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RUSSIA: Falsified "evidence" helped convictions?

By Victoria Arnold, Forum 18

Apparently falsified testimonies may have helped jail two Russian Muslim prisoners of conscience, Forum 18 has been told. A representative of publishers who formerly published Russian translations of theologian Said Nursi's works has, without success, appealed to the General Prosecutor's Office to investigate.

Law enforcement agencies may have falsified testimonies used in the criminal prosecution of Muslims for meeting to study the works of the late Muslim theologian Said Nursi, Forum 18 notes. Turkish company SÃ¼zler, which published Nursi's works in Russian before they were banned as "extremist" material, has accused law enforcement agencies of falsifying witness testimony used in two criminal cases. It has appealed to the General Prosecutor's Office to investigate.

SÃ¼zler representative Sergei Mikhailov asserts that these witness statements supported prosecution cases which led to the jailing of two Muslims:

Prisoner of conscience Bagir Kazikhanov was sentenced in February 2015 to three and half years' imprisonment for organising alleged Nurdzhular activities in Ulyanovsk. Prisoner of conscience Yevgeny Kim was sentenced in June 2017 to three years and nine months' imprisonment for organising alleged Nurdzhular activities in Blagoveshchensk.

Typically, such Muslims meet in homes to study their faith, with one or more expounding on Nursi's works. They also pray, eat, and drink tea together. They do not seek any state permission for such meetings.

The state interprets such meetings as organised activity by an organisation called "Nurdzhular" (derived from the Turkish for "Nursi followers"). "Nurdzhular" was ruled "extremist" and prohibited by the Supreme Court in 2008, despite the fact that Muslims in Russia deny such an association even exists. Many Russian translations of Nursi's books have been banned, despite their not calling for violence or the violation of human rights (see Forum 18's Russia "extremism" religious freedom survey <http://www.forum18.org/archive.php?article_id=2215>).

Testimony used in the prosecutions of both Kazikhanov and Kim appears to have come from a 2007 article by "M.N. Davydov", whose identity remains unknown. This was used in Kazikhanov's case by an unknown witness to whom the prosecution gave the pseudonym "Ibrogim Salikh Ibrogimov", and whose testimony was then used in Kim's case in the testimony of a Dzait Alikhanovich Sultygov (see below).

Muslims continue to be jailed for organising meetings to study Nursi's works. In November, three Muslims received prison terms for organising such meetings. They are being held in custody while their appeal is pending. A judge in Novosibirsk, meanwhile, has ruled that the cases against two men also accused of participation in the banned "extremist" alleged organisation "Nurdzhular" should be closed, and the men obliged to pay judicial fines. A third defendant in Novosibirsk, charged with the more serious offence of "organisation" of "extremist" activity, is still awaiting trial (see F18News 8 December 2017 <http://www.forum18.org/archive.php?article_id=2339>).

Falsification of evidence: from Ulyanovsk to Blagoveshchensk

Law enforcement agencies may have falsified testimonies used in the criminal prosecution of Muslims for meeting to study Nursi's works, Forum 18 notes - prosecutions which resulted in the conviction and imprisonment of the defendants.

Bagir Kurbanovich Kazikhanov (born 9 September 1983) was found guilty in February 2015 of organising alleged Nurdzhular activities in Ulyanovsk. He was sentenced to three and a half years' imprisonment (see F18News 6 March 2015 <http://www.forum18.org/archive.php?article_id=2046>). Yevgeny Lvovich Kim (born 5 October 1974) received a custodial sentence of three years and nine months in June 2017, also for allegedly organising Nurdzhular meetings in the Far Eastern city of Blagoveshchensk (see F18News 23 June 2017 <http://www.forum18.org/archive.php?article_id=2290>).

Prisoner of conscience Kazikhanov was released from prison in October 2017 after serving two years and four months. His sentence

was reduced by the time he had spent in pre-trial detention.

Prisoner of conscience Kim is incarcerated at Correctional Colony No. 3 in Khabarovsk. He had been beaten in pre-trial detention (see F18News 7 November 2017 <http://www.forum18.org/archive.php?article_id=2332>). Amur Regional Court dismissed his cassational appeal without consideration, a fellow Muslim told Forum 18 on 29 November. He is now preparing an appeal to the European Court of Human Rights (ECtHR) in Strasbourg.

