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KAZAKHSTAN: 40 months, 65 criminal convictions

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

Three Muslims who drank tea, prayed and discussed their faith have failed to overturn their three-year jail terms on appeal. The men's bank accounts are likely now to be blocked and they owe a large sum in court fees. Their jailing means 65 alleged Tabligh Jamaat members have been convicted since 2015.

Three Sunni Muslims have failed to overturn their prison terms on charges of membership of the banned Muslim missionary movement Tabligh Jamaat. Karaganda Regional Court this afternoon (22 May) left their three-year prison terms unchanged and merely reduced by a fifth the court fees handed down on the three. The men say they met to drink tea, pray and discuss their faith together, but deny membership of any movement.

A Karaganda court jailed the three - Kazbek Laubayev, Marat Konyrbayev and Taskali Naurzgaliyev – for three years each on 6 April. The three are in their thirties and each is married with several children (see below).

The jailings came four days after one of the men, Naurzgaliyev, was separately fined on charges of using Tabligh Jamaat publications for "illegal" missionary activity (see below).

The convictions of Laubayev, Konyrbayev and Naurzgaliyev brought to 65 the number of alleged Tabligh Jamaat adherents (all of them Kazakh citizens) known to have been given criminal convictions since the beginning of 2015 to punish them for exercising freedom of religion or belief. Of these, 51 were given prison terms while 14 were given restricted freedom sentences (see F18News 5 March 2018 http://www.forum18.org/archive.php?article_id=2359).

Forum 18 believes that 20 of the 51 alleged Tabligh Jamaat adherents jailed since the beginning of 2015 (including Laubayev, Konyrbayev and Naurzgaliyev) are still serving their prison terms.

Of the 24 individuals known to have been given criminal convictions in 2017 to punish the exercise of freedom of religion or belief, 21 were Sunni Muslims (16 of them alleged Tabligh Jamaat members), 2 Jehovah's Witnesses and 1 Baptist. All but three were jailed (see F18News 5 March 2018 http://www.forum18.org/archive.php?article_id=2359).

Tabligh Jamaat was banned in Kazakhstan as "extremist" by an Astana court in February 2013. The movement's adherents often travel around the country encouraging other Muslims to greater piety, for which many members have also been fined (see F18News 28 March 2016 http://www.forum18.org/archive.php?article_id=2162).

Another Sunni Muslim prisoner of conscience, Imam Abdukhalil Abduzhabbarov, has been held in solitary confinement and had his meetings with relatives restricted since his transfer to a new prison in October 2017. Although he was sentenced to serve his eight-year term in a general regime labour camp, he is now being held in Kyzylorda in a mixed regime prison with harsher conditions (see F18News 18 May 2018 http://www.forum18.org/archive.php?article_id=2378).

Jailed for three years

Kazbek Asylkhanovich Laubayev (born 30 October 1978), Marat Amantayevich Konyrbayev (born 16 March 1981) and Taskali Nasipkaliyevich Naurzgaliyev (born 3 May 1981) were among six Muslim men arrested in Karaganda on 30 October 2017. As part of its "special operation", police found and confiscated religious literature, "technical equipment", mobile phones and flashcards at their homes.

The National Security Committee (NSC) secret police and the ordinary police worked together on preparing criminal cases against the men, Senior Lieutenant Yernar Kaltayev of the city Police Investigation Department told Forum 18 in January. He admitted that the six arrested men had not committed or called for violence.

Karaganda's October District Court ordered that Laubayev, Konyrbayev and Naurzgaliyev be held in pre-trial detention. The other three men – Eldar Kenzhetayev, Akilbek Kasen and Zhasulan Karabayev - were ordered to live at home under restrictions (see

Prosecutors dropped the criminal charges against Kenzhetayev, Kasen and Karabayev in early 2018. The three were fined separately between 28 February and 24 April for "missionary activity" under Administrative Code Article 490, Part 3, according to the decisions seen by Forum 18.

Prosecutors brought charges against Laubayev, Konyrbayev and Naurzgaliyev under Criminal Code Article 405, Part 1. This 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.

