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USCIRF Annual Report 2010 - Additional Countries Closely Monitored: Kazakhstan

USCIRF reported on Kazakhstan in its 2008 and 2009 Annual Reports, but did not place the country on either its "country of particular concern" (CPC) or Watch Lists. In recent years, Kazakhstan's human rights practices, including regarding freedom of religion or belief, have come under increased international scrutiny partly due to its 2010 chairmanship of the 56-nation Organization for Security and Cooperation in Europe (OSCE). The Kazakh government had been known for its relatively good human rights record and tolerant policies towards its more than 90 ethnic minorities. However, the country's policies on religious freedom recently have regressed and its civil society sector has come under increased pressure, most notably due to the 2009 imprisonment of leading human rights defender, Evgeny Zhovtis. The government also has tightened its control over Kazakhstan's highly diverse religious communities.

In 2008, the Kazakh parliament enacted restrictive amendments to the country's existing religion law, establishing stricter registration procedures and requiring all existing religious groups to re-register, banning unregistered religious activity and private religious education, prohibiting proselytism and the production of religious literature, prohibiting groups from opening worship facilities to the public, and significantly increasing fines and penalties for violating the law. Both the OSCE Panel of Experts on Freedom of Religion or Belief and the UN Special Rapporteur on the Freedom of Religion or Belief found the amendments inconsistent with international human rights standards. In February 2009, Kazakhstan's Constitutional Council declared the amendments unconstitutional for violating the Kazakh constitutional guarantee of equality before the law.

However, even without the rejected amendments, Kazakh law allows fines and detentions to be imposed against individuals who lead or participate in unregistered religious organizations or otherwise violate the religion law. The Kazakh authorities continue to enforce these penalties, particularly against unregistered Baptists, registered Ahmadi Muslims, and Jehovah's Witnesses. For example, in January 2010 Zhanna-Tereza Raudovich, a Baptist from the Kyzylorda region, was fined 100 times the minimum monthly wage for hosting a worship service in her home. In addition, the Kazakh parliament currently is considering amendments to the administrative code provisions that set penalties for such infractions that would establish minimum as well as maximum penalties.

Kazakhstan's criminal law includes a broad and vague provision (Article 164.1) criminalizing "deliberate actions aimed at the incitement of social, national, clan, racial, or religious enmity or antagonism, or at offence to the national honor and dignity, or religious feelings of citizens, as well as propaganda of exclusiveness, superiority, or inferiority of citizens based on their attitude towards religion, or their genetic or racial belonging, if these acts are committed publicly or with the use of the mass information

media." In June 2009, a Protestant preacher in the city of Taraz, Sarybai Tanabaev, was sentenced to a two-year suspended term for violating this provision. Last year, Elizaveta Drenicheva, a Russian missionary for the registered Unification Church, was sentenced under this provision to a two-year prison term that was later commuted to a fine.

The Law on Extremism, effective since February 2005, gives the government wide latitude to identify and designate religious or other groups as extremist organizations, ban a designated group's activities, and criminalize membership in a banned organization. Government officials have expressed concern about possible political and religious extremism, particularly in southern Kazakhstan, where many Uzbeks reside. The Kazakh government has imprisoned individuals alleged to be members of certain Muslim groups, including some groups that espouse extremist political agendas. Human rights groups have expressed concerns that the government has also used this law to punish non-extremist Muslims for independent views. Kazakh civil society activists maintain that due process is not followed in many of these trials, and that police, and investigatory and judicial officials have not provided public access either to trials or information about these cases. Indeed, according to some leading Kazakh human rights activists, several hundred Muslim individuals may be imprisoned in Kazakhstan on religion-related charges, although it is impossible to ascertain the veracity of these claims.

Although the Kazakh Constitution bans discrimination on the basis of religion and the religion law states that all religious communities are equal under the law, official rhetoric often describes the state-backed Muslim Board and the Russian Orthodox Church as "traditional" faiths. Government officials often seem to divide other communities into those they tolerate, such as Jews, Catholics and small communities of Buddhists, from other groups they deem "sects," including independent Muslims, Ahmadi Muslims, most Protestants, Hare Krishna devotees and Jehovah's Witnesses.