Despite these cases taking place over 6,500 kms (4,000 miles) and two years apart, two witness statements used by the prosecution bear significant similarities - both to each other and to an online article about Nurdzhular, published in November 2007. The 2007 article's statements about "Nurdzhular" appear to have been reproduced in the witness statements and largely attributed to the defendants.

Falsified 2017 "witness" testimony?

Sergei Mikhailov, a representative of the SÃ¶lzler publishing company, which distributed Nursi's books in Russian translation before they were prohibited as "extremist", wrote to the General Prosecutor's Office on 4 October 2017 asking it to investigate the apparent falsification of evidence.

The General Prosecutor's Office told Mikhailov that it had passed the matter to the Ulyanovsk Region Prosecutor's Office. In early December, he received a response from the Prosecutor's Office dated 22 November, claiming that it had found no violations, he told Forum 18 on 11 December. Mikhailov is preparing an appeal against this.

The General Prosecutor's Office also sent a copy of the complaint, with supporting evidence, to Amur Region Prosecutor's Office. Mikhailov is yet to receive a response from them, he told Forum 18.

"Witness" statements?

Forum 18 has seen a notarised copy of the 2007 article by "M.N. Davydov", as well as the witness statements in question and the conclusions of expert linguistic analysis of all three documents. This was commissioned by SÃ¶lzler and carried out by Ella Borgoyakova of the Scientific Research Institute of Judicial Analysis in Moscow.

The original 2007 article, "Activity of the Turkish religious sect 'Nurdzhular'" by "M.N. Davydov" was published on the website of the Moscow-based Institute of the Near East, where it is still available. It claims to describe the development, structure, and aims of "Nurdzhular".

"Davydov"'s full name and identity are unknown and Forum 18 has been unable to find any other publications by him. In 2010, Yefim Zhigun, Director of the Institute of the Near East, denied in an interview with the FSB security service that the institute had an employee of that name, Vitaly Ponomarev noted in a March 2015 article on the Memorial website.

"Davydov" claims that "Nurdzhular" disseminates its ideas via networks of educational institutions established by the Gulen movement (followers of Fethullah Gulen, a Turkish preacher now living in exile in the US), including (at the time of writing) in Russia. In addition, the movement allegedly sets up small groups for the study of the Koran, at which the leader offers "pro-Gulenist" interpretations which "often contradict the dogmas of Islam".

"Davydov" asserts that "Nurdzhular" in Russia is "purposeful and clearly structured", with different companies or foundations responsible for different regions, their activities overseen by "governing functionaries" who inspect their work, preach, and carry out religious instruction according to Gulen's ideas.

The goal of "Nurdzhular", according to "Davydov", is "to create a pro-Turkish mindset among a layer of Russian society that will eventually form the "Turkish lobby", and its teachings are characterised as "strongly anti-Russian". "Nurdzhular"'s alleged development in Russia has caused "serious fears" of "the destruction of the unity of Russian Muslims, and the disengagement of Muslim communities on a national basis". "Davydov" concludes by listing the books by Nursi which had been banned in Russia as "extremist" by the time he was writing. The article does not cite any sources in support of its claims.

Those associated with the government have long circulated conspiracy theories, without credible evidence, about the alleged organisation "Nurdzhular". One such typical claim was that "Nurdzhular" is part of a conspiracy by the intelligence agencies of Turkey and the US "to weaken and then completely destroy Russia" (see F18News 5 March 2013 <http://www.forum18.org/archive.php?article_id=1811>).

First suspect witness statement

The first suspect witness statement was given on 12 September 2014, by an "Ibrogim Salikh Ibrogimov", to the Ulyanovsk Region police department. In it, he describes his alleged acquaintance with the suspect, Bagir Kazikhanov, as well as the history, structure,

activities, and goals of "Nurdzhular". The usual identifying information on such a statement - date and place of birth, citizenship, address, passport details - is absent.

