_id=1617).

Cherkasov, a Shchuchinsk-based member of a Council of Churches Baptist congregation, has repeatedly been stopped by police as he offers religious literature on the streets (see F18News 21 February 2013 http://www.forum18.org/Archive.php?article_id=1804).

Judge orders literature destruction

On 5 March, Judge Damir Shamuratov of Burabai District Specialised Administrative Court ruled that Cherkasov was guilty of violating Article 375, Part 1 of the Code of Administrative Offences. Article 375 was in 2011 rewritten to encompass new "offences" including violating the procedure for importing, publishing or distributing religious literature and materials (see F18News 23 September 2011 http://www.forum18.org/Archive.php?article_id=1617).

The Judge fined Cherkasov 50 Monthly Financial Indicators, 86,550 Tenge (about 3,350 Norwegian Kroner, 450 Euros or 575 US Dollars). This is currently equivalent to nearly one month's average wages as measured nationwide by the state.

"The 121 books of religious content confiscated during the inspection and contained in the suitcase, currently held in the administrative file – to be destroyed when the court decision enters into legal force," the verdict declares. "The decision relating to the destruction is to be sent for execution to the Burabai District territorial Department for the Execution of Court Judgments and, in accordance with Article 704, Part 1 of the Code of Administrative Offences, it is necessary to inform Burabai District Specialised Administrative Court when the given decision has been carried out."

The decision reveals that prosecutors had considered bringing criminal charges against Cherkasov, but decided that his actions did not constitute a criminal offence.

Kulzhiyan Nurbayeva, acting Head of the Legal and Analytical Department of the Justice Ministry's Committee for the Execution of Court Judgments, stated that when a court decision is adopted to destroy material, a commission is formed to carry out the court decision. "Most likely the books would be burnt," she told Forum 18 from Astana on 14 March.

Why?

Judge Shamuratov's assistant, Askhal Alizhanov, told Forum 18 from the Court on 14 March that the judge was out for the rest of the day. He insisted that the destruction order has not yet been sent to the court executors, as Cherkasov has appealed against the 5 March decision to Akmola Regional Court. "Maybe the Regional Court will change the decision."

Asked why Judge Shamuratov had ordered religious literature to be destroyed, Alizhanov responded: "It was his personal decision. I can't discuss it."

Local Baptists complained about the lack of official openness over the reason for the destruction order. "We asked in court for the Agency of Religious Affairs (ARA) regional department to give us the 'expert analysis' they did, but they refused," one told Forum 18 on 14 March.

The Religion Law imposes compulsory censorship – or "expert analyses" – conducted by the ARA for all "religious literature" or "other informational materials of religious content" imported for distribution in Kazakhstan, as well as for any religious literature acquired by libraries in any institution or organisation (see F18News 23 September 2011 http://www.forum18.org/Archive.php?article_id=1617).

Appeals

Cherkasov had tried to challenge the legitimacy of the prosecutors' case against him under Administrative Code Article 375, Part 1. On 24 January he lodged a case in Burabai District Specialised Administrative Court, but on 31 January Judge Tolebek Zhumakayev rejected the suit, according to the decision seen by Forum 18.

Baptists said Cherkasov lodged his appeal against the 5 March decision on 13 March, but no date has yet been set for the appeal

hearing.

"Nothing to do with us"

Despite repeated calls on 14 March, no-one at the Burabai District territorial Department for the Execution of Court Judgments was prepared to discuss with Forum 18 the destruction of religious books in fulfilment of a court order. Department Head Nurlybek Kuzenbayev was repeatedly busy in meetings, and none of his assistants was prepared to discuss the issue. They referred Forum 18 to Press Secretary Abzal Dukanov. However, he referred Forum 18 to Kuzenbayev, saying "only he is authorised to speak".

The official who answered the phone of Akmola Region Department of the ARA – who would not give his name – insisted to Forum 18 on 14 March that the decision to destroy Cherkasov's religious literature was the responsibility of the court. He added that it was the first time he was aware of a court decision to destroy religious literature.

The official declined to put Forum 18 through to Galina Bessmertnaya, the ARA Department official who had attended Cherkasov's court hearing. He refused to say if she had prepared the "expert analysis" on the books which was referred to in court. The official explained that such "expert analyses" simply establish whether literature is religious or not. "It is a formality."

Asked for a copy of the ARA Department's "expert analysis" of the books, the official refused. "Why do we need to send you the expert analysis?" A female voice in the background, apparently Bessmertnaya, declared: "We don't have the right to give out these analyses."

"I'm not interested"

Nurbayeva of the Justice Ministry's Committee for the Execution of Court Judgments stated that as part of her work she frequently reads court decisions. "This is the first time I have encountered a court order to destroy religious literature," she told Forum 18. Asked how court executors told to carry out such destructions might feel, she responded: "I understand it is hard."

Asked if court executors who have conscientious objection to burning religious literature can opt out of participating in it, Nurbayeva responded: "The executor must carry out the court order – their conscience doesn't come into it. If the court orders the destruction of religious literature the executor will carry it out."

The official of Akmola Regional Department of the ARA expressed no concern over whether court executors might have conscientious reasons not to want to destroy religious literature. "I'm not interested in whether court executors are bothered by having to destroy religious literature."

