

The state of religious freedom in Kazakhstan

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HRWF (12.04.2017) - Kazakhstan is a sparsely-populated country in Central Asia with a population of about 17 million. More than 70% of the population is Muslim (mainly Sunni of the Hanafi School), 26.2% is Christian (mainly Russian Orthodox) and the rest is made up by other minorities such as Jews and non-believers.

The country is home to 130 ethnic groups and an advisory body (the Assembly of the People in Kazakhstan) has been put in place to promote inter-ethnic relations. The two major ones are: the Kazakhs (63.1% of population, for the most part Muslims) and Russians (23.7%, mainly Christians). The Kazakhs came into prominence in the 16th century, only to be dominated two hundred years later by the Russians. Kazakhstan became a part of the Russian Empire in the 19th century and then became the Kazakh Soviet Socialist Republic in 1936.

Kazakhstan was the last of the Soviet Republics to declare its independence following the dissolution of the Soviet Union in 1991. Nursultan Nazarbayev has been the country's president since independence.

Constitutional Framework

The Constitution of the Republic of Kazakhstan establishes a secular democracy 'whose highest values are an individual, his life, rights and freedoms' (Article 1). It recognises 'ideological and political diversity' and forbids the state to interfere with the free functioning of 'public associations,' as long as it does not undermine state security or incite enmity among the people (**Article 5**).

Discrimination of any kind is prohibited, including discrimination on the basis of religion (**Article 14**). The right to peacefully assemble is also assured, although it may be 'restricted by law in the interests of state security, public order, protection of health, rights and freedoms of other persons' (**Article 32**).

The Kazakhstani approach to statehood is clearly woven into the language of the Constitution: the respect of individual human rights is fine as long as it does not conflict with the interests of the state. Even the right to freedom of conscience is tempered by one's 'responsibilities before the state' (**Article 22**).

The Constitution is honoured annually by a national holiday, the 30th of August, the day when it was approved in 1995. In 1998 and 2007, the Constitution was amended to make significant changes in the structure and powers of government, notably increasing the authority of the President. **Article 42** was amended by the Kazakh Parliament two days after its approval by national referendum, making an exception to the two-term limit on the presidency in the case of 'the First President of the Republic of Kazakhstan,' effectively giving President Nazarbayev the status of de facto President for life.

One final observation on Kazakhstan's constitutional law is the country's relation to international treaties, including those which potentially protect freedom of religion or belief. Article 4.2 of the Constitution states that international treaties are the law of the land in Kazakhstan unless inconsistencies with national laws are found at the time of ratification, in which case correctives would be made through the legislative process.

However, the Kazakh Parliament passed in 2005 a Law on International Treaties which directs in the case of conflict with international treaty requirements that 'the treaty shall be amended, suspended or terminated' (**Article 20**). This law has been strongly criticised, as it stands in stark contradiction to both the Kazakh Constitution and the UN Vienna Convention on the Law of Treaties. The Vienna Convention, to which Kazakhstan acceded

in 1994, declares that each State Party will ensure that its national legal framework permits the country to meet its treaty obligations under international law.

Legislative Framework and Criminalisation of Religious Activities

In contrast to the lofty values promulgated in the Constitution, individual and collective religious life in Kazakhstan is rigorously controlled. Specifically, amendments to the Law on Religion in 2011 placed severe restrictions on all religious activity that is not registered with the government.

Registration procedures have become increasingly arduous and complex in Kazakhstan. Religious groups are required to have at least 50 members to be registered locally, 500 regionally and 5000 at a national level. This has meant that numerous religious groups have been unable to be registered and are therefore considered to be engaged in 'illegal worship activities.' 'Failed' registration means that people cannot any more practise their religion collectively, even in private. Individuals cannot preach or evangelize either in public or in private. Police raids, exorbitant fines and detention of religious workers have become commonplace. Hundreds of religious communities have simply had to cease functioning.

The fight against extremism is the common justification raised for Kazakhstan's repressive policies on religion. It gives the government the power to act 'legally' while denying a mandated re-registration to religious groups, effectively cancelling their right to exist and to conduct normal activities. The government's official support of the Russian Orthodox Church and sponsorship of the Muslim Board are ultimately strategies of control. Other religious groups are delegitimised and represented in the media as dangerous and harmful to the family and to society.

Administrative Code

Article 374-1 of the Administrative Code was introduced in 2005 as part of harsh new 'national security' amendments to various laws - including the Law on Religion - which severely increased the controls of religion. The anti-extremist measures empower the Committee for National Security (KNB) to determine which organisations are to be considered 'terrorist' and grants the KNB broad powers to suppress them. Predictably, the 2005 law has also been applied to religious entities.

Amendments were also made to **Article 375** of the Administrative Code, which punishes 'violations of the religion law,' including actions by leaders who reject state registration, by communities whose activity 'contradicts their aims and tasks' or which is not listed in their state-approved statutes, and by individuals who conduct 'missionary activity' without a special license from the state.

