



## UNIVERSAL PERIODIC REVIEW

### The Republic of Kazakhstan

### *Freedom of Religion and Belief*

#### *Joint submission by:*

#### **Open Doors**

Open Doors is a Christian organization founded in 1955 in order to support persecuted Christians. In over 50 countries, the organization is supporting Christians who suffer for their faith, advocating for peace and respect of religious freedom for all, training church leaders and delivering literacy programs. [www.opendoors.org](http://www.opendoors.org)

#### **The International Institute for Religious Freedom (IIRF).**

The IIRF, with main offices in Bonn, Cape Town and Colombo, is a global network of researchers, professors and university chairs providing reliable researched data on the violation of Article 18 of the Universal Declaration for Human Rights and publishes the accredited International Journal for Religious Freedom. [www.iirf.eu](http://www.iirf.eu)

#### **World Evangelical Alliance (WEA), an NGO with special consultative status since 1997.**

WEA is a network of churches in 129 nations that have each formed an evangelical alliance and over 100 international organizations joining together to give a world-wide identity, voice, and platform to more than 600 million evangelical Christians worldwide. WEA was founded in 1846 in London. [www.worldevangelicals.org](http://www.worldevangelicals.org)

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1. During the UPR of Kazakhstan in February 2010, several recommendations touched on the issue of freedom of religion and belief. The Netherlands requested to extend the rights enjoyed by traditionally established religions to believers of non-traditional religions and to enable them to carry out their peaceful activities free from Government interference.<sup>1</sup> The United Kingdom of Great Britain and Northern Ireland asked Kazakhstan to raise awareness among its law enforcement officials so that individuals may exercise their right to freedom of religion or belief free from harassment or threat of human rights violations.<sup>2</sup> The United States of America requested to reach out to the Special Rapporteur on Freedom of Religion and Belief to arrange a visit at the earliest possible opportunity.<sup>3</sup> All these recommendations enjoyed the support of Kazakhstan. Kazakhstan however refused the Mexican recommendation, asking *“to abolish requirements for the registration of religious groups from the existing Administrative Code, in accordance with the laws adopted in 2005 on the elimination of extremism and the strengthening national security, and to review the provisions of the Law on Freedom of Religion and Religious Associations in order to effectively guarantee freedom of belief and a nondiscriminatory legal system for the registration of religious entities.”*<sup>4</sup>

2. In Kazakhstan, article 22 of the Constitution provides for religious freedom for everyone. However, equal treatment *for all* communities and religious freedom free from government interference as promised by the government during the 2009 review is not in place yet and religious communities, especially those not able or willing to register and frequently labeled by the governments as “sects” or “extremists organisations”, face a number of serious difficulties. Muslim minorities, Evangelical Protestant Christians, Jehovah’s Witnesses, Hare Krishna, Baha’i, etc. are particularly affected.

3. Since the 2010 UPR, respect of religious freedom has deteriorated. Restrictive laws and registration procedures have made it even more complicated to enjoy freedom of religion or belief. Hundreds of communities are unregistered, making it illegal for their members to exercise their freedom of religion. In 2013 alone, according to a list compiled by Forum 18, over 150 individuals are known to have been found guilty under the current Code of Administrative Offences for exercising their right to freedom of religion or belief. The fines were imposed on the basis that these individuals have been leading or meeting for worship without the compulsory state registration; selling or distributing religious literature which has not undergone state censorship and in a place which does not have a state license to sell religious materials; sharing one's faith with others without being personally registered as "missionaries"; and inviting others to attend religious meetings. Most of those fines amount to one or two months' average wages.<sup>5</sup>

4. In an effort to contribute to an amelioration of the situation for all religious communities, this report will highlight some areas where progress is still necessary for Kazakhstan to meet its commitments to respect, protect and fulfill human rights within its jurisdiction.

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<sup>1</sup> A/HRC/14/10, 95.73

<sup>2</sup> A/HRC/14/10, 95.72

<sup>3</sup> A/HRC/14/10, 96.5 and A/HRC/14/10/Add.1

<sup>4</sup> A/HRC/14/10, 96.10 and A/HRC/14/10/Add.1

<sup>5</sup> One month salary equates to about 450 Euros or 600 US Dollars

## **New laws on freedom of religion or belief**

5. On 11 October 2011, Kazakhstan's President Nazarbaev signed "*The Law on Religious Activity and Religious Associations*" (Religion Law) and "*The Law on introducing Amendments and Additions to several legal acts questions of Religious Activity and Religious Associations*" (Amending Law) amending nine other laws and legal provisions. These new laws entered into force on 25 October 2011. The Religion Law imposes a complex registration system, bans unregistered religious activity, imposes compulsory religious censorship and requires both central and local government approval to build or open new places of worship, beyond regulations for normal buildings. All religious communities have been required to re-register or they would face liquidation through the courts.<sup>6</sup>

6. The Amending Law includes a change to article 375 of the Administrative Law, to include many new violations of the law. These include: breaking the Religion Law; violating the provisions for holding religious rites, ceremonies, or meetings for worship; violating the procedure for conducting charitable activity; violating the procedure for importing, publishing or distributing religious literature and materials; building places of worship or changing a building's usage; conducting missionary activity; failing to prevent someone bringing a child to a religious meeting against the wishes of one of its parents; leading a religious organisation at the nomination of a foreign religious organisation without Kazakh state approval; carrying out of missionary activity by Kazakh citizens, foreigners and persons without citizenship without registration (re-registration); and the use by missionaries of religious literature, informational materials of religious content or objects of religious significance without a positive assessment by a state religious studies "expert analysis".

## **Registration system**

7. The religious communities of Kazakhstan face difficulties in exercising their freedom of conscience as a consequence of the imposed compulsory re-registration procedure. From 46 recognized religious confessions, only 17 remained recognized by the Kazakh administration after the re-registration process. In order to get registration, local communities need to be composed of more than 50 adults. Names and personal data of the community members are registered, leaving them vulnerable to discrimination measures such as keeping them away from certain public positions, in particular in the education sector, in the police, the judiciary, the public administration, etc. Those who meet for worship without State permission are raided and fined. These interferences tend to be imposed under the Administrative Code's Articles 374-1, Part 1 ("Leading, participating in, or financing an unregistered, halted, or banned religious community or social organisation"), or 374-1, Part 2 ("Participation in the activity of an unregistered, halted, or banned religious community or

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<sup>6</sup> On the issue of registration, the UN Special Rapporteur on Freedom of Religion made a number of very relevant recommendations in his report A/HRC/19/60. Those recommendations are also relevant for Kazakhstan. In its report, the Special Rapporteur mentioned that unfortunately he "*has received numerous complaints that registration procedures have been used as a means to limit the right to freedom of religion or belief of members of certain religious or belief communities. In some States, certain communities are de facto or even de jure excluded from the possibility of obtaining the status of a legal person or suffer from discriminatory treatment in this regard. Once again, such discriminatory practices disproportionately affect small or non-traditional groups. Often the threshold defined for obtaining legal personality status – for example the provision of a minimum number of followers – does not appropriately take into account the needs of smaller communities.*"

social organisation"). Not only the ordinary police, but also Internal Policy Departments of local Akimats (administrations), Prosecutor's Offices, the National Security Committee (KNB) secret police and police Departments for the Fight against Extremism, Separatism and Terrorism take part in raids and pressure on unregistered religious communities.

8. The re-registration is posing serious problems to the Evangelical Protestant communities. There were 1298 protestant churches and organizations registered before the re-registration process. Only 435 have been able or willing to re-register. Some congregations merged in order to meet the requirements. Many organizations just lacked the resources, to hire a lawyer and complete the complex process successfully. And some other simply chose not to register, as a way to refuse State control. Registration is also required for religious schools. Protestants report it is extremely difficult, if not impossible, to receive the necessary authorization to be able to start a school of theology to train pastors.

9. Sunni and Shia Muslims from Kazakhstan's ethnic minorities (Chechen, Tatar, Tajik, etc.) saw their registration process denied from the State and the state-backed Muslim Board in opening mosques for people of the same minority ethnicity. All Ahmadi Muslim communities nationwide have been forcibly closed, and their meetings for worship banned. For those communities who have been able to register Islamic houses of prayer, they are subject to state or Muslim Board limitations on religious activity – such as being banned from conducting Friday prayers and requesting sermons to be held in Kazakh. They are also required to hand over one third of their income to the Board. The 19<sup>th</sup> century Din-Muhammad Tatar-Bashkir Mosque in Petropavl, used by an independent Hanafi Sunni community is considered as the last remaining publicly-accessible mosque independent of the state-backed Muslim Board. However, in September 2013, a court has ordered the dissolution of this community in order for the mosque to be used by another community. Kazakhstan is pressuring independent Muslim communities to join the state-favoured Muslim Board. De facto, only Hanafi Sunni Muslim communities belonging to the state-backed Muslim Board enjoy full freedom of religion.