According to Sergei Mikhailov, "Ibrogim Salikh Ibrogimov" was a hidden witness in the case against Kazikhanov - someone whose identity is concealed and who gives evidence under a pseudonym. "Nothing at all is known about who he is," Mikhailov told Forum 18 on 29 November. "In court, during the interrogation of the hidden witness, Kazikhanov drew the attention of the court to the fact that [Ibrogimov's] testimony had been copied from the article by M.N. Davydov. But the judge laughed at Kazikhanov and did not attach any importance to this."

The verdict in Kazikhanov's case reproduces "Ibrogim Salikh Ibrogimov"'s testimony and the judge explicitly took it as evidence of Kazikhanov's organisation of "Nurdzhular" activities in Ulyanovsk.

The pseudonym chosen by law enforcement for the hidden witness - "Ibrogim Salikh Ibrogimov" - is very similar to that of Ibragim Salyakh (or Salekh)-ogly Ibragimov, founder of the Nuru-Badi Educational Fund which also published Nursi's works in Russia. An anti-extremism police officer questioned during Kazikhanov's trial named Ibragimov as "the leader of 'Nurdzhular' in the Russian Federation".

It is unclear why this pseudonym was chosen. Mikhailov of SÃ¶zler described it to Forum 18 as "simply a provocation, as I understand it".

Ibragim Ibragimov left Russia soon after Nursi's works began to be prohibited in 2007. In December 2007, he appealed to the European Court of Human Rights (ECtHR) in Strasbourg over the "extremism" bans (see F18News 19 February 2013 <http://www.forum18.org/archive.php?article_id=1803>). His case, Ibragimov and Cultural Educational Fund 'Nuru-Badi' vs. Russia (Application No. 1413/08), is still pending before the Court, the ECtHR press service told Forum 18 on 5 December.

Two other cases relating to bans on Nursi's books are also pending at the ECtHR. "Yedinoe Dukhovnoe Upravlenie Musulman Krasnoyarskogo Kraya vs. Russia" (Application No. 28621/11) was submitted in December 2011 (see F18News 10 April 2014 <http://www.forum18.org/archive.php?article_id=1946>). "Valiullin and The Association of Mosques of Russia vs. Russia" was lodged in February 2008. As of 11 December 2017, none of these cases has been heard (see Forum 18's "extremism" Russia religious freedom survey <http://www.forum18.org/archive.php?article_id=2215>).

Second suspect witness statement

The second witness statement was given on 10 May 2016 in Blagoveshchensk by Dzait Alikhanovich Sultygov, to the Amur Region FSB. Sultygov also describes his acquaintance with the suspect, in this case Yevgeny Kim, and goes on to outline the history, structure, activities, and goals of Nurdzhular. Sultygov was a real acquaintance of Kim's who used to visit his home, Mikhailov told Forum 18 on 29 November (his testimony is followed by a transcript of conversations between himself and Kim). Mikhailov suspects Sultygov to have been "sent by the FSB from the beginning".

Sultygov was not cross-examined in court and his testimony is not cited in the written verdict in Kim's case - the reasons for this remain unknown. His statement was, however, included in the case materials and was therefore seen by the judge, Forum 18 notes.

"[Sultygov's] questioning in court was postponed for a very long time, despite the fact that only his testimony contained information about 'Nurdzhular'," Mikhailov remarked to Forum 18. "They said that he had travelled to the far north to work for a month, but a month later he did not appear. Perhaps he did not want to support false testimony at the trial and the prosecutor had to abandon him as a witness."

Mikhailov also speculates about another possible reason why the court did not call Sultygov: "It is also possible that law enforcement found out that I was preparing an appeal to the General Prosecutor's Office about this matter and was conducting a study of Sultygov's statement and Davydov's article, and therefore they refused to allow Sultygov to testify in court."

Witness statements derived from 2007 article

SÃ¶zler asked linguistic analyst Ella Borgoyakova to determine, firstly, whether there were textual and semantic similarities between the materials, and secondly, whether "Davydov"'s article could be the original source of the witness statements and which of the reports contained borrowings. Borgoyakova's analysis concludes that the witness statements are identical to the article and that the article is the original source material, which was reproduced in hidden witness "Ibrogim Salikh Ibragimov"'s testimony. This testimony was then reproduced and expanded upon in Sultygov's testimony.

