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2011 Report on International Religious Freedom - Kazakhstan

Bureau of Democracy, Human Rights, and Labor
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[Covers calendar year from 1 January 2011 to 31 December 2011]

Executive Summary

The constitution provides for religious freedom; however, other laws and policies restrict religious freedom and, in practice, the government generally enforced these restrictions. The government demonstrated a trend toward deterioration in respect for and protection of the right to religious freedom. The government generally respected the religious freedom of most registered religious groups; however, it enforced existing restrictions on unregistered and minority religious groups, often through fines, raids, and brief detention of members. A new law, signed by the president on October 13, introduced more stringent mandatory registration requirements for missionaries and religious organizations, although the implementing regulations were not finalized by year's end. The law as written, without any accompanying implementing legislation, gives the government broad grounds to deny religious organizations legal status.

Similarly, the newly created Religious Affairs Agency (RAA) has a very broad mandate that has the potential to restrict further religious freedom. Some religious groups, including evangelical Christians and Scientologists, faced negative coverage from government-run media outlets and government-funded nongovernmental organizations (NGOs.)

There were no reports of societal abuses based on religious affiliation, belief, or practice; however, there were reports of increasing discrimination against religious minorities. Muslim, Russian Orthodox, Roman Catholic, and Jewish leaders reported high levels of acceptance in society.

The ambassador and other U.S. officials engaged in extensive private and public dialogue with the government to urge that implementation of the new law on religion be consistent with the country's constitutional provisions for religious freedom and with its international commitments.

Section I. Religious Demography

Due in part to the country's nomadic and Soviet past, many residents describe themselves as nonbelievers. The government maintains statistics on the number of registered congregations and organizations but not on the size of each group. The most recent reliable statistics on religious affiliation are based on the 1999 census.

Approximately 65 percent of the population professes to be Muslim. Ethnic Kazakhs, who constitute an estimated 60 percent of the population, and ethnic Uzbeks, Uighurs, and Tatars, who collectively make up less than 10 percent, are historically mostly Sunni Muslims of the Hanafi school. Other Islamic groups that account for less than 1 percent of the population include Shafi'i Sunni (traditionally associated with Chechens), Shia, Sufi, and Ahmadi. The highest concentration of self-identified practicing Muslims is in the southern region bordering Uzbekistan.

Approximately one-third of the population, consisting of sizeable numbers of ethnic Russians and smaller populations of ethnic Ukrainians and ethnic Belarusians, are mostly Russian Orthodox by tradition. Non-Muslim groups that constitute less than 5 percent of the population include Roman Catholics, Greek Catholics, Jehovah's Witnesses, Lutherans, Presbyterians, Seventh-day Adventists, Methodists, Mennonites, The Church of Jesus Christ

of Latter-day Saints (Mormons), Jews, Buddhists, Hare Krishnas, Baha'is, Christian Scientists, Scientologists, Grace Church, New Life Church, and the Unification Church.

Section II. Status of Government Respect for Religious Freedom

Legal/Policy Framework

The constitution provides for religious freedom; however, other laws and policies restrict religious freedom. The constitution defines the country as a secular state and provides the right to decline religious affiliation.

The government's religion law narrows the legal provisions for religious freedom found in the constitution and enforces registration requirements. On October 13, the government passed a new law on "religious activities," which instituted a more restrictive mandatory reregistration requirement, mandated a tiered hierarchy for religious organizations, and provided for government inspection of religious literature and bans on religious ceremonies in government buildings, military, law enforcement, and secular education institutions.

According to the law, all religious organizations must reregister by October 25, 2012 with both the central government and local governments of individual regions (oblasts) in which they have congregations. In order to register locally, a religious organization must have at least 50 members and submit an application, along with the members' names and addresses, to the Ministry of Justice (MOJ). Under the new law, communities can only practice within the geographic limits of the locality in which they register, unless they have sufficient numbers to register as regional or national organizations. To register as a regional religious organization, groups must have 500 members in each of two separate regions while national registration requires 5,000 members with sufficient representation in each of the country's oblasts. These requirements make it very difficult for smaller religious groups to register and nearly impossible for any religion except state-approved Islam or Russian Orthodoxy to register at the national level.

