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KAZAKHSTAN: Religious freedom survey, February 2004

By Igor Rotar, Forum 18

In its survey analysis of religious freedom in Kazakhstan, Forum 18 News Service notes that after restrictive amendments to the religion law were thrown out by the Constitutional Council in April 2002, the religious freedom situation has improved. Muslim, Baptist and Jehovah's Witness communities that did not wish to or failed to get registration had been routinely pressured or fined, but this has now stopped. However, an article of the Administrative Offences Code still prescribes punishment for leaders of unregistered religious communities and allows registered religious communities that hold youth meetings to be banned. Some officials – though not all - still maintain to Forum 18 that registration of religious organisations is compulsory.

Kazakhstan is the largest of the Central Asian republics by area and is also one of the most significant in terms of population (according to the State Statistics Committee, the population stood at 14,892,500 in 2003). Only Uzbekistan has a larger population (25,563,000 in 2003).

Another striking characteristic of Kazakhstan, which directly affects the religious situation in the country, is that it is the only Central Asian republic where ethnic Russians, who are historically Orthodox, make up almost half the population. It is worth nothing also that the Kazakhs, who were nomadic until recently, do not tend to be fervent believers. Islam is practised on a superficial everyday level among ethnic Kazakhs and is closely interwoven with pagan rituals. Most devout Muslims in Kazakhstan are ethnic Uzbeks, who live in the densely populated south-western regions bordering Uzbekistan. This makes the threat of Islamic fundamentalism in Kazakhstan much less acute than in other Central Asian states. Indeed, in its ethno-cultural characteristics Kazakhstan is perhaps more reminiscent of its northern neighbours – the Altai and Tuva autonomous regions in Russia, and Mongolia - than of the other Central Asian countries.

Another specific characteristic of Kazakhstan (which also, strange as it may seem, affects the religious situation in the country) is its relative economic success. The much higher standard of living has led to a mass influx of illegal workers from neighbouring Central Asian countries.

Kazakhstan is the only country in the region where a relatively significant well-to-do class of entrepreneurs has emerged (around 10 per cent of the population). Almost all those interviewed by Forum 18 News Service say that living conditions are improving. "I can say with certainty that in the large towns at least the standard of living is rising," the chairman of the Protestant society Emmanuel Roman Dudnik told Forum 18 on 28 January in the commercial capital Almaty. "This is how I see it, simply by looking at the congregation at church. We see here a certain ebbing away of believers and I connect this directly with the rising standard of living."

Another peculiarity of the economic situation is the very large percentage of foreigners living in the country compared with the other Central Asian countries. Almaty is undoubtedly the most cosmopolitan city in Central Asia. Dudnik believes it is these two circumstances that determine the improvement in the situation of religious minorities. "People have found themselves with money and they are travelling abroad more and more," he reported. "In Kazakhstan itself there are more and more foreigners every day. People's horizons are broadening, and as a result people are becoming more tolerant of other faiths."

Kazakhstan's law on religious associations does not contain provisions that discriminate against believers. For example, a religious community needs only ten individual signatures in order to register - one of the lowest qualifying thresholds of all the former Soviet republics. Additionally, the religion law does not make registration itself obligatory.

However, the law does, at first glance at least, contradict Article 375 of the Code of Administrative Offences, which punishes "violation of the law on religious organisations". According to this article "a refusal by the leaders of religious associations to register the associations with state administrative agencies; the existence of activity by a religious association that contradicts the aims and objectives set out in its statute; participation in and provision of financial support for the activity of political parties; infringement of the laws on the conduct of religious functions away from the place where a religious association is based; the organisation and conducting by ministers and members of religious associations of children's youth assemblies and groups that bear no relation to the functions of the cult; attracting citizens into carrying out religious rituals or taking part in a particular religious activity: these may attract a warning or a fine on the leaders of religious associations of up to 20 times the minimum [monthly]

wage, while the fine on a juridical person may be up to 100 times the monthly minimum wage; the activity of a religious association may be banned for up to six months or a ban on activity may take place without a fine."

Some religious communities refuse to register on principle, while others fail to do so because they are refused or because of the high registration fee of 17,000 tenge (844 Norwegian kroner, 96 Euros or 122 US dollars).

The key phrase in Article 375 is "refusal to register". Officials have fined and banned the activity of religious organisations on the basis of this article. Roman Podoprigora, an Almaty-based doctor of law who specialises in religion, insists that the very phrase "refusal to register" is not entirely clear. "It is virtually impossible to show that believers really do refuse to register," he told Forum 18 on 18 January from Almaty. "I personally believe that registration of a religious association is not compulsory. Nonetheless the courts do fine members of the International Council of Churches of Evangelical Christians/Baptists for whom registration is unacceptable for ideological reasons." However, he reports that such cases have become rare. "In the past year I have not heard of one such excess."

Interestingly, officials do not agree among themselves on whether registration is compulsory. For example, the head of the government's secretariat for contacts with religious organisations, Amanbek Mukhashev, told Forum 18 on 5 January at a conference on freedom of conscience in the Kyrgyz city of Osh run by the Organisation for Security and Co-operation in Europe that according to Article 375 of the Administrative Code registration of a religious association was compulsory.

However, the chief specialist for contacts with religious associations at Almaty's city administration, Vladimir Ivanov, categorically disagrees. "The registration of a religious association is not compulsory," he told Forum 18 in the city on 29 January. "All you have to do is read the laws of Kazakhstan in order to understand this. The opinion of state officials on this issue is immaterial. When all's said and done, we have a state based on the rule of law. As soon as officials try in ignorance to ban the activity of an unregistered religious organisation, the believers appeal to the court and win the case."

Dudnik of the Emmanuel society concurs with Ivanov. "In more than 70 per cent of cases, believers win administrative cases that have been brought under Article 375 of the administrative code," he told Forum 18. "Believers' lawyers demonstrate convincingly that registration is not compulsory."

Parliament has made eight attempts to amend the religion law with the aim of significantly restricting the rights of believers, most recently in 2002. According to the new religion law adopted that year by parliament, the number of signatures needed to register a religious community was raised from 10 to 50 people, while registration of religious Islamic associations was only to take place on the recommendation of the Spiritual Administration of Muslims of Kazakhstan. The new law also removed the former contradictions with Article 375 of the administrative code, as Article 11 of the new law provided for a suspension and ban on a religious organisation if it refused to register. However, under pressure from international and local human rights organisations, the constitutional council ruled in April 2002 that the new law contradicted the constitution and it was withdrawn.

Until 2003, the most widespread violations of believers' rights were the repressive actions taken by the authorities against unregistered religious associations. Prosecutors in the Zharma district of Eastern Kazakhstan region opened a criminal case against Baptist pastor Sergey Nizhegorodtsev charging him with non-payment of a fine levied on him in February 2002 by the Zharma District Court for failure to register his congregation. However, prosecutors dropped the case in May 2003, agreeing with Nizhegorodtsev's assertion that the February 2002 court decision had been illegal (see F18News 6 June 2003 http://www.forum18.org/Archive.php?article_id=73).

Another Baptist pastor in Eastern Kazakhstan region, Pavel Leonov, was convicted of failing to uphold a court order. In November 2001 the Ayaguz District Court ruled that Leonov did not comply with a September 2000 court order requiring his church to register. He was fined 20,575 tenge (1,020 Norwegian kroner, 116 Euros, or 148 US dollars)(25 times the minimum monthly wage), but Leonov – who did not appeal to a higher court to quash the sentence - did not pay and authorities have made no attempt to collect it. In October 2001, a court in Kzyl-Orda sentenced Baptist pastor Valery Pak to five days in prison for failing to comply with a 2000 court order that had suspended the church's activities until it was registered.

A lawsuit brought by Baptist pastor Yuri Rudenko of Serebryansk against the legal authorities in Eastern Kazakhstan region has dragged on since October 2000. Pastor Rudenko is vainly trying to appeal against the decision of the district court to ban the activity of his church because it had not been registered. Nevertheless, the authorities have not prevented his church from meeting for worship.

The Zharma, Kzyl-Orda, Serebryansk and Ayaguz congregations belong to the Council of Churches of Evangelical Christians/Baptists, which has a policy of not seeking or accepting registration in former Soviet countries. Police and prosecutors also sought to suspend the activities of other churches associated with the Council in Aktobe (Aqtöbe), Pavlodar and Eastern Kazakhstan regions.

However, in the past year there have been no recorded cases of bans or legal cases against unregistered religious associations. "In fact, one can declare confidently that once the constitutional council recognised that the new religious law contradicted the

constitution, the situation of believers' rights improved markedly and has become near-perfect," Dudnik of the Emmanuel society, a local human rights group, told Forum 18.

Yet Ninel Fokina, head of the Almaty Helsinki Committee, disagrees. "It is true that after the Constitutional Council rejected the draft law on religion the repression of believers virtually stopped, but personally I am still concerned," she told Forum 18 in Almaty on 26 January. "Firstly, I'm not convinced that the authorities will not try again to adopt a law that will limit believers' rights. Secondly, the Baptist pastors Leonov and Rudenko still have not managed to appeal against the court decisions, so the authorities can deal with them at any time."

The chief specialist at the department for work with public organisations at the South Kazakhstan regional administration, Vladimir Zharinov, confirmed that officials had earlier put pressure on imams of unregistered mosques. "Just before parliament adopted the new law on religion, it is true that pressure was put on the imams of unregistered mosques," he told Forum 18 on 5 February from Shymkent, "but once the new law had been turned down by the Constitutional Council no-one touched the believers any more." Mosques that function outside the framework of the Spiritual Administration of Muslims of Kazakhstan often face pressure to submit to the administration's authority, although officials have admitted to Forum 18 that they cannot force mosques to do so.

