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KAZAKHSTAN: Censorship "is not censorship", tightened censorship planned

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

Kazakhstan's Religion Law does not define what religious literature and objects are, but still imposes censorship on them. There is confusion among officials about what is censored, what is involved and what if anything is exempt. Galym Shoikin of the Agency of Religious Affairs (ARA) insisted to Forum 18 News Service that unless a book or object is banned by a court, it is legal. But legal books or objects cannot be distributed without ARA censorship. When Forum 18 noted that this is censorship, he claimed that: "This is not censorship – it is defending the interests of our country". He was unable to state a legal basis for some official actions, for example stating in relation to a claim that some (but not all) undefined "holy books" are exempt from censorship that "such issues are not put in law". But a new Criminal Implementation Code, a draft Law amending other laws "on questions of countering religious extremism and terrorism", and draft changes to the Religion Law will all further tighten censorship if adopted. Other changes considered include making religious communities pay for the state's imposition of censorship which breaks its human rights obligations.

As Kazakhstan's prior compulsory censorship of almost all literature about religion steps up, a senior official of the government Agency of Religious Affairs (ARA) appeared confused about what religious books and other materials are legal and in what circumstances a religious book legal in one place becomes illegal in another. Galym Shoikin, a Deputy Chair of the ARA, insisted to Forum 18 News Service from the capital Astana that unless a book or object is banned by a court, it is legal. But books or objects that are legal cannot be distributed unless they have undergone censorship by the ARA, he added.

When Forum 18 pointed out that this was censorship, Shoikin of the ARA insisted on 31 October that: "This is not censorship – it is defending the interests of our country".

What is subject to censorship?

The 2011 Religion Law does not specifically define "religious literature, other informational materials of religious content, and objects of religious significance", but does impose censorship on them (see F18News 23 September 2011 http://www.forum18.org/archive.php?article_id=1617). Though this lack of definition will change if draft changes to the Law are adopted (see below).

Shoikin of the ARA refused to specify what is or is not meant by the Law's terms. Asked for example if Russian writer Leo Tolstoy's writings on religion, ethics and philosophy were subject to religious censorship, he declined to answer.

One Astana-based shop owner, Pyotr Volkov, sought clarification from the ARA as to what constitutes "religious literature", and so is subject to censorship. He made the enquiry after books were seized from his shop during a police raid in May and being subsequently fined in September (see F18News 4 November 2013 http://www.forum18.org/archive.php?article_id=1892).

Marat Azilkhanov, a then Deputy Chair of the ARA, responded on 11 September. The response, seen by Forum 18, defines "religious literature" as "printed and electronic publications containing religious content designated for the satisfaction of religious and other socially significant needs of the population deriving from religious postulates". Azilkhanov added: "To this category belongs production of a theological, theological/canonical, ritual/mystic and social/theological orientation."

There does not appear to be a legal basis for this definition. Azilkhanov was named on 4 November as the new ARA head.

"Not necessarily banned, but they can't be distributed"

Religious and belief censorship pre-dated the harsh Religion Law. But the Law stepped up such censorship, and broadened it to include among other things the beliefs groups are allowed to hold if they are allowed to legally exist. Accompanying changes to the Code of Administrative Offences imposed new penalties for those who sell or distribute uncensored literature or objects, or distribute approved literature or objects without the state's permission (see F18News 23 September 2011

http://www.forum18.org/archive.php?article_id=1617).

Local authorities and "law enforcement" agencies enforce censorship – including severe limitations on the numbers of bookshops allowed to sell any kind of religious material – across Kazakhstan with raids and fines (see F18News 21 February 2013 http://www.forum18.org/archive.php?article_id=1804).

The ARA website contains a list of works in Kazakh and Russian which have been approved by the Agency for distribution in specific venues. Such venues can only be registered places of worship and state-licensed bookshops. In addition to many books, 76 films in Kazakh and Russian (mostly Islamic) are also listed, but only seven audio recordings.

No works in other languages have been approved. Not all works that have been approved – such as the few Jehovah's Witness magazines which have been approved – appear in the published list. Shoikin was unable to say whether the published list includes all approved works.

