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KAZAKHSTAN: One three-year jail term, 5 or 25 more to follow?

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

Secrecy surrounds Kazakhstan's criminal trials of members of Muslim missionary movement Tabligh Jamaat. Mamurzhan Turashov was given a three-year prison term on 2 December, but neither the court, the prosecutor, the Judicial Expertise Institute which conducted "expert analyses" of religious books seized from him, nor his defence lawyer were willing to make the verdict public. All were also unwilling to tell Forum 18 News Service what Turashov had done wrong, apart from Tabligh Jamaat membership. A similar criminal trial began in Taldykurgan on 9 December of five apparent Tabligh Jamaat adherents, and 20 suspected Tabligh Jamaat adherents were detained in Almaty in late November. Officials have refused to discuss any aspect of the cases with Forum 18. Tabligh Jamaat was banned in February 2013, even though the KNB secret police admitted that Tabligh Jamaat literature did not have "extremist, terrorist, or any other calls against Kazakhstan's laws". However, the KNB claimed that "all their activity could be characterised as subversive in the ideological sphere, forming in the population anti-social or anti-civil positions".

Secrecy surrounds the criminal trials of members of the Muslim missionary movement Tabligh Jamaat, which was banned as "extremist" in Kazakhstan in 2013. Mamurzhan Turashov, a 41-year-old father of five, was given a three-year prison term on 2 December in South Kazakhstan Region. But neither the court, the prosecutor, the Judicial Expertise Institute which conducted "expert analyses" of religious books seized from him, nor even his defence lawyer were willing to make public the verdict or the "expert analyses". All were also unwilling to tell Forum 18 News Service what Turashov had done wrong, apart from Tabligh Jamaat membership.

A similar criminal trial began in Taldykurgan in Almaty Region on 9 December of five apparent Tabligh Jamaat adherents – Bakyt Nurmanbetov, Aykhan Kurmangaliyev, Sagyndyk Tatubayev, Kairat Esmukhambetov and Ruslan Kairanov. Neither prosecutors nor the judge hearing the case, nor other court officials, were prepared to say anything about it to Forum 18 apart from acknowledging that the trial was underway.

Turashov and the five defendants in Taldykurgan were prosecuted under Criminal Code Article 337-1. This punishes "Organising or participating in 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". Punishment is a fine or imprisonment of up to six years. From 1 January 2015 Article 337-1 will be replaced by an almost identical Article 405, as part of a change to a new Criminal Code (see F18News 9 July 2014 http://www.forum18.org/archive.php?article_id=1976).

Police announced through the local media on 26 November that 20 suspected Tabligh Jamaat adherents had been detained in Almaty, Kazakhstan's commercial capital. However, no information was given about their names, whether they are still in detention, or whether any or all will face administrative or criminal prosecution.

Breaking international law

Kazakhstan insists that religious communities can only exist or function if they have the state's permission, in defiance of its international human rights obligations. This has a strong impact on Muslims. The government has allowed only one Muslim religious community in all of Kazakhstan to gain state registration: the state-backed Muslim Board. Only mosque communities under its control are allowed to function, even though nowhere in the country's published law is this stated.

All other Muslim communities and organisations – including Tabligh Jamaat, Ahmadi Muslim congregations, independent mosques (such as the Tatar-Bashkir mosque in Petropavl), and mosques catering to specific ethnic communities (such as Azerbaijanis, Chechens, or Uighurs) – are banned from exercising their right to freedom of religion or belief (see Forum 18's religious freedom survey of Kazakhstan http://www.forum18.org/archive.php?article_id=1939).

Three-year sentence – for what?

Turashov, from the village of Karabulak in Sairam District of South Kazakhstan Region, was accused of distributing religious literature that had not been censored by the state at a mosque or prayer room he had built in his village, as well as membership of Tabligh Jamaat knowing it had been banned. Pictures on local TVK television channel of what must have been a police raid showed

copies of two Russian-language Muslim books, Gardens of the Righteous and Attainment of the Objective According to Evidences of the Ordinances by al-Hafidh ibn Hajar al-Asqalani.

Very strict state censorship of all religious literature and the places it can be distributed is imposed in Kazakhstan. All Islamic literature that is not Sunni Hanafi is banned (see Forum 18's religious freedom survey of Kazakhstan http://www.forum18.org/archive.php?article_id=1939).

Press reports said the Sairam District Akim (administration head) had given Turashov's wife Zeynolla Shakirova a plot of land in 2009 to build a mosque or prayer room. Turashov led prayers for villagers once it was built. Reports claimed that the local police officer had officially warned him that Tabligh Jamaat was banned, with criminal penalties for members of it.

