

Kazakhstan: National Report for the IACL Congress

I. SOCIAL CONTEXT

Despite the fact that Kazakhstan is considered a country of the Muslim world, its religious composition is rather complicated. There is no statistical database to help understand the real situation regarding the religious affiliation of Kazakhstani citizens.

When estimates of the numbers of believers are made, very often the national affiliation of citizens is taken to indicate their religion. Thus all Kazakhs, Tatars, Uzbeks, Uighurs, and other Asian nationalities who make up the majority of the population of Kazakhstan are often automatically considered to be Muslims. The same is true with the Slavic population: all Russians, Ukrainians, and Belarusians are often automatically considered to be members of the Russian Orthodox Church. However, most of these people do not in fact regard themselves as orthodox Muslims or members of the Russian Orthodox Church; they may take part in various religious ceremonies, but they do not go to the mosque or church regularly.¹ The general level of religiosity in Kazakhstan is rather low, to a large extent because of secularization in the Soviet period.

As for religious organizations, it is important to mention that during the Soviet period, Kazakhstan was remarkable for the great number of Protestant organizations and their influence.² Today, despite the fact that it is still hard to speak of the dominant role of any religion, two religious organizations are now in fact coming to the fore: Islam and the Russian Orthodox Church. Yet Protestant organizations are still powerful: although their membership and influence have diminished because of emigration, primarily of ethnic Germans,³ a large number of Protestant missionaries, mainly from the United States and South Korea, have been active in Kazakhstan since the fall of communism.

According to data from 2008, more than 4000 registered religious associations in the country include 2337 Islamic, 281 Russian Orthodox, 82 Roman Catholic, and 1180 Protestant organizations (Baptists, Seventh-day Adventists, Lutherans, Pentecostal, and others).⁴

II. THEORETICAL AND SCHOLARLY CONTEXT

Social science research in the religious studies area could be described as lacking many serious studies regarding religious issues and relations between state and religion. One explanation is inattention to religious factors in public life for a long period of time. This inattention was displayed in political, social, and judicial areas. Most studies twenty years ago were devoted to explanations of the negative features of religion or the

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1. Sociological research in Kazakhstan shows that 11.9 percent of the population consider themselves as believers and 41 percent identify themselves as believers who do not participate in religious life. See *Kazakhstanskaya pravda*, 12 September 2006.

2. In 1989 there were 671 religious associations in Kazakhstan, of which 168 were Evangelical Christian-Baptist, 171 Lutheran, 62 Russian Orthodox and only 46 Islamic. See Ivanov V. and Trofimov Ya., *Religii v Kazakhstane*, *Vysshaya shkola prava 'Adilet'* (Almaty, Kazakhstan, 1999), 4. Most of the Protestants in Kazakhstan during the Soviet period were Germans and Ukrainians. More than 70 percent of the religious associations active in Kazakhstan in 1990 had total or partial German membership. See Artem'yev A., *Ateizm, religiya, lichnost'*, (Almaty, Kazakhstan, 1990), 50.

3. According to the official data, 80 percent of the ethnic Germans in Kazakhstan have emigrated to Germany. Many members of all other ethnic groups deported to Kazakhstan in the 1930s are also leaving. See *Panorama* (newspaper), 11 November 2000.

4. *Kazakhstanskaya pravda*, 18 April 2008.

disappearance of religion and how the state can help this disappearance.

Today the spectrum of opinion on church-state relations is wider. The most popular point of view advocates the separation of state and church. The general opinion is that the state must be secular. The clericalization of state and social life is considered as danger to the existing political and legal system.

At the same time, some believe that religion must be under strict state control (so called, state-controlled religion). In this approach, state interests such as national security always dominate over interests of religious organizations and believers.

Another popular but less prominent opinion presumes cooperation between state and church and the necessity of the state to respect church autonomy and vice versa.

The rarest point of view advocates more active introduction of religious elements into state and social life. First at all, it is connected with the Islamic influence. According to this point of view, the state legal system must adopt some elements of religious legal systems, including Shari'a courts in the court system. This is one of the reasons why the state keeps control of the activities of religious organizations and tries to prevent the dissemination of religious factors.