Under Article 3 of the new law on religion, everyone is free to follow his or her religious or other convictions, disseminate them, and take part in religious activities. The law states that the government shall not interfere

in the determination by citizens, foreigners, or persons without citizenship with respect to their attitude towards religious beliefs or their religious affiliation, or the rearing of their children consistent with their convictions unless such upbringing harms the child's health, infringes on the child's rights or is directed against the country's constitutional framework, sovereignty and territorial integrity. The law bans forced conversion of persons into a religion, forced participation in a religious organization's activities, or compelled religious rites. The law bans religious activities related to coercion of citizens, foreigners, or persons without citizenship, that harm their health, force them to break marriage or family relations, or harm their morale. The law also bans religious organizations that use various methods including charity, blackmail, violence or a threat of using violence, material or other dependence, to induce persons to engage in their activities. The law as written, without any accompanying implementing legislation, gives the government broad grounds to deny religious organizations legal status. At year's end, the government had yet to draft implementing regulations.

In October, the government amended the Code of Administrative Offenses to punish any violation of the new religion law.

The Religious Affairs Agency (RAA), a new agency established during the year, has a number of functions, including the formulation and implementation of state policy in the area of religious freedom. The agency also studies and analyzes the status of religion, the operation of religious organizations, and the activities of missionaries. It drafts legislation and regulations, conducts expert analysis of religious materials, considers problems related to violations of the religion law, initiates proposals with law enforcement on banning the operation of religious organizations or individuals who violate the religion law, coordinates actions of local government in regulation of religious problems, and provides official interpretation of the religion law. During the year, the RAA engaged in staffing, opening regional offices, and drafting bylaws and regulations that would establish a mechanism for implementation of the new law.

The government may deny registration based on an insufficient number of adherents or inconsistencies between the provisions of a religious organization's charter and the law. In addition a registered organization, including a religious group, may have all activities suspended by court

order for a period of three months for defiance of the constitution or laws, or for systematic pursuit of activities that contradict the charter and bylaws of the organization as registered. Police, prosecutors (procurators), and citizens may petition a court to suspend the activities of a registered organization for failure to rectify violations or for repeated violations of the law. The Administrative Code stipulates a three-month suspension for organizations that hold illegal gatherings, disseminate unregistered religious materials, or construct religious facilities without a permit. During a suspension, the organization is prohibited from speaking with the media; holding meetings, gatherings, or services; and undertaking financial transactions other than continued contractual obligations, such as paying salaries. If a religious organization engages in activities prohibited by law or it fails to rectify violations that led to a suspension, the organization is banned.

The law allows authorities to suspend the activities and fine the leaders of unregistered groups. If a religious organization engages in illegal activity or fails to rectify violations resulting in a suspension, its leader is subject to a fine of 485,400 tenge (\$3,302), or 809,000 tenge (\$5,503) if the organization is registered as a legal entity. If an organization engages in activities not specified in its charter, its leaders are subject to fines of 323,600 tenge (\$2,201), or 485,400 tenge (\$3,302) if the organization is registered as a legal entity. If an organization holds gatherings or conducts charity activities in violation of the law; imports, publishes and/or disseminates illegal religious literature or other materials; or constructs an unregistered building, its leaders are subject to fines of 161,800 (\$1,101) tenge or 323,600 tenge (\$2,201) for legal entities.

During the year, government officials continued to express concern regarding the potential spread of political and religious extremism. The Committee for National Security (KNS) continued to characterize the fight against religious extremism as a top priority of the internal intelligence service and to expand its monitoring of civil society and religious organizations. The extremism law, which applies to religious groups and other organizations, gives the government broad latitude in identifying and designating a group as an extremist organization, banning a designated group's activities, and criminalizing membership in a banned organization. Procurators have the right to inspect annually all organizations registered with state bodies, and they regularly conducted such inspections.

Local and foreign missionaries must register annually with the MOJ and provide information on religious affiliation, territory of missionary work, and time period for conducting that work. All literature and other materials to support missionary work must be provided with the registration application; use of materials not vetted during the registration process is illegal. A missionary must produce registration documents and power of attorney from the sponsoring religious organization to be allowed to work on its behalf. The MOJ may refuse registration to missionaries whose work "constitutes a threat to constitutional order, social order, the rights and freedoms of the individual, or the health and morals of the population." Foreign missionaries are required to obtain a permit from migration police designating them as missionaries and carry it with their passports. The constitution requires foreign religious associations to conduct their activities, including appointing the heads of religious associations, "in coordination with appropriate state institutions." Foreigners may not register religious organizations.

Foreign missionaries must obtain and present RAA approval to the MOJ when applying for a missionary visa. The RAA can reject missionaries based on a negative assessment by religious experts, or if it deems that the missionaries represent a danger to the country's constitutional framework, a citizen's rights and freedoms, or a person's health or morals. Missionary visas permit a person to stay in the country only for a maximum of six months per 12-month period. Missionary visa applicants must obtain RAA consent every time they apply for visas.

