

19 May 2022

KAZAKHSTAN: Nine known Muslim prisoners of conscience - torture, solitary confinement

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

Five of the nine known prisoners of conscience jailed for exercising freedom of religion or belief were punished for participating in an online Islamic discussion group. The other four are also Sunni Muslims. Dadash Mazhenov and Abdukhalil Abduzhabbarov are facing torture by being held in prolonged solitary confinement. Mazhenov has been physically tortured, most recently in a January 2022 beating with truncheons which broke his jaw. Abduzhabbarov was not allowed to attend his father's funeral, while Galymzhan Abilkairov was not allowed to attend his wife's funeral.

Nine individuals (all of them Sunni Muslim men) are known to be serving prison sentences to punish them for exercising freedom of religion or belief. Five of these prisoners of conscience were jailed for participating in an online Islamic discussion group. They are: Beket Mynbasov, Samat Adilov, Nazim Abdrakhmanov, Ernar Samatov and Bolatbek Nurgaliyev.

The five remain in prison more than six months after the United Nations Working Group on Arbitrary Detention in October 2021 called for them to be "immediately" freed and compensated for their imprisonment. The Working Group stressed that "no trial" of the men "should have taken place" (see below).

A further four Muslim men from the online Islamic discussion group have been freed from prison, but are serving the rest of their sentences at home under restrictions. None have had their sentences or being compensated for being wrongly prosecuted and jailed (see below).

The other four known prisoners of conscience jailed for exercising their freedom of religion or belief are: Dadash Mazhenov, Dilmurat Makhamatov, Galymzhan Abilkairov and Abdukhalil Abduzhabbarov (see below).

The 31-year-old Sunni Muslim Dadash Mazhenov is serving a term of 7 years and 8 months in a general regime labour camp for posting online four talks by Muslim teacher Kuanysh Bashpayev years before the talks were banned as "extremist". An "expert analysis" was used to convict him, as is often the case with prosecutions for exercising freedom of religion and belief. Prisoner of conscience Mazhenov has been repeatedly tortured, and is currently still being tortured by being held in solitary confinement since July 2019 (see below).

Labour camp officials, including the acting head of the camp, have refused to answer Forum 18's questions on whether any camp official had - in line with Kazakhstan's international obligations - been put on criminal trial for torturing Mazhenov, insisting that "it didn't happen". Camp officials have also refused to explain why they have blocked his transfer to a labour camp closer to his home region of Akmola in northern Kazakhstan, 1,000 kms (600 miles) away (see below).

The 47-year-old Sunni Muslim Imam Abdukhalil Abduzhabbarov is serving an eight-year jail term on charges of inciting religious discord "with serious consequences" in recordings of his sermons and talks. His attempts to secure early release or a transfer to a lesser form of punishment have been blocked. The NSC secret police "proposed that he make a video address admitting what he was accused of. He refused, as he considers himself not guilty," the family told Forum 18 (see below).

Prisoner of conscience Abduzhabbarov has been since October 2017 tortured by being held in solitary confinement. In July 2021, Abduzhabbarov's 82-year-old father died and the regime barred from attending the funeral, violating the UN Standard Minimum Rules for the Treatment of Prisoners (known as the Mandela Rules). "He was unable to see or say goodbye to his father," his family told Forum 18. "It was very painful for him." Labour camp officials have refused to answer Forum 18's questions (see below).

The 34-year-old Sunni Muslim Galymzhan Abilkairov is not allowed to have a Koran in labour camp in Taraz. After his wife died in 2019, the camp administration did not allow him to attend the funeral (see below).

Even when sentences are complete, punishment does not stop. Many individuals who have completed prison terms or restricted freedom sentences are still under often vague post-jailing bans on specific activity

(https://www.forum18.org/archive.php?article_id=2743).

Post-jailing bans on specific activity, such as visiting specific places or sharing faith, are handed down as part of the sentence. For those convicted to punish exercise of freedom of religion or belief, such bans – which can be vaguely worded - often include bans on visiting places of worship or sharing their faith with others (https://www.forum18.org/archive.php?article_id=2743).

Almost all those convicted for exercising freedom of religion or belief are added to the Financial Monitoring Agency List of individuals (https://www.forum18.org/archive.php?article_id=2409) "connected with the financing of terrorism or extremism". Being added to the List means that any bank accounts an individual may have are blocked with no further legal process. Their families often find out about the blocking of accounts only when they go to the bank. Families are allowed to withdraw only small amounts for daily living if they do not have other sources of income.

Individuals remain on the Financial Monitoring Agency List for six or eight years after their sentence has expired as they are deemed still to have a criminal record. All nine of the jailed Muslims are on the List. So too are many more former prisoners of conscience jailed for exercising freedom of religion or belief.

The regime has shared such information with other countries, and some prisoners of countries have any bank accounts also blocked in those states (https://www.forum18.org/archive.php?article_id=2743).

Three leaders of Almaty's New Life Pentecostal Church (who currently live in the United States) were given jail terms in absentia in July 2019 for between four and five years (https://www.forum18.org/archive.php?article_id=2521). Yevgeny Zhovtis of the Kazakhstan International Bureau for Human Rights and the Rule of Law described the case as "complete drivel". New Life Church was told its problems would end if it paid money to officials or collaborated with the secret police. Should the three pastors return to Kazakhstan they expect to be arrested and jailed (https://www.forum18.org/archive.php?article_id=2744).

Mazhenov: 7 year, 8 month jail term

Sunni Muslim Dadash Temirgaliyevich Mazhenov (born 28 September 1990) is serving a term of 7 years and 8 months in a general regime labour camp for posting online four talks by Muslim teacher Kuanysh Bashpayev years before the regime banned the talks as "extremist".

Mazhenov was arrested on 23 April 2018. Burabai District Court sentenced him on 16 November 2018 (https://www.forum18.org/archive.php?article_id=2435) under Criminal Code Article 256, Part 2. This punishes "Propaganda of terrorism or public calls to commit terrorism" - which includes the production, storage for distribution or distribution of [unspecified in the Article] specified materials - committed by an individual using a state or non-state official position, or with the use of the mass media or other communication networks, or with foreign support, or in a group".

The prosecution used an "expert" from the Justice Ministry's "Centre for Judicial Expert Analysis", Roza Akbarova, whose lack of qualifications led to the 2018 verdict on Sunni Muslim prisoner of conscience Mazhenov being overturned by the Supreme Court (https://www.forum18.org/archive.php?article_id=2569) and the case being sent for a new trial. On 13 October 2020, after 25 hearings in Akmola Regional Court, Mazhenov was sentenced on the same 2018 charges to the same prison term he was given in 2018: 7 years and 8 months in a general regime labour camp (https://www.forum18.org/archive.php?article_id=2608).

The same Justice Ministry "expert" had previously contributed to three other prisoners of conscience – a Sunni Muslim (https://www.forum18.org/archive.php?article_id=2296), a Seventh-day Adventist (https://www.forum18.org/archive.php?article_id=2136), and a Jehovah's Witness (https://www.forum18.org/archive.php?article_id=2277) – being jailed.

"Expert analyses" have often being used by the regime against people exercising their freedom of religion and belief. For example, a Justice Ministry "expert analysis" was used to make claims that reading Jehovah's Witness texts harms mental health, which led to Jehovah's Witness communities being ordered to pay over three years' average wages to plaintiffs.

An academic analysis of the "expert analysis" found that 63 per cent of it was plagiarised from a Russian "expert analysis" with no reference to the source, and found that the Kazakh analysis "cannot be accepted as comprehensive, complete, scientifically based, or in accordance with the normative demands presented to the specialists for investigation" (https://www.forum18.org/archive.php?article_id=2686).

Akmola Regional Court also ordered Mazhenov to pay a total of 134,599 Tenge in fees for the April 2018 and May 2020 "expert" analyses.

Mazhenov has been added to the Financial Monitoring Agency List of individuals (https://www.forum18.org/archive.php?article_id=2409) "connected with the financing of terrorism or extremism", blocking his bank accounts. The regime – listing him as a "terrorist" - has also informed Kyrgyzstan's financial authorities, who have also

blocked any accounts he might have there (https://www.forum18.org/archive.php?article_id=2743).