III. CONSTITUTIONAL CONTEXT

Like any other country, Kazakhstan has a distinctive history of relations between state and religion. The two main peculiarities of this history are the comparatively late formation of the state as political entity and the lack of developed religious communities in the geographical confines of modern Kazakhstan.

Kazakhstan does not have a long political history despite the fact that various political-state entities existed on the modern territory of the country: *Turkic Kaganat*, *Kipchak Khanat*, *Mogulistan*, *Ak-Horde* and a few others. One of the famous formations was called *Kazakh Khanate* (15th through the 18th centuries). Nowadays this khanate is considered as the beginning of Kazakh statehood. The nomadic style of life created peculiarities in the organization of political power in the khanate: the concentration of power in the khan's hands, especially in land, military, and judicial issues; seasonal mutability of the impact of the khan's power; the domination of customary law; and an absence of developed institutions of political power such as the tax system, regular army, officialdom, and compulsory bodies.

A nomadic style of life also explains the instability of religious organizations. This lifestyle was incompatible with the establishment of centralized religious institutions. Tribes, dynasties, and ethnic groups typically confessed various pagan religions, but at different periods of history, Buddhism and Christianity achieved temporary influence on political issues.

Largely because of its geographical location, Kazakhstan is often considered to be a Muslim country, or at least a country under strong Muslim influence. This is, however, inaccurate. Although Kazakhstan does indeed lie in the area of traditional Islamic influence, it is located far from major Muslim centers. Historically, Islam appeared and spread in the territory of Kazakhstan much later than in other Asian countries. In general, the islamization of the peoples of Central Asia was completed by the end of the eighth century, but the establishment of Islam as the main religion in Kazakhstan, especially in its northern regions, was not completed until the nineteenth century. The slow pace of this process can be explained by Kazakhstan's vast, thinly populated territory and the prevalent nomadic way of life of its population, as well as by the above-mentioned remoteness from the Muslim centers.

One of the historical events which had a strong influence on the political development of Kazakhstan was the entry of Kazakhstan into the Russian Empire in eighteenth century. The joining of the Kazakh lands to Russia was a long and complicated process. Finally, in the beginning of twentieth century, all Kazakh lands were under the state-political protectorate of Russia. Russian authorities put their own system of state administration and legislation on Kazakhstan territory. In the first two decades of the twentieth century, the territory of Kazakhstan received a large number of Russians and

Ukrainians rendered landless by tsarist agricultural policy.

State policy toward religious communities during this time period was based on the general imperial administration, with full control over religious activity. All religious organizations were under such control: the predominant religion (i.e., Russian Orthodox Church), tolerated religions (i.e., Islamic, Lutherans), and especially the persecuted religions (i.e., Baptists, Old Believers). The tsarist government appointed religious officials and sometimes paid their salaries, decided issues concerning the creation of new parishes and other religious units, and prohibited certain religious activity. It should be mentioned that the Russian Orthodox Church was the official state religion at that time.

The October Revolution (1917) signified a new stage in political development and state-church relations. In 1920, under Soviet decree, Kazakhstan for the first time received its own state system. The country was included as an autonomous national entity into the Russian Federation. In 1926, the constitution of Kazakh Autonomous Soviet Socialistic Republic was adopted. In 1936, the Kazakh Autonomy was reorganized into Kazakh Soviet Socialist Republic as one of the subjects of the USSR. In 1937, the constitution of the new Republic entered into force. All these constitutions (and the last Soviet Constitution of Kazakhstan, which was adopted in 1978) had formal democratic provisions, including those touching religious freedom, but in practice many of them were not realized. The communist party leadership and rules carried more weight than any other political-legal institution, including the constitutions. The communist ideology ran through all state-legal systems at the time.

This time period covers dissimilar periods of state-church relations: from relative religious freedom at the beginning and ending of the Soviet period, to persecution and repressions in between. Like any other republic of the former USSR, Kazakhstan was proclaimed an atheistic country where religion was considered a temporary social phenomenon. Religious doctrines were incompatible with communist ideology and the state actively assisted in the disappearance of religion.

The realization of freedom of conscience declared in Soviet constitutions encountered many obstacles in real life. The believers and their associations were under total government control. There were a large number of religious activity limitations, legal, institutional, property, and personal in, for example, the areas of labor relations, education, and charitable activity. For a long time, religious organizations had no status as legal entities. Furthermore, each action taken by religious leaders had to be approved by state bodies.