In general, almost all the believers who spoke to Forum 18 said that currently they have no problems with the authorities. The opinions of Jehovah's Witness, Hare Krishna, Ahmadiya Muslim and Baha'i communities are particularly indicative in this context, as these religious communities far more frequently experience problems with the authorities in other Central Asian countries.

Anatoli Melnik, a member of the ruling council of Jehovah's Witnesses in Kazakhstan, reported that just before parliament adopted the religion law in 2002, a "wave of repression" began against their communities across the country. "Evidently, officials interpreted the draft new law as an order from on high to make the policy against believers more severe," he told Forum 18 on 26 January in Almaty. "However, as soon as the Constitutional Council threw out the new draft law, the repressive measures against us stopped. The situation in Kazakhstan is near-perfect for us." Melnik said their only problem is that they cannot register their community in the northern town of Petropavlovsk (Petropavl). "True, no-one is preventing us from preaching our faith without registration, but even so we would like to legalise our activity," he insisted. "However, I do not think that our problems in Petropavlovsk are the consequence of state policy. Rather, they are at the whim of incompetent local officials."

Speaking to Forum 18 on 23 January in the southern town of Shymkent, both the secretary of the local Baha'i society Talgat Nurmukhambatov and the chairman of the Muslim Ahmadiya community in South Kazakhstan region Saidhasan Takhir Bukhari said that they experience no problems with the authorities. "I tried to work in Uzbekistan before, but I had to leave because it was impossible to preach our doctrines because of the religious policy followed by the authorities there," Bukhari told Forum 18. "The situation in Kazakhstan is directly opposite to that in Uzbekistan - here, we do not have any problems."

Hare Krishna communities do experience certain problems with the authorities. Procuracy officials in Karasai district periodically carry out investigations into the Hare Krishna farm on the outskirts of Almaty (see F18News 10 December 2003 http://www.forum18.org/Archive.php?article_id=209). However, the head of the Society for Krishna Consciousness for Almaty region, Sergei Kornilov, maintains that in this case the Hare Krishna devotees have become victims of the attitudes of incompetent local officials, not of state policy. "In a cosmopolitan city like Almaty we do not have any problems," he told Forum 18 on 26 January in the city. "In a rural area, our unorthodox external appearance and way of life irritate officials. Their mentality cannot tolerate people like us."

Periodically, the authorities try to put pressure on believers studying in educational establishments. For example, on 7 April 2003 the minister for education and science issued directive number 1-4-4/504, which ordered school directors "not to allow visits by students and children to religious associations and confessions".

"This directive does indeed exist," the press officer at the Education Ministry, Zhanara Usibekova, told Forum 18 on 29 January from the state capital Astana. "Teachers and pupils may visit mosques which are subject to the Spiritual Administration of Muslims of Kazakhstan or Orthodox churches. But of course they do not have the right to visit various sects such as the Jehovah's Witnesses, or Muslim mosques that are not subject to the muftiate."

Yet in Almaty, city religious affairs official Ivanov indicated that he knew about the decree but was not enforcing it locally. "According to our laws, a decree comes into force only after its registration at the Justice Ministry. This decree has not been registered and therefore is not legitimate. Of course, teachers and schoolchildren (with their parents' agreement) have the right to visit any religious associations."

Fokina of the Almaty Helsinki Committee agrees that this decree was not registered and the Justice Ministry and is therefore not legitimate, but is nevertheless worried by it. "The problem is that a school director is not as up to date with the laws and will interpret any directive from a minister as an order," she told Forum 18. At the same time, she admitted that she had no record of any instances of students or teachers being punished following the publication of this decree.

In October 2000, the Foreign Ministry received instructions from President Nursultan Nazarbaev to recall Kazakh students studying

at religious institutions in Islamic countries with which there are not agreements on mutual recognition of diplomas. The move was triggered by what the government regarded as the increasing threat of religious extremism penetrating Kazakhstan.

However, this order was never carried out. "It is true that we are trying to ensure that students go to study abroad only in Islamic educational establishments with which we have concluded agreements," Ongar Vorimbek, press officer for the Spiritual Administration of Muslims in Kazakhstan, told Forum 18 on 27 January in Almaty. "But in fact neither we nor the authorities have any way of influencing the choice of young people who intend to study in Islamic educational establishments."

A printer-friendly map of Kazakhstan is available at

<http://www.nationalgeographic.com/xpeditions/atlas/index.html?Parent=asia&Rootmap=kazakh>

If you need to contact F18News, please email us at:
f18news @ editor.forum18.org

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY