

APRIL 2015



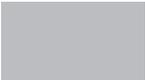
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BISHKEK

STATE REGULATION
OF RELIGION IN
KAZAKHSTAN:
RECONSIDERATION OF
APPROACHES

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KEY POINTS

- During the period of independence there has been gradual toughening of state control on religious freedoms and violations of civil rights in Kazakhstan.
- The restrictive legislation coupled with the state approach of dividing the religious field into “us” and “them” has affected various religious denominations and created a dichotomy discourse in Kazakhstan: some Protestant Christian denominations along with the new religious movements (NRMs) and Islam of other than Hanafi Madhabs¹ have been labeled as “non-traditional” with a strong negative connotation to them.
- Securitization of ‘non-traditional’ Islam and NRMs has become a common practice for the state and its security organs that negatively affects members of religious organizations due to frequent prosecutions and detentions.
- Current religious policies only aggravate the problems of religious radicalism by moving it to the underground instead of open public debate. Compulsory registration of all religious communities does not solve any problem. It also violates such key international documents as the International Covenant on Civil and Political Rights and impairs the freedom of religion.

1 A school of thought within Islam.

INTRODUCTION

Over the course of the last twenty years, Kazakhstan claimed itself as having developed a successful model of inter-religious relations with almost non-existent manifestations of religious extremist tendencies in comparison to other Muslim majority countries or its Central Asian neighbors. However, as recently acknowledged by the head of the National Security Committee (KNB) over 300 Kazakhstani citizens are currently in the ranks of the ISIS.² The most recent news that allegedly Kazakhstani children were being trained in ISIS ranks alarmed the authorities and the public.³ Toughening of religious legislation has not resulted in the eradication of the problem; on the contrary, it has become even more acute on the agenda.

The government's main policy in the sphere of religious relations regulation has become the policy of bans and restrictions. Freedom of faith has been gradually worsening since the adoption of the latest 2011 religious law. Domestic and international human rights activists have criticized the law and the code emphasizing their toughening nature. Accordingly, any proselytizing activity met substantial complications. Especially so, that the number of religious organizations has been reduced and officially all premises had to be obligatorily registered with the state. The visit of the Special UN Rapporteur on freedom of religion or belief to Kazakhstan in 2014 has shown these and other major drawbacks of the existing religious law. However, no changes in terms of reforming the state regulation of religion have been done.

- 2 Paolo Sorbello, "Islam and Central Asia: Threat or Myth?" *The Diplomat*; <<http://thediplomat.com/2015/01/islam-and-central-asia-threat-or-myth/>> (Accessed March 1, 2015).
- 3 Tom Wyke and Darren Boyle, "ISIS release shocking new video of child soldiers from Kazakhstan being trained with AK47s," *The Daily Mail*, November 22, 2014; <<http://www.dailymail.co.uk/news/article-2845531/ISIS-release-shocking-new-video-child-soldiers-Kazakhstan-trained-AK47s.html>> (accessed March 1, 2015).

This paper is an attempt to revise the approaches, the state used for the last two decades to regulate the religious sphere. It will be argued there is no need in excessive control over religious organizations. Instead reforming the present legislation to a more liberal direction, and hence elimination of multiple impediments for organizations to preach, will create a better and more healthy climate to eradicate any extremist developments. The brief consists of three parts:

- I. Overview of the past and existing challenges of state - religion interaction in Kazakhstan;
- II. The impact of the 2011 religious law;
- III. Alternative policy trajectories and recommendations.

UNDERSTANDING THE RELIGION - STATE INTERPLAY

After gaining independence Kazakhstan threw off its shackles of imposed state atheism and the country went through a period of religious blossoming. Liberalization and development of democratic institutions changed the relationship between the state and religion: the approach of total control was rejected, full-fledged reforms of providing freedom of religion were being implemented and finally people could freely profess their religion. The state created all the necessary conditions for the protection of people's rights and implemented them in practice. In 1992 Kazakhstan institutionalized the state - religion relationship adopting the first law "On Freedom of Conscience and Religious Associations".⁴ In fact, the law "[was] the most democratic among similar laws in the post-Soviet republics".⁵

4 Roman Podoprigora. Gosudarstvo i religioznye organizatsii (administrativno-pravovye voprosy), [State and religious organizations (legal and administrative issues)] (Almaty: Arkaim, 2002).