In such situations, there was no need to develop religious legislation. The Soviet regulatory acts just confirmed the oppressed status of religious organizations. These acts were administrative rather than legislative.

Despite these obstacles, religious organizations have acquired stable institutional forms. The Soviet regime did not allow the existence of unknown, secret, or informal societies; all unregistered religious groups were illegal and their activity was punished. So, to minimize the chance of persecution, religious groups had to adopt certain forms of social association with leadership, location, and other institutional features. It should be noted, however, that the number of unregistered groups was several times greater than registered groups until the early 1980s.

Thus, three important features of the religious character of post-Soviet Kazakhstan are as follows: First, religion has played an insignificant role in the country during various periods of its history, and this has resulted in the underdevelopment of religious institutions and of state-church relationships. Second, there is no one dominant religion, due to the fact that the country has been a place of migration and deportation of many peoples with a variety of different religious faiths. Third, the intensive struggle against religion during the Soviet period has produced a predominantly secularized society.

The modern stage of state-church relations began in 1990s. On 16 December 1991, Kazakhstan adopted constitutional law "On State Independence." In this time of the collapse of the Soviet Union and the erosion of communist ideology, the new independent country needed a new organization of state power and legal system. The old party-state

system could not meet the requirements of modern political and legal developments. The first Constitution of independent Kazakhstan, adopted in 1993, established the new political and legal regime. For the first time in constitutional history, provisions about separation of powers, individual priorities in state-individual relations, and equality of state and private property appeared.

The Constitution of 1993 existed only two years. In 1995, a national referendum adopted a new constitution. The main change expressed was the strengthening of the presidential power and some democratic institutions were impaired. People justified this change by pointing to the problems of the reform period and the necessity of a strong power for a smooth transition from the old to new society.

A. Current Constitutional Provisions and Principles Governing the Relations between State and Religion: Establishing a Model of State-Church Relations

The acting Constitution mentions issues connected with religious in a few articles:

- In Article 1, point 1, the Republic of Kazakhstan proclaims itself a democratic, secular, legal, and social state whose highest values are an individual, his life, rights and freedoms.
- Article 5, point 3 prohibits the formation and functioning of public associations pursuing goals or actions directed toward inciting social, racial, national, *religious*, class, and tribal enmity.
- In accordance with Article 5, point 5, activities of foreign religious associations within the territory of the Republic, as well as appointment by foreign religious centers of heads of religious associations within the Republic, shall be carried out in coordination with the respective state institutions of the Republic.
- Article 14, point 2 states that no one shall be subject to any discrimination for reasons of origin, social or property status, occupation, sex, race, nationality, language, attitude towards *religion*, convictions, place of residence, or any other circumstances.
- Article 19, point 1 establishes that everyone shall have the right to determine and indicate or not indicate his national, party, and *religious* affiliation.
- Under Article 20, point 3, propaganda of or agitation for social, racial, national, *religious*, class, or clannish superiority as well as the cult of cruelty and violence shall not be allowed.
- Article 22 is entirely devoted to religious issues. Point 1 states that everyone shall have the right to freedom of conscience. Under point 2, the right to freedom of conscience must not specify or limit universal human and civil rights and responsibilities before the state. It should be mentioned that freedom of conscience is traditionally associated with freedom of religion or belief.

Despite the fact that the Constitution does not mention any model or principles of state-church relations (like an official state church or religion, state neutrality on religious issues, or state cooperation with or separation from religion), the model of state-religion relations in the country can be characterized as a variation of a separation model. The involvement of religious organizations in state affairs is strictly prohibited. But the state considers its intervention into the affairs of religious organizations as possible and expedient.

The model is also notable for strict government control and the necessity to receive state permission for different types of religious activity. There is no a preferred or privileged religion or group of religions in accordance with the Constitution or other legislation, despite the fact of a more privileged position of Muslim organizations and Russian Orthodox organizations in practice. There is also no reference to religion as a foundation or source of state law.