The government does not permit religious instruction in public schools. Homeschooling is permitted only in certain circumstances, which do not include religiously based motivations. Parents may enroll children in supplemental religious education classes provided by registered religious organizations.

The new law requires organizations to "take steps to prevent the attraction and/or participation by underage children in the activity of a religious association" should a parent or legal guardian object. The law bans religious or proselytizing activities from children's holiday, sport, creative or other leisure organizations, camps, or sanatoria. Implementation of this provision of the law has not revealed the extent to which organizations must prevent underage persons' involvement in religious activity. Educational licensing

regulations do not permit religious groups to educate children without approval from the Ministry of Education. In accordance with the regulations, a religious organization whose charter includes provisions for religious education may be denied registration if it does not obtain approval.

The elections law prohibits political parties based upon ethnicity, gender, or religious affiliation. The criminal code prohibits the incitement of interethnic or interreligious hatred; this law has on one occasion been subject to broad interpretation that included some religious teachings.

Under the revised legislation, the government observes the following religious holidays: Orthodox Christmas and Kurban-Ait, but does not consider them national holidays unless they fall on a weekday.

Government Practices

There were reports of abuses of religious freedom, including religious prisoners and detainees.

In addition to the more stringent mandatory registration requirements and the broad scope of the law and of the authority given to the RAA, there were numerous cases involving religious groups and their members. There were several incidents when RAA officials along with police participated in raids on religious communities.

The government enforced existing restrictions on unregistered groups and minority religious groups. Local officials attempted to limit, often through raids and brief detention of members, the practice of religion by some minority groups, such as evangelical Christians, Jehovah's Witnesses, Scientologists, and Muslims not affiliated with the Spiritual Association of Muslims of Kazakhstan (SAMK), a national organization with extremely close ties to the government and headed by the chief mufti in Almaty. The government applied laws governing unregistered religious groups unevenly during the year. Local and national law enforcement authorities prosecuted and fined nontraditional religious groups for conducting illegal or unsanctioned educational, religious, or entrepreneurial activities. No apolitical religious groups were banned.

The authorities' presumed fear of extremism led to some reports of abuses. For example, in the south, a local official required men to shave their beards because followers of "non-traditional Islam" wore beards. Also, government prosecutors shut down over 400 websites, citing extremism.

Several government-controlled media outlets and government-funded NGOs continued to publish or broadcast stories critical of nontraditional religious groups, such as evangelical Protestant Christians, Jehovah's Witnesses, Scientologists, and Hare Krishnas, depicting them as dangerous sects harmful to society.

On October 19 an Almaty court found nine members of a Sufi group guilty of religious extremism, unlawful restraint, and causing damage to health by practicing "faith healing." The group's leader received a 14-year prison sentence, one member received a 12-year sentence, and seven others received sentences ranging from two to nine years. Authorities initially detained the group in August 2010 and held them without filing charges. The district court has yet to hear the group's appeal.

On September 5 Taraz City Court Number 2 convicted New Life Protestant Church leader Yerzhan Ushanov of practicing psychotherapy without registration after Aleksander Kireyev claimed he felt ill after a service. Fellow church members implied that Kireyev had embedded himself in the congregation to discredit the church. The court fined Ushanov 196,560 tenge (approximately \$1,300). After a regional court rejected his appeal, Ushanov applied for an appeal with the Supreme Court.

On May 12, a South Kazakhstan Oblast court fined an Ahmadi Muslim community 756 tenge (\$5), and suspended the congregation's right to use its mosque and land for religious services because the land had been designated for residential use only.

On April 20, the government-run television channel *Khabar* broadcast a documentary criticizing Sufism and claiming that a Sufi leader disseminated "destructive" and "non-traditional" teachings. A network of government-funded NGOs held numerous events throughout the country denouncing the work of "dangerous sects," including the Jehovah's Witnesses, Scientologists, Baptists, and Ahmadi Muslims.

There were no further developments in the case of Valeriy Tverdokhlebov, whose April 2010 sentence to four years in prison for inciting social, national, tribal, and religious hatred, and for propagating terrorism was upheld by a June 2010 regional court ruling. Tverdokhlebov, who follows Salafi Islam, maintained to the court that he confessed under torture.

During the year, the Baptist Council of Churches noted several court cases against individual Baptists throughout the country for participating in the activities of an unregistered group. The council has a policy neither to seek nor accept registration in former Soviet countries, and church members criticized the intrusive nature of the registration process, which requires information about ethnicity, family status, religious education, employment, and political affiliation.