5 Iakov Trofimov, "The State, Society, and Religion in Kazakhstan Today," Central Asia and the Caucasus no. 2, 8 (2001); <http://www.ca-c.org/journal/2001/journal_eng/cac-02/17.trofen.shtml> (Accessed August 8, 2014).

The period from 1990 to 1997 was ideal for state registration of religious associations. During this time most of the existing religious communities went through the optional registration in the judiciary departments. The few denials at the time were mainly related to some minor discrepancies in the documents. But the groups with due insistence could easily overcome such problems and be registered as a legal entity. This was a time of almost absolute independence of religious organizations from the state structures.⁶

However, the times of liberal order vanished after the state's gradual interference with the religious communities and tightening of legislation. There were several attempts to reform the existing law towards more rigid control of all 'untraditional' religions but they all failed until 2005. An important milestone of state interference with religion became in the 2005 amendments to the law raising national security concerns. Some analysts link the amendments with the events in Andijan, Uzbekistan and revolutionary events in Ukraine and Kyrgyzstan.⁷ The head of the Association of Religious Organizations of Kazakhstan (AROK) Alexander Klyushev asserted that those amendments only made national security suffer estranging Kazakhstanis from the state and letting law enforcement agencies "to claim successes".⁸

The period since the beginning of the 2000s is a starting point of Islam securitization in Kazakhstan,⁹ and in a broader sense, religion in general. Mariya Omelicheva exemplifies this discourse with the state's increasing pressure on religious groups by emphasizing a "noticeable change" in the government's approach of the regulation of religion. Islam started to represent a threat to the state's national secu-

6 Supra n. 4.

7 Aleksandr Klyushev, "Commentary: National security suffers if religious freedom attacked," Forum 18; <http://www.forum18.org/archive.php?article_id=564> (Accessed August 20, 2014).

8 Ibid.

9 Mariya Omelicheva, "Islam in Kazakhstan: a Survey of Contemporary Trends and Sources of Securitization," *Central Asian Survey*, no. 2, 30 (2011): 249-252.

rity at the time. This new “policy shift” manifested in more persecutions of independent Muslims and some Protestant denominations, and NRMs.¹⁰

As the new religious movements naturally aimed to proselytize as many adherents as possible, the threatened ‘traditional religions’ sought to restrict the religious freedoms in the country, thereby creating hardships for the newly formed denominations to develop and control their activity. Political leadership, in turn, was never eagerly interested in advancing the religious awareness of Kazakhstanis and state approach towards the regulation of religion reduced to the “use [of] tradition sanctioned by religion” meaning the sanctioned religious communities could “help [to] legitimize the decisions of the power elite”,¹¹ but not engage in politics directly and, certainly, any autonomy in these conditions was excluded. Even the ‘traditional’ faiths were/are harshly regulated by the state. The chief mufti Absattar Derbisali made a statement himself that “the state structures had to interfere in the removal of the [previous] chief mufti”¹² and he was consequently given this post instead of Ratbek Nisanbayev. This fact shows the high degree of control of the state structures of the religious sphere in Kazakhstan.

10 Igor Rotar, “Kazakhstan: Religious minorities face increasing state pressure,” Forum18; <http://www.forum18.org/archive.php?article_id=612> (Accessed February 18, 2015).

11 Alicja Curanovic, “The Post-Soviet Religious Model: Reflections on Relations between the State and Religious Institutions in the CIS Area,” *Religion, State & Society* vol. 41, no. 3 (2013): 331-3.

12 Kadyrzhan Smagulov, “The Religious Situation Today in Kazakhstan,” *Central Asia and the Caucasus* vol. 12, no. 3 (2011): 50.

SEARCHING FOR UNDESIRABLES: THE CREATION OF OUTSIDE ADVERSARIES FROM “NON-TRADITIONAL” RELIGIONS

A significant leitmotif of state - religion interaction has been the series of insolent and abusive media campaigns against “non-traditional” denominations. Mukhtar Shakhanov, ex-deputy of the Majilis and head of the national-patriotic movement of Kazakhstan accused New Life Church and Jehovah’s Witnesses of being “sects” and stigmatized them in “poisoning the minds of citizens”.¹³ Another case was when a national newspaper Liter published an article called “Struggle against religious extremism must be carried out on all fronts” that stated the Baptist faith is to be associated with terrorism.¹⁴ However, not only have Protestant Christian communities suffered from media attacks, distorted coverage has reached to Ahmadi Muslims and the Hare Krishna community as well.¹⁵

In addition to the hard-line policy of the state towards religious minorities, it must be noted that not the last role was played by the Assistance Centres to victims of destructive religious movements and KNB structures. The former are state-funded organizations designed to help people who have been affected by the activity of destructive religious cults. But besides that, they publish various booklets urging Ka-

13 “Zakonodatel’stvo o religii neobkhodimo peresmotret’ – Deputat M. Shakhanov,” [Legislation on religion should be revised - Deputy M. Shakhonov] Zakon.kz; < <http://www.zakon.kz/65554-zakonodatelstvo-o-religii-neobkhodimo.html>> (Accessed 26 July 2014).

14 Felix Corley and Mushfig Bayram, “Kazakhstan: Media Intolerance Has One Source: The KNB Secret Police,” Forum 18; <http://www.forum18.org/archive.php?article_id=1250> (accessed August 2, 2014).

15 Ibid.

zakhstanis to keep away from ‘dangerous pseudo-religious associations’. But along with the destructive organizations these centres also include legally-existing religious communities as “Grace” Mission, New Life Church, and Evangelical Christian Baptists in their “sectarian lists”¹⁶. Meanwhile, Baptists are present in the Central Asian region for more than a hundred years and it is not clear to what autochthonism these Centres appeal when claiming these religions as ‘non-traditional cults’. Anti-cult movements (ACM) in the CIS, formed under the influence of Western ACMs and Russian ‘anticultism’, oppose[d] the principle of equality of all religious organizations before the law and each undesirable one (especially NRMs) was ranked as “totalitarian sects”¹⁷.

Official hostility towards NRMs was not limited to the aforementioned examples. The “State Programme of Patriotic Education of Citizens of Kazakhstan for 2006-2008” had a section on how to fight against the increasing interest in “non-traditional” religions. “Topical for the state at present without a doubt are questions of the organization of the struggle with the activation of non-traditional religious associations and extremist organizations in Kazakhstan directed above all at attracting the youth into their ranks,”¹⁸ the State Programme claimed. It accused foreign propaganda of spreading extremism in the past decade.

The education system is also aimed at creating a negative image of “non-traditional religions” among the younger

16 Aleksandr Klyushev, “Diskriminatsiya, kak sledstvie nereshennykh problem po razzhiganiyu neterpimosti i diskreditsii v otnoshenii khristian i predstaviteley drugih konfessiy v Kazahstane,” [Discrimination as a consequence of unresolved issues fomenting intolerance and defamation against Christians and members of other religions in Kazakhstan] (speech, October 5, 2009); <<http://www.osce.org/ru/odihr/39333?download=true>> (Accessed August 22, 2014).

17 Artur I. Artemyev, *Svideteli legovy Kazakhstana i Srednei Azii: istoriko-religiovedcheskiy analiz [Jehovah’s Witnesses of Kazakhstan and Central Asia: Historical and religious studies analysis]*. Almaty, 2010: 330.

18 Norwegian Helsinki Committee, *Broken Promises: Freedom of Religion or Belief Issues in Kazakhstan and Kyrgyzstan* (Oslo, 2010), 3; <http://www.nhc.no/filestore/Publikasjoner/Rapporter/2010/Report_1_2010.pdf> (Accessed February 22, 2014).

generation. A textbook by Senator Garifolla Esim was approved by the Ministry of Education in 2010. The book contains such expressions as “non-traditional religions”, “non-traditional religious cults”, “destructive cults”, “extremist and terrorist organizations”, and “contemporary religious movements” which are not defined and imply to have the same meaning.¹⁹ Chapter V of the textbook contains sections on “How to avoid ending up in destructive cults” and about “Common characteristics of destructive cults”, where the authors among others describe Jehovah’s Witnesses and Hare Krishna followers. These descriptions are followed by the final part of the chapter on “Extremist and terrorist organizations”. Such “undesirable neighborhood”, of course, will affect the negative perception of those religious groups among students.²⁰ In the long term it will only create more tension and will definitely not contribute to preserving religious peace in the country.

2011 RELIGIOUS LAW VS. RELIGIOUS FREEDOM?

The new and latest religious law was adopted in 2011. After signing the law positions of state-sanctioned ‘traditional’ religions (Hanafi Islam and Russian Orthodoxy) strengthened, while ‘non-traditional’ denominations suffered. The state was creating a dichotomy discourse primarily dividing the country’s religious field onto “official” religions of Hanafi Madhab and Russian Orthodoxy, and “unofficial” others, including representatives of other madhabs and Christian Protestant groups and NRMs, which were marked as “non-traditional” imparting them less legitimacy and negative connotations.

Harmful effects of the new legislation were primarily about

¹⁹ Ibid.

²⁰ Ibid.

the reinforcement of mandatory state registration of all religious organizations that was initially introduced in 2005. Hence, those who denied this provision were subjected to closure and detentions and claimed outlawed. Furthermore, the Committee on Religious Affairs (former Agency for Religious Affairs, created in 2011) introduced obligatory examination/expertise of all religious literature. Researchers estimate that the expertise has serious shortcomings and violates the rights of believers and is opaque and closed process.²¹ Besides, any public preaching activity (distribution of leaflets or books/journals about religion) became illegal. The sale of religious literature is now limited to special shops only. Also, the threshold of the minimum number of persons sufficient to register a religious association has been increased up to 50 at the local level, 500 – at the regional, and 5000 – at the national. Wherein, in order to get a nationwide registration, it is necessary to have regional registered premises in every oblast. Hardly could every religious association meet such tough requirements. Considerable number of organizations had to either regroup with others or simply stay unregistered and become unlawful marginalized groups.

Immediate reaction to the oppressive legislation was suicide bombing in the West Kazakhstan provinces in 2011 and 2012. These attacks were performed by the ethnic Kazakhs reportedly linked to the IMU. The attacks targeted security forces of West Kazakhstan and later were officially acknowledged in the online statement by the Jund al-Khalifat as a response to the “harsh new religious law of 2011 which compelled all religious organizations to re-register with the government and imposed new restrictions”.²² Besides that, many human rights organizations have sharply criticized the law.

21 Daniyar Kussainov, “Religioznaya ekspertiza v Kazakhstane: Dzhihad protiv ‘nepravil’noi’ literatury?” [Religious expertise in Kazakhstan: Jihad against the ‘wrong’ literature?] ZAKON.KZ; <<http://pravo.zakon.kz/4677435-religiovedcheskaja-jekspertiza-v.html>> (accessed February 20, 2015).

22 G. M. Yemelianova, “Islam, National Identity and Politics in Contemporary Kazakhstan,” *Asian Ethnicity* vol. 15, no. 3 (2014): 291.

Roman Podoprigora had indicated among the crucial troublesome areas of the new legislation that the state does not make any difference between the socially destructive movements that violate the law, and the different religious communities that might become rivals to the dominant religions. He also noted a direct influence of the Soviet legacy in issuing registrations, when the question of “expediency [or] usefulness of the [religious] organization”²³ emerges. State organs often refuse registration under their own understanding of the organization’s structure and the way it should function.

During his official visit in Kazakhstan in 2014 the UN Special Rapporteur Heiner Bielefeldt noted that members of “non-traditional” groups are treated unequally and are exposed to “societal skepticism, suspicion and discrimination” and the “state goes quite far in monitoring religious organizations, in particular non-traditional communities... traditional religious communities can by and large function without problems, non-traditional and small communities bear a considerably higher risk of being sanctioned when stepping outside of their defined boundaries”.²⁴ He called for the abolition of compulsory registration pointing out a number of other significant shortcomings of the existing legislation such as already mentioned “problematic language” vis-a-vis “non-traditional” religious movements, vague formulation of “religious hatred/religious extremism” and, generally, deterioration of religious freedom in Kazakhstan.²⁵

23 Roman Podoprigora, “Religious Freedom and Human Rights in Kazakhstan,” *Religion, State & Society* vol. 31, no. 2 (2003): 127.

24 Office of the High Commissioner for Human Rights, “Statement by Heiner Bielefeldt; Special Rapporteur on Freedom of Religion or Belief - End of Visit to the Republic of Kazakhstan,” United Nations Office of the High Commissioner for Human Rights; <<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14468&LangID=E>> (Accessed June 7, 2014).

25 *Ibid.*

CONCLUSIONS /RECOMMENDATIONS

- One of the main concerns of the international and domestic human rights organizations is mandatory registration. The first priority appears to be returning to the practice of optional registration, when the state registration was not required for a religious premise to legally exist. Also, the registration process should be as fast as possible, be transparent, fair and with minimum bureaucratic complications.
- When covering various events associated with religion, media should refrain from offending religious feelings of believers and religious associations' reputation, regardless of their religious affiliation. Particular attention should be paid to ban the promotion of religious exclusiveness, the superiority of one religion over the other. Private opinions of journalists, who are not professionally trained in religious studies, should express their views cautiously and with due preparation, and be factual. Media executives and journalists should consider the equality of religious associations, and therefore provide them with equal opportunities for expressing their views.
- As practice shows tightening of legislation and as a consequence decrease of religious freedoms does not contribute to the eradication of religious radicalism. An oppressive measure of persecution of radical groups only drives them deeper into hiding and does not solve the problem. All media outlets covering the problem are immediately subjected to closure or withdrawal of content on the topic. Instead of such forcible position, the state should initiate and encourage a transparent public debate taking into account the views of all strata of the society.

- The state should abandon the approach of securitization of Islam and religion in general. The problem of radical organizations is largely exaggerated in Central Asia (CA). As suggested by Heathershaw and Montgomery, "in Central Asia [such] kinds of organizations lack both the scale and significance of comparable violent extremist organizations, websites and transnational networks found in other regions."²⁶ Moreover, usually 'non-traditional' religious organizations suffer from the "militantly secularist policies"²⁷ of the state, which overestimates the threats to national security and uses such policy as a pretense to suppress all the objectionable.
- Despite the massive securitization of Islam, one still should not dismiss the danger the Islamic State can pose to the national security of the Central Asian region. The IS returnees can start disseminating their radical views and recruit people to their ranks. According to Andrei Kazantsev, Director of the Institute of International Studies of MGIMO, during 2015-16 terrorist activity can increase in the south of the post-Soviet space. The most fragile in this sense appears to be Kyrgyzstan, where after two revolutions there were numerous political crises and government agencies are quite weak²⁸. Kazakhstan should closely observe the situation and make every effort to help stabilize it. The state should also be interested in tighter cooperation with security and intelligence services of all CA states.

26 John Heathershaw, David W. Montgomery, "The 'Muslim Radicalisation of Central Asia' is a Dangerous Myth," Open Democracy; <<https://www.opendemocracy.net/od-russia/john-heathershaw-david-w-montgomery/%E2%80%98muslim-radicalisation-of-central-asia%E2%80%99-is-dangerous-1>> (Accessed February 23, 2015)

27 Ibid.

28 Anton Morozov, "IGIL v Tsentral'noi Azii: ocherednaya strashilka ili real'naya ugroza?" [ISIS in Central Asia: Another Horror Story or a Real Threat?] Vlast.kz; <http://vlast.kz/article/igil_v_centralnoj_azii_ocherednaja_strashilka_ili_realnaja_ugroza-10178.html> (accessed March 18, 2015).

- At the same time, there are no developed mechanisms for rehabilitation of those who return from the IS in Kazakhstan.²⁹ Policies of combatting radicalism lead only to clash between believers and the state: estrangement of the former from the “inadequate secular state education, poor religious schooling and overall rejection... of other than sanctioned [religions]”³⁰ results in aggravation of radicalism. The Committee for Religious Affairs should adopt positive experience of European countries in rehabilitating those former IS supporters who got disenchanted in Syria and are willing to change.³¹ The state should also abandon the harsh restrictive policies in the regulation of religion as they prove ineffective when dealing with the problem of radicalism. State organs can also consider at least a partial deregulation as a possible solution to this problem.

29 International Crisis Group, “Syria Calling: Radicalisation in Central Asia,” Europe and Central Asia Briefing n° 72; <<http://www.crisisgroup.org/~media/Files/asia/central-asia/b072-syria-calling-radicalisation-in-central-asia.pdf>> (Accessed March 17, 2015).

30 Ibid.

31 Ibid.

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