Kazakhstan continues to ban all non-Hanafi Sunni Muslim literature, a Muslim Board spokesperson telling Forum 18 that "only Islamic literature from the Sunni Hanafi school can be distributed, as all other Muslim schools - including Ahmadis - are banned" (see F18News 21 February 2013 http://www.forum18.org/Archive.php?article_id=1804).

Shoikin of the ARA insisted that all other works not on the published list "are not necessarily banned, but they can't be distributed". He insisted they can only be used by individuals personally.

He maintained that all works submitted for "expert analysis" have been provided with conclusions, whether positive or negative. Despite frequent press reports quoting ARA officials about the number of rejected religious works, Shoikin would not discuss them.

Libraries censored too

"Expert analyses" conducted by the ARA are also required 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).

For example, the National Library in Almaty has had its religious books checked, but its General Director Gulisa Balabekova told Forum 18 "there were no problems" (see F18News 26 April 2013 http://www.forum18.org/archive.php?article_id=1828).

Why the rejections?

Shoikin of the ARA refused to discuss why so few Jehovah's Witness magazines are approved. Jehovah's Witnesses told Forum 18 in late September that the ARA has banned the import of 11 of their publications, 10 of them copies of their monthly magazine "The Watchtower" and "Awake!".

Jehovah's Witnesses complained that ARA's "expert analyses" had claimed that the publications promoted "a negative attitude toward certain denominations, including Catholicism", or "discouraged secular education and work and contained beliefs of Jehovah's Witnesses that some doctrines of traditional Christian religions are not Biblical, which the ARA concluded could offend Church members". The ARA directed Jehovah's Witnesses to "modify" their publications (see F18News 26 April 2013 http://www.forum18.org/archive.php?article_id=1828).

Jehovah's Witnesses challenged some of the denials through the courts. However, on 3 July Astana's Inter-District Specialised Economic Court rejected this, and it was also rejected by Astana City Court on 27 August, according to the court decisions seen by Forum 18. Jehovah's Witnesses state that they have no further route to challenge the censorship decisions.

No published official information, but citizens' ignorance "no defence"

Religious literature and objects (like other literature) can be banned only through the courts. Prosecutors have the power to go to court to seek a ban on literature or other materials deemed "extremist". Such applications are often based on "expert analyses" prepared by the ARA or regional Departments of Religious Affairs.

No list of banned religious literature or other materials has been published. "Only law-enforcement agencies have this list," Shoikin of the ARA told Forum 18. Asked how individuals or religious communities could know about – or challenge - court decisions banning religious works as "extremist", he was unable to say. But he insisted that ignorance of the law is "no defence".

Forum 18 has been able to find only one court decision where a named religious book has been banned. On 22 November 2012 Almaty's Almaty District Court No. 2 banned the Russian translation of the book "Healing the Broken Family of Abraham" by American Protestant Don McCurry. It found that the book contains "elements of incitement to religious hatred and discord" and banned its publication, import and distribution in Kazakhstan.

The book, confiscated during the police raid on Grace Church in Almaty in April 2012, was subjected in May 2012 to a Judicial Psychological/Philological Expert Analysis by the Justice Ministry's Almaty Institute for Judicial Expert Analysis of the Justice Ministry.

Other religious books are thought to be similarly banned (see F18News 9 October 2013 http://www.forum18.org/archive.php?article_id=1885). Shoikin of the ARA refused to confirm if any other religious books have been banned through the courts.

Individuals and communities have expressed concern to Forum 18 over claims by state officials that works confiscated from them during police raids are "extremist". Without being able to assess the truth of such claims, they fear further fines or criminal cases could follow. Astana-based Grace Church's retired Pastor Bakhytzhon Kashkumbayev – under arrest since 17 May – is now being investigated on criminal charges of distributing "extremist" material. If convicted he faces a prison sentence of between three and seven years (see F18News 30 October 2013 http://www.forum18.org/archive.php?article_id=1891).

A local Akimat (administration) official in the northern Kostanai [Qostanay] Region told local media in the days after an April raid on a Jehovah's Witness home that an unspecified number of the more than 900 publications seized were found on "expert analysis" to be "extremist" (see F18News 3 September 2013 http://www.forum18.org/archive.php?article_id=1870).

