

18 April 2017

KAZAKHSTAN: Islamic study in Saudi Arabia a crime?

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

Of five Kazakh Sunni Muslims facing criminal prosecution after studying their faith in Saudi Arabia, one has already been sentenced, two face imminent trial and two remain in pre-trial detention. The trial of Nariman Seytzhonov is due to begin in Kokshetau on 25 April.

The case of a second Sunni Muslim who studied their faith in Saudi Arabia has been handed to court. Arrested in January, 27-year-old Nariman Seytzhonov faces trial on charges of "inciting religious discord" under the broadly-framed Criminal Code Article 174, Part 1. The trial is due to begin in Kokshetau in Kazakhstan's northern Akmola Region on 25 April.

Another Sunni Muslim and a former student of Medina University in Saudi Arabia, 33-year-old Denis Korzhavin, was arrested in the southern city of Almaty in mid-February under Criminal Code Article 174, Part 1. The criminal case also appears to have been handed to court for trial (see below).

On 7 April, at the end of a closed trial, a court in the north-eastern city of Pavlodar sentenced Sunni Muslim Kuanysh Bashpayev on the same charges to four and a half years' imprisonment to punish him for talks he gave on his faith between 2008 and 2011. He had been arrested in October 2016 on his return to Kazakhstan from Saudi Arabia. He denied "inciting religious hatred or discord" and plans to appeal against his conviction (see F18News 11 April 2017 http://www.forum18.org/archive.php?article_id=2272).

Two other Sunni Muslims who lived and studied their faith in Saudi Arabia remain under investigation in pre-trial detention.

Satymzhan Azatov – who had been fined with Seytzhonov in November 2016 for a religious meeting in a cafe - was arrested in the capital Astana in early January. He is being held in the city's National Security Committee (NSC) secret police Investigation Prison facing the same charges of "inciting religious discord" (see below).

Imam Abdukhalil Abduzhabbarov was extradited from Saudi Arabia and then immediately arrested on arrival at Almaty Airport on 18 February. A court in Oral (Uralsk) extended his pre-trial detention on 11 April for a further month. His brother was denied a meeting with him in prison and prison authorities refused to allow the brother to hand on a copy of the Koran for him (see below).

Criminal Code Article 174

Criminal Code Article 174 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".

Part 1 punishes these actions committed by individuals. If convicted, they face two to seven years' imprisonment, or two to seven years' restricted freedom. Typically, during sentences of restricted freedom individuals live at home, but are not able to leave their town or city without seeking permission. They are often also banned from visiting restaurants, cafes or places of public entertainment.

Part 2 punishes these actions "committed by a group of persons, a group with prior planning, repeatedly, with violence or threat of violence, or by an official, or by the leader of a public association". If convicted they face five to 10 years imprisonment, "with deprivation of the right to hold specified positions or to engage in specified activity for up to three years".

Human rights defenders and opposition political activists are also frequent victims of Article 174 (see eg. <http://www.nhc.no/en/nhc-condemns-harsh-sentence-given-to-peaceful-activists/>).

The United Nations (UN) Special Rapporteur on the rights to Freedom of Peaceful Assembly and of Association, Maina Kiai, as well as the UN Human Rights Committee and Kazakh human rights defenders have strongly criticised the broad and unclear

formulation of Article 174 and other laws, as well as the prosecution of a wide range of individuals under Article 174 (see F18News 2 February 2017 http://www.forum18.org/archive.php?article_id=2252).

Bank accounts likely to be blocked

Seytzhанov (whose trial is due to begin on 25 April), Korzhavin (whose trial appears close) and the other two Sunni Muslims in pre-trial detention are likely – if convicted - to be added to the Finance Ministry Financial Monitoring Committee List of individuals "connected with the financing of terrorism or extremism", thus blocking any bank accounts they might have, without any additional due legal process.

Also likely to be added to the List is Bashpayev (who has already been convicted), as well as seven Sunni Muslims sentenced in Sairam in South Kazakhstan Region on 7 April to between one and four years' imprisonment for alleged membership of the Muslim missionary movement Tabligh Jamaat (see F18News 11 April 2017 http://www.forum18.org/archive.php?article_id=2272).

As individuals are not told when they are added to the List, they normally only find out they have been added when they or relatives attempt to withdraw money from their bank (see F18News 10 June 2016 http://www.forum18.org/archive.php?article_id=2187).

Among those added to the list in mid-April was Asaf Guliyev. He was given five years' restricted freedom on 24 February in Astana for speaking with another Jehovah's Witness about their faith to NSC secret police agents pretending to be students (see F18News 7 March 2017 http://www.forum18.org/archive.php?article_id=2262).

The trial of Jehovah's Witness Teymur Akhmedov – arrested with Guliyev – is due to resume at Astana's Saryarka District Court No. 2 at 10:30 am on 20 April. He is on trial under Criminal Code Article 174, Part 2. Akhmedov – who suffers from untreated cancer – denies any incitement to discord. Two of his lawyers are also under criminal investigation for defending him (see F18News 3 April 2017 http://www.forum18.org/archive.php?article_id=2269).