On 27 November, Timeskz news website, quoting the prosecution, cited alleged rumours that Turashov (who was not named in the article) had begun calling in his mosque for the "mass Islamisation of Kazakhstan" and the "creation of a caliphate" (an Islamic-ruled political entity) following his return from a six-week visit to Bangladesh in early 2014. "The information was of interest to the special services [the KNB secret police]," the website claimed. "The rumours were confirmed." It said "expert analyses" of Turashov's sermons had confirmed this.

The Department for the Struggle with Economic Crime and Corruption opened a case against Turashov under Criminal Code Article 337-1, Part 1, which bans the creation or leadership of a banned group. The case was then handed to Sairam District Police, where it was investigated by Captain Talat Dauletbashov. Orynbasar Sengirbayev of the District Prosecutor's Office led the case in court.

After an initial hearing on 25 November, Judge Talgat Ongarbayev of Sairam District Court handed down the guilty verdict on 2 December, the Court Chancellery told Forum 18 on 8 December. Turashov was given a three-year ordinary regime labour camp sentence. The Chancellery official – who would not give his name – said Turashov has not appealed against the sentence, and is still being held in the Investigation Prison in the regional capital Shymkent.

The Chancellery official said about 400 books had been confiscated from Turashov. "The expert analyses found they were propaganda for Tabligh Jamaat," he insisted to Forum 18. "They called for war against civilians who don't pray or go to mosque and against kafirs [unbelievers]." Asked for examples, the official then admitted he had not read the verdict.

Forum 18 repeatedly asked the official to send a copy of the verdict, but had not received it by the late afternoon in Kazakhstan of 12 December. The official refused to put Forum 18 through to Judge Ongarbayev.

Judge Ongarbayev told the local TVK television channel on 3 December that a criminal case had originally been opened against a second person, whom he did not name. But this had been closed at the investigation stage and that only Turashov had been brought to trial.

The deputy head of the South Kazakhstan Regional Justice Department's Institute of Judicial Expertise in Shymkent, which had conducted the "expert analyses" in Turashov's case, said he could give no information about them. "Only the person who commissioned the analyses can speak about them, according to the law," the deputy head – who refused to give his name – told Forum 18 from Shymkent on 11 December. He also refused to say how often his Institute conducts "expert analyses" of religious texts or recordings.

Bakyt Akhimbetov, deputy head of the Regional Religious Affairs Department, told Forum 18 on 9 December that he had no information about the case against Turashov. He stressed that his Department has had no involvement in "expert analyses" since the Department was subordinated not to the former Agency of Religious Affairs but to the Regional Administration. He could not recall any disputes over Turashov's mosque in Karabulak.

"Acknowledged his guilt completely"?

Turashov's lawyer was Zhaksybek Rysbekov, though Forum 18 has been unable to establish if he was appointed by the court or by Turashov. Rysbekov told Forum 18 on 10 December that his client had "acknowledged his guilt completely" in court that he was knowingly a member of Tabligh Jamaat which had been banned through the courts.

Asked whether claims in the media that Turashov had called for the "Islamisation of Kazakhstan" and the "establishment of a caliphate" were true or not, Rysbekov did not respond. Nor would he respond to a direct question as to whether his client had or had not advocated violence. He also refused to say whether Turashov is or is not a dangerous person.

But Rysbekov insisted that the criminal case had been thoroughly investigated. "The case files came to two or three volumes," he told Forum 18. He said this included up to ten "expert analyses" conducted by the South Kazakhstan Regional Justice Department's Institute of Judicial Expertise in Shymkent. He would not say if the analyses were only of books confiscated from Turashov or also of recordings of his sermons or addresses in the mosque.

"There are also organs that watched Turashov, and not all information was given in court," Rysbekov added. Asked which "organs" he meant and whether he was referring to the KNB secret police, he responded: "I don't know." Asked why not all the alleged evidence had been presented in court, Rysbekov did not respond.

Rysbekov dismissed any concerns about the prison term. "Turashov has not instructed me to lodge an appeal," he told Forum 18. "He got a three-year term, but will be out no doubt after a year."

Prosecutor refuses to answer questions

Forum 18 was unable to reach police Captain Dauletbashov who investigated the case and was present in court during the trial. His phones repeatedly went unanswered on 11 December, as did that of Sairam District Police Investigation Department.

Deputy Prosecutor Sengirbayev, who led the prosecution case in court, refused to answer any of Forum 18's questions on the case. "I don't have the documents to hand, and besides they are all in Kazakh," he told Forum 18 on 9 December. Called on 10 and 11 December, he repeatedly refused to say whether Turashov had called for violence in his sermons or whether any of the books confiscated from him incited violence.