Article 375 punishes leaders of religious organisations that break any law with fines of up to 30 times the minimum monthly wage, while the organisations themselves can be fined up to 200 times the minimum monthly wage and banned for up to six months. Religious organisations that 'systematically carry out activity in defiance of their statute' or refuse to stop activities that led to their being suspended face fines of up to 300 times the minimum monthly wage and a total ban on their activities.

Criminal Code

Article 174 Part 1: Incitement of social, national, clan, racial or religious hatred or antagonism with imprisonment of two to seven years or restricted freedom for the same period. ¹

¹ <http://www.refworld.org/docid/56cffca04.html>Criminal

Article 174 Part 2: Punishes incitement of social, national, clan, racial or religious discord by repeat offenders with prison terms of between five and ten years.²

Article 337-1, Part 2: Organizing or participating in the activity of a social or religious association or other organization after a court decision banning their activity or their liquidation in connection with extremism or terrorism they have carried out.

Article 405, Part 1: Organizing the activity of a social or religious association or other organization after a court decision banning their activity or their liquidation in connection with extremism or terrorism they have carried out with a fine or up to six years imprisonment.³

Article 405, Part 2: Participating in the activity of a social or religious association or other organisation after a court decision banning their activity or their liquidation in connection with extremism or terrorism they have carried out, resulting in possible fines or up to two years imprisonment.⁴

Religious Panorama

According to the Embassy of Kazakhstan in Brussels,

- In 2012, there was a re-registration process for all religious organizations on the basis of the new Law on Religion (2011): 3088 religious associations out of previously operating 4551 were re-registered.
- The republican Islamic religious association "Spiritual Administration of Muslims of Kazakhstan" and 2228 of its regional mosques were re-registered.
- The Orthodox Church of Kazakhstan is represented by a republican religious association as a Metropolitan District, bringing together nine dioceses and 261 parishes. In addition, one Armenian Apostolic Church and eight Old Believers' Churches are in activity.
- Concerning the Catholic Church, 79 entities are in activity.
- Four Jewish communities and two Buddhist religious associations were re-registered.
- Concerning Protestantism: 478 Protestant religious groups were successfully re-registered, including 11 Methodist Unions, 13 associations of the Evangelical Lutheran Church, 100 Baptist Unions, 42 Seventh-Day Adventists communities, 8 Apostolic Churches, 189 Pentecostal Churches, 55 Presbyterian Churches and the association of Mennonites.
- Other re-registered associations: 59 Jehovah's Witnesses, eight Hare Krishna, six Baha'i and two Mormon communities.
- There are more than 3000 mosques, churches, chapels, synagogues and other places of worship in the country
- There are 47 religious media outlets
- There are almost 500 foreign missionaries in the country
- Key dates of the Islamic and Christian calendars are holidays for all people

State-sponsored International Inter-religious Activities

To promote peaceful inter-religious relations, Kazakhstan organizes a "Congress of Leaders of World and Traditional Religions" every three years which brings together political, religious and civil society leaders from around the world. The Congress cooperates with the "United Nations Alliance of Civilizations".

² <http://www.refworld.org/docid/561e004a4.html>

³ http://www.forum18.org/archive.php?article_id=2139Criminal

⁴ http://www.forum18.org/archive.php?article_id=2139

Within the "Organization of the Islamic Cooperation" (OIC), Kazakhstan has launched an initiative of what is known as "Islamic Rapprochement", to bridge the gap between various nations and directions within Islam.

Kazakhstan was also among the coalition of nations who established 2013-2022 as the "International Decade for the Rapprochement of Cultures."

EU – Kazakhstan Relations & Policy Recommendations

Relations between the EU and Kazakhstan are mainly based on:

- the enhanced Partnership and Cooperation Agreement (PCA) agreed in late 2014 which replaced the previous Partnership and Cooperation Agreement 1999;
- the Central Asia Strategy for a New Partnership adopted in 2007;
- the commitment of one billion euros as part of the EU's Development Cooperation Instrument for the countries of Central Asia for the period from 2014 to 2020.

HRWF Int'l recommends that the EU should put the following issues on the agenda of its relations with Kazakhstan through the tools set out in the EU guidelines on Freedom of Religion or Belief:

Calling on Kazakhstan, as a member state of the UN and the OSCE:

1. to honour its international and regional human rights obligations such as the ICCPR, the ICESCR and the OSCE Guidelines on the Legal Personality of Religious or Belief Communities;
2. to reaffirm Article 14 of the Constitution which guarantees freedom of religion;
3. to revise Article 20 of the 2005 Law on International Treaties which allows for international treaties to 'be amended, suspended or terminated' when they are in conflict with national laws;
4. to repeal the 2011 amendments to the Law on Religion which restrict the exercise of freedom of conscience and religion;
5. to take measures to prevent the misuse of Article 374-1 and 375 of the Administrative Code Article 174 Part 1 and 2, Article 337-1, Part 2, Article 405, Part 1 and 2 of the Criminal Code, which give authorities a broad range of powers on the grounds of national security to crack down on religious groups;
6. to unconditionally release freedom of religion or belief prisoners who have not used or advocated violence.