Seytzhанov: Trial begins 25 April

The criminal trial of Nariman Kabdyrakhmanovich Seytzhанov (born 2 May 1989) is due to begin on 25 April at Kokshetau City Court under Judge Ilyas Kakim, according to court records. He is facing charges under Criminal Code Article 174, Part 1 ("Incitement of social, national, clan, racial, or religious discord").

Judge Kakim told Forum 18 on 13 April that he had not had time to study the case so was unable to say if the trial would be open or closed. Forum 18 was unable to reach him on 18 April.

The criminal case against Seytzhанov was prepared by Kokshetau City Prosecutor's Office official Azamat Zhumalin. However, reached on 13 April, he refused to answer any of Forum 18's questions about the case and insisted that Forum 18 should speak to the press service. Reached the same day, officials of the press service refused to give any information at all by telephone. They said all enquiries should be sent by post.

On 12 April prosecutor Zhumalin handed the criminal case against Seytzhанov to Kokshetau City Court for trial.

Police arrested Seytzhанov on 15 January. On 18 January, Judge Kairat Khasenov of Kokshetau City Court approved the prosecutor's request to hold him in pre-trial detention for two months, until 15 March, the Judge's assistant told Forum 18 from the Court on 10 April. On 7 March the same Judge extended the pre-trial detention for a further month, until 15 April.

Seytzhанov has been held since his arrest in Kokshetau's Interior Ministry Investigation Prison No. 20. An official of the Prison's Special Department, who did not give his name, confirmed to Forum 18 on 13 April that it is still holding him.

However, the official declined to say if Seytzhанov is allowed to have a copy of the Koran or other religious literature, or if he is allowed to pray visibly. The official also refused to discuss his health. "We can't answer for detainees' health," he told Forum 18.

Seytzhанov's prison address:

Akmolinskaya Oblast

020000, g. Kokshetau

raion kirzavoda

ul. Nikitina 67

uchr. ETs-166/23 (SI-20)

Kazakhstan

Azatov: Awaiting trial

In Astana, Muslim prisoner of conscience Satymzhan Bagytzhanuli Azatov (born 17 September 1989) remains in the city's NSC secret police Investigation Prison. Astana NSC opened a criminal case against him in late December 2016 under Article 174, Part 1 ("Incitement of social, national, clan, racial, or religious discord"). He had met with other Muslims in Astana without state permission. Arrested on 4 January 2017, he remains under investigation (see F18News 6 February 2017 http://www.forum18.org/archive.php?article_id=2253).

Astana's Saryarka Court No. 2 first put Azatov in two-months' pre-trial detention on 6 January. On 27 February, Judge Elizaveta Atchibayeva at the same Court extended this pre-trial detention for a further two months, until 4 May (see F18News 7 March 2017 http://www.forum18.org/archive.php?article_id=2262).

NSC secret police investigator Senior Lieutenant Nurlan Belesov is investigating the case against Azatov. His telephones went unanswered each time Forum 18 called on 18 April.

Senior Lieutenant Belesov initiated the criminal prosecution of six Sunni Muslims sentenced as alleged Tabligh Jamaat members in Astana in separate cases in February and June 2016, as well as of Seventh-day Adventist prisoner of conscience Yklas Kabduakasov, given a two-year prison term in December 2015 (see F18News 22 April 2016 http://www.forum18.org/archive.php?article_id=2170).

The address of Astana's NSC Investigation prison where Azatov is being held:

SIZO KNB g. Astana

010003 Astana

Ul. Shyntas 2

Kazakhstan

Seytzhonov and Azatov: Earlier punishments for cafe meeting

Seytzhonov and Azatov had been punished for taking part in what prosecutors claimed was a "secret meeting of Salafis" in a cafe in Astana on 24 September 2016. Anti-Extremism Police claimed to have received an anonymous call about the meeting, which was attended by up to 50 people. Prosecutors also had a recording of the meeting made by an "unknown person".

Seytzhonov and Azatov – together with Tajik citizen Bakhtiyorxon Soliyev – "conducted unauthorised missionary activity and propagated their radical religious ideas and beliefs", according to the subsequent court decisions. All three faced charges under Administrative Code Article 490, Part 3.

This punishes: "Carrying out missionary activity without state registration (or re-registration), as well as the use by missionaries of religious literature, information materials with religious content or religious items without a positive assessment from a religious studies expert analysis, and spreading the teachings of a religious group which is not registered in Kazakhstan". The punishment is a fine of 100 Monthly Financial Indicators (MFIs), with deportation if the individual is a foreign citizen.