10. Council of Churches Christian Baptists communities belong to those communities which have adopted a policy of civil disobedience and consistently refuse to register. Just during the summer 2013, police raids led to 18 Baptists being fined for meeting for worship without state permission: 15 were fined the equivalent of one month's average salary (about 450 Euros or 600 US Dollars) for taking part in such banned meetings; and three were fined the equivalent of two months' average salary for leading such banned meetings. Because they also refuse to pay their fines, several Council of Churches Baptists have faced prison sentences (two to ten days) as a matter of consequence. Only during the month of January 2014, 4 cases of jailings have been reported.

11. Other evangelical communities are also regularly affected. In another recent case, seven mostly elderly New Life Pentecostal church members were fined in East Kazakhstan Region for holding an Easter Sunday service (13 March 2013) in a private home. Nine persons were present in total. Officers initially accused them of storing drugs. One church member – who is 66 – was fined the equivalent of six months of his pension.

## **Freedom of movement**

12. Religious people who refuse to pay fines imposed for exercising their freedom of religion or belief are banned from leaving Kazakhstan, which can be considered as "double punishment". The travel ban is not governed by any law: officials simply take the decision without any legal basis and individuals do not have the proper opportunity to challenge this in court. Several Baptists banned from travelling said that they were not told of the court hearings where the travel bans were confirmed.

13. Another more recent development has been the misuse, in at least two cases,<sup>7</sup> of the placement of people in a psychiatric hospital for forced examinations.

## **Freedom of expression and freedom to share one's beliefs**

14. Kazakhstan's government agency controlling religion – the Agency of Religious Affairs (ARA) – has stepped up pressure on religious communities to instruct their members not to speak about their faith with others in public. Anyone encountering individuals talking about their faith on the street should contact the police or the local Department of the ARA immediately. Persons exercising their freedom of expression and their right to share their beliefs face fines and even prison sentences.

15. 13 Jehovah's Witnesses were fined for illegal "missionary activity" between May and July 2013 under Administrative Code Article 375, Part 3. Each of them was fined the equivalent of two month of average salary. Zarina Burova is one of them: she was fined in June 2013 for illegal "missionary activity" after inviting friends by text message to attend a religious meeting. Another of these cases involved four Jehovah's Witnesses who were similarly fined after two or three attendees at a meeting raided by police were guests. Similar cases have also hit other religious communities over the last years. In one case, two Muslim brothers Rafael and Kamil Bayshev - both in their twenties - were punished after inviting two passers-by outside the Central Mosque in Oral (Uralsk) in West Kazakhstan Region to attend night prayers on 13 June 2012. On 12 September 2012, they were found guilty of conducting missionary activity under Administrative Code Article 375, Part 3 and fined with the equivalent of two month of average salary.

16. Tatyana Degterenko in Akmola Region's Astrakhan District was on 11 July 2013 fined the equivalent of one month's average salary, under Article 375 for her 9-year old son's "illegal religious activity" in his school. She appealed but on 30 July 2013 a higher court upheld the fine. The 9-year old son had taken the initiative of offering two Christian CDs to his teachers. The boy was questioned by police in the absence of his parents, and without them being informed.

17. Not only religious persons, but also atheists can face difficulties. This has been the case for writer and anti-corruption campaigner Aleksandr Kharlamov, who has been in detention from 14 March to 4 September 2013. He was arrested for "inciting religious hatred". He has written articles criticizing religion. The 62-year-old has spent nearly 6

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<sup>7</sup> See §17 and §20.

months in prison and psychiatric detention, mostly in cellars, and has lost 20 kilograms in weight. The judicial case against him continues.

