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UZBEKISTAN: Devout Muslim "may receive up to 15 years" in jail

By Mushfig Bayram, Forum 18 (<https://www.forum18.org/>)

Uzbekistan is prosecuting Muslim prisoner of conscience Khayrullo Tursunov for exercising his freedom of religion or belief, Forum 18 News Service has learned. He was extradited from Kazakhstan – in violation of that country's international human rights obligations – and immediately arrested by Uzbekistan's NSS secret police, the Interior Ministry, the ordinary police, and the Prosecutor General's Office. His trial was due to begin on 15 April, but has not yet happened. Tursunov "may receive up to 15 years" in jail, police Colonel Isameddin Irisov told Forum 18. "Tursunov is a devout follower of Islam, and in Uzbekistan he peacefully practiced his faith outside state-controlled Islam", exiled human rights defender Mutabar Tadjibayeva of the Fiery Hearts Club told Forum 18. Some relatives suspect that the authorities may have sought Tursunov in revenge for his wife's escape from Uzbekistan. Nodira Buriyeva fled Uzbekistan after being interrogated and threatened with rape before a relative was jailed for being a devout Muslim. Tursunov had fled to Kazakhstan to practice his faith and join his wife and their children, but now faces being tortured in Uzbekistan.

Uzbekistan is prosecuting Khayrullo Tursunov, a 38-year old Muslim prisoner of conscience, for exercising his freedom of religion or belief, Forum 18 News Service has learned. He was extradited from Kazakhstan – in violation of that country's international human rights obligations – on 13 March and immediately arrested. Uzbekistan's National Security Service (NSS) secret police, the Interior Ministry, the ordinary police, and the Prosecutor General's Office all took part in the arrest. The trial was due to begin on 15 April, but has not yet happened.

Tursunov "may receive up to 15 years" in prison, Colonel Isameddin Irisov, Head of Kashkadarya regional police Struggle with Extremism and Terrorism Department, told Forum 18 on 25 April. Colonel Irisov signed a letter to the Kazakh authorities for Tursunov's extradition, but said that he does not know when Tursunov will be brought to trial, or how long the investigation will be.

Why?

"Tursunov is a devout follower of Islam, and in Uzbekistan he peacefully practiced his faith outside state-controlled Islam", exiled human rights defender Mutabar Tadjibayeva of the Fiery Hearts Club told Forum 18 on 1 May. One of Tursunov's relatives outside Uzbekistan told Forum 18 on 1 May that "he knew some of the 29 men extradited earlier from Kazakhstan to Uzbekistan, with whom he privately learned Koran and prayed together". The relative commented that "these were men who had fled Uzbekistan because of religious persecution, and they wanted to follow their faith peacefully outside Uzbekistan". In June 2012, the UN Committee Against Torture found that Kazakhstan had violated the human rights of the men by extraditing them to Uzbekistan in 2011 (see F18News 10 September 2012 http://www.forum18.org/Archive.php?article_id=1739).

Meeting together privately to study the Koran and learn to pray incurs official hostility. In November 2012, nine Muslim men were punished for meeting to discuss their faith and to learn how to pray. Two of the men - Gayrat Khusanov and Shuhrat Yunusov – were given seven year prison terms on 22 November, and the other seven defendants received three year suspended prison terms (see F18News 23 November 2012 http://www.forum18.org/Archive.php?article_id=1770). Their appeals were rejected in December (see F18News 20 December 2012 http://www.forum18.org/Archive.php?article_id=1785).

Hunted in revenge for his wife's escape?

Human rights defender Tadjibayeva told Forum 18 that Tursunov "fled Uzbekistan because he feared the religious persecution going on in the country". She pointed out that his wife Nodira Buriyeva fled Uzbekistan, after being interrogated and threatened with rape before a relative was jailed for being a devout Muslim.

Some relatives suspect that the authorities may have sought Tursunov in revenge for his wife's escape. One relative outside Uzbekistan, who wished to remain unnamed for fear of Uzbek state reprisals, told Forum 18 on 16 April that Uzbekistan wanted "to get him at any cost to punish him".

Buriyeva escaped from Uzbekistan after she along with over seven other women were interrogated by police who threatened them with rape, after police arrested her relative Mehrinisso Hamdamova for holding unauthorised religious meetings in her home.

