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KAZAKHSTAN: "A new wave of persecution has begun once more"

By Felix Corley, Forum 18 News Service <<http://www.forum18.org>>

Unless Viktor Gutyar succeeds in his appeal, he expects the administrative fine of nearly ten months' minimum wage for leading an unregistered religious community to be docked from his wages as a coalminer. He was not even present when his church in Satpaev in central Kazakhstan was raided on Sunday morning, 11 September. His was one of five Baptist congregations raided in Karaganda Region in September, including a Harvest Festival in Zhezkazgan attended by 150 people raided by police and riot police on Sunday 25 September. "A new wave of persecution," is how one Baptist described it. "They refuse to register in accordance with our Religion Law, so it's their problem," Mereke Myrzabekova of Zhezkazgan's Internal Policy Department told Forum 18. She admitted they would not have been raided had they been watching football or drinking vodka together "because that's not religion". Shymkent's Ahmadi Muslim community has lost its latest appeal against a ban on using their mosque. "All we want is for our mosque to be allowed to reopen," one Ahmadi told Forum 18. And two Jehovah's Witnesses in Kyzylorda failed to overturn punishments - a seven-day jail term and a fine - for holding a religious meeting in a private home.

Communities of at least three different religious affiliations in Kazakhstan have been punished for holding religious meetings in private homes, Forum 18 News Service notes. Five congregations of the Baptist Council of Churches were raided in Karaganda [Qaraghandy] Region in September, including a police and riot police raid on a Harvest Festival service in Zhezkazgan on Sunday 25 September. One church leader was fined nearly ten months' official minimum wage and further administrative cases are expected. "A new wave of persecution has begun once more," one Baptist told Forum 18 on 26 September, adding that a fellow Baptist had seen a government instruction ordering a regional crackdown.

Two Jehovah's Witnesses from the southern town of Kyzylorda [Kyzylorda] - one of whom was jailed for seven days and another fined after a May raid on a religious meeting - have failed to overturn their punishments on appeal. The home owner was warned her home would be confiscated if she continued to hold religious meetings there. And Shymkent's Ahmadi Muslim community has failed to overturn the court-imposed ban on continuing to use their mosque.

In the past, Kazakhstan's authorities have often used property cases as a means of targeting religious communities (see eg. F18News 20 August 2008 <http://www.forum18.org/Archive.php?article_id=1174>).

The punishments for religious activity came as Kazakhstan prepares to adopt two draconian new Laws which violate the country's international human rights obligations. The two new Laws were approved at "unprecedented" speed in Parliament's Lower House, the Majilis, on 21 September and immediately transferred to the Upper House, the Senate (see F18News 23 September 2011 <http://www.forum18.org/Archive.php?article_id=1617>).

The Senate website confirmed on 26 September that the two new Laws will be considered at the plenary session on 29 September, where observers expect them to be adopted in one session. They were considered by the Senate Working Group on 26 September and by the Senate's Social and Cultural Development Committee, which is overseeing their passage through the upper house, this morning (27 September).

Once adopted by the Senate, they would need to be signed by President Nursultan Nazarbaev to become law. He indicated his firm backing for these Laws in his address to the opening session of Parliament on 1 September, insisting they are needed "to bring order to our house" (see F18News 2 September 2011 <http://www.forum18.org/Archive.php?article_id=1608>).

Ironically, the Laws' passage through the Senate coincides with the Organisation for Security and Co-operation in Europe (OSCE) human dimension conference in Warsaw, with religious freedom discussed today (27 September).

Kazakhstan's Ambassador-at-Large Madina Jarbussynova defended the controversial new Laws in remarks prepared for the conference's 26 September opening and posted on the OSCE website. "It should be emphasized that the draft law under discussion is in no way intended to limit the right to freedom of belief, which is one of the fundamental rights guaranteed by our Constitution," she claimed.

Also defending the new restrictive Laws today (27 September) at the OSCE human dimension conference in Warsaw was Ardak Doszhan, a deputy head of the government's Agency of Religious Affairs. He argued that the new Laws are "necessary".

Amid other current official moves against religious communities, Pastor Yerzhan Ushanov of the New Life Protestant Church in Taraz is challenging a heavy fine imposed on 5 September for allegedly harming the health of a man who he prayed for, charges he denies. And a military-related government agency has refused to explain what "non-traditional religions" are after demanding information from religious communities (see forthcoming F18News article).

