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The right to change one's belief or religion
The right to join together and express one's belief

22 April 2016

KAZAKHSTAN: Now 30 Sunni Muslims convicted since December 2014, KNB secret police spy

By Felix Corley, Forum 18 (https://www.forum18.org)

Two more Sunni Muslims accused of membership of banned Muslim missionary movement Tabligh Jamaat were jailed in Kazakhstan in mid-March, Forum 18 News Service notes. These latest jailings bring to 30 the number of Sunni Muslims convicted for exercising freedom of religion or belief in Kazakhstan since December 2014, 18 of whom were jailed. The trial of another Muslim prisoner of conscience, which began in the capital Astana on 19 April, is due to resume on 28 April. All the cases were initiated by the National Security Committee (KNB) secret police, which has used a "senior operational officer" to infiltrate the movement – even though an earlier KNB-initiated study found that there was no reason to ban the movement. The KNB spy, 28-year-old Sanat Aktenberdy, refused to explain to Forum 18 what if any wrongdoing he might have found, or what exactly the alleged "extremist activity" of Tabligh Jamaat was. One court verdict states as an accusation that the movement displayed "intolerance" towards Shia Islam – even though the government has banned Shia Muslims from exercising freedom of religion or belief.

Two more Sunni Muslims accused of membership of the Muslim missionary movement Tabligh Jamaat were imprisoned in Kazakhstan in mid-March, Forum 18 News Service has learned. One of the prisoners of conscience received a three-year prison term at the trial in Almaty Region. These latest jailings bring to 30 the number of Sunni Muslims convicted for exercising freedom of religion or belief in Kazakhstan since December 2014, 18 of whom were jailed. The trial of another Muslim prisoner of conscience, which began in the capital Astana on 19 April, is due to resume on 28 April. All the cases were initiated by the National Security Committee (KNB) secret police.

There is also one Christian prisoner of conscience who has been jailed for exercising freedom of religion or belief, Seventh-day Adventist Yklas Kabduakasov, who was jailed for two years on 29 December 2015 for speaking about his faith. As with the Muslim prisoners of conscience jailed for their beliefs, the KNB was also heavily involved in Kabduakasov's case, including with the use of informers (see F18News 29 December 2015 http://forum18.org/archive.php?article_id=2136).

Another KNB secret police spy

Sanat Aktenberdy is a 28-year-old KNB "senior operational officer" in Astana who was – in the words of case documents seen by Forum 18 - "inserted into the ranks of members of the Tabligh Jamaat organisation using the methods of conduct imitating [their] criminal conduct" on orders of KNB Investigator Senior Lieutenant Nurlan Belesov. Aktenberdy attended meetings to gather evidence against adherents.

However, Aktenberdy totally refused to explain what wrongdoing he might have found (if any) among the Muslims he encountered in his secret assignment.

"I can't see you – how can I talk to you?" Aktenberdy told Forum 18 from Astana on 21 April. "I can't answer any of your questions without discussing it with my bosses." When Forum 18 asked what "extremist activity" Tabligh Jamaat adherents had engaged in which he had witnessed or had heard discussed, he refused to answer and put the phone down.

All religious communities are thought to be under surveillance by the ordinary police and KNB secret police. Many communities are reluctant to discuss this - including KNB attempts to recruit informers - for fear of state reprisals (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

Common KNB investigator

KNB Senior Lieutenant Belesov initiated the criminal cases against the five Muslims sentenced in Astana in February 2016 and against Seventh-day Adventist prisoner of conscience Kabduakasov, as well as against the current Muslim defendant in Astana (see F18News 25 February 2016 http://www.forum18.org/archive.php?article_id=2153).

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Belesov signed many of the interrogation records of witnesses and accused as the cases were being prepared, according to documentation seen by Forum 18. The man at Astana KNB who answered his phone on 22 April put the phone down as soon as Forum 18 asked if he was Belesov.

18 prison terms, 12 restricted freedom sentences

Eighteen of the known alleged Tabligh Jamaat members convicted since December 2014 received prison terms, while 12 were given restricted freedom sentences.

The new sentences come as individuals continue to be prosecuted for exercising their right to freedom of religion or belief under the Code of Administrative Offences. Three Baptists were brought to trial in Arkalyk in Kostanai Region in March and April. Seized religious literature was ordered destroyed (see F18News 11 May 2016 http://www.forum18.org/archive.php?article_id=2176). Cases were lodged in Atyrau in April against two members of a New Life Pentecostal congregation (see F18News 13 May 2016 http://www.forum18.org/archive.php?article_id=2177).