Mazhenov: Camp officials torture with solitary confinement

Mazhenov is being held in ZK-169/1 labour camp in Kyzylorda. The camp administration continues to torture him by keeping him since 21 July 2019 in solitary confinement in an isolation cell for "fabricated violations", his family told Forum 18 on 20 April.

"Solitary confinement should be banned"

In an August 2011 report to the UN General Assembly on solitary confinement (A/66/268 (<https://daccess-ods.un.org/access.nsf/Get?OpenAgent&DS=A/66/268&Lang=E>)), then-UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Juan Mendez, after examining cases in Kazakhstan and elsewhere, stated that even "short-term solitary confinement can amount to torture or cruel, inhuman or degrading treatment or punishment". On 18 October 2011 he cited Kazakhstan again and stated (<https://news.un.org/en/story/2011/10/392012-solitary-confinement-should-be-banned-most-cases-un-expert-says>): "Segregation, isolation, separation .. whatever the name, solitary confinement should be banned by States as a punishment or extortion technique".

Rule 43 of the UN Standard Minimum Rules for the Treatment of Prisoners (known as the Mandela Rules – A/C.3/70/L.3 (https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf)) notes that: "In no circumstances may restrictions or disciplinary sanctions amount to torture or other cruel, inhuman or degrading treatment or punishment." Among the practices that "in particular, shall be prohibited" are indefinite solitary confinement and prolonged solitary confinement.

Then-Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Mendez found in 2011 (<https://daccess-ods.un.org/access.nsf/Get?OpenAgent&DS=A/66/268&Lang=E>) that "solitary confinement exceeding 15 days is prolonged."

Mazhenov: Physical torture, breaking jaw

In January 2022, camp officials tortured Mazhenov again by beating him with truncheons, breaking his jaw, his family said. He was treated afterwards in the camp clinic. The officials described him as "Cargo 200" (Gruz-200 in Russian), a term used in the military for the transport of coffins. The family, who learned of the torture only in April, told Forum 18 they fear for Mazhenov's life.

Mazhenov has been physically tortured before while in prison, firstly in June 2019 when he was being held at a prison in Shymkent (https://www.forum18.org/archive.php?article_id=2570) when an official claimed to Forum 18 that Mazhenov tortured himself.

Although court cases were claimed to have been held about the torture, the family say they never received any written decisions and have not been given clear information about the outcomes.

Under the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Kazakhstan is obliged both to arrest any person suspected on good grounds of having committed torture (https://www.forum18.org/archive.php?article_id=2409), and to try them under criminal law which makes "these offences punishable by appropriate penalties which take into account their grave nature".

Kairat Olzhabayev, acting head of the labour camp ZK-169/1 in Kyzylorda, refused to answer Forum 18's questions why Mazhenov was being tortured by putting him in solitary confinement, and why he had been tortured by being beaten in early 2022. Olzhabayev claimed on 22 April that "it didn't happen" and put the phone down. Maya Simbayeva, head of the Special Department at the camp, similarly refused to answer any questions about Mazhenov and put the phone down.

Forum 18 called acting labour camp head Olzhabayev again on 18 May to find out whether any camp official had - in line with Kazakhstan's international obligations - been put on criminal trial for torturing Mazhenov, including by breaking his jaw. Olzhabayev repeated to Forum 18 his earlier insistence that "it didn't happen". He then put the phone down.

An official of the Prison Department in Kyzylorda, who refused to give his name, refused to discuss the physical torture of Mazhenov. The official insisted to Forum 18 on 22 April that "no-one beat him", and referred all further questions to the Department's Deputy Head, Murat Nakenov. His phone went unanswered each time Forum 18 called between 22 April and 18 May.

Mazhenov: Excuses for keeping him far from family

In a letter to his family, seen by Forum 18, the Prison Service said Mazhenov had received two reprimands for violating prison regulations, most recently on 12 January 2022. It said he had been given no positive assessments, and was "assessed as being on the first negative level of conduct". It added that in accordance with Criminal Implementation Law he could therefore "not be transferred to a mixed-security prison in Akmola Region".

Mazhenov's family insist the camp administration in Kyzylorda in southern Kazakhstan has deliberately given this negative assessment to prevent him from being transferred to a labour camp closer to his home region of Akmola in northern Kazakhstan, 1,000 kms (600 miles) away.

Rule 59 of the UN Standard Minimum Rules for the Treatment of Prisoners (known as the Mandela Rules – A/C.3/70/L.3 (https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf)) states: "Prisoners shall be allocated, to the extent possible, to prisons close to their homes or their places of social rehabilitation."

Mazhenov's address in labour camp:

Kyzylordinskaya Oblast

120001 g. Kyzylorda

ul. Tole bi 136

Uchr. ZK-169/1

Abduzhabbarov: "The NSC [secret police] don't want Abdukhalil to be released"

Sunni Muslim Imam Abdukhalil Abdukhamidovich Abduzhabbarov (born 6 April 1975) is serving an eight-year jail term on charges of inciting religious discord "with serious consequences" in recordings of his sermons and talks given in 2004 to 2006, before he left Kazakhstan in 2006. Kazakhstan gained his extradition from Saudi Arabia and he was arrested as he landed back in the country on 18 February 2017. Oral City Court sentenced him on 16 August 2017 (https://www.forum18.org/archive.php?article_id=2311) under the old Criminal Code Article 164, Part 3 (replaced from January 2015 to Criminal Code Article 174, Part 3 (https://www.forum18.org/archive.php?article_id=2409)).

Since 2020, Abduzhabbarov has applied four times either for conditional early release or a transfer to a lesser form of punishment. "Each time courts have refused this," his family told Forum 18. Most recently, on 12 April 2022 a court rejected his appeal against an earlier rejection of a transfer to a lesser form of punishment, as the prison system had failed to assess his conduct. "It is the fifth year [of imprisonment] and they can't determine his level of conduct."

Abduzhabbarov's family say that if a prisoner has not committed any violation of regulations in the past six months, the prison has to determine the prisoner's level of conduct.

The family added that after a prisoner has served more than half their sentence, and if the prisoner has no negative assessment from the prison, if all state fees from before the court are paid, a court can give conditional early release or a transfer to a lesser form of punishment.

"Abdukhalil has no negative assessments, he has already served more than half his sentence, we have paid all state fees from before the court, but the court still didn't give him conditional early release or a transfer to a lesser form of punishment," Abduzhabbarov's family stated.

"The NSC [secret police] don't want Abdukhalil to be released," Abduzhabbarov's family insisted to Forum 18. "They proposed that he make a video address admitting what he was accused of. He refused, as he considers himself not guilty. They told him if he refuses to make the video his prison conditions will remain unchanged and that he won't be eligible for conditional early release or a transfer to a lesser form of punishment."

Kairat Olzhabayev, acting head of the labour camp ZK-169/1 in Kyzylorda, refused on 22 April to answer Forum 18's question about why the camp administration had obstructed Abduzhabbarov's attempts to get early release from prison. Maya Simbayeva, head of the Special Department at the camp, similarly refused to answer any questions about Abduzhabbarov and put the phone down.

Abduzhabbarov: Tortured by being held in solitary confinement

Prisoner of conscience Abduzhabbarov has been since October 2017 tortured by being held in solitary confinement (https://www.forum18.org/archive.php?article_id=2378) in an isolation cell in the general regime prison camp ZK-169/1 in Kyzylorda. His family told Forum 18 that according to the verdict, he should be held in less harsh conditions.

In October 2017, prisoner of conscience Abduzhabbarov was transferred to the harsh general regime prison camp ZK-169/1 (https://www.forum18.org/archive.php?article_id=2378). He is being tortured by being held in solitary confinement in a cell, and is allowed only a 20 or 30 minute walk each day. On 31 January 2018 the Committee for the Criminal Execution System wrongly claimed to relatives that the exercise period each day lasts 90 minutes. He is banned from receiving parcels from relatives, and the

prison has no shop where he might buy food or other necessary items. Officials have given no explanation as to why he is being tortured by being held in solitary confinement.