Websites and webpages banned

Numerous websites have been banned through the courts, mostly in Astana. Among the many websites and webpages banned by Astana's Saryarka District Court on 9 September at the instigation of the City Prosecutor's Office was an article "Religion of the Strong Person: Islam or Christianity?" by the Russian Orthodox writer (now a priest) Yuri Maksimov posted on the Tomsk-based Russian Orthodox website k-istine.ru, according to the court ruling seen by Forum 18. The article had originally been published on pravoslavie.ru in 2004 and remains available, and does not appear to have been banned in Kazakhstan.

Also banned in the same decision was a Russian translation of an article "Democracy is a Religion" by Salafi Muslim Abu Muhammad al-Maqdisi, which uses the Koran to argue that democracy is un-Islamic. (Kazakhstan is a dictatorship in which the only person to have been President, Nursultan Nazarbaev, claimed to have received over 95 per cent of the vote in 2011.) A Russian translation of an English-language article by a Christian convert from Islam, setting out his strong views about his former faith, was also banned at the same time.

Are foreign-language books allowed?

Only religious books listed on the ARA website are allowed to be imported or distributed (within state-approved venues only), and only religious books in Kazakh and Russian are listed. Shoikin of the ARA stated, based on this, that books in other languages are therefore not allowed.

Asked whether this means that Kazakh residents who speak Tatar, Azeri, Armenian, Ukrainian, Hebrew or other languages cannot use religious books in those languages, Shoikin was unable to answer.

Asked more specifically whether this means Muslims cannot use the Koran in Arabic, or Armenian Christians the Bible and prayer books in Armenian, or Jews Bibles and prayer books in Hebrew, Shoikin responded: "Some books don't need an 'expert analysis'. There is no problem for the Koran or other holy books."

"Such issues are not put in law"

Asked what legal basis there is to state that "holy books" are exempt from the censorship, Shoikin of the ARA responded: "Such issues are not put in law." He refused to specify which "holy books" of which faiths are exempted from state censorship. When asked specifically about the Bhagavad-Gita of Hinduism and the Guru Granth Sahib of the Sikh faith, he refused to say whether or not they are exempt from censorship.

Asked why, if he says the Koran is exempt from censorship, Ahmadi Muslims have faced a police ban on their own editions of it, Shoikin was unable to respond.

In April 2009 – before the 2011 Religion Law – police raided a bookshop and confiscated Ahmadi Russian-language translations of the Koran (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/Archive.php?article_id=1352).

Raids "almost impossible" on "serious" communities

Police and KNB secret police officers frequently raid meetings for religious purposes, seizing religious literature (see eg. F18News 4 November 2013 http://www.forum18.org/archive.php?article_id=1892).

Asked if police or KNB secret police officers might raid and seize foreign-language religious literature which does not constitute "holy books" – such as works other than the Koran or Bible – from synagogues, mosques, Catholic or Orthodox churches, Shoikin of the ARA said this was "almost impossible".

Asked why this was so, given the frequent raids especially on Protestant, Jehovah's Witness and Hare Krishna religious meetings, he responded: "But these [Jews, Muslims, Orthodox, Catholics] are serious religious communities." Asked what law defines a religious community as "serious", he was unable to explain. He refused to explain why some religious communities are raided.

Destroying religious literature

Shoikin of the ARA refused to discuss with Forum 18 the court-ordered destructions of religious literature. In 2012 and in early 2013, court decisions ordering the destruction of Bibles and other religious literature seized in two separate cases from Jehovah's Witnesses and a Baptist were overturned on appeal (see F18News 10 April 2013 http://www.forum18.org/archive.php?article_id=1822). A Justice Ministry official earlier told Forum 18 that "most likely the books would be burnt" (see F18News 14 March 2013 http://www.forum18.org/archive.php?article_id=1813).

However, on 8 May Katon-Karagai District Court in East Kazakhstan Region fined a local bookseller for offering for sale four Russian Orthodox religious books without a religious book-selling licence and ordered their destruction. This was the first known carrying out of a court-ordered book destruction (see F18News 4 November 2013 http://www.forum18.org/archive.php?article_id=1892).