Several of the arrested women also escaped, and the authorities arrested and tortured a man they suspected of being involved in the escape (see F18News 27 January 2010 http://www.forum18.org/Archive.php?article_id=1399). Hamdamova was, along with other Muslim women, sentenced to seven years in a labour camp on 12 April 2010 by Karshi [Qarshi] Criminal Court in the central Kashkadarya Region (see F18News 26 April 2010 http://www.forum18.org/Archive.php?article_id=1436).

Human rights defender Tadjibayeva told Forum 18 that Buriyeva with her three children lives in Europe, after being given refugee status by the United Nations High Commissioner for Refugees (UNHCR).

Detained, no visits from relatives allowed

Tursunov was transferred to Investigation Prison No. 5 in the village of Shaikh-ali near the Kashkadarya regional capital Karshi. The prison address is:

UYa 64/SI-5

pos. Shaikh-ali

g. Karshi

Kashkadarya Region

Uzbekistan

His relatives outside Uzbekistan told Forum 18 on 22 April that relatives in Uzbekistan have not been able to visit him in the prison. "His investigator [whose name is not known] refused" to grant them permission. "We do not know how he is treated in the prison, whether or not he is beaten, or how his health is."

Torture in Uzbekistan continues to be "routine", as the UN Committee Against Torture put it, with cases frequently being reported by victims to Forum 18. For good reason, victims (including children) of the country's widespread use of torture normally choose not to complain or make their suffering public for fear of state reprisals (see F18News 14 August 2012 http://www.forum18.org/Archive.php?article_id=1732).

Uzbekistan's other prisoners of conscience who have been jailed for exercising their freedom of religion or belief include many other Muslims, Jehovah's Witnesses, and one Baptist. Many of the Muslim prisoners of conscience are known to have been banned from reading the Koran or openly praying (see F18News 7 May 2013 http://www.forum18.org/Archive.php?article_id=1832).

Prisoners in Uzbekistan have long been denied their right to freedom of religion or belief – for example to pray visibly, to have religious literature, or to receive visits from clergy, Forum 18 has found. These denials of religious freedom affect not only prisoners of conscience of all faiths, jailed or imprisoned for exercising their freedom of religion or belief, but also prisoners jailed for other reasons (see F18News 17 July 2009 http://www.forum18.org/Archive.php?article_id=1329).

Escaped to wife and children, but then extradited back

Asked why Tursunov is being prosecuted, an officer at Kashkadarya regional NSS secret police on 25 April took down the question. He then said that Investigator S. Akhmadov (first name not given) is "busy at the moment", and asked Forum 18 to call back later. Called back later, the officer claimed to Forum 18 that Akhmadov "is still busy, and I don't know when he will be free to comment". He refused to put Forum 18 through to other NSS officials, and did not wish to talk further.

Human rights defender Tadjibayeva told Forum 18 that "seeing that the authorities would not leave him alone", Tursunov in September 2009 fled Uzbekistan for Kazakhstan, where he joined his wife and children. Tursunov asked the UNHCR for refugee status in Kazakhstan. "However", Tadjibayeva continued, "Kazakhstan ignored the official request of the UNHCR not to extradite him, and in violation of its international human rights obligations delivered him over to Uzbekistan".

After Tursunov fled Uzbekistan, Investigator Akhmadov on 18 January 2012 opened a criminal charge, which Forum 18 has seen, against Tursunov under the Criminal Code's Article 244-2 Part 1 ("Creation, leadership or participation in religious extremist, separatist, fundamentalist or other banned organisations"). This charge carries a maximum sentence of 15 years in jail. The charge was confirmed on 13 April 2012 by R. Abdullayev, Chief of the Search Department of Kashkadarya regional Police, and referred to Kazakhstan for Tursunov's arrest and extradition.

Tursunov was arrested in Kazakhstan on 7 April 2012 and detained in detention centres in Aktobe and Almaty for 11 months until 13 March 2013, when he was extradited to Uzbekistan (see F18News 8 May 2013 http://www.forum18.org/Archive.php?article_id=1833).

Kazakhstan's extradition of Tursunov violates the United Nations 1951 Refugee Convention, as did its similar extradition of 29 other Muslim men to Uzbekistan. The UN Committee Against Torture is continuing to pursue this case (see below).