Missionary activity can only be carried out by a state-approved person, from a state-approved religious community, who uses state-approved religious materials, in a place approved by the state (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

In separate hearings on 1 November 2016, Astana's Specialised Inter-District Administrative Court fined Seytzhonov and Azatov the prescribed 100 MFIs or 212,100 Tenge under Administrative Code Article 490, Part 3. Astana City Court upheld the fines on 23 and 24 November 2016 (see F18News 6 February 2017 http://www.forum18.org/archive.php?article_id=2253).

Korzhavin: Trial imminent?

Denis Valeryevich Korzhavin (born 21 May 1983) was arrested in Kazakhstan's commercial capital Almaty on 18 February under Criminal Code Article 174, Part 1. Aleksei Chapurin of Almaty Police was the investigator in the case before it was handed to the Prosecutor's Office to prepare for trial. Korzhavin had his own lawyer during the initial stages of the investigation. However, officials pressured him to renounce the lawyer's services.

Korzhavin is an ethnic Russian who converted to Islam. He then studied his faith at Medina University in Saudi Arabia before returning to Kazakhstan.

On 21 February Judge Maral Dzharilgasova of Almaty's Almalay District Court ordered Korzhavin held in two months' pre-trial detention, until 18 April. He has been held at Almaty's Investigation Prison No. 18 (see F18News 3 April 2017 http://www.forum18.org/archive.php?article_id=2269).

Prosecutors did not request an extension of Korzhavin's pre-trial detention, the chancellery of Almalay District Court told Forum 18 late on 18 April. "This means that the case has probably already been presented to the court for trial," a chancellery official told Forum 18. "However, the case has not yet been registered at the court."

Korzhavin's current prison address:

050054, g. Almaty

Turksibsky raion

Ul. Krasnogorskaya d. 73

Uchr. LA-155/18

Kazakhstan

Abduzhabbarov: Pre-trial detention extended

The NSC secret police arrested Imam Abdukhalil Abdukhamidovich Abduzhabbarov (born 6 April 1975) as he arrived at Almaty Airport on 18 February. He had been extradited from Saudi Arabia at Kazakhstan's request. He was then transferred to Oral in West Kazakhstan Region (see F18News 21 February 2017 http://www.forum18.org/archive.php?article_id=2259).

NSC secret police Investigator Daniyar Ashim was assigned to investigate Abduzhabbarov under Criminal Code Article 174, Part 1 ("Incitement of social, national, clan, racial, or religious discord") and Criminal Code Article 256, Part 2.

Article 256, Part 2 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 punishment is seven to 12 years' imprisonment with confiscation of property.

On 22 February Judge Slukhanym Kadrallyeva of Oral City Court acceded to the request of NSC secret police Investigator Ashim to have Abduzhabbarov held in two months' pre-trial detention. On 11 April, Judge Raushan Ismailova of the same court extended this pre-trial detention for a further month, until 18 May, Saule Kaisarova, head of the Court chancellery, told Forum 18 from Oral on 13 April.

Abduzhabbarov's prison address is:

Zapadno-Kazakhstanskaya Oblast

g. Oral

Ul. Mukhita 124

Sledstvenny izolyator RU-170/1

Kazakhstan

Abduzhabbarov: Koran denied

Abduzhabbarov's brother travelled to visit him in Investigation Prison in Oral after the Investigator gave his approval for such a visit. However, when the brother arrived, officials told him the Investigator had changed and the new Investigator had not approved such a visit. The brother tried to hand over a copy of the Koran for Abduzhabbarov. However, this was refused, family members told Forum 18 on 3 April.

Prisoners have often complained of being denied their rights to freedom of religion or belief.

The administration of Prison camp KA-168/2 in Aktobe refuses to allow Sunni Muslim prisoner Khalambakhi Khalym to pray visibly, his relatives complained to Forum 18 on 3 April. He is allowed to read the Koran only once a week, when prisoners have a lesson on the Koran from an imam of the state-backed Muslim Board, the only Muslim community the government allows to function in the country.

The duty officer at the prison camp – who would not give his name - denied to Forum 18 on 18 April that prisoners are prevented from praying visibly or reading the Koran apart from during organised lessons by state-approved imams.

Sunni Muslim Khalym was sentenced to two and a half years' imprisonment in Astana in February 2016 as part of a group of five alleged members of the Tabligh Jamaat missionary movement. During pre-trial detention prison guards denied them access to the Koran or other religious literature, forcibly shaved their beards and took their religious head coverings from them (see F18News 9 March 2016 http://www.forum18.org/archive.php?article_id=2156).

The UN Standard Minimum Rules for the Treatment of Prisoners (known as the Mandela Rules, A/C.3/70/L.3) require governments to respect the freedom of religion or belief and other human rights of prisoners – including those in pre-trial detention. Muslim prisoners of conscience have stated that their human rights are violated in prison, including by being banned from reading the Koran and other religious books (see eg. F18News 9 March 2016 http://www.forum18.org/archive.php?article_id=2156). (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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f18news @ editor.forum18.org

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY