

Kazakhstan UPR submission, March 2019

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Forum 18, established in 2003, provides truthful, original, detailed, and accurate monitoring and analysis of violations of freedom of thought, conscience and belief in Russia, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan, Azerbaijan, Georgia, occupied Ukrainian territory, and Belarus. We also provide analyses on freedom of religion and belief in Turkey.

1. Before the October-November 2019 UN Human Rights Council Universal Periodic Review (UPR) of Kazakhstan, Forum 18 notes continuing violations of freedom of religion and belief, and of interlinked freedoms of expression, association, and assembly.

2. Serious violations include but are not limited to: increasing numbers of prisoners of conscience jailed for exercising freedom of religion and belief; unfair trials and torture of prisoners; wide ranging laws allowing arbitrary rule, with freedom of religion and belief penalised with increasing "offences", prosecutions and fines; misleading the UN Human Rights Committee; making the exercise of freedom of religion and belief dependent on state permission, with restrictions on the activities allowed; restrictions on children and young people under 18's freedom of religion and belief; imposing complete control of the Islamic community, including how to pray, banning all mosques apart from state-controlled Sunni Hanafi mosques; and compulsory religious censorship.

3. The regime claims what it calls "religious tolerance" and "religious dialogue", for example in so-called "Congresses of leaders of world and traditional religions". An official organising these meetings described them to Forum 18 as being "for foreigners". Fear of the consequences of expressing views the government dislikes has, Forum 18 has been told, caused some Kazakhs to decide not to participate in the UPR.

Prisoners of conscience

4. Prisoners of conscience jailed for exercising freedom of religion and belief are as of March 2019 all Muslim and mainly alleged adherents of Muslim missionary movement Tabligh Jamaat. In Kazakhstan its activities aim to peacefully encourage greater religious observance among Muslims. One court verdict accuses it of "intolerance" towards Shia Islam – despite the regime itself banning all Shia mosques and literature.

5. From January 2015 onwards 73 alleged Tabligh Jamaat adherents are known to have had criminal convictions. Of these, 52 were jailed and 21 received restricted freedom sentences. Restricted freedom means that individuals live at home but may not leave their town or city without state permission. They are often banned from visiting restaurants, bars, or places of public entertainment. Kazbek Laubayev, Marat Konyrbayev and Taskali Naurzgaliyev, for example, were jailed for three years each on 6 April 2018 under Criminal Code Article 174 (see below). Karaganda Police told Forum 18 that none of the six men arrested in the case had committed or called for violence.

*More background is in Forum 18's country survey http://www.forum18.org/archive.php?article_id=2409
Individual cases of documented violations are at <http://www.forum18.org/archive.php?country=29>*

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6. Those criminally convicted of exercising freedom of religion and belief are almost always added to a Finance Ministry Financial Monitoring Committee List of individuals "connected with the financing of terrorism or extremism". Any bank accounts are then blocked. Families are not told of this until they visit the bank, and families may only withdraw small amounts for daily living if the state permits and they do not have other income. One human rights defender, anonymously for fear of state reprisals, told Forum 18 that anyone who tries to help these prisoners or their families "might themselves be accused of financing terrorism".

7. Criminal Code Article 174 is often used against political opposition, trade unionists, and people jailed for exercising their freedom of religion or belief. This punishes: "Incitement of social, national, clan, racial, or religious discord, insult to the national honour and dignity or religious feelings of citizens, as well as propaganda of exclusivity, superiority or inferiority of citizens on grounds of their religion, class, national, generic or racial identity, committed publicly or with the use of mass media or information and communication networks, as well as by production or distribution of literature or other information media, promoting social, national, clan, racial, or religious discord". Kazakh human rights defenders and the UN Human Rights Committee have repeatedly called for it to be reworded or abolished.

8. "The authorities are using either Criminal Code Article 174 or Article 256 ("Propaganda of terrorism") to prosecute so-called Islamists who in practice have not committed any acts of terrorism or extremism," Yevgeni Zhovtis of the Kazakhstan International Bureau for Human Rights and Rule of Law told Forum 18 in October 2018. He noted that the authorities use a "very vague" definition of "extremism". "Such trials are promoting radicalisation because of injustice," he noted. Examples of such trials include the jailing of Galymzhan Abilkairov for 7 years 7 months in October 2018 and of Dadash Mazhenov for 7 years 8 months in November 2018. Both were jailed on "terrorism" charges for each posting online four talks on Islam by a jailed Islamic preacher several years before they were banned. Zhovtis insisted that there is no evidence that either man was involved with terrorism or extremism.

Unfair trials

9. Trials are often unfair, and in cases involving alleged Tabligh Jamaat adherents are often held in secret and lawyers have to sign statements not to reveal anything about the cases. In a typical unfair trial, Muslim prisoner of conscience Saken Tulbayev was first fined for preaching at a railway station without state permission and then in July 2015 jailed for 4 years 8 months. The sentence was based on 43 leaflets police claimed to have found during a raid, but he and his family denied ever seeing them, and police also produced "witnesses" which Tulbayev, insisted he had never met.

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Torture, denials of freedom of religion and belief in prisons

10. Torture is common in prisons. For example, cancer sufferer and former Jehovah's Witness prisoner of conscience Teymur Akhmedov was beaten to try to force him to admit his "guilt", the Kazakhstan International Bureau for Human Rights and Rule of Law stated. Many Muslim prisoners of conscience jailed for exercising their freedom of religion or belief have been banned from reading the Koran and other religious books, and prevented from saying the namaz (obligatory Muslim daily prayers). This and the forcible shaving off of beards appear to be standard treatment for such prisoners. Solitary confinement and extremely limited visiting rights (for example two two-hour visits by two or three relatives a year) is also used against some prisoners.

Misleading and ignoring the Human Rights Committee

11. Officials routinely deny human rights violations. For example, in June 2016 Kazakhstan's Delegation to the UN Human Rights Committee – led by the Deputy Justice Minister - claimed that only eight individuals had by June 2016 been punished for exercising the right to freedom of religion and belief without state permission. But by June more than 20 individuals were known to have been punished that year, most being Muslims, Protestants and Jehovah's Witnesses who had without state permission offered uncensored religious literature in places the state had not permitted, talked about their beliefs without state permission, or met for worship without state permission. Four days after the Human Rights Committee hearing, three Muslims were fined for without state permission talking to people about their beliefs and inviting them to a mosque.

12. The same month the Human Rights Committee's Concluding Observations (CCPR/C/KAZ/CO/2) called for laws to comply with international human rights obligations, the KNB secret police head told government ministers and senior officials that then-President Nazarbayev had ordered the drafting of what became the January 2017 "Anti-Extremism and Terrorism" Law. This imposed among other things new punishments for sharing the beliefs of religious communities which do not have state permission to exist, more religious literature censorship, and foreign pilgrimage controls. The restrictions came after the regime jailed many who took part in nationwide 2016 land privatisation protests, and after shootings in Aktobe. The regime immediately blamed "the non-traditional religious movement Salafism", without producing any evidence for this claim.

Steadily increasing restrictions and violations

13. The main other justifications for freedom of religion and belief violations are the Religion Law with its corresponding Administrative Code Articles 489 ("Leading, participating in, or financing an unregistered, halted, or banned religious community or social organisation") and 490 ("Violating the Religion Law").

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14. All exercise of freedom of religion and belief by a group of people without state permission is banned. Among the registration requirements, officials review beliefs and a positive Social Harmony Committee "expert analysis" is required for any community to be permitted to exist. This resulted in all Ahmadi Muslims being banned from meeting for worship. If registered, freedom of religion and belief may only be exercised in religious buildings and their assigned territory, in state-permitted places of worship, offices and premises of religious associations, in cemeteries and crematoriums, and inside permitted homes and dining halls.

15. Sharing beliefs in any way can only be done by "missionaries" appointed by registered religious organisations, and who must have state approval every year. They can only use state-approved material and only operate in state-approved places. All discussion of faith by people without state permission, or not using state-approved texts, or outside state-approved locations, is banned.

16. A draft 2018 Amending Law "Introducing changes and Additions to Laws on Questions of Religious Activity and Religious Associations" included: greater state control of religious communities the regime allows to exist; more restrictions on religious teaching without state permission, and sharing the beliefs of religious communities denied state permission to exist; and ordering that all religious literature that has not been passed state censorship must be confiscated. Prime Minister Bakytzhan Sagantayev issued a decree withdrawing the Amending Law from Parliament on 29 January 2019, giving no reason. On 18 February then-Social Development Minister Darkhan Kalatayev told journalist Svetlana Glushkova of CurrentTime.tv that the Amending Law is being revised and will be sent again to Parliament in 2020.

17. A Comparative Table commenting on the Amending Law claims that it implements human rights obligations in line with General Comment 22 of the UN Human Rights Committee on Article 18 ("Freedom of thought, conscience and religion") of the ICCPR. It also claims that people who exercise freedom of religion and belief without state permission – which is their right under the ICCPR - are a "risk group" who may get involved in "terrorism".

Restrictions on children and young people under 18's freedom of religion and belief

18. State pressure is used against children or young people, parents - even separated or divorced parents - and guardians involved in a religious community officials dislike, including where no parent or guardian has told a religious leader of objections to a child's attendance. Similarly, private individuals are also targeted. For example, in August 2018 husband and wife Aidar Kharsanov and Zarina Manu were fined more than four months' average wages, for with parents' permission teaching Koran to school-age girls. The fines and a ban from further Koran teaching followed a police raid on their home, where they had begun giving Koran lessons in June 2018 after local school holidays had begun.

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State control of Islamic community, types of prayer restricted

19. All mosques are controlled by the state-controlled Muslim Board and must be Sunni Hanafi. All other mosques are banned and have been closed, including those of other schools of Sunni Islam (such as Hanbali or Shafi), Shia, Ahmadi, or independent Sunni Hanafi mosques. State censorship has banned all Islamic literature that is neither Hanafi Muslim nor Muslim Board approved. All mosques must give the Board 30 per cent of their income, and have their imams appointed by the Board with no consultation. Imams must only read out sermons at Friday prayers which have been provided by the Board. Independent mosques strongly objected to these restrictions, which make Muslim exercise of freedom of religion and belief even more restricted than the freedom of religion and belief of those who follow other beliefs.

20. The state also subjects Muslim communities to language restrictions which do not apply to other communities. Mosques must use Kazakh rather than other languages such as Russian, Tatar, Chechen, or Azeri for sermons. Unlike communities of other faiths (eg. Russian Orthodox, Armenian Apostolic, or Jewish), mosques cannot have an ethnic affiliation in their name.

21. The state also restricts the ways Muslims can pray. The state-controlled Muslim Board banned saying out loud the word "Amen" in mosques. Fines for saying "Amen" aloud in mosques have become common. "I am an adherent of the Hanbali school and consider it necessary to pray the word 'Amen' aloud," a Muslim who wished to remain anonymous for fear of state reprisals told Forum 18. "But after imams halted the prayers because I prayed the word aloud I had to stop and say it to myself just to avoid conflict." After being contacted by Muslim Board-appointed imams, local officials prepare prosecution cases under Administrative Code Article 490 ("Violating the Religion Law"). Such prosecutions continue, Nariman Bagirov for example being fined one month's average wages in Almaty on 12 February 2019. In another case, Rauan Temirkulov from Saran in Karaganda Region is challenging the legality of a prosecution brought in November 2018 by the town administration's Anti-Terrorist Commission secretary Sergei Ulyanov.

KNB secret police surveillance, informer recruitment

22. People in Kazakhstan think all religious communities are under surveillance by the ordinary police and KNB secret police, and potentially subject to attempts to recruit informers. Many communities are reluctant to discuss this for fear of state reprisals.

Censorship, burning books

23. Selling or offering religious literature and objects is only allowed after they have been censored and only in state-approved locations. Social Harmony Committee "expert analyses" are required for all religious literature and objects (which can include Koran stands, crosses, crucifixes, icons and religious clothing and jewellery). After a raid confiscated a Russian Orthodox icon an official told Forum 18 that "we have experts to check icons".

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24. As well as all non-Sunni Hanafi Islamic works (see above), works are banned in claimed court hearings which supposedly decide whether material is "extremist". Hearings are not announced and full, up-to-date published lists (which can vary between regions) of banned works are not published. The unannounced nature of court hearings make it impossible to challenge bans.

25. Numbers of permitted (including online) bookshops are small, and some shops with permission to sell religious items will not do this for fear of consequences. For example, in July 2017 the Gifts and Books shop at Astana's International Airport was found offering nine Muslim books for sale without state permission. The company that owns the shop was fined, and the shop's business literature section (where police found the books) was banned from functioning for three months.

26. Police also raid people (frequently Baptists and Muslims) distributing such literature on the street. For example, in June 2018 Askarbek Sarsenov was found offering for sale on the street 85 copies of 6 Islamic booklets. The booklets covered themes such as learning the Koran and prayer. He was fined about three week's average wages and all the books were ordered to be destroyed.

27. Confiscated texts – including Bibles but not Korans – are often ordered to be destroyed, but this is sometimes overturned on appeal. A court bailiff in Astana told Forum 18 that bailiffs throw books ordered destroyed – including religious books – into the rubbish bin. In another case the Justice Ministry stated that "most likely the books would be burnt".

28. From January 2017 the "Anti-Extremism and Terrorism" Law (see above) allowed only one copy of any religious work to be imported for personal use, whereas previously there was no limit. Police inspect any imported religious book.

“Offences”, prosecutions, penalties continue

29. In 2018 there were 165 known administrative prosecutions brought against 139 individuals, religious communities, charities and companies. Their “offences” included meeting for worship, offering religious literature and pictures (including online), sharing or teaching faith, posting material online, praying in mosques, allowing a parent to bring a child to meetings, or allegedly inadequate security measures. *(This total does not include the Muslims noted above jailed for exercising freedom of religion and belief.)*

30. Fines were mostly the equivalent of between three weeks' and four months' average wages for those in formal work. Such fines are a much greater burden for the unemployed and pensioners. The youngest individual known to have been punished – for praying in a mosque using the word "Amen" aloud – had just passed his 18th birthday. The oldest was 78 ½ year old Jehovah's Witness Taisiya Yezhova, fined for hosting religious meetings in her home.

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31. Raids and punishments continue. In February and March 2019 police in Taraz – including anti-terrorism officers – raided three Baptist Sunday worship meetings. Police summarily fined five Baptists between one and two months' average wages each and issued two warnings for meeting for worship without state permission. In Atyrau 10 plain clothes and uniformed police officers raided a flat where six Hare Krishna devotees were conducting devotional chants. Police filmed the devotees and demanded they write statements about what they were doing. Officials then brought a court case, but subsequently withdrew it.

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