On 24 February 2012, Investigator Oybek Narzullayev of Mirishkor Police brought further criminal charges against Tursunov, which Forum 18 has seen. He was accused of breaking five more Criminal Code articles:

- 216-2 (b) ("Attracting believers of one faith to another (proselytism) and other missionary activity"). This charge carries a maximum sentence of three years in jail;
- 155 Part 1 ("Terrorism"). This charge carries a maximum sentence of 10 years in jail;
- 156 Part 3 (e) ("Incitement of Ethnic, Racial or Religious Hatred - with previous planning or by a group of individuals"). This charge carries a maximum sentence of 10 years in jail;
- 159 Part 3 (b) ("Violent attempts to change the constitutional order – by an organised group or in its interests"). This charge carries a maximum sentence of 10 years in jail;
- and 223 Part 2 ("Illegal exit from or entry into Uzbekistan"). This charge carries a maximum sentence of 10 years in jail.

Inconsistencies in charges

Tursunov in his 3 January 2013 appeal to Kazakhstan's Aktobe Regional Court, which Forum 18 has seen, against Aktobe Court No. 2's decision to extradite him, states that Aktobe Court was "not objective or fair." He notes that the criminal charges brought against him were "full of inconsistencies" which the Court did not investigate. He also stated that the Court did not investigate whether Uzbekistan "fabricated" charges, so as to "get me by any possible means so that later by torture they could impute crimes to me".

Tursunov points out that Investigator Akhmadov's original 18 January 2012 charge claimed that he had established and led a criminal organisation in Almaty in Kazakhstan between December 2009 and January 2012, and charged him under Uzbekistan's Criminal Code Article 244-2. Yet Tursunov fled Uzbekistan in September 2009. This is acknowledged in the second 24 February 2012 charges brought by Investigator Nurzullayev, which claim that the alleged crimes were committed in Karshi in Uzbekistan.

Tursunov also points out that there has been a prolonged delay in bringing the charges after the alleged offences, of over two and half years.

"To make their extradition demands sound more serious"

Human rights defender Tadjibayeva, and Tursunov's relatives, told Forum 18 that Tursunov is a "peaceful religious man and not a criminal, nor has he been part of any extremist activities". Tadjibayeva stated that the original charge was increased "to make their extradition demands sound more serious".

Police Colonel Irisov, who on 28 April 2012 signed a letter asking Kazakhstan's Interior Ministry to arrest Tursunov, told Forum 18 that Tursunov is "guilty of all that" when asked why extra criminal charges were added. Asked what concretely Tursunov is charged with, Irisov claimed that Tursunov established various unspecified illegal religious organisations, and participated in unspecified extremist actions. Asked again what Tursunov concretely did, Irisov said that "he does not like the government and spoke against the Constitutional order". When Forum 18 noted that in democratic countries peaceful people are not jailed for speaking against the government, Irisov stated that Tursunov "established illegal religious organisations and that evidence is enough".

Tursunov has previously been jailed in October 2004 for exercising his freedom of religion or belief, but was amnestied in February 2005. He was also jailed for 10 days in August 2009 (see below).

Prosecutor General's Office officials on 25 April refused to put Forum 18 through to Khakimbay Khalimov, Deputy Prosecutor General, who on 27 April 2012 signed a letter which Forum 18 has seen to Iogan Merkel, Kazakhstan's Deputy Prosecutor General, demanding Tursunov's extradition. One official (who would not give his name) referred Forum 18 to Uygun Nigmatjanov of the General Prosecutor's Office. The official who answered the phone, who would not give his name, claimed that Nigmatjanov is "busy". When asked about the case he said that he cannot comment, and refused to put Forum 18 through to Khalimov or any other officials. "Please send your questions in writing", he said and then put the phone down.

Tursunov's previous two imprisonments

Tursunov was on 20 October 2004 sentenced to 12 years in prison for alleged "terrorism" by Kashkadarya Regional Criminal Court, other Muslims who attended the same mosque and its imam also being given long jail terms. But it was clear at the time that the only reason Tursunov and his fellow Muslims were sentenced was because they as devout Muslims exercised their right to freedom of religion or belief. The authorities showed no interest in alleged "terrorism" during the investigation of Imam Rustam Klichev and

those who attended his central Navo mosque in Karshi, being solely interested in how they practiced Islam (see F18News 3 November 2004 http://www.forum18.org/Archive.php?article_id=444).

On 2 February 2005 Tursunov was amnestied and released from prison after testimony in his favour from Abdulaziz Mansur, Deputy Grand Mufti of Uzbekistan, Tursunov's relatives told Forum 18. Human rights defender Tadjibayeva told Forum 18 that after Tursunov's release, he was "followed by police everywhere, and was made to report on the details of his daily activities and which mosques he visited for prayers".

