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KAZAKHSTAN: Still jailed despite 2021 UN "immediate" release call

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

In September 2021, the United Nations Working Group on Arbitrary Detention called for 9 Muslims jailed for participating in an online religious discussion group to be "immediately" freed and compensated for their imprisonment. Two years on, none has been freed or compensated. The General Prosecutor's Office, the Religious Affairs Committee, the Foreign Ministry and the government-controlled National Human Rights Centre all failed to explain why. Officials say they regard such UN opinions as "recommendations which they are not obliged to implement", says human rights defender Yevgeny Zhovtis.

The General Prosecutor's Office, the Religious Affairs Committee, the Foreign Ministry and the government-controlled National Human Rights Centre have all failed to explain why the regime has not freed a group of nine Muslims arrested in 2018 and then jailed for participating in an online religious discussion group. Two years ago, in September 2021, the United Nations Working Group on Arbitrary Detention called for them to be "immediately" freed and compensated for their imprisonment. None has been freed from their sentence or compensated.

Three of the group - Beket Mynbasov, Samat Adilov and Ernar Samatov – remain jailed and the other six are at home serving restricted freedom sentences (see below).

The September 2021 UN Working Group Opinion stressed that "no trial" of the Muslim men "should have taken place" (see below).

"Kazakhstan's authorities always say that they consider decisions of UN Treaty Bodies and opinions of UN Special Procedures as recommendations which they are not obliged to implement," Yevgeny Zhovtis of the Kazakhstan International Bureau for Human Rights and the Rule of Law – which helped the men lodge their UN Working Group appeal – told Forum 18 (see below).

Five other Muslim men are known to be serving jail sentences to punish them for exercising freedom of religion or belief (https://www.forum18.org/archive.php?article_id=2859): Anatoli Zernichenko, Dadash Mazhenov, Dilmurat Makhamatov, Galymzhan Abilkairov and Abdukhaliil Abduzhabbarov. Mazhenov, Abduzhabbarov and Abilkairov, who have served most of their prison terms, have been refused early release from prison on grounds their families regard as arbitrary (https://www.forum18.org/archive.php?article_id=2862).

When those criminally convicted and jailed to punish their exercise of freedom of religion or belief seek transfer from prison to serve the rest of their term under restricted freedom, where the convicted person lives at home under restrictions, the decision whether or not to grant such early conditional release appears to lie with the National Security Committee (NSC) secret police (see below).

"When the Criminal Code Articles are related to so-called 'extremist' and 'terrorist' crimes, the National Security Committee people 'supervise' these prisoners in prisons," Zhovtis of the Kazakhstan International Bureau for Human Rights and the Rule of Law told Forum 18. "It is they who influence (unofficially) the early release or replacement of imprisonment with restricted freedom. Prison administrations and judges usually follow the unofficial recommendations of these NSC people" (see below).

(On 20 September, the Finance Ministry published a new "register of persons receiving money and/or other property from foreign states, international and foreign organisations, foreigners, or stateless persons". The register included the Kazakhstan International Bureau for Human Rights and the Rule of Law, as well as free speech organisation Adil Soz among the 240 individuals and organisations. Local human rights defenders have condemned the introduction of the register, which they believe is modelled on Russia's "foreign agents" law.)

Prison, restricted freedom, post-prison restrictions, bank account blocking

Over many years the regime has imposed criminal punishments on individuals who have exercised their right to freedom of religion or belief (https://www.forum18.org/archive.php?article_id=2859). Punishments include not only the jail terms or restricted freedom

terms themselves, but often years-long post-prison bans on a wide range of activities (often including the exercise of freedom of religion or belief), and a block on any bank accounts imposed after conviction which lasts up to eight years after a sentence is completed. This account blocking can also block individuals from other activities such as finding work or driving.

Those currently known to be serving prison sentences:

- 8 individuals (all of them Sunni Muslim men, listed below);

Those currently known to be freed early from prison and serving sentences at home under restrictions:

- 6 individuals (all of them Sunni Muslim men);

Those currently known to be under post-prison restrictions and punishments:

- 5 former prisoners of conscience with bans on unspecified or specified activities – including exercising freedom of religion or belief – after completing their jail terms;

- 31 individuals who have completed prison terms or restricted freedom sentences but who still have access to any bank accounts blocked;

Those known to have been given prison sentences in absentia:

- 3 Pentecostal Christians – who now live in the United States - handed punishments in absentia.

(All those known to be in jail, serving restricted freedom sentences, handed punishments in absentia, or under post-sentence blocking of their bank accounts are listed here (https://www.forum18.org/archive.php?article_id=2859.)

Regime ignores UN prisoner release call

The General Prosecutor's Office, the Religious Affairs Committee, the Foreign Ministry and the government-controlled National Human Rights Centre in the capital Astana have all failed to explain why the regime has not freed a group of nine Muslim men arrested in 2018 and jailed for participating in an online religious discussion group.

Three of the group - Beket Mynbasov, Samat Adilov and Ernar Samatov – remain jailed. The other six - Bolatbek Nurgaliyev, Nazim Abdrakhmanov, Zhasulan Iskakov, Esim Suleimenov, Azamat Umbetaliyev and Zhuldyzbek Taurbekov - are at home serving restricted freedom sentences (https://www.forum18.org/archive.php?article_id=2859). All have also had their bank accounts blocked (https://www.forum18.org/archive.php?article_id=2409).

In October 2018, the National Security Committee (NSC) secret police arrested the 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.

In August 2019, Almaty's Almaly District Court jailed eight of the Muslims (https://www.forum18.org/archive.php?article_id=2498) for between five and a half and eight years under Criminal Code Article 174, Part 2 (https://www.forum18.org/archive.php?article_id=2409). This punishes "Incitement of social, national, clan, racial, or religious discord, insult to the national honour and dignity or religious feelings of citizens, as well as propaganda of exclusivity, superiority or inferiority of citizens on grounds of their religion, class, national, generic or racial identity, committed publicly or with the use of mass media or information and communication networks, as well as by production or distribution of literature or other information media, promoting social, national, clan, racial, or religious discord".

The same court jailed the ninth (https://www.forum18.org/archive.php?article_id=2565), Zhuldyzbek Taurbekov – whose case had been separated off because of his poor health – for seven years in January 2020.

Two years ago, in September 2021, the United Nations (UN) Working Group on Arbitrary Detention issued an Opinion (A/HRC/WGAD/2021/33 (<https://digitallibrary.un.org/record/3969786?ln=en>)) calling for the Muslims to be "immediately" freed and compensated for their imprisonment. The Working Group stressed that "no trial" of the men "should have taken place" (https://www.forum18.org/archive.php?article_id=2735). None has been freed from their sentence or compensated.

The regime has also not implemented a "full and independent investigation" called for by the Working Group in September 2021 into why the men were subjected to arbitrary detention. Nor has it implemented "appropriate measures against those responsible for the violation of their rights".

Officials refuse to explain why UN prisoner release call ignored

Forum 18 tried to find out why the regime has ignored the September 2021 call by the UN Working Group on Arbitrary Detention for the Muslims to be freed and compensated.

The official who answered the phone of the head of the General Prosecutor's Office International Legal Cooperation Department Nurdaulet Suindikov, who did not give his name, told Forum 18 on 15 September that Suindikov was out of the office on a work trip. The official asked for questions in writing.

Forum 18 asked the same day in writing why the 3 Muslims who are still in prison and the 6 who are serving sentences at home on probation have not been freed and compensated, two years after the UN Working Group issued its Opinion. Forum 18 had received no response from the General Prosecutor's Office by the end of the working day in Astana of 26 September.

Similarly, Forum 18 asked the Religious Affairs Committee in writing on 15 September why the 3 Muslims who are still in prison and the 6 who are serving sentences at home on probation have not been freed and compensated, two years after the UN Working Group issued its Opinion. Forum 18 had received no response by the end of the working day in Astana of 26 September.

Forum 18 asked the Foreign Ministry in writing on 20 September why the 3 Muslims who are still in prison and the 6 who are serving sentences at home on probation have not been freed and compensated. It also asked whether Kazakhstan had provided the Working Group with information by March 2022 as the Working Group had requested about what steps the country had taken to implement the Opinion and what information it had given the Working Group. Forum 18 had received no response by the end of the working day in Astana of 26 September.

Forum 18 was unable to reach the government-appointed Human Rights Commissioner Artur Lastayev in Astana. On 25 September, Forum 18 asked Zhanna Abdilmanova of the International Department of the government-controlled National Human Rights Centre why the 9 had not been freed from their sentences and compensated. She promised to find out from colleagues. However, she had not sent answers by the end of the working day in Astana of 26 September.

Yevgeny Zhovtis of the Kazakhstan International Bureau for Human Rights and the Rule of Law notes that of more than 60 decisions related to Kazakhstan from the UN Treaty Bodies (including the Human Rights Committee, the Committee Against Torture, or the Committee on the Elimination of Discrimination Against Women), only two or three were partly implemented. "The same could be said about opinions of UN Special Procedures, like the Working Group on Arbitrary Detention," he told Forum 18 on 19 September.

"Kazakhstan's authorities always say that they consider decisions of UN Treaty Bodies and opinions of UN Special Procedures as recommendations which they are not obliged to implement," Zhovtis added.

Arbitrary denial of conditional early release

Six individuals (all of them Sunni Muslim men), known to have been jailed for exercising freedom of religion or belief, have been freed early from prison to serve the rest of their terms under restricted freedom (https://www.forum18.org/archive.php?article_id=2743). Individuals live at home on probation and under restrictions.

The most recent two Muslims to be transferred from prison to restricted freedom sentences were Nazim Abdrakhmanov and Bolatbek Nurgaliyev. Both were part of the religious discussion group on WhatsApp arrested in 2018 and jailed (see above).

Their transfers to restricted freedom sentences were ordered by Konayev City Court in Almaty Region, for Abdrakhmanov on 24 May and Nurgaliyev on 12 July. After their release from prison, both had to present themselves to the Probation Office, human rights organisation Freedom Now – which has taken up the cases of 8 of the 9 Muslims (<https://www.freedom-now.org/cases/whatsapp-group-members/>) – told Forum 18 on 15 September.

However, several of the current known 8 individuals jailed for exercising freedom of religion or belief (https://www.forum18.org/archive.php?article_id=2859) – including Dadash Mazhenov, Galymzhan Abilkairov and Abdukhaliil Abduzhabbarov - have been denied such conditional early release, some more than once. The prisoners' families regard the grounds for rejecting such petitions as arbitrary (https://www.forum18.org/archive.php?article_id=2862).

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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 freedom of religion or belief 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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