As noted above, solitary confinement has been (A/66/268) condemned in August 2011 (<https://daccess-ods.un.org/access.nsf/Get?OpenAgent&DS=A/66/268&Lang=E>) by the then-UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Juan Mendez. Citing cases in Kazakhstan and elsewhere, in October 2011 he stated (<https://news.un.org/en/story/2011/10/392012-solitary-confinement-should-be-banned-most-cases-un-expert-says>): "Segregation, isolation, separation .. whatever the name, solitary confinement should be banned by States as a punishment or extortion technique".

Similarly, the UN Standard Minimum Rules for the Treatment of Prisoners (known as the Mandela Rules – A/C.3/70/L.3 (https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf)) states that practices which "in particular, shall be prohibited" are indefinite solitary confinement and prolonged solitary confinement. Then-Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Mendez found in 2011 (<https://daccess-ods.un.org/access.nsf/Get?OpenAgent&DS=A/66/268&Lang=E>) that "solitary confinement exceeding 15 days is prolonged".

"Conditions have changed a little – they now allow Abdukhilil to receive parcels and longer visits twice a year," his family told Forum 18 in May 2022. He is allowed to pray visibly and was allowed to maintain the fast during the Muslim holy month of Ramadan, which this year fell from early April to early May.

Acting labour camp head Olzhabayev and Special Department head Maya Simbayeva both refused to explain why prisoner of conscience Abduzhabbarov is being tortured by being held in solitary confinement.

Abduzhabbarov: Regime did not allow him to see dying father, attend funeral

In July 2021, Abduzhabbarov's 82-year-old father died and he was barred from attending the funeral. "He was unable to see or say goodbye to his father," his family told Forum 18. "Had they given him conditional early release or a transfer to a lesser form of punishment, he could have seen and said goodbye to his father. It was very painful for him."

Rule 70 of the UN Standard Minimum Rules for the Treatment of Prisoners (known as the Mandela Rules – A/C.3/70/L.3 (https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf)) includes the provision: "Whenever circumstances allow, the prisoner should be authorized to go, either under escort or alone, to the bedside of a near relative or significant other who is critically ill, or to attend the funeral of a near relative or significant other."

Acting labour camp head Olzhabayev refused to answer Forum 18's question about why Imam Abduzhabbarov was not allowed to see his dying father or attend the funeral. Special Department head Simbayeva similarly refused to answer any questions about Abduzhabbarov and put the phone down.

Abduzhabbarov's labour camp address is:

Kyzylordinskaya Oblast

120001 g. Kyzylorda

ul. Tole bi 136

Uchr. ZK-169/1

Abilkairov: 7-year, 7-month jail term

Sunni Muslim Galymzhan Ramazanovich Abilkairov (born 29 January 1988) was arrested on 23 April 2018. Burabai District Court sentenced him on 19 October 2018 (https://www.forum18.org/archive.php?article_id=2427) to 7 years and 7 months in jail for posting on his VKontakte account talks on Islam by Sunni Muslim Kuanysh Bashpayev, who was then living in Saudi Arabia. He was sentenced under Criminal Code Article 256, Part 2. Akmola Regional Court rejected Abilkairov's appeal on 26 December 2018.

Prisoner of conscience Abilkairov has been added to the Financial Monitoring Agency List of individuals (https://www.forum18.org/archive.php?article_id=2409) "connected with the financing of terrorism or extremism", blocking his bank accounts. The regime has also informed Uzbekistan's, Kyrgyzstan's and Tajikistan's financial authorities, which have also blocked any accounts he might have in those countries (https://www.forum18.org/archive.php?article_id=2743).

Abilkairov: No Koran, no permission to attend wife's funeral

Abilkairov has been held for the past three years in labour camp ZhD-158/2 in the southern city of Taraz. He is now allowed visits lasting more than a day once every six months, his family told Forum 18. Most recently, his parents and young son were able to make the 24-hour journey to visit him in early May 2022.

The camp administration allows Abilkairov to pray visibly and to fast during Ramadan. However, it does not allow him to have a copy of the Koran, his family complained.

When Abilkairov's wife died in 2019, the camp administration did not allow him to return home to attend the funeral, his family complained.

Forum 18 was unable to reach anyone at the labour camp on 19 May to find out why Abilkairov is not allowed to have a copy of the Koran and why the camp administration did not allow him to attend his wife's funeral.

Abilkairov's labour camp address is:

Zhambylskaya Oblast

080000 g. Taraz

ul. Erdenbeka Nietkaliyeva 104a

Uchr. ZhD-158/2

Makhamatov: 8-year jail term

Sunni Muslim Dilmurat Sultanmuratovich Makhamatov (born 19 February 1978) was extradited from Saudi Arabia for alleged "illegal preaching" online, and arrested (https://www.forum18.org/archive.php?article_id=2468) in Kazakhstan on 19 December 2018.

Shymkent's Al-Farabi District Court sentenced him on 2 May 2019 (https://www.forum18.org/archive.php?article_id=2529) to 8 years in a general regime labour camp under Criminal Code Article 174, Part 2 and Article 256, Part 2. Shymkent City Court rejected his appeal on 26 June 2019.

Prisoner of conscience Makhamatov has been added to the Financial Monitoring Agency List of individuals (https://www.forum18.org/archive.php?article_id=2409) "connected with the financing of terrorism or extremism", blocking his bank accounts.

Five members of online Muslim discussion group also remain jailed

Five members of an online Muslim discussion group also remain jailed: Beket Mynbasov, Samat Adilov, Nazim Abdrakhmanov, Ernar Samatov and Bolatbek Nurgaliyev.

In October 2018, the National Security Committee (NSC) secret police arrested nine Muslim men from different parts of the country who had been among the 171 members of a Muslim discussion group on the WhatsApp messaging service. The members had exchanged thousands of messages since it was set up in December 2013. The NSC started looking at the messages in August 2018, and the criminal trial of all nine Muslims began at Almaty's Almaly District Court on 12 March 2019 (https://www.forum18.org/archive.php?article_id=2497).

Judge Kairat Imankulov jailed eight of the nine Muslims for between five and a half and eight years (https://www.forum18.org/archive.php?article_id=2498) on 5 August 2019. The remaining Muslim, Zhuldyzbek Taurbekov who was tried separately due to his poor health, was jailed by Judge Imankulov on 6 January 2020 (https://www.forum18.org/archive.php?article_id=2565) for seven years.

All nine Muslims were added to the Financial Monitoring Agency's List of individuals (https://www.forum18.org/archive.php?article_id=2409) "connected with the financing of terrorism or extremism", so blocking their bank accounts.

Of the nine Muslims, five remain in prison more than six months after the United Nations Working Group on Arbitrary Detention called on them in October 2021 (https://www.forum18.org/archive.php?article_id=2735) to be "immediately" freed and compensated for their imprisonment. The Working Group stressed that "no trial" of the men "should have taken place".

Four members of the online Muslim discussion group were released from prison to serve the remainder of their terms on probation or under restricted freedom (https://www.forum18.org/archive.php?article_id=2735): Esim Suleimenov (in October 2020),

Zhuldyzbek Taurbekov (in December 2021), Azamat Umbetaliyev (in December 2021) and Zhasulan Iskakov (in April 2022). They live at home under restrictions, must report regularly to the police, cannot leave their home town without permission and must be at home each night. They also face restrictions visiting certain venues like restaurants.

Nor has the regime enacted a "full and independent investigation" called for by the Working Group in September 2021 into why the men were subjected to arbitrary detention and for "appropriate measures against those responsible for the violation of their rights".

The regime also failed to update the Working Group within six months (https://www.forum18.org/archive.php?article_id=2735) of being provided with the Opinion as to whether it had freed the men and whether it had paid them compensation. (END)

More reports on freedom of thought, conscience and belief in Kazakhstan (<https://www.forum18.org/archive.php?country=29>)

For background information, see Forum 18's Kazakhstan religious freedom survey (https://www.forum18.org/archive.php?article_id=2753)

Forum 18's compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments (https://www.forum18.org/archive.php?article_id=1351)

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