In one instance, police Colonel Pardayev "forced Tursunov to sweep floors of the police station, but he refused to do so as he is a free man and has no such obligations". Tursunov then complained to the regional NSS secret police and demanded that Colonel Pardayev be punished, Tadjibayeva said. "He was several times summoned after this to the Regional Police and told that he must withdraw his complaint, but he refused to do so". This, she explained, "is also one of the reasons why the authorities do not like him".

Human rights defender Tadjibayeva told Forum 18 that police kept following and harassing Tursunov until August 2009. On 22 August he was "molested by two unknown women in front of police on the street". After this he was taken to a police station and the next day given 10 days' jail by Karshi City Court for "allegedly infringing upon the women's honour".

During the arrest Tursunov was "beaten and questioned" in an attempt to extort information on one other person accused of alleged "religious extremism". On 2 September 2009 he was released, after which he fled to Kazakhstan.

Kazakhstan's violation of its international human rights obligations

Kazakhstan acceded to the United Nations 1951 Refugee Convention in January 1999. Article 33, Part 1 of the Convention declares: "No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion."

On 9 June 2011, Kazakhstan sent back 29 men wanted by the Uzbek authorities on anti-state and religion-related charges, despite protests by human rights defenders. Relatives of the men say they were peaceful Muslims the authorities were seeking to punish for their religious activity.

Representatives of the men complained to the UN Committee Against Torture, arguing that they were at risk of torture if they were returned to Uzbekistan. On 1 June 2012, the Committee ruled that Kazakhstan had violated its commitments under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Reference CAT/C/48/D/444/2010 http://www2.ohchr.org/english/bodies/cat/docs/jurisprudence/CAT-C-48-D-444-2010_en.pdf).

The Committee found that "the pattern of gross, flagrant or mass violations of human rights and the significant risk of torture or other cruel, inhuman or degrading treatment in Uzbekistan, in particular for individuals practising their faith outside of the official framework, has been sufficiently established". It pointed out that at least some of the complainants had already been subjected to "detention and torture" before they fled to Kazakhstan.

The Committee noted that the men were detained as soon as they arrived back in Uzbekistan and that some at least had received prison terms of more than ten years.

Kazakhstan had told the Committee that it had received "written guarantees from the General Prosecutor's Office of Uzbekistan that the complainants' rights and freedoms would be respected after the extradition and that they would not be subjected to torture or ill-treatment". However, the Committee noted that Kazakhstan's accepting such assurances without close monitoring of conditions in Uzbek detention was not enough. The Committee noted that the men were detained as soon as they arrived back in Uzbekistan and that some at least had received prison terms of more than 10 years. The Committee gave the Kazakh government 90 days to respond (see F18News 10 September 2012 http://www.forum18.org/Archive.php?article_id=1739).

On 8 November, Kazakhstan responded to the Committee – with information prepared by Kazakhstan's General Prosecutor's Office – claiming that between 3 and 14 August, Kazakh diplomats had interviewed 18 of those extradited back to Uzbekistan, all of them now in prison.

"None of the visited convicts indicated to have been subjected to torture, unlawful measures of physical and moral pressure or other impermissible methods of investigation," the UN summarised the Kazakh response as claiming. "All of them were assigned ex officio lawyers and could retain lawyers privately. None of them complained about the conditions of detention, the food or the medical care provided." It added that "upon request by the Kazakh diplomatic service, medical examinations of the 18 complainants were carried out and no signs of beatings or torture were disclosed". The Kazakh government submitted what it said were statements to the UN Committee attesting to this signed by the prisoners.

The Kazakh government, citing officials from Uzbekistan, told the UN that a further seven of those extradited are still under investigation, adding that Kazakh officials' "meetings with them will be arranged at a later stage". It said the other four were not in detention – one had been sentenced and amnestied, while the other three were given non-custodial sentences.

"The Committee Against Torture will consider at its next session in May 2013 whether it is satisfied with the government response or not," the Committee told Forum 18 from Geneva on 5 December 2012 (see F18News 5 December 2012 http://www.forum18.org/Archive.php?article_id=1777). (END)

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

For more background, see Forum 18's Uzbekistan religious freedom survey at http://www.forum18.org/Archive.php?article_id=1862.

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>.

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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