"They often took religious literature"

Religious literature is frequently confiscated, both during raids on meetings for worship, and when those discussing or sharing their faith with others are detained (see eg. F18News 19 October 2012 http://www.forum18.org/Archive.php?article_id=1756). Similarly, religious literature distributed in public, outside state-permitted places, has also been confiscated (see eg. F18News 22 January 2013 http://www.forum18.org/Archive.php?article_id=1792).

Cherkasov's fellow Baptists told Forum 18 that police and other state officials "often took religious literature", and never returned any confiscated literature. "Such confiscations generally started in spring 2012." The harsh new Religion Law and associated new punishments came into force in October 2011. "Police often refuse to hand over the record of confiscation although the law demands this", local Baptists complained.

Police and other officials raided a Jehovah's Witness meeting in a private home in the village of Karazhal in the central Karaganda [Qaraghandy] Region on 24 January (see F18News 5 February 2013 http://www.forum18.org/Archive.php?article_id=1798). Police took written statements from the nine people present and seized their personal religious literature for "expert study", Jehovah's Witnesses complained to Forum 18. They expect the case to be forwarded to the Prosecutor's Office for administrative proceedings.

On 30 January, several police officers detained Andrei Rakin and Andrei Korolev, both Jehovah's Witnesses, on a public street in Kokshetau in Akmola Region. Police alleged they were engaged in unregistered missionary activity. "Police seized their personal Bibles and other religious literature and sent it for 'expert analysis'", Jehovah's Witnesses told Forum 18. Jehovah's Witnesses expect the case to be forwarded to the Prosecutor's Office for administrative proceedings. Jehovah's Witnesses told Forum 18 that sometimes confiscated religious literature is returned after it has been checked.

On 26 February, again in Kokshetau, police detained two Jehovah's Witnesses and seized their religious literature, allegedly for engaging in missionary activity. Jehovah's Witnesses also expect this case to be forwarded to the court for administrative proceedings.

Censorship

The religious literature seizures and court-ordered destruction come amid ever-tightening religious censorship in Kazakhstan, which has increased since the 2011 Religion Law. The Religion Law claims that everyone has the right to acquire and use religious literature. However, distribution of such literature is only permitted, according to Article 9, Part 2, in registered places of worship, approved religious education institutions and "special stationary premises determined by local executive authorities" (see F18News 23 September 2011 http://www.forum18.org/Archive.php?article_id=1617).

Censorship Regulations, codifying the censorship of almost all religious literature and objects, came into force in March 2012 (see F18News 8 May 2012 http://www.forum18.org/Archive.php?article_id=1698).

Only Islamic literature from the Hanafi Sunni Muslim school is permitted by the state, all other forms of Islamic literature being banned. Local authorities and "law enforcement" agencies have been enforcing censorship - including severe limitations on the numbers of bookshops allowed to sell any kind of religious material - across Kazakhstan with raids and fines. Even some shops with permission to sell religious books such as Korans and Bibles have told Forum 18 that they do not want to do so, to avoid trouble from the authorities (see F18News 21 February 2013 http://www.forum18.org/Archive.php?article_id=1804).

The government appears committed to using censorship and other freedom of religion or belief violations as a means to control society. For example, Yerlan Kalmakov of Kostanai Regional Internal Policy Department, asked why people must ask for permission from the authorities, replied: "Imagine what could happen if we allow just anybody to distribute religious materials" (see F18News 21 February 2013 http://www.forum18.org/Archive.php?article_id=1804).

No response

Officials of the ARA in Astana have repeatedly refused to answer Forum 18's detailed questions on religious censorship. Forum 18 asked why the authorities impose censorship, who decided to impose censorship, whether only Hanafi Islamic books are allowed, why only a limited number of bookshops are allowed to sell religious literature and materials, and why should people have to ask the authorities whether they can read, sell or purchase even unbanned books?

On 20 February, ARA Deputy Head Marat Azilkanov – who worked for the NSC secret police from 1992 until his appointment to the ARA in August 2011 – refused to answer these questions. He referred Forum 18 to the ARA press secretary Saktagan Sadvokasov. Reached the same day, he refused to answer these questions and asked that they be sent in writing (see F18News 21 February 2013 http://www.forum18.org/Archive.php?article_id=1804).

When he had received them in writing, Sadvokasov told Forum 18 that it must address its written questions not to him but to the ARA Head, Kairat Lama Sharif. Forum 18 re-sent the same questions in writing on 21 February, this time addressed to Lama Sharif. Forum 18 had received no response by the end of the working day in Astana on 14 March. (END)

For a personal commentary on how attacking religious freedom damages national security in Kazakhstan, see F18News http://www.forum18.org/Archive.php?article_id=564.

For more background, see Forum 18's Kazakhstan religious freedom survey at http://www.forum18.org/Archive.php?article_id=1352.

More reports on freedom of thought, conscience and belief in Kazakhstan can be found at <http://www.forum18.org/Archive.php?query=&religion=all&country=29>.

A compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments can be found at http://www.forum18.org/Archive.php?article_id=1351.

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