Borgoyakova cites a number of similarities (also checked by Forum 18). For example, Davydov writes: "After the death of S. Nursi, his closest students in the cities of Turkey organised courses for the study of the collection of his works 'Risale-i Nur', which were copied by hand". Both "Ibrogim Salikh Ibrogimov"'s and Sultygov's statements contain the sentence: "After the death of Said Nursi, his students continued to develop the religious association 'Nurdzhular'. In different cities of Turkey, they organised courses for the

study of the collection of his works 'Risale-i Nur', which were copied by hand". The phrase "by hand" is rendered slightly differently in the article (ot ruki) and the witness statements (vruchnuyu).

Similarly, "Davydov"'s article contains the paragraph: "The development of a network of 'Nurdzhular' cells in conditions of semi-underground work and pressure from the state led to the formation of a kind of secret service. The sect collects information in political, economic, inter-confessional and other spheres in the regions and states where Turkic-speaking peoples live, uses methods of conspiracy, carries out the introduction and further promotion of its adherents in organs of power in both Turkey and the CIS, including Russia".

"Ibrogim Salikh Ibrogimov" stated in his testimony: "The development of a network of 'Nurdzhular' cells in conditions of semi-underground work, as well as pressure from the state at the initial stage, in effect formed a sect-secret service. Participants of 'Nurdzhular' actively collect information in the political, economic, inter-confessional and other spheres of society in the region and the state. According to Kazikhanov, 'Nurdzhular' is interested in the south of Russia, the Volga region, i.e. those territories where Turkic-speaking peoples predominantly live. 'Nurdzhular', using methods of conspiracy, carries out the introduction and further promotion of its adherents in organs of power and administrations".

Exactly the same paragraph appears in Sultygov's statement as in "Ibrogim Salikh Ibrogimov"'s, the only difference being the substitution of the name Kim for Kazikhanov.

Forum 18 asked the Ulyanovsk police and the Amur Region FSB on 5 and 6 December why the statements bore such a resemblance to each other and Davydov's 2007 article. It had received no reply by the end of the working day in each place on 11 December.

Past record

Earlier decisions in other cases by different district courts have shown commonalities, suggesting that they were not driven by local circumstances. A May 2007 Koptevo ruling cites the "expert" conclusion that Nursi's work attempts "to influence the psyche of the reader subconsciously, using mechanisms of religious belief, i.e. the formation of conscious values and convictions with an irrational basis" (see F18News 27 June 2007 <http://www.forum18.org/Archive.php?article_id=981>). A September 2010 Krasnoyarsk ruling cites exactly the same phrase, supposedly from its independent, local "expert" analysis (see F18News 29 October 2010 <http://www.forum18.org/Archive.php?article_id=1504>). Yet the text of that analysis does not contain this phrase (see F18News 5 March 2013 <http://www.forum18.org/archive.php?article_id=1811>).

Cases brought by prosecutors have also shown numerous inconsistencies. For example, part of the prosecution's 2013 case against Imams Ilhom Merazhov and Komil Odilov strengthens their counterclaims that they reject violence. An "expert analysis" commissioned by the prosecution also contained numerous flaws (see F18News 28 February 2013 <http://www.forum18.org/archive.php?article_id=1808>). (END)

For more background see Forum 18's surveys of the general state of freedom of religion and belief in Russia at <http://www.forum18.org/Archive.php?article_id=2246>, and of the dramatic decline in this freedom related to Russia's Extremism Law at <http://www.forum18.org/Archive.php?article_id=2215>.

A personal commentary by Alexander Verkhovsky, Director of the SOVA Center for Information and Analysis <<http://www.sova-center.ru>>, about the systemic problems of Russian anti-extremism legislation, is at F18News 19 July 2010 <http://www.forum18.org/Archive.php?article_id=1468>.

A personal commentary by Irina Budkina, Editor of the <<http://www.samstar.ucoz.ru>> Old Believer website, about continuing denial of equality to Russia's religious minorities, is at F18News 26 May 2005 <http://www.forum18.org/Archive.php?article_id=570>.

More reports on freedom of thought, conscience and belief in Russia can be found at <<http://www.forum18.org/Archive.php?query=&religion=all&country=10>>.

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 Russia is available at <<http://nationalgeographic.org/education/mapping/outline-map/?map=Russia>>.

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