IV. LEGAL CONTEXT

B. *Specific Legislation and Case Law on Religion and Religious Freedoms: A General Overview of the Major Features of the Legal Setting*

The principles of interrelations between religions and the state, and the religious rights and freedoms of citizens, are fully formulated in the 1992 Law on Religious Freedom and Religious Associations (hereinafter “Law 1992”).⁵ All religious associations are stated to be equal before the law. No religion enjoys any support or protection on the part of the state. Religious associations are separate from the state and its system of education. The state does not interfere in the activity of religious associations. The functioning of non-registered associations is not allowed. The Law has provisions regarding the allowable types of religious associations (local communities, religious centers, spiritual educational institutions, and religious monasteries). It also deals with registration, liquidation, and suspension of the activities of religious associations. The Law touches issues of missionary activity as well as property, labor issues, and the competence of different state bodies in dealing with religious issues.

Believers and their associations are granted certain rights and freedoms under this law:

1. Citizens of the Republic of Kazakhstan and other countries, as well as individuals without citizenship, have the right to practice any religion of their choice, both on their own and together with others, or to practice no religion at all. Any kind of compulsion is prohibited, whether regarding choice of religious confession, participation in religious worship, rites and ceremonies, or obtaining religious education.

2. Citizens can satisfy their religious requirements both on their own or together with others, forming associations. Unlike a foreign religious association, a purely *domestic* religious association is free to choose its own leaders and appoint its own clergy.

3. Citizens and their associations are free to arrange religious ceremonies and other religious events on their own premises and on the premises of other organizations such as prisons and hospitals, at the discretion of the administration of those facilities. They may also rent buildings and premises; in such cases special permission from state officials is not necessary.

4. Citizens can raise and educate their children in accordance with their religious beliefs, both in religious educational institutions and at home.

5. Citizens are free to spread their doctrines in a variety of ways. There are some provisions in the law regarding the right of religious associations to use, publish, and disseminate religious literature and other religious items. There is no special provision regarding preaching.

6. Believers and their associations also have the right to form associations for disseminating religious literature and for cultural, educational, and charitable activities.

Despite the fact that all these freedoms are specified in legislation, however, they are very often not realized in practice. A mismatch between legislation and practice is quite common in Kazakhstan not only in the sphere of religious freedom but also in other spheres as well. This is partly due to the fact that society lacks experience and traditions of coexistence under conditions whereby both the citizen and the state have equal rights and duties.

There are no other laws which directly touch religious freedom. Some direct religious issues are solved under the administrative level (registration of missionaries, religious expertise, status of government agency on religious affairs). At the same time, religious association activity is regulated by other acts: Civil, Tax, Customs, Labor Code, etc.

Taking into account the paucity of constitutional language regarding religious issues, it is very difficult to evaluate the correspondence of the Law 1992 with applicable constitutional provisions. Indirectly, some provisions of the aforementioned law violate constitutional rules. For instance, the statutory requirement about obligatory registration

5. *Vedomosti Verkhovnogo Soveta Respubliki Kazakhstan*, (January 15, 1992), no. 4.

of religious associations and missionaries can be considered a contradiction with Article 22 of the Constitution, which guarantees everyone the right to freedom of conscience and does not connect this right with the necessity of obligatory registration. Moreover, in accordance with Article 39, point 1, of the Constitution, rights and freedoms of an individual and citizen may be limited only by laws and only to the extent necessary for protection of the constitutional system and defense of the public order, human rights, freedoms, health, and morality of the population. The unregistered religious activity cannot be considered a threat to the constitutional system, public order, human rights and freedoms, etc. Article 39, point 3, lists the right to freedom of conscience among those rights which shall not be restricted in any case.

C. Specific Bodies in the State Structure That Deal with Religious Affairs and Religious Communities: The Actual Functioning of State Agencies in Terms of the Protection of Freedom of Religion or Belief of Individuals and Communities

A Government Resolution dated 30 December 2005 establishes a special administrative agency: The Committee on Religious Affairs. The Committee is structurally part of the Ministry of Justice. On the one hand, the Committee was created for protecting citizens' rights to religious freedom, strengthening of common understanding, fostering tolerance among different religious associations, and encouraging religious associations' cooperation with the state. On the other hand, the Committee is a mechanism of governmental control similar to such state agencies as the Tax or Customs Committees. The four years of existence of this body demonstrates the domination of its control functions over the functions of protecting religious freedom. In practice, the Committee on Religious Affairs always protects state interests even when such interests contradict with constitutional or other legislative provisions.