The National Administration of Muslims in Kazakhstan (SAMK), directed by the Muslim Board and headed by the Chief Mufti, exerts significant influence over the country's practice of Islam, including selecting imams and regulating the construction of mosques. In 2002, however, the Kazakh Constitutional Council ruled against a proposed legal requirement that the SAMK must approve the registration of any Muslim group. Nevertheless, the SAMK reportedly occasionally pressures non-aligned imams and congregations to join it. However, according to the State Department, the Kazakh government continues to register some mosques and Muslim communities not affiliated with the SAMK.

The government's 2007-2009 "Program for Ensuring Religious Freedom and Improvement of Relations between the Government and Religions" outlined plans for "increasing the stability of the religious situation" and called for new laws to increase control over activities by foreign religious workers and the dissemination of religious materials. The Internal Policy Department in the capital Astana reportedly is funding a center for work with "victims of destructive sects" that opened in September 2009, although the Department has refused to name any "destructive sect."

Nevertheless, in practice, most minority religious communities registered with the government without difficulty, although some Protestant groups and other groups viewed by officials as non-traditional have experienced long delays. There were no reported incidents of official anti-Semitism. Although local officials may attempt to limit the practice of religion by some "non-traditional" groups, higher-level officials or courts, at least until recently, have usually overturned such actions.

Members of unregistered religious communities – including the Council of Churches Baptists who refuse on principle to register any of their congregations with the state – continue to face official harassment. In a notable case, authorities fined the pastor of a Council of Churches Baptist congregation in the Akmola region for unregistered religious activity, and in February 2009, a court order permanently banned his church, the first time that such a ban has been imposed in Kazakhstan. In March 2010, the Akmola regional police conducted a seminar on combating religious extremism. According to an article posted on the Kazakh interior ministry's website, participants included officials from the secret police, the regional prosecutor's office, the regional justice department, the state-funded "Centre for Assistance to Victims of Destructive Religious Movements," unnamed representatives of "traditional religions," and members of parliament and the

President's political party. Unregistered Baptists were reportedly mentioned by name by police officials as the "main lawbreakers on religion" and the targets of the anti-extremism campaign.

The police noted that "six regional [Evangelical Baptist] leaders had been punished under the Administrative Code."

Council of Churches Baptist churches continue to report being subject to surveillance, secret recordings of services and sermons, raids, short-term detentions, and court-ordered fines for unregistered religious activity that they usually refuse to pay. Baptist pastor Vasily Kliver, who had been repeatedly fined for leading unregistered worship, was imprisoned for five days in June 2009 for refusing to pay the fines. He is the fourth Baptist leader to be subject to short-term detention since 2006. Police raided Council of Churches Baptist churches in Rudny in August 2009 and Kostanai in September. A Baptist pastor from Rudny was fined in September 2009. In early 2010, ten Baptists in Oral (Uralsk) were questioned, fingerprinted, and photographed by police: four members of the same group were fined for administrative offenses in the autumn of 2009.

Other unregistered Protestant communities are increasingly subject to official harassment. In late 2009, Pastor Vissa Kim of the Grace Light of Love Protestant Church in the city of Taraz faced criminal charges brought by the Jambyl regional secret police for "causing severe damage to health due to negligence" after he allegedly harmed a woman's health by praying for her. In late 2009, a criminal case was brought against Sergei Mironov, a Protestant Christian who founded a drug and alcohol rehabilitation center in the city of Semey. That center was closed after a September 2009 raid by 25 police carrying sub-machine guns.

Although the Hare Krishna movement is registered at the national and local levels, its leaders report continuing harassment, including destruction of buildings. The problems date back to an April 2006 appeals court decision that the community's farm outside Almaty must revert to the county government, allegedly because the farmer from whom the Hare Krishnas bought the land in 1999 did not hold title.