In the second known case in 2013, on 24 September Zharma District Court in East Kazakhstan Region fined Protestant Christian Pyotr Vatulko for illegally distributing religious literature. Judge Lyailya Akalayeva ordered that five Christian books (including a Kazakh-language New Testament and Psalms) and two discs be destroyed. On 6 November East Kazakhstan Regional Court rejected his appeal, leaving the fine and literature destruction order unchanged, according to the court decision seen by Forum 18.

In other court decisions of fines on book-sellers for selling religious literature without the compulsory state licence, religious literature has been found by regional Religious Affairs Departments not to be harmful and has been returned.

Shoikin of the ARA was unable to explain why a court ordered four Russian Orthodox books - which do not appear to have been banned – to be destroyed. He dismissed concerns that people may be outraged by such destructions, as they were after the initial March 2013 court order to destroy Bibles and other Christian literature.

Shoikin was also unable to explain to Forum 18 whether religious literature and object censorship applies to works and objects produced and published before 2011.

Walking down the street

Many individuals have had religious literature seized from them on the streets as they seek to give it away or to discuss their faith with others by reference to it (see eg. F18News 14 March 2013 http://www.forum18.org/archive.php?article_id=1813). Shoikin of the ARA refused to explain whether this means that anyone walking on the streets with a book in a pocket or bag could face punishment, or only if they were holding such a book visibly.

Receiving books by post banned

The Religion Law states that individuals can import religious literature uncensored for their own personal use (see F18News 23 September 2011 http://www.forum18.org/archive.php?article_id=1617). But this will be restricted if draft changes to the Law are adopted (see below).

Shoikin of the ARA insisted to Forum 18 that the current censorship exemption only applies to books individuals bring into Kazakhstan from abroad in their own luggage. He said books cannot be posted to local people from abroad. "Who will give a guarantee that such books are not harmful?"

Asked if this means that an individual studying their faith, for example, who wants foreign-published religious literature has to go physically to another country to buy it and return to Kazakhstan with it, Shoikin responded: "Yes."

Authors and publishers should pay for censorship

The then head of the ARA, Kairat Lama Sharif, told Parliament on 17 June that religious organisations that submit religious literature should pay for this censorship themselves. "Why should a secular state spend money on conducting religious 'expert analyses'?" Tengrinews quoted him as asking. He insisted organisations like Jehovah's Witnesses who repeatedly ask (as the Religion Law requires) for such "expert analyses" should pay for them.

Shoikin of the ARA told Forum 18 this idea is being considered. "Like any product, why shouldn't we expect the person who gets it to pay for it?" Told that religious communities have not asked for a requirement that their literature be subjected to state censorship, and asked why they should therefore pay for it, he responded: "But they're the people who profit from the literature."

He also referred to the need for "missionaries" to have the religious literature they use censored first. "Why should foreign missionaries be subsidised by the state budget?" Shoikin asked. Forum 18 pointed out that it is the state that demands that Kazakh citizens seeking a licence to be a "missionary" also need their literature to be censored, he had no response.

The Religion Law does not define what "missionary activity" is, but insists that this can only happen with state permission. Any conversation about religious matters by people without state permission potentially makes them "missionaries" liable to be prosecuted and punished (see F18News 23 September 2011 http://www.forum18.org/archive.php?article_id=1617).

Book-selling licences restricted

Shoikin dismissed concerns over the requirement that shops have special licences before they can sell religious literature. At least 14 commercial book-sellers – and possibly many more – have been fined in 2013 for offering religious books for sale without a licence (see F18News 4 November 2013 http://www.forum18.org/archive.php?article_id=1892).

Shoikin also dismissed statements by Pyotr Volkov, who runs a shop in Astana and was fined in September, that he had been trying in vain to get such a licence for 18 months. "Whoever applies gets it," he claimed to Forum 18 (see F18News 4 November 2013 http://www.forum18.org/archive.php?article_id=1892).

Exporting religious literature banned

Article 9 of the Religion Law speaks of state control over the import and distribution of religious literature and other objects (see F18News 23 September 2011 http://www.forum18.org/archive.php?article_id=1617). There does not appear to be anything in published law banning or restricting the export of religious literature.

Despite this, four Russian citizens were stopped by Kazakh border control as they were crossing into Russia from Kazakhstan's northern Kostanai Region. Border guards seized more than 60 Arabic-language books which the four had in their car, the KNB secret police's Border Guard Agency noted on 22 October. However, the four were not detained. The books were sent for "expert analysis".

Aidos Aliyev, the deputy head of the Kostanai Regional Border Directorate, refused to identify the four Russian citizens to Forum 18 on 30 October. He insisted that if the books contain "nothing harmful", they will be returned. "We've taken steps to keep in contact with them [the Russian citizens]," he claimed. Asked what would happen to the books – such as court-ordered destruction – if the Religious Affairs Department deems them to be harmful, he responded: "The law determines the procedure for dealing with that." He insisted this was not the role of his Agency.

Aliyev was unable to identify any law or regulation that allows his border guards to seize religious literature. He spoke of the Law against Terrorism, but refused to specify which part of it he believes grants border guards this right.

Nurikan Nugurbekov, head of Kostanai Regional Akimat's Religious Affairs Department, told Forum 18 on 30 October that his office was conducting the "expert analysis" of the 63 seized books. He was vague about the identity of the "expert" who is conducting the analysis of the Arabic-language books, but then said they had been sent to the ARA in the capital.

Shoikin of the ARA told Forum 18 he was unable to identify "immediately" the Law that bans taking religious literature out of Kazakhstan without state approval.

Prisoners' personal religious literature to be banned?

The new Criminal Implementation Code – if adopted in its current form – would ban prisoners from having any religious literature of their own. Article 89, Part 3, Point 18 bans prisoners from "carrying, receiving or keeping religious literature with them".

Article 89, Part 1, Point 2 would allow prisoners to read in the prison library "religious literature which has received a positive religious expert analysis". (Article 12, Part 5 of the new Code would also ban the building of places of worship in prisons.)

The new Code - prepared by the Interior Ministry – reached the lower house of parliament, the Mejlis, on 8 October, according to the parliamentary website. It is due to be adopted – together with a new Criminal Code, Code of Administrative Offences and Criminal Procedure Code – by 14 June 2014.

Forum 18 was unable to ask Shoikin of the ARA about why prisoners are to be deprived of the right to have books on religion with them. He had ended the call before Forum 18 was able to ask.

Widening censorship, new personal import limits?

Also, the General Prosecutor's Office has prepared a draft Law amending other laws "on questions of countering religious extremism and terrorism". The draft was made public for discussion in August.

The draft – if adopted – would amend the Religion Law to define religious literature, "informational materials of religious content" and "objects of religious significance" more closely. This would also have the apparent effect of widening the range of materials subject to prior compulsory censorship.

Religious literature would be "printed (books, newspapers, journals, booklets, brochures, posters and calendars), polygraphic and electronic productions containing information of a religious nature and directed at satisfying religious needs". Information materials are "printed, polygraphic and electronic productions (text materials and collections of sermons, talks, lectures, seminars, roundtables and conferences, as well as information bulletins, leaflets, booklets and calendars) containing information of a religious nature".

"Objects of religious significance" are defined as "objects, products and attributes necessary for the conducting of services, religious rites and ceremonies, as well as those containing elements of religious symbolism".

If the legal amendment is adopted, a new point would be added to the Religion Law's Article 9, Part 3 specifically declaring: "The publication, production, reprinting, republication and distribution of religious literature and informational materials of a religious nature on the territory of Kazakhstan is allowed only with the presence of a positive conclusion of a religious studies expert analysis on their content." The current Religion Law only specifies that imported literature or literature that is used by missionaries needs an "expert analysis".

Another proposed change to Religion Law Article 9, Part 3 would exempt from state censorship only up to three copies of religious literature imported from abroad for personal use. The current Law states no limit to the quantities that an individual can carry.
(END)

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>.

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

For a personal commentary from 2005 on how attacking religious freedom damages national security in Kazakhstan, see F18News http://www.forum18.org/Archive.php?article_id=564.

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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