## **Censorship of religious literature**

18. Freedom of expression is also limited through censorship of religious material, books or objects. Publications and importation of religious literature is submitted to ARA's approval. Religious literature can be confiscated or destroyed, because it has not been approved or because it has been labeled as "extremist". Local authorities and law enforcement agencies have been enforcing the censorship exercised by the ARA – including through raids on religious communities. Strong limitations on the numbers of bookshops allowed to sell any kind of religious material are also applied. And those bookshops who have the permission to sell religious books such as Korans and Bibles often choose not to do so in order to avoid trouble from the authorities. Those affected by punishment tend to be from religious communities the government does discriminate against, such as Baptists, Muslim minorities, etc. Kazakhstan also continues to ban all non-Hanafi Sunni Muslim literature. Shia literature for example cannot be found for sale.

## **Incitement to religious hatred**

19. The textbook *"Introduction to Religious Studies"* was introduced into schools in January 2010, and is currently the only textbook available to teach a Religious Studies course introduced for the 9<sup>th</sup> class (for children aged about 14) by the Education and Science Ministry in September 2009 at Russian-language schools. The textbook echoes officials' rhetoric against certain minority groups. The book is hostile to "non-traditional" religious communities, which they try to equate with "terrorist", "destructive", "extremist" movements, and abusive proselytism.

## **Other cases of harassment**

20. In some instances, harassment of religious communities is based on other laws than the religious provisions. Communities and their leaders have faced false accusations such as participating in drug trafficking or harming someone's health. In a recent case, the Grace Protestant Church's 67-year-old Presbyterian Pastor Bakhytzhan Kashkumbayev was arrested on 17 May 2013 on false accusations of "harming health" of a church member (Criminal Code article 103). The "victim" however repeatedly insisted that the Pastor was innocent and that her health had not been damaged at all. During his detention, Kashkumbayev was put in a psychiatric hospital in the commercial capital Almaty, where he has been undergoing forcible psychiatric examination. In October 2013, a second case was opened against him on charges of extremism, based on religious literature found in his possession and considered as "extremist". He eventually left prison after having been condemned to a four-year suspended sentence on 17 February 2014. The judgement also says he has to pay 2 Million Tenge (about 8'000 euros) to the alleged victim for "moral damages." The condemnation was pronounced under Criminal Code article 103. The pastor has appealed against this verdict. This affair is part of a long-running campaign of state hostility towards Grace Church.

## Recommendations

21. Take the necessary measures to ensure that all religious communities are able to exercise their freedom of religion or belief with or without official state registration.
22. Review *The Law on Religious Activity and Religious Associations (Religion Law)* and *The Law on introducing Amendments and Additions to several legal acts questions of Religious Activity and Religious Associations (Amending Law)*, lift the ban of unregistered religious activity, the compulsory religious censorship and remove obstacles for the building and opening of new places of worship, in conformity with religious freedom standards.
23. Create a space for dialogue where State officials and representatives of religious communities, including minority groups, can meet and discuss ways to implement religious freedom for all in Kazakhstan.<sup>8</sup>
24. Intensify efforts towards further democratization in all governing structures, including at the local level, with effective political participation of minorities. Such participation is critical for minorities to voice their concerns and to achieve meaningful solutions to their issues.<sup>9</sup>
25. Lift the travel ban of religious people who are refusing to pay fines imposed for exercising their freedom of religion.
26. Protect freedom of expression for all, including the right to share one's beliefs, in accordance with human rights standards. Protect the right to change one's religion or belief, which is the cornerstone of freedom of conscience.
27. Protect the right to import, publish and distribute religious literature and informational materials of religious content.
28. Stop the distribution and use of discriminatory, defaming and offensive Russian-language textbooks which discriminate against so called "non-traditional" religious communities.
29. Take concrete steps to raise awareness among its law enforcement officials so that individuals may exercise their right to freedom of conscience free from harassment or threat.<sup>10</sup>
30. Invite the Special Rapporteur on Freedom of Religion and Belief to arrange a visit at the earliest possible opportunity.<sup>11</sup>

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<sup>8</sup> See also a recommendation from the Independent expert on minority issues, following his 2009 Mission to Kazakhstan, A/HRC/13/23/Add.1 §90.

<sup>9</sup> Ibidem, §74

<sup>10</sup> See recommendations from the United Kingdom of Great Britain and Northern Ireland during the UPR 2010: A/HRC/14/10, 95.72.

<sup>11</sup> See recommendations from the United States of America during the UPR 2010: A/HRC/14/10, 96.5 and A/HRC/14/10/Add.1.