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UZBEKISTAN: Freed from punishment, but property ordered destroyed

By Mushfig Bayram, Forum 18

Three Muslims convicted in separate criminal cases for possessing Islamic texts are seeking to have their convictions overturned. Gayrat Ziyakhojayev in Tashkent received no punishment, but his computer and phone were ordered destroyed. "I do not want to carry a criminal record," he told Forum 18.

A court in the capital Tashkent has convicted 31-year-old Gayrat Ziyakhojayev of sharing Muslim texts containing "a threat to public security and public order", despite the fact that he downloaded them from an Uzbek website that is not banned. Although the court freed him of any punishment, he now has a criminal record and the judge ordered his phone and computer containing irreplaceable family photos to be destroyed.

Ziyakhojayev is challenging the 12 June conviction, which came more than a year after police started interrogations in April 2017. "I did not violate the law, I do not want to carry a criminal record," he told Forum 18. "And my computer has a lot of valuable data on it, such as years of our family photos and a film of my sister's wedding."

After several fruitless visits to the court, Ziyakhojayev finally managed to get it to hand over the verdict on 22 June, ten days after the decision was handed down. "Today I filed an appeal in the Uchteppa Court," he told Forum 18 on 26 June. "I am now waiting to hear from the Court the date of the hearing" (see below).

Two other Muslims convicted for having Islamic texts are still seeking to have their convictions overturned.

Nearly three months after lodging his appeal against a suspended three-year prison term handed down on 3 April, Muslim scholar Musajon Bobojonov complains that Fergana Regional Court has ignored the appeal and will set no date for it to be heard. He was punished for having on his computer for scholarly purposes an Islamic work which he did not fully agree with. He has likened his conditions to "virtual house arrest" and insists he is seeking "a full acquittal and clearing of my name" (see below).

The lawyer for jailed Shia Muslim Jahongir Kulijanov is planning to lodge a cassational appeal to Bukhara Regional Court on 29 June, a relative told Forum 18. Arrested in May 2017, he is serving a five-year prison term for storing on his mobile phone and personal computer "extremist religious materials". These consisted of audio files, in Russian, on the history of the Battle of Karbala and the killings of Shia Imams, and opinions of Shia scholars on matters of the Islamic faith (see below).

Long-running questioning leads to criminal trial

Hairdresser Abduboki Yunusov and his regular customer Gayrat Ziyakhojayev were repeatedly questioned by police in Tashkent after police stopped one of Yunusov's cousins late at night on the street and searched him. They found Islamic materials on his phone. Between April and October 2017, police repeatedly interrogated Yunusov, his family, and Ziyakhojayev, who are all Muslims.

Some years ago Ziyakhojayev bought a book entitled "Islam between Two Fires", which had passed state censorship and was published by the still-operating Mavoronnahr publishing house. He had shared the book, which is critical of non-Islamic missionary movements, with Yunusov. Police found the book on Yunusov's phone and then summoned Ziyakhojayev for questioning (see F18News 27 October 2017 http://www.forum18.org/archive.php?article_id=2329).

Investigators then handed the materials for an "expert analysis" to the government's Religious Affairs Committee, which assigned them to Committee official Jakhongir Jurayev. In his 21 November 2017 written analysis, seen by Forum 18, Jurayev claimed without giving any evidence that Ziyakhojayev's phone had material with "banned ideas of religious sectarianism".

The Religious Affairs Committee frequently produces "expert analyses" to justify literature confiscations and destructions (see Forum 18's Uzbekistan religious freedom survey http://www.forum18.org/archive.php?article_id=2314).

In January 2018, Ziyakhojayev wanted to travel to Moscow to meet human rights defenders from the Russian human rights group Memorial. However, the authorities stopped him at the border with Kazakhstan. He was eventually charged under Criminal Code Article 244-1 ("Production, storage, distribution or display of materials containing a threat to public security and public order"), Part 2 ("Dissemination of materials containing ideas of religious extremism, separatism, and fundamentalism, calls for pogroms or violent eviction, or aimed at creating panic among the population, as well as the use of religion for purposes of breach of civil concord, dissemination of calumnious and destabilising fabrications, and committing other acts aimed against the established rules of conduct in society and public order"). Punishments are fines or imprisonment of up to five years (see F18News 6 April 2018 http://www.forum18.org/archive.php?article_id=2367).