Massive fine

A Baptist who was not even present when police raided a worship service in a private home has appealed against a massive fine handed down in mid-September. Viktor Gutyar, a resident of the town of Satpaev in the central Karaganda Region, told Forum 18 on 26 September that being fined for leading an unregistered religious community violates his rights to religious freedom set out in the Universal Declaration of Human Rights and Kazakhstan's Constitution.

Trouble began for Gutyar on 11 September, when police arrived at the private home the Satpaev congregation of the Baptist Council of Churches uses for worship. Police Captain Bolat Bazhibaev, the local police officer and two unidentified people arrived just before the Sunday service was due to begin. They demanded that the 60 or so church members present write statements and took photographs without the permission of church members.

On the basis of the raid, an administrative case was brought against Gutyar - who had not been present - under Article 374-1, Part 1 of the Code of Administrative Offences ("leading, participating in or financing an unregistered, halted or banned religious community or social organisation"). On the morning of 12 September, the local police officer summoned him to Satpaev Court that afternoon. However, when he and about ten church members arrived at the court, only Gutyar was allowed in, he complained to Forum 18. Officials told the others that the trial was "closed".

After a 20-minute hearing, Gutyar was found guilty and fined the maximum 100 financial units (nearly ten months' official minimum wage), 151,200 Tenge (5,900 Norwegian Kroner, 757 Euros or 1,023 US Dollars). He appealed against the fine to Karaganda Regional Court and is waiting for a hearing date.

The police officer who answered Captain Bazhibaev's phone on 28 September said he was on leave. The officer said he knew nothing about the raid and put the phone down.

Gutyar told Forum 18 that this is the third time he has been tried for his faith. He was given an official warning for his religious activity in April 2008. Then in December 2008, he was fined 20 financial units under Article 375 of the Code of Administrative Offences. The court ordered the money to be deducted at source from his wages. "I work in the coalmines, so they could take it from me," he told Forum 18. "Other church members who don't have a job have their furniture or other property seized."

Riot police

Gutyar was also present during a mass police raid on the Baptist congregation in the nearby town of Zhezkazgan during its Harvest Festival service on Sunday 25 September. "At least during the Satpaev raid the police were fairly polite. Here they were not," he told Forum 18. He said about eight police officers arrived first, demanding that they stop the service and filming those present. Accompanying them were several people church members believe were from the National Security Committee KNB secret police. When the approximately 150 church members refused to stop the service and continued singing hymns, a unit of about 10 riot police were called.

Despite police insistence, church members refused to write statements. "We refused because if we did so we would be tried," Gutyar told Forum 18. Despite this, police summoned one of the church's leaders on 26 September, telling him that cases against the church's leaders would be brought.

The duty officer at Zhezkazgan police told Forum 18 on 27 September he knew nothing about the raid. He referred Forum 18 to the police's press officer, Nurgul Dakulova. Asked the same day why police raided a religious meeting, she responded: "What do you mean, why? Who are you?" She then put the phone down. Subsequent calls went unanswered.

Mereke Myrzabekova, head of the Internal Policy Department at the Zhezkazgan Administration, defended the raid. "They refuse to register in accordance with our Religion Law, so it's their problem," she told Forum 18 on 27 September. "They must obey our laws. There were children there, and adults." Asked whether they would have been raided had they been watching football or drinking vodka together, she responded: "No, because that's not religion." Although she insisted the Baptists were not doing anything bad, she said the courts would decide what punishment is appropriate.

Regional crackdown ordered?

Also raided in Karaganda Region in September were three other Council of Churches Baptist congregations: in Temirtau on Sunday 18 September, and in the following week in the villages of Shakhtinsk and Kievka. "Documents were prepared against individuals to be sent to court, so we expect further cases," one Baptist told Forum 18 on 26 September.

The Baptist told Forum 18 that one church leader was shown a document - though not allowed to read it thoroughly or have a copy - ordering officials to collect material on all Council of Church leaders in the region, who were listed by name, with the intention of fining them. The order - which appeared to apply in Karaganda Region only - instructed that court verdicts should be sent in. "It was after this order that the recent raids started, beginning in Satpaev," the Baptist told Forum 18.

Another Baptist leader, Yuri Rudenko, was given an official warning by Taldykurgan [Taldyqorgha] Court in Almaty Region in late August under Article 375, he told Forum 18 on 26 September.

Seven day detention and fine

Two Jehovah's Witnesses appealed to the Kyzylorda Regional Prosecutor's Office - Almas Zhakupov on 23 September and Tamara Magomedova on 20 July - after both were separately punished in the wake of a 27 May evening raid on a religious meeting in Magomedova's Kyzylorda home. Zhakupov was sentenced to seven days' imprisonment, while Magomedova was fined and ordered not to hold religious meetings in her home, Jehovah's Witnesses told Forum 18.

Police and land inspectors claim that their May raid was to inspect Magomedova's "usage of the land". The officials wanted to inspect her house and film it. They alleged that her home was not being used for its intended purpose, arguing that religious worship cannot be conducted in private homes. They warned that doing so would result in the land (with the building on it) being legally transferred to the city administration.

Zhakupov, the head of the registered Kyzylorda Jehovah's Witness community who was present, called a lawyer and gave Magomedova advice about her rights. This angered the inspectors and police officers so they initiated an administrative case against him under Article 355, Part 2 of the Code of Administrative Offences, which punishes "malicious refusal of the lawful demand" of an official, including a police officer, with a maximum punishment of 15 days' imprisonment.

Zhakupov was detained and subjected to an alcohol/drug medical examination. In a closed hearing on 28 May, without allowing him legal representation, Judge Narmagambet Abdikalykov of Kyzylorda Specialised Administrative Court found him guilty and sentenced him to seven days' imprisonment. Kyzylorda Regional Court upheld the Administrative Court decision on 2 June. He then filed the appeal motion to the Regional Prosecutor's Office.

Magomedova meanwhile was fined on 3 June ten financial units 15,120 Tenge (590 Norwegian Kroner, 76 Euros or 102 US Dollars) for "not using the land for its purpose" under Article 253 of the Code of Administrative Offences. She was issued a one-month warning that unless she uses the land for its intended purpose (meaning that except for living with her family she was not allowed to invite friends for religious meetings), her private land and the house would be taken away. She has lived in the house (which she owns) since 1969, Jehovah's Witnesses told Forum 18.

Rejecting her appeal on 28 June against the fine to Kyzylorda Specialised Administrative Court was the same Judge Abdikalykov. Appealing the warning to the Kyzylorda City Court was equally unsuccessful. An appeal motion was then filed with Kyzylorda Regional Prosecutor about her fine and a civil appeal was filed with Kyzylorda Regional Court.

"She paid the fine when the court decision entered into force and has had to stop inviting her friends to meetings to pray and read the Bible," Jehovah's Witnesses lamented to Forum 18.

Forum 18 was unable to question Judge Abdikalykov, because he died two days after rejecting Magomedova's appeal.

Ahmadi Muslims' appeal fails

The Ahmadi Muslim community in the southern city of Shymkent has failed in its attempt to overturn a ban on using the property it owns for worship. On 26 September the South Kazakhstan Appeal Court rejected their second appeal against an earlier court decision to fine the Community 756 Tenge (28 Norwegian Kroner, 4 Euros or 5 US Dollars) and suspend its right to use its mosque and land.

"Now the earlier decision enters into force," one Ahmadi who asked not to be identified told Forum 18 on 27 September. "So we now have to stop using our mosque for worship. All we want is for our mosque to be allowed to reopen." The Ahmadi added that the community intends to take its case to the Supreme Court as soon as it receives the court decision in writing. The Ahmadi said the community had paid the fine "even though we didn't agree with the decision".

Following a September 2010 visit, the joint Zhambyl-Kyzylorda-South Kazakhstan inter-regional Land Inspection Agency claimed

the Ahmadi community was using its building illegally. In May 2011, South Kazakhstan Regional Economic Court fined the community and suspended its right to use its mosque and land. In July, South Kazakhstan Regional Court rejected the community's first appeal (see F18News 28 July 2011 <http://www.forum18.org/Archive.php?article_id=1599>).

Land Inspector Nariman Kasymbekov - who initiated the case after the September 2010 visit - defended the prosecution of the community to Forum 18 in June, claiming that a dwelling house cannot be used for religious purposes. He refused to explain what part of the Land Code contained this ban (see F18News 7 June 2011 <http://www.forum18.org/Archive.php?article_id=1577>).
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For a personal commentary on how attacking religious freedom damages national security in Kazakhstan, see F18News <http://www.forum18.org/Archive.php?article_id=564>.

For more background, see Forum 18's Kazakhstan religious freedom survey at <http://www.forum18.org/Archive.php?article_id=1352>.

More reports on freedom of thought, conscience and belief in Kazakhstan can be found at <<http://www.forum18.org/Archive.php?query=&religion=all&country=29>>.

A compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments can be found at <http://www.forum18.org/Archive.php?article_id=1351>.

A printer-friendly map of Kazakhstan is available at <<http://education.nationalgeographic.com/education/mapping/outline-map/?map=Kazakhstan>>.

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