Even though the Jehovah's Witnesses were registered in January 2009, in September 2009 the Kazakh Justice Ministry's Committee for Religious Affairs accused the Jehovah's Witness magazines, "The Watchtower" and "Awake," of "creat[ing] preconditions for the development of conflicts on inter-confessional grounds [and] present[ing] a potential threat for the security of the state." However, after meetings with government officials and human rights organizations, the Jehovah's Witnesses announced at an October 2009 session of the OSCE Human Dimension conference in Warsaw that they had resolved this dispute with the government of Kazakhstan.

In 2008, President Nursultan Nazarbayev publicly criticized foreign religious workers, noting that they should not be allowed to operate freely, as "we don't know their purposes and intentions." He also declared that "religion is separate from the state, but it does not mean that Kazakhstan should become a dumping ground for various religious movements." The President has not retracted these remarks, and since the speech, there has been a marked increase in governmental restrictions targeting unregistered and minority religious communities.

In December 2009, the Kazakh government announced visa requirements for foreign religious workers. As of March 1, 2010, temporary residence for foreigners engaged in religious educational activities in Kazakhstan is limited to 180 days.

Several groups reported difficulty registering foreign religious workers, while others reported greater difficulties than in previous years with being issued visas, and denied special or shorter-term visas. The registered Ahmadi Muslim community has encountered major delays in being granted visas to bring foreign religious workers to Kazakhstan. Under Kazakh law, non-citizens who are found to have engaged in "missionary activity without local registration" are liable to pay a fine and are subject to deportation from the country. Viktor Leven, a Kazakh-born Baptist from Akmola who later became a German citizen, is currently facing deportation for preaching at a September 2009 worship service. An Uzbek citizen who gave a 12-year-old girl a Christian children's

magazine was deported in November 2009 and the New Life Church, to which the Uzbek citizen belonged, was banned for six-months.

In recent years, however, the Kazakh government also has organized numerous international events to showcase what it views as its record of official religious tolerance. President Nazarbayev has hosted three high-profile conferences hundreds of leaders of "traditional" religious communities from around the world attended. In February 2009 several official Kazakh organizations and the OSCE Astana Center also hosted a meeting for representatives of several registered religious organizations, civil society groups, and the diplomatic community that highlighted Kazakhstan's "unique experience of interethnic and interdenominational accord."

After a hasty and unfair trial in September 2009, Evgeny Zhovtis, a leading Kazakh human rights defender who had also been active on religious freedom, was sentenced to four years imprisonment for a traffic accident that resulted in a pedestrian's death. Zhovtis was denied an adequate legal defense, and serious procedural flaws marked the investigation and the trial that led to his conviction. In December 2009, a Kazakh appellate court rejected his appeal. A complaint concerning Zhovtis' case has been filed with the UN Human Rights Committee. President Obama raised the Zhovtis case when he met with President Nazarbayev in April 2010.

Despite official Kazakh promotion of its record of tolerance, USCIRF concludes that, in view of Kazakhstan's OSCE chairmanship, the Kazakh government should publicly clarify its policies on human rights, including on freedom of religion or belief, and ensure that its laws conform to OSCE and other international commitments. Such official clarifications are particularly necessary in light of President Nazarbayev's hostile public statements about various religious groups and the Kazakh government's publications that reflect these statements. . Moreover, although the Constitutional Council rejected the stricter religion law as unconstitutional, Kazakh law enforcement entities have indicated they will again consider major revisions to the religion law in late 2012, and Kazakh authorities have taken repressive actions against various religious groups that fly in the face of that constitutional ruling. USCIRF also calls on the Kazakh government to include relevant government officials and Kazakh legal and other experts in official exchange programs and allow them to participate in international conferences, particularly those of the OSCE. Finally, Kazakh authorities should unconditionally pardon Mr. Zhovtis in light of the serious mishandling of his case.