Ziyakhojayev's criminal trial began under Judge Shamsiddin Tojiyev at Tashkent's Uchteppa District Criminal Court on 13 April (see F18News 13 April 2018 http://www.forum18.org/archive.php?article_id=2369).

Religious Affairs Committee official avoids court

Judge Tojiyev adjourned the trial several times between 13 April and 12 June, as Jakhongir Jurayev of the Religious Affairs Committee – who had prepared the November 2017 "expert analysis" – failed to come to court to testify, Ziyakhojayev told Forum 18. Court officials called Jurayev on his mobile phone, but "once he said he would be in the Court in half hour, another time he said he was on the way but never came. Other times he just switched off his phone."

Jakhongir Jurayev "had been busy" every day the court was sitting, Ulugbek Jurayev, the Assistant to the new Chair of the Religious Affairs Committee Jasur Akramov, claimed to Forum 18 on 18 June. Asked why his colleague could not find time to attend court, Ulugbek Jurayev responded: "I do not know." He then claimed that Forum 18 could not speak to the missing official as "he is on sick leave".

"Banned ideas of religious sectarianism"?

Jakhongir Jurayev's November 2017 "expert analysis" finding that Ziyakhojayev allegedly had material with "banned ideas of religious sectarianism" was used in the prosecution case.

However, A. Gimranov, an official of Uzinfocom, the agency that develops and maintains the information systems for state agencies, which is under the Information Technologies and Communications Development Ministry, told the Court on 5 June that the website ziyouz.com, from which Ziyakhojayev downloaded the Islamic religious material, is a "mirror copy of the website ziyouz.uz, which is officially registered in Uzbekistan. The contents of both websites are similar and link to each other".

M. Mirismailov, the Religious Affairs Committee official who appeared before the Court on 25 May in Jakhongir Jurayev's place, "could not answer me when I asked why the website from which I downloaded the materials is not banned and still functioning", Ziyakhojayev told Forum 18. Judge Tojiyev also could not answer Ziyakhojayev when he asked why he was facing criminal charges for having material from a website that is not banned.

Ulugbek Jurayev of the Religious Affairs Committee confirmed to Forum 18 that the ziyouz.com website is not banned. Asked why his colleague claimed material from the website contained "banned ideas of religious sectarianism", Ulugbek Jurayev replied: "You can ask him when he is back at work."

Computer and phone ordered destroyed

Punishments under Criminal Code Article 244-1, Part 2, which Ziyakhojayev faced, are a fine of up to 400 times the minimum monthly wage and deprivation of liberty for between three and five years. This Article is normally used against Muslims exercising their freedom of religion and belief (see Forum 18's Uzbekistan freedom of religion and belief survey http://www.forum18.org/archive.php?article_id=2314).

In the final hearing on 12 June, Judge Tojiyev freed Ziyakhojayev from responsibility based on Criminal Code Article 70, but ordered his notebook computer and mobile phone to be destroyed, according to the verdict seen by Forum 18.

Article 70 allows a judge to release from punishment an individual who has committed a crime "if it is recognised that by the time of the case's consideration in court the circumstances have changed or the person, as a consequence of their faultless conduct or responsible attitude to work or education, stopped being harmful to the public".

Forum 18 tried to reach Judge Tojiyev to ask why he had not acquitted Ziyakhojayev and why he ordered the destruction of his phone and his computer, which contains irreplaceable family photos and a wedding video. However, Farukh Farkhodov, Tojiyev's Assistant, claimed to Forum 18 on 14 June that "the Judge is busy and I cannot say why".

Zakhid Nuriddinov, Chair of the Court's Chancellery, also refused to comment on the case, but told Forum 18 that "with Judge

Tojiyev's permission" Ziyakhojayev could ask to receive a copy of the family data on the computer.

Court ignores appeal against three-year suspended prison term

Muslim scholar Musajon Bobojonov complains that for nearly three months Fergana Regional Court has ignored his appeal against a suspended prison term.

After Bobojonov lent his computer to a relative, police found on it a copy of an Islamic book which he had partially read. He told Forum 18 he had the book for the purpose of research and writing, and did not agree with some passages in it. On 26 March, Kuva District Criminal Court sentenced him to a three-year suspended prison term on charges of disseminating "extremist" material. He will be under restrictions during this time. He described the punishment as "severe - virtually house arrest" (see F18News 6 April 2018 http://www.forum18.org/archive.php?article_id=2367).

Bobojonov filed an appeal against his sentence to Fergana Regional Court on 3 April. "The Court told me they have accepted the appeal, but in violation of procedure it has not heard the case after 84 days, and will not give me a date for the hearing," he complained to Forum 18. The court should have heard the appeal within twenty days after they accepted the appeal, he added.

"The Court kept sending mediators to me to close the case by cancelling the criminal case and instead giving me an administrative fine," Bobojonov told Forum 18. "I did not agree to this - I want a full acquittal and clearing of my name."

Dilshod (he refused to give his last name), Assistant to Judge Muradjon Mirzajonov, Chair of Fergana Regional Court, refused to tell Forum 18 why the Court has not heard Bobojonov's appeal despite the fact 84 days passed from the date of acceptance. He also refused to put Forum 18 through to the Chair.

Dilshod instead referred Forum 18 to Gulnoza Khudayberdiyeva, Secretary of the Court's First Instance Appeals Board. She did not answer the phone on 26 June. Called back, Assistant Dilshod refused to put Forum 18 through to any other officials of the Court. He claimed he does "not hear well" while Forum 18's end of the line was very clear. He then put the phone down.

Jailed Shia Muslim to lodge cassational appeal

Munojot Parpiyeva, the lawyer for jailed Shia Muslim Jahongir Rizoyevich Kulijanov (born 5 October 1982), has prepared a cassational appeal against his conviction and five-year jail term. She is planning to lodge the appeal to Bukhara Regional Court on 29 June, his brother Saidjamol Kulijanov told Forum 18 from Bukhara on 22 June.

The State Commission that considers pardons for prisoners has not yet responded to Jahongir Kulijanov and his relatives' earlier appeal for a pardon (see F18News 29 March 2018 http://www.forum18.org/archive.php?article_id=2365).

Trouble for Jahongir Kulijanov and other members of Bukhara's Shia Muslim community who used to attend the city's Khoji mir Ali Shia Mosque began on 2 February 2017. Officers of Bukhara City Police and the then NSS secret police arrested him and 19 others. Five – including Jahongir Kulijanov – were jailed for 15 days, where they were tortured with kicking and severe beatings.

The NSS secret police arrested Kulijanov again on 30 May 2017 and investigators brought a case against him under Criminal Code Article 244-1, Part 3 (a) and (d) ("production, storage, distribution or display of materials containing a threat to public security and public order" by a group of people and using the media or the internet). Punishment under this Part of the Article is between five and eight years' imprisonment.

Investigators deemed "extremist" a Russian-language audio file they found on Jahongir Kulijanov's phone recounting the story of the Battle of Karbala in 680 (61 in the Islamic Calendar), when Husayn ibn Ali, the grandson of the Muslim prophet Muhammad, was killed. Shia Muslims regard the Battle as a tragedy and Husayn as a martyr.

Bukhara Regional Criminal Court jailed Kulijanov in October 2017 on charges of storing "extremist religious materials" on his mobile phone and computer. The five-year term is deemed to run from his arrest on 30 May 2017. Human rights defenders deny that the materials – on the history of Shia Islam – constituted incitement to harm the human rights of others (see F18News 29 March 2018 http://www.forum18.org/archive.php?article_id=2365).

"The lawyer filed an appeal to Bukhara Regional Court within the ten days allowed for an appeal after the verdict is issued, but the Court claimed that the appeal was not prepared properly and returned it to us." Saidjamol Kulijanov complained that the Court would not then accept an appeal on the essence of the case, saying that the ten day term had run out.

Bukhara Regional Court's Chancellery official (who did not give his name) refused to tell Forum 18 on 26 June why the Court did not accept the appeal from Kulijanov's lawyer on time. He referred Forum 18 to Akram Rakhimov, Secretary of the First Instance Appeal Board.

Rakhimov refused to tell Forum 18 why the Court did not accept the first appeal but claimed: "Their lawyer has not submitted a cassation appeal to us yet." (END)

For more background, see Forum 18's Uzbekistan religious freedom survey at http://www.forum18.org/Archive.php?article_id=2314.

Full reports on freedom of thought, conscience and belief in Uzbekistan can be found at <http://www.forum18.org/Archive.php?query=&religion=all&country=33>.

For a personal commentary by a Muslim scholar, advocating freedom of religion and belief for all as the best antidote to Islamic religious extremism in Uzbekistan, see http://www.forum18.org/Archive.php?article_id=338.

A compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments is at http://www.forum18.org/Archive.php?article_id=1351.

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