There is one more body which deals with religious issues. This is the Council on Relations with Religious Organizations under the Government of the Republic of Kazakhstan. The Council consists of government officials, representatives of religious organizations (presently consisting of representatives of Islam and the Russian Orthodox Church), and non-governmental organizations and scholars.

The Council has the status of a consultative-advisory body whose aims are preparation of proposals and recommendations regarding state policy in the field of religious freedom, the strengthening of spiritual consent in society, and the harmonization of inter-religious relations. In practice, this body approves different state steps concerning religious or state-religious issues. Similar subordinate councils are created at the local level.

D. Bilateral Formal Relations between State and Religious Communities: Religious Communities or Churches and the State as Interlocutors at the Same Level

The bilateral formal relations between the state and religious communities are not inherent in the Kazakhstani legal system. One of the reasons that religious communities are not recognized as interlocutors at the same level as the state is the dominant structure in public life. A single exception involves the Catholic Church. On September 24, 1998, the Republic of Kazakhstan and the Holy See signed an Agreement on Interrelations.

This Agreement has the status of an international treaty and describes some benefits for the Catholic Church organization and activity in Kazakhstan. As for other religious associations, there is no general agreement or even notice in legislation about the possibility for such an agreement. At the same time, state bodies and religious associations have concluded several agreements concerning specific social issues (health care, service in prisons, etc.).

V. THE STATE AND RELIGIOUS AUTONOMY

Article 4 of Law 1992 states that the state shall not intervene in a religious association's activity if the activity corresponds to law. At the same time, however, the Constitution of Kazakhstan allows such intervention. In accordance with Article 5, point 5, of the Constitution, activities of foreign religious associations on the territory of the Republic as well as the appointment of heads of religious associations in the Republic by foreign religious centers shall be carried out in coordination with the respective state institutions of the Republic. Taking into account the fact that many Kazakhstani religious organizations act under the umbrella of foreign centers, this constitutional provision can be applied to a large number of religious units.

One of the laws regulating religious associations' activity is the Law on Non-Profit Organizations (16 January 2001). This law establishes a general system of internal organization of any non-profit group, including religious groups. So the peculiarities of the managing bodies of religious organizations are not recognized under the aforementioned law. However, the state requires all religious organization charter provisions to be in accordance with the provisions of the law "On Non-profit Organizations." The explanations offered by religious associations about peculiarities founded on religious rules have not been accepted as justifications for deviating from the law governing internal structure.

The secular law does not specially protect or restrict the autonomy of religious communities to govern themselves and act freely in the secular sphere. As for religious personnel, the situation depends on type of religious association. Despite a rule that the state does not participate in the appointment of leaders of domestic religious associations, state practice has been different. The head of the Spiritual Muslim Administration (the main official Muslim organization in Kazakhstan) openly stated that before appointment to the position, he was invited to meet with government officials for discussions.⁶

The state uses different legal or political instruments, rather than individual choices of citizens, to control religious life. Administrative tools are the most popular legal instruments, and most notable among administrative tools is registration. Despite the requirement of obligatory registration, the state tries to prevent the registration of newly established religious associations by using contradictions in legislation. The same situation is seen with the registration of missionaries, the re-registration of religious associations, or the submission of amendments to a religious charter. The technical legal procedures turn into complicated administrative processes with a huge degree of discretion. From time to time the state applies different legislative acts in order to have an influence on religious activity. Examples include land legislation (when religious association must have official state confirmation for using the land plot exclusively for religious purposes) and construction and zoning legislation (when the state refuses to permit the use of certain plots of land for construction of religious buildings). The Code on Administrative Offences allows the state to terminate or prohibit religious association activity on the ground of insignificant violations.

As for political instruments, the state tries to show sympathy to traditional religious associations. The leaders of the state visit mosques and Russian Orthodox churches during significant religious holidays. Religious leaders reciprocate these overtures: As a rule, representatives of Islam, Orthodoxy, Catholicism, and Judaism attend big social or political events. They also often serve as members of different mixed (state-private) bodies. The state authorities help Muslim organizations in the construction new buildings and the organization of pilgrimages.

Peaceful coexistence and respect among religious communities is one of the hallmarks of modern Kazakhstan. The state tries to propagandize such coexistence and respect on a political, legal, cultural level. For example, the state sponsors Congresses of World Religions Leaders which are conducted every three years. On a cultural level, the

6. *Izvestia-Kazakhstan*, 28 July 2006.

state tries to organize various other events that encourage participation by different religious associations.