The New Life and Protestant Grace churches reported several instances of members being sanctioned for unregistered missionary activity, and authorities continued an ongoing investigation into the church's financial activities.

When individuals were found guilty of unregistered religious activity, courts imposed a fine. The Baptist Council of Churches reported instances in which pastors were fined for unregistered religious activities and, on several occasions, local law enforcement representatives questioned followers in their homes. Council members usually refused to pay fines for nonregistration.

Although there were no reports of property seizures during the year, courts previously enforced payment of fines in several cases by seizing property, including private homes owned by pastors and used for worship.

Prior to the new law, most religious communities chose to register with the government and ultimately were successful in obtaining registration. When it refused or significantly delayed registration, the government usually claimed that a group's charter did not meet the requirements of the law or cited the need to refer it for expert theological review. At year's end, the government's stance towards reregistration of religious groups under the new law was unclear.

Authorities used health and safety inspections to monitor religious organizations' registration status.

The law is vague on the definition of missionary activity. For example, authorities frequently interpreted religious activity by visiting foreigners as missionary activity and expelled those who were not registered as missionaries.

Ahmadi Muslims reported that one of their foreign missionaries had to leave the country following the introduction of new visa requirements. On September 2 the community's only remaining foreign imam was forced to leave the country. Both applications for new missionary visas were pending at year's end.

Minority groups faced discrimination through a wide range of technical means including, but not limited to, non-issuance of visas to missionaries, prolonged analysis of the Jehovah's Witnesses religious materials, actions against the Ahmadi community in Shimkent for the use of residential premises for religious purposes, and persecution of Protestant pastors for non-registration of their groups.

Section III. Status of Societal Respect for Religious Freedom

There were no reports of societal abuses based on religious affiliation, belief, or practice; however, there were reports of increasing discrimination against religious minorities. The country is multiethnic, with a long tradition of tolerance and secularism. Since independence the number of mosques and churches has increased greatly. However, individuals reported being occasionally wary of minority religious groups and groups which proselytize. There were several reports of citizens filing complaints with authorities after their family members became involved with such groups.

The SAMK exercised significant influence over the practice of Islam, including the construction of mosques and the administration of examinations and background checks for aspiring imams. The SAMK was the primary coordinator of Hajj travel and authorized travel agencies to provide Hajj travel services to citizens. Religious observers reported that the SAMK occasionally pressured nonaligned imams and congregations to join the SAMK to ensure liturgical orthodoxy. Notwithstanding SAMK influence and pressure, there were some registered Muslim communities unaffiliated with the SAMK.

Leaders of the four religious groups the government considers "traditional" – Islam, Russian Orthodoxy, Roman Catholicism, and Judaism – reported general acceptance and tolerance that other minority religious groups did not always enjoy.

There were no reports that mistrust of minority religious groups led to violence. Observers noted increasing discrimination against religious minorities. The government-funded "Centers for Support to Victims of Destructive Sects" presented on-going propaganda in the media presenting minority religious groups as harmful.

Section IV. U.S. Government Policy

In discussions with government officials and in public statements, U.S. officials emphasized that bilateral cooperation on economic and security matters is a complement to, not a substitute for, meaningful progress on human rights, including religious freedom.

The ambassador and other embassy officers, as well as other U.S. government officials, remained engaged in dialogue with the government to seek assurance that implementation of the newly adopted religion law is consistent with the country's constitutional provisions and international commitments to respect individuals' rights to peaceful expression of religious beliefs. U.S. officials expressed concern that the new law would not permit the registration of small religious groups and that its broad scope could enable authorities to apply it in an arbitrary manner.

Embassy and officials visited houses of worship, met with religious leaders, and requested that government officials address specific cases of concern.

The U.S. embassy also maintained contact with a wide range of religious communities and religious freedom advocates, and reported on violations of their constitutional and human rights. Senior U.S. government officials met with senior government officials and members of religious groups to raise religious freedom concerns, and senior U.S. government officials participated in high-level discussions on religious tolerance during the country's Organization for Islamic Cooperation chairmanship. Embassy officials worked to connect religious communities with in-country legal resources to assist with registration and visa concerns.

In addition, U.S. embassy officials attended public events in support of religious communities and participated in roundtables and other public debates on matters of religious freedom and tolerance. U.S. government representatives were in regular contact with NGOs that followed religious freedom topics, including the Almaty Helsinki Committee, the Association of Religious Organizations of Kazakhstan, and the Kazakhstan Bureau of International Human Rights and Rule of Law.