The criminal case was handed to Karaganda's October District Court on 23 February. The men's trial began under Judge Maulet Zhumagulov on 12 March. Laubayev, Konyrbayev and Naurzgaliyev rejected prosecution charges that they were members of the Tabligh Jamaat Muslim missionary movement.

"No more than three people can meet together"

The three men told the court they met in a flat to pray the namaz, read, hold discussions and drink tea together, Yelena Weber of Radio Free Europe's Kazakh Service – who attended some of the trial – noted on 9 April. One of the three told the court he knew Tabligh Jamaat is banned because a notice in the mosque lists the organisations banned in the country.

The sister of one of the defendants told Radio Free Europe during the trial that they did not believe the prosecution case. "He always told us: pray the namaz and fear Allah. But the fact that this is somehow connected with terrorism or a 'Jamaat' – nothing like this is true. He admits only that they met together, drank tea, read prayers and spoke about Allah."

Another sister of the same defendant said that such problems exercising freedom of religion or belief did not arise before 2013. "Everything was possible: praying the namaz, going to the mosque, meeting together, drinking tea," she told Radio Free Europe. "And now the law is such that no more than three people can meet together."

A witness told the court that all the men did was meet together in a home after Friday prayers, Radio Free Europe added, as since 2013 there has no longer been the possibility to sit and discuss their faith in the mosque. Another witness questioned in court, who had joined some of the discussions, said he knew of the ban on Tabligh Jamaat, and religious books had been confiscated from his home because they were banned. But he insisted he and his friends were not members of it.

However, the Prosecutor claimed that Laubayev, Konyrbayev and Naurzgaliyev were Tabligh Jamaat members and one of them had visited Bangladesh, where the movement has centres. She maintained that Tabligh Jamaat's ideology was "similar to Wahhabism" and said the NSC secret police had already warned the three men. She demanded prison terms for each of three and a half years.

At the final hearing in the trial on the evening of 6 April, Judge Zhumagulov found Laubayev, Konyrbayev and Naurzgaliyev guilty under Criminal Code Article 405, Part 1. He sentenced each of them to three years' imprisonment in a general regime labour camp. The Judge also ordered the men to pay in total more than 1 million Tenge (25,000 Norwegian Kroner, 2,600 Euros or 3,000 US Dollars) in court fees (presumably for "expert analyses").

Forum 18 has been unable to find out if the Judge also imposed any bans on specific activity after the men complete their sentences.

Yergen Yezhanov of October District Prosecutor's Office, who had been involved in the criminal case against the three Muslims, refused to discuss anything with Forum 18 on 15 May.

Three Muslims lose appeal

Laubayev, Konyrbayev and Naurzgaliyev challenged their convictions, arguing that it was harsh and unjust. The three men's appeal reached Karaganda Regional Court on 25 April and was assigned to a panel of three judges, the court chancellery told Forum 18 on 15 May. The chancellery official refused to identify the judges who would be hearing the men's appeals.

On the afternoon of 22 May, the panel of three judges rejected the men's appeal, Elena Weber of Radio Free Europe noted. The only change in the verdicts was to reduce the court fees by more than 200,000 Tenge from over 1 million Tenge in total to just over 800,000 Tenge. The Prosecutor had called on the Regional Court to leave the verdicts unchanged.

Laubayev, Konyrbayev and Naurzgaliyev were not brought to court for the appeal hearing. They were represented by their lawyers, Radio Free Europe noted.

Now the men have lost their appeal, the sentences enter legal force. Laubayev, Konyrbayev and Naurzgaliyev are almost certain to be added to the Finance Ministry Financial Monitoring Committee List of individuals "connected with the financing of terrorism or extremism". This means that any bank accounts they may have will be blocked with no further legal process. Their families will be

allowed to withdraw only small amounts for daily living if they do not have other sources of income (see F18News 10 June 2016 http://www.forum18.org/archive.php?article_id=2187).

No comment on prison conditions

Laubayev, Konyrbayev and Naurzgaliyev have been held since shortly after their October 2017 arrest at Karaganda's Interior Ministry Investigation Prison AK-159/1.

An official of the Investigation Prison's Special Department – who did not give her name – confirmed to Forum 18 on 15 May that the three men are still being held there. However, she refused to say if the men are able to pray visibly and have access to religious literature of their choice. "All information is provided only in response to a written request to the Prison head, sent by post," she said.

A 5 February Order from the Interior Ministry says that prisoners awaiting trial have the right to conduct religious rituals in their cells "in accordance with the traditions of the religious confessions to which they belong", provided such rituals "do not violate the regime" of the prison. It adds that pre-trial prisoners are allowed to have with them in their cells religious literature and religious objects. Prisoners can receive visits from clerics (presumably only of registered religious organisations) if the prison head and the investigator in the case give permission.

Now the verdicts enter legal force with the failure of the men's appeal, Laubayev, Konyrbayev and Naurzgaliyev are likely to be transferred soon to labour camp to serve their sentences.

The Investigation Prison address where Laubayev, Konyrbayev and Naurzgaliyev are being held at the moment:

Karagandinskaya Oblast

g. Karaganda

ul. Asfaltnaya 16

Uchr. AK-159/1 (SI-16)

Kazakhstan

Additional punishment

On 2 April, just four days before Karaganda's October District Court convicted Laubayev, Konyrbayev and Naurzgaliyev, Karaganda's Specialised Administrative Court fined Naurzgaliyev in a separate administrative case. He was accused of conducting illegal missionary activity "without registration" using Tabligh Jamaat publications "without a positive religious studies expert analysis" (i.e. which had not passed through the state's prior compulsory religious censorship).

The court decision – seen by Forum 18 - gives no date when the "offence" took place (presumably it was before Naurzgaliyev's October 2017 arrest). It also gives no information about who prepared the record of an offence against him or whether anyone from the Regional Religious Affairs Department was present in court.

Article 62 of the Administrative Code states that court decisions must be taken within two months of the alleged offence. This can be extended if "expert analyses" are commissioned.

The court decision said that a "psycho-philological and religious studies expert analysis" of the literature seized from Naurzgaliyev, completed on 23 January, concluded that it was from the Tabligh Jamaat movement. It noted that the literature contained "no negative ideas preached in relation to other nations, races and religions".

Judge Saule Dzhaltirova found Naurzgaliyev guilty under Administrative Code Article 490, Part 3. This punishes: "Carrying out missionary activity without state registration (or re-registration), as well as the use by missionaries of religious literature, information materials with religious content or religious items without a positive assessment from a religious studies expert analysis, and spreading the teachings of a religious group which is not registered in Kazakhstan". The punishment is a fine of 100 MFIs, with deportation if the individual is a foreign citizen.

Judge Dzhaltirova fined Naurzgaliyev 100 MFIs, 240,500 Tenge (6,000 Norwegian Kroner, 620 Euros or 730 US Dollars). This represents about two months' average wages for those in formal work.

Erlan Dosayev, a specialist at Karaganda Regional Religious Affairs Department, told Forum 18 on 18 May that he did not prepare the record of an offence against Naurzgaliyev. He said he was not familiar with the case and did not know which of his colleagues

had done so.

Karaganda's Specialised Administrative Court told Forum 18 on 18 May that Judge Dzhalirova was on holiday. No one else there would comment on why she had punished Naurzgaliyev for events that presumably took place before late October 2017, beyond the two-month deadline; why her decision did not give details of his alleged offence; why it did not say who had prepared the record of an offence; and why it did not say who had been present in court in addition to her and the court secretary.

The Court referred all questions to Gulbarshin Zhitikova, spokesperson for Karaganda Regional Court. Zhitikova told Forum 18 on 22 May that she would put its questions to the Specialised Administrative Court.

The administrative court decision, seen by Forum 18, notes that Naurzgaliyev did not arrive for the hearing despite being informed of it. It makes no mention that he had already been in Karaganda's Investigation Prison for five months and that at the time his criminal trial was underway.

Naurzgaliyev does not appear to have appealed against this administrative punishment. The decision entered legal force on 17 April. (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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