Taldykurgan trial

At least two of the five apparent Tabligh Jamaat adherents now on trial in Taldykurgan in Almaty Region – Nurmanbetov, Kurmangaliyev, Tatubayev, Esmukhambetov and Kairanov – were arrested and held in court-ordered pre-trial detention since at least September.

Megdat Kabdylkairov, head of the Department for Ensuring Legality in the Sphere of Countering Extremism and Terrorism of the Regional Prosecutor's Office, announced on its website on 24 September that the arrest of two "active" Tabligh Jamaat members – who remained unnamed – had prevented "illegal activity". He described Tabligh Jamaat as a "dangerous organisation".

Kabdylkairov noted that a case had been opened against the two under Criminal Code Article 337-1, Part 2, which punishes participation in a banned organisation.

Kabdylkairov refused to answer any questions on the case. "I'm on holiday and can't give any commentary," he told Forum 18 on 10 December, the day after the first court hearing. He referred Forum 18 to his colleagues in the Department. Reached the same day, one of his colleagues, who gave his name only as Dastan, said the case was now in Taldykurgan City Court and refused to discuss it further.

The case against the five reached the court on 25 November, and was assigned to Judge Sara Zhanbyrbayeva. The first hearing in the case was held on the morning of 9 December, according to court records. The Judge's assistant confirmed to Forum 18 on 11 December that all five defendants are being prosecuted under Criminal Code Article 337-1, Part 2. He declined to say when the case is due to resume or give any other information. Judge Zhanbyrbayeva confirmed to Forum 18 the same day that the trial is continuing, but she too refused to discuss the case.

Forum 18 has been unable to identify the investigator in the case or the men's lawyer or lawyers.

20 still detained or now free?

In the third known current Tabligh Jamaat-related case, Forum 18 has been unable to find out if the 20 alleged members held in the southern city of Almaty in late November have been freed or remain in detention. It is also unclear whether any or all will face administrative or criminal prosecutions.

Saltanat Azyrbek, acting head of Almaty Police Press Service, totally refused to give Forum 18 any information by telephone on 11 December, insisting that questions must be in writing. Forum 18 had not received any response to its written questions by late afternoon in Almaty of 12 December.

Tabligh Jamaat banned as "extremist" in February 2013

Tabligh Jamaat was founded in British India in 1927 to encourage greater piety among Muslims. It has always claimed to avoid violence and political activity. In Central Asia its members conduct house to house encouragement of Muslims to attend mosques and religious talks. The movement also sends members on short-term missions to other towns and villages, where they sleep in mosques and address local Muslims, both door to door and in the mosque. Male adherents are often identifiable by their beards and South Asian clothing. A close observer of Tabligh Jamaat in the region told Forum 18 that adherents in Kazakhstan follow this approach.

In addition to mission trips within the country, adherents from Central Asia often visit Tabligh Jamaat centres in Pakistan (though

obtaining visas is now difficult), India and Bangladesh.

Tabligh Jamaat members – like Jehovah's Witnesses and Council of Churches Baptists – have long been subjected to administrative fines in Kazakhstan for preaching their faith without personal registration as missionaries (see eg. F18News 21 May 2014 http://www.forum18.org/archive.php?article_id=1960).

The movement is also banned in some other former Soviet states as officials claimed it was "extremist", normally without defining exactly what this means. The first ban was by the Supreme Court in Tajikistan in March 2006 (see F18News 15 May 2009 http://www.forum18.org/archive.php?article_id=1297). This was followed by Russia, where the Supreme Court banned it as "extremist" in May 2009 (see Forum 18's Russia "extremism" religious freedom survey http://www.forum18.org/archive.php?article_id=1724). Uzbekistan's Interior Ministry told Kazakhstan's Interior Ministry in March 2012 that Tabligh Jamaat had also been banned there. (All public manifestations of Islam outside the state-controlled Spiritual Administration of Muslims is banned – see Forum 18's Uzbekistan religious freedom survey http://www.forum18.org/archive.php?article_id=1862). Kyrgyzstan's Security Council recommended in 2009 that the Supreme Court consider banning Tabligh Jamaat, though this has not happened (see F18News 27 February 2014 http://www.forum18.org/archive.php?article_id=1932).

No prior public announcement, no evidence

On 26 February 2013 in Kazakhstan, without prior public announcement, Judge Kuanish Zhaksybergenov of Astana's Saryarka District Court granted Astana City Prosecutor's Office suit to have Tabligh Jamaat banned throughout Kazakhstan as "extremist", according to the decision seen by Forum 18. The prosecutor claimed – without making any evidence public – that the group's "real aim" was the seizure of territory and creation on it of a caliphate, "including in Kazakhstan", which "presumes a violent change to the constitutional order". The ban was backed in court by the KNB secret police and the Interior Ministry. The government's then Agency of Religious Affairs was happy to leave the decision to the Court.