Missionary movement banned

Tabligh Jamaat was banned by an Astana court in 2013, just a year after an extensive study commissioned by the KNB secret police and the government's then Religious Affairs Committee concluded that the Muslim movement is not "extremist" or "terrorist" and that there was no reason to ban it (see F18News 28 March 2016 http://www.forum18.org/archive.php?article_id=2162).

All 30 of those imprisoned or given restricted freedom sentences since December 2014 were convicted under Criminal Code Article 405 (or its equivalent under the old Criminal Code). Article 405, Part 1 punishes "organising the activity of a social or religious association or other organisation after a court decision banning their activity or their liquidation in connection with extremism or terrorism they have carried out" with a fine or up to six years' imprisonment. Part 2 punishes participation in such a banned organisation with a fine or up to two years' imprisonment.

Two of those imprisoned were also convicted under Article 174, Part 1, which punishes "incitement of social, national, clan, racial, or religious hatred or antagonism".

3 year and 15 month prison terms

Two Sunni Muslim residents of Almaty Region, Estai Dzhakayev and Vakha Surkhayev, were charged with Tabligh Jamaat membership in a case which the KNB secret police initiated. Dzhakayev was charged under Criminal Code Article 405, Parts 1 and 2. Surkhayev was charged under Criminal Code Article 405, Part 1 only. Captain A. Nurmadi of Almaty Region KNB investigated the case against the two men.

Dzhakayev is 37 years old. The 53-year-old Surkhayev, a Kazakh-born ethnic Chechen, was formerly a member of the pro-presidential Nur Otan party and the government-sponsored Assembly of the Peoples of Kazakhstan. Both were said to have visited Tabligh Jamaat centres abroad, where they received "training".

The case against the two men was handed to Alakol District Court in the town of Usharal on 17 February. The trial began on 29 February. On 11 March, the fourth and final day of hearings, Judge Zhumash Akbergenov found them both guilty, according to court records. He handed down a three-year ordinary regime prison term on Dzhakayev and a 1 year, 3 month ordinary regime prison term on Surkhayev, the Regional Prosecutor's Office announced on 24 March.

Surkhayev is also required to pay 89,724 Tenge (about 2,200 Norwegian Kroner, 240 Euros or 270 US Dollars) for the "expert analysis" used to convict him (see F18News 10 June 2016 http://www.forum18.org/archive.php?article_id=2187).

"The court also assigned an extra measure of punishment on the deprivation of the right to conduct certain activity according to this Article," the head of the court Shalkar Taldanbayev told local television station Zhetysu after the verdicts were announced.

Dzhakayev and Surkhayev had not been under arrest before the trial, but were arrested in the court room when the verdicts were announced on 11 March, Judge Akbergenov told Forum 18 from the court on 21 April. He said the sentences therefore run from 11 March. "The written verdicts were issued later and were given to them in the Investigation Prison in Taldykorgan. Both men have lodged appeals."

Judge Akbergenov totally refused to explain the bans he imposed on the two men after they complete their prison terms, who had suffered from their exercise of the right to freedom of religion or belief, or any other aspect of the case. "I can't comment on the verdict because it has not yet come into force," he told Forum 18.

Prosecutor Kairat Ermakhanov of Almaty Region Prosecutor's Office, who was involved in the prosecution of Dzhakayev and Surkhayev, was out of the office each time Forum 18 called on 21 and 22 April. No other official would discuss the case.

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An official of the Regional Administration's Religious Affairs Department – who would not give his name - declined to discuss the prosecution. "Such prosecutions are carried out by the Prosecutor's Office and the courts, not us," the official told Forum 18 from Taldykorgan on 22 April. "It's nothing to do with us."

Earlier attempted prosecution

Prosecutors had already tried to prosecute Surkhayev for allegedly financing Tabligh Jamaat and building an unapproved prayer room on his land, arresting him in October 2011. The Finance Police brought a criminal case against him on criminal charges of "financing terrorist or extremist activity" under Article 233-3, Part 2 of the then Criminal Code.

However, on 12 May 2012 Judge Kaiyrzhan Baidakasov of Taldykorgan City Court closed the case when the prosecutor withdrew the charges, according to the decision seen by Forum 18. Surkhayev was freed in the court room after seven months' pre-trial detention. A religious book confiscated from him was ordered returned. He had denied any wrongdoing in court.

Who is hostile to Shia Islam?

At the time Tabligh Jamaat had not been banned in Kazakhstan, as Almaty Regional KNB secret police confirmed to the court. Nevertheless, the court decision describes it as a "radical" group aiming to "establish a theocratic dictatorship in the country". It claimed it displayed "intolerance towards other confessions, including towards the Shia branch of Islam, the exclusion of women from public life, as well as fanatical proselytism, based on the conviction that Islam must supplant all other religions".

Despite the authorities' claim that they do not like hostility to Shia Islam, the government has banned Shia Muslims from exercising freedom of religion or belief. The authorities have given the only permitted Muslim organisation in the entire country – the state-controlled Muslim Board – a monopoly over all Muslim activity. This has the impact of banning any non-Hanafi Sunni Muslim communities from functioning, as well as banning any non-Sunni Hanafi Muslim literature (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

In prison, one awaiting appeal

"Dzhakayev and Surkhayev were brought here after the court decision was announced," an official of the Investigation Prison in Taldykorgan, the regional capital, told Forum 18 on 21 April. The official, who would not give her name, refused to discuss their condition, including whether they are able to pray or have religious literature.

Surkhayev lodged an appeal against his conviction. This reached Almaty Regional Court on 12 April and is due to be heard at 10 am on 26 April, the Court Chancellery told Forum 18 on 21 April. Although Dzhakayev had 15 days from receipt of the written verdict, he did not lodge an appeal against his sentence, the Chancellery of Alakol District Court told Forum 18 the same day.

Dzhakayev and Surkhayev's prison address is:

Kazakhstan

040000 g. Taldykorgan

Spetsgorodok

Uchr. LA-155/16

Dzhakayevu Estayu Kanatbekovichu

or

Surkhayevu Vakhe Novlievichu

"Official secret" non-existent prison prayer rooms

The Taldykorgan Investigation Prison official refused to say if the Muslim and Russian Orthodox prayer rooms opened in the prison in the 2000s are still open. "This is an official secret," she told Forum 18.

The Muslim prayer room opened in Taldykorgan Investigation Prison in summer 2009. The Russian Orthodox chapel was opened in September 2009 at the request of the prison's then head, Adak Nuradilov, Taldykorgan Orthodox deanery noted on its website on 29 November 2010.

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However, a staff member of the deanery said that the prison chapel was closed soon after the new Religion Law was adopted in 2011. "Our clergy are banned from going into the prison, even at the invitation of one of the prisoners," the staff member told Forum 18 from Taldykorgan on 22 April.

The authorities have long been systematically been closing or trying to close prayer rooms and chapels in public buildings, including prisons, colleges, hospitals, care homes, airports and administrative buildings. The enforced closures appear to have begun after the October 2011 adoption of a new Religion Law, and despite protests from Muslims, Russian Orthodox and others (see F18News 15 November 2011 http://www.forum18.org/archive.php?article_id=1636).

Relatives of other Sunni Muslim prisoners of conscience jailed for exercising their right to freedom of religion or belief have stated that the prisoners of conscience are not allowed the Koran or other religious literature. This directly contravenes the United Nations Standard Minimum Rules for the Treatment of Prisoners (adopted unanimously by the UN General Assembly in revised form on 17 December 2015 and known as the Mandela Rules, A/C.3/70/L.3), which require governments to respect the freedom of religion or belief and other human rights of prisoners. The Muslim prisoners of conscience are also barred from receiving other items they see as important, such as twigs for cleaning teeth they regard as being in accord with Islamic hygienic jurisprudence as advocated in the hadith (sayings attributed to the Muslim prophet Muhammad). Some have also had their beards forcibly shaved and had their head coverings taken away (see F18News 9 March 2016 http://www.forum18.org/archive.php?article_id=2156).

Astana trial begins

The trial in Astana of Sunni Muslim Murat Takaumov is due to resume at the city's Saryarka District Court No. 2 at 11 am on 28 April, according to court records. The 31-year-old Takaumov, who runs his own law firm, is married with four young children.

Arrested on 18 November 2015 and held in Astana's KNB secret police Investigation Prison, Takaumov is on trial under Criminal Code Article 405, Part 2 as an alleged member of Tabligh Jamaat (see F18News 28 March 2016 http://www.forum18.org/archive.php?article_id=2162).

Case documents seen by Forum 18 reveal that on 18 November 2015, the day of Takaumov's arrest, the head of Astana KNB's Investigation Department Colonel K. Myrzabekov formed an investigative group of six named KNB Investigation Department officers led by Senior Lieutenant Belesov to prepare the criminal case.

The 10-page indictment, seen by Forum 18, summarises the eight volumes of the criminal case against Takaumov which was formally opened on the day of his arrest. The indictment was completed by KNB secret police Senior Lieutenant Belesov on 26 February 2016 and countersigned by Serik Ishchanov of Astana Prosecutor's Office on 3 March.

It claimed that Takaumov had decided to study Islam himself from 2007 and had come into contact with Tabligh Jamaat members. From 2012 to 2015 he had spoken to others of his faith, "understanding the social danger of his criminal actions and the possibility of the emergence of socially-dangerous consequences in the form of a violent change of the constitutional set-up". The indictment claimed that Takaumov knew that the "true aim" of Tabligh Jamaat was allegedly the establishment of a Caliphate (Muslim-ruled territory), including in Kazakhstan.

KNB secret police "special operational/investigative measures"

The indictment alleged that Takaumov had met others in the Halal Cafe in Astana near a mosque on 5 May 2015 to report to a superior in the Tabligh Jamaat group about work he had undertaken. The KNB secret police secretly recorded the discussion on video and audio using "special operational/investigative measures", the indictment notes.

A "judicial complex expert analysis" concluded on 11 January 2016 that the content of the recording indicated that this had been a Tabligh Jamaat meeting. The men had discussed moves to share their Islamic faith with others in ways characteristic of Tabligh Jamaat – mission trips of three days or 40 days, and four-month visits to centres in the Indian sub-continent.

This 8-page 11 January analysis – also seen by Forum 18 – indicated that the conversation recorded by the KNB secret police contained no "incitement of social, national, clan, racial, or religious hatred or antagonism". KNB Senior Lieutenant Belesov gave the recordings to the Justice Ministry's Judicial Expertise Centre in Astana on five CDs, together with a 73-page transcript of the conversation.

The indictment notes that Takaumov denied any wrongdoing, but claimed that his testimony "was not in accordance with reality".

One "expert" and 28 witnesses were questioned and their testimony included in the case, including the five Sunni Muslim men convicted in Astana on 18 February. One of these witnesses was KNB secret police officer Aktenberdy, whose mission to pose as a member of the group had been approved by a special decision.

In addition, four "judicial complex expert analyses" were included in the case, as well as a "judicial psychiatric expert analysis" of

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Takaumov, which found that he is responsible for his actions.

In no case documents that Forum 18 has seen did Takaumov call for the harming of other people's human rights.

Astana trial begins

The initial hearing in Takaumov's trial was held on 24 March under Judge Umsyn Mukhangaliyeva. However, at the next hearing on 8 April she was abruptly replaced by Judge Birzhan Toregeldi, relatives told Forum 18. The trial continued with hearings on 19 and 20 April.

"Witnesses were questioned, including one from the Muslim Board," relatives told Forum 18. "Murat appealed to the Judge against violations by the prosecutor and asked for the prosecutor to be replaced. The judge then left the court room for 10 minutes and went into the consultation room. At the same time the prosecutor called someone and told them that they wanted to remove him, and then went into another room. He was not removed from the trial. Everything is decided with one phone call."

The address of the KNB Investigation prison where Takaumov has been held since November 2015:

SIZO KNB g. Astana

010003 Astana

Ul. Shyntas 2

Kazakhstan

26 April appeals against prison terms

Hearing of the appeals of the five Sunni Muslim prisoners of conscience convicted in Astana of alleged Tabligh Jamaat membership is due to begin at Astana City Court at 10.30 am on 26 April, court records indicate.

Bolatbek Kozhageldinov, Nurzhan Nuradilov, Erbolat Omarbekov, Kubaidolla Tyulyubayev and Khalambakhi Khalym received prison terms of between two years and two and a half years on 18 February at the end of a long-running trial.

The five men lodged appeals against their convictions on 4 March. The men have been prevented from praying the namaz or having access to religious literature and other items at Astana's Interior Ministry Investigation Prison (see F18News 9 March 2016 http://www.forum18.org/archive.php?article_id=2156). (END)

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.

For more background, see Forum 18's Kazakhstan religious freedom survey at http://www.forum18.org/Archive.php?article_id=1939.

For a personal commentary from 2005 on how attacking religious freedom damages national security in Kazakhstan, see F18News http://www.forum18.org/Archive.php?article_id=564.

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.

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