Peaceful coexistence and respect among religious communities also finds its basis in law. For instance, Article 4 of Law 1992 declares that the state shall provide for the fostering of relations of mutual tolerance and respect among citizens who practice religion and who do not practice religion, as well as among different religious associations.

VI. RELIGION AND THE AUTONOMY OF THE STATE

No religious communities in Kazakhstan have a specific role in the secular governance of the country. There is a legislative prohibition against religious associations participating in elections or in the activity of political parties. The creation of political parties on a religious basis is also not permitted. The religious leaders can participate in political life on behalf of themselves equally with all other citizens, but there are no examples of such participation.

The state tries to limit any political activity of religious associations, and most religious associations keep their distance from political life. No religion is given any power to control other religious communities under the state law. Some legislative attempts to give such powers to the Spiritual Muslim Administration (such as the power to make recommendations regarding the registration of new Muslim religious organizations or the granting of permission for mosque construction) were recognized as unconstitutional.⁷

VII. LEGAL REGULATION OF RELIGION AS A SOCIAL PHENOMENON

The Kazakhstani legal system recognizes religious associations as a type of non-profit organization. But this does not mean that these associations have the same status as other non-profit associations. In fact, this means that religious associations are subject to both general and special regulations. One example is the existence of Law 1992, the aim of which is to regulate the activity of believers and religious associations. Other evidences are expressed in special procedures for registration (different from regular procedures of non-profit entities), special rules regarding religious rites and ceremonies, regulations concerning issues of religious literature, the assignment to religious associations as a special subject of liability, and the exemption of property for religious purposes from creditors' claims. At the same time, religions are also subject to the same regulations as secular non-profit organizations.

In comparison with other social phenomena, this religious-specific regulation can be more restrictive or more liberal depending on the subject of regulation. For instance, in the case of registration as a legal entity, the regulation is more restrictive in comparison with other social associations. In the case of tax law, the regulation is more liberal, providing extra exemptions for religious organizations.

The state does not maintain any record of the religious affiliation of individuals, perhaps because one's religious affiliation has no legal consequences under state law. Moreover, in accordance with Article 19, point 1, of the Constitution, everyone shall have the right to determine and indicate or not to indicate his national, party, and *religious* affiliation. The latest population census (2009) included a voluntary question about religious affiliation.

Under Article 22, point 2, of the Constitution, the right of freedom of conscience must not limit universal human and civil rights and responsibilities before the state. Article 3 of Law 1992 stipulates that no one has the right to refuse to fulfill their civil duties out of their own religious convictions, with the exception of cases envisioned by the law. Yet there currently is no legislation devoted to substituting performance of one duty for another. The problem of alternatives to military service, in the case of Jehovah's

7. See Decision of Constitutional Council of the Republic of Kazakhstan, 4 April 2002; *Kazakhstanskaya pravda*, 16 April 2002.

Witnesses, for example, has been decided on informal basis: there is no draft for members of such religious associations.

VIII. STATE FINANCIAL SUPPORT FOR RELIGION

In accordance with Article 4 of Law 1992, the state does not finance religious associations. Yet a certain form of indirect financial support for them is expressed in tax benefits. Some religious services are exempted from the value-added tax (religious ceremonies and rites, realization of religious items). They do not pay land tax and property tax. Like any other non-profit organizations, the donations, gifts, membership fees, grants, and charitable aid are exempted from taxation. More directly, under Article 17 of Law 1992, the state may give material aid in restoring religious worship buildings which have historical-cultural value.

The state does not financially support secular non-profit organizations controlled by religious associations, nor does it support secular aspect of religious private schools. The general rule is that the state does not support any private organizations, including religious ones. Specifically, the state may not allocate funds from general tax revenues to support particular religious associations or activities such as clergy salaries or worship services.

Kazakhstani law gives the state power to regulate the financial activity of religious associations. The regulatory instruments are described in the Law on Non-Profit Organizations. Under Article 41, point 2, of that Law, a non-profit association which uses funds presented on a free-of-charge basis from foreign states, international and foreign organizations, foreigners and stateless persons must submit a report to tax authorities about the use of these funds. Branches and representative offices of foreign and international non-profit associations acting in the territory of Kazakhstan must publish information about their activities, including information about founders, the composition of property, and sources and uses of monetary funds (Art. 41, pt. 3). The size and structure of non-profit association incomes as well as information about property, expenses, number of employees, salaries of employees, and volunteer time cannot be subject to a commercial secret defense (Art. 41, pt. 4).

IX. CIVIL LEGAL EFFECTS OF RELIGIOUS ACTS

The secular law does not recognize legal effects to acts performed according to religious law or within the realm of the internal autonomy of religious communities, nor does it recognize the jurisdiction of religious courts. It should be mentioned that existing religious systems in Kazakhstan have no religious courts. From time to time, proposals for the creation of Shari'a courts arise, but there are no serious attempts to create such institutions.

X. RELIGIOUS EDUCATION OF THE YOUTH

Religious associations have the right to create private schools both for secular and religious education. As for secular education, it is more a theoretical possibility; no religiously run secular schools exist in Kazakhstan. Should such secular schools be created, state law will recognize diplomas only when the school receives a license from the Ministry of Education and Science.

As for religious education, only religious centers have the right to create educational institutions. And again, these institutions must have licenses from the Ministry of Education and Science. The requirements for licensing differ depending on the type of school (secular or religious). Despite the existence of numerous religious educational institutions, only a few of them have licenses because of the very strict requirements for most religious units: the group must own a building, medical and food facilities, and receive a favorable recommendation from the Committee on Religious Affairs). Despite its prevalence, unlicensed religious educational activity, as well as other forms of private religious education such as Sunday schools, is not welcomed by the state bodies.

The public system of education is wholly separated from religion. The presence of religious associations in public educational institutions is prohibited by statute and by some formal and informal orders of administrative educational agencies. The secular character of education is one of the principal tenets of state educational policy (Art. 3 of Law on Education, 27 July 2007). The Law on Education prohibits the creation and operation of religious associations in educational institutions (Art. 3). The paradox is that religious associations have the right to create such institutions.

In 2009, the Ministry of Education proposed an experiment to introduce into high-school curricula the subject “Basis of Religious Knowledge,” a secular course taught by secular teachers. The university system has specialties in “Religious Studies.” Various courses connected with religion (History of Religion, World Religions, Religious Legal Systems) can be proposed for university students as electives.

The Law 1992 states that parents or persons standing in their stead (i.e., guardians or trustees) have the right to bring up their children in accordance with their own beliefs, but coercive measures to recruit children to religion are not allowed. The religious upbringing of children must not hurt their physical and mental health and moral development.

XI. RELIGIOUS SYMBOLS IN PUBLIC PLACES

There are no legislative or other limitations regarding the right of citizens to wear religious symbols in public places, neither are there any court or administrative cases dealing with such issues. The law is silent on this point.

In September 2009, the Minister of Justice explained to school directors who prohibit Muslim schoolgirls from wearing the hijab, or headscarf, that there is no such prohibition in legislation, so the pupils have a right to wear such religious symbols.⁸ Yet the Minister of Education and Science responded by declaring that wearing clothes affiliated with religion violates principles of school system secularity.⁹

XII. FREEDOM OF EXPRESSION AND OFFENSES AGAINST RELIGION

The Criminal Law contains different articles concerning protection of religion in the public arena:

- Article 164 provides criminal sanction for provoking religious hostility. This article covers intentional actions aimed at provoking religious hostility; insulting the religious feelings of citizens; publicly promulgating propaganda of exclusiveness, superiority, or inferiority using mass-media or other modes of public communication.
- Article 141 provides for punishment for the direct or indirect limitation of citizens’ rights and freedoms motivated by religious attitudes (among other motives such as race, sex, or place of residence).
- Article 149 punishes the prevention of a citizen’s realization of the right to freedom of conscience and religion.

Religious hatred or hostility is also an aggravating factor in many *corpus delicti*. Insulting the religious feelings of citizens is also punished under the Code on Administrative Offences (Art. 375). This article also punishes for desecration of items, buildings, and places respected by the followers of certain religions. The protection is applied equally to all religions and beliefs.

8. *Izvestia-Kazakhstan*, 25 September 2009.

9. *Express-K*, 29 September 2009.