The decision cites no violence or other human rights violations conducted by any named or unnamed Tabligh Jamaat adherents in Kazakhstan, Russia, Uzbekistan, Tajikistan or any other country. Nor does it cite any named or unnamed adherents in these countries making any specific incitement to violence.

Judge Zhaksybergenov's decision gives prominence to the bans in Tajikistan, Uzbekistan, and Russia. It also states that Tabligh Jamaat has acted illegally in Kazakhstan because it does not have state registration and notes the numerous administrative punishments handed down to adherents (20 in the first half of 2012).

During the 40-minute hearing, according to the official record seen by Forum 18, Interior Ministry official Darkhan Razuyev noted that one Tabligh Jamaat stronghold in Kazakhstan was in the village of Masanchi in Jambyl Region, which is mainly populated by Dungans (members of a traditionally Muslim ethnicity of Chinese origin). He feared that "attracting a large number of this ethnic group into the ranks of this non-traditional religious movement could in future lead to a complication of the religious situation, the active distribution of extremist and separatist ideology, and, as a result, a threat to the national security of the country". He gave no evidence for his fears.

All ethnic-based and other independent mosques have been forcibly closed by the state (see Forum 18's religious freedom survey of Kazakhstan http://www.forum18.org/archive.php?article_id=1939). Those who do discuss the issue of ethnic-based mosques indicate very strongly that they are fearful of state reactions (see eg. F18News 4 November 2010 http://www.forum18.org/archive.php?article_id=1506).

Razuyev of the Interior Ministry claimed to the court that many Tabligh Jamaat members had been punished with administrative fines. These included one punishment under Administrative Code Article 344, Part 4, which punishes: "Production, storage, import, transport and distribution" of non-media publications containing "propaganda or agitation for a violent change to the constitutional order, violation of Kazakhstan's territorial integrity, subversion of state security, war or the incitement of social, racial, ethnic, religious, class or clan discord, the cult of brutality, violence and pornography". Punishments range between fines of 50 to 200 Monthly Financial Indicators (MFIs) or up to 15 days' imprisonment. In that case, the court in Jambyl Region in 2012 handed down a fine of 2 MFIs. Razuyev did not identify the books and discs alleged to be "extremist".

Administrative Code Article 344, Part 4 has recently been used to sentence two Baptists to 10-day prison terms for having an allegedly "extremist" book (see F18News 10 October 2014 http://www.forum18.org/archive.php?article_id=2005).

The other cases Razuyev of the Interior Ministry claimed to the court were associated with Tabligh Jamaat members were: 28 people punished in 2011 for distributing uncensored religious literature; 60 cases in 2012 of people conducting missionary activity without personal registration as a missionary, after which about 400 people were detained with many subsequent fines; some individuals not living at their registered address; and four foreign nationals violating unspecified rules for foreigners living in Kazakhstan, presumably as they exercised their freedom of religion or belief without state permission.

No "extremist, terrorist, or any other calls against Kazakhstan's laws"

Agency of Religious Affairs official Erkinbek Shokhayev alleged that Tabligh Jamaat conducted terrorist activity but gave no evidence for his claim. KNB secret police official Igor Bisimbayev claimed that the existence of a Muslim organisation, conducting its own missionary activity, as a rival to the state-backed Muslim Board "could create in the country an alternative religious structure to the official clergy". He did not explain why only one Muslim organisation should exist.

Bisimbayev of the KNB secret police admitted that all the judicial "expert" analyses had confirmed that none of the literature used by Tabligh Jamaat contained "extremist, terrorist, or any other calls against Kazakhstan's laws". However, he claimed that simply because the group's headquarters are abroad, "ALL [emphasis in original] their activity could be characterised as subversive in the ideological sphere, forming in the population anti-social or anti-civil positions".

No appeal against ban allowed

Local resident Erbolat Omarbekov tried to challenge the court-ordered ban, regarding it as "illegal". However, on 8 April, Saryarka District Court refused to add him as a party to the case to allow him to challenge the ban. On 21 May 2013 Judge Maksim Kaldygulov of Astana City Court upheld this decision, according to the ruling seen by Forum 18. He argued that Omarbekov had no standing to challenge the decision as he had not been a party to the February 2013 case.

Astana Specialised Administrative Court had fined Omarbekov 50 times the minimum monthly wage on 22 June 2012 for his religious activity under Administrative Code Article 375, Part 1, according to the decision seen by Forum 18.

No way seems to exist for anyone or any organisation – apart from the state agencies which were party to the original case – to legally challenge the ban. (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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