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KAZAKHSTAN: Why were prisoner's conditions made harsher?

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

After prisoner of conscience Imam Abdukhalil Abduzhabbarov's transfer to a harsher prison he is held in solitary confinement with one short daily exercise period, and can have only two two-hour meetings with relatives a year. He is only occasionally allowed to read the Koran.

The conditions under which Sunni Muslim prisoner of conscience Imam Abdukhalil Abduzhabbarov is held have worsened since his transfer to a new prison. Although the court sentenced him to eight years' imprisonment in a general regime labour camp, he was transferred in October 2017 to a mixed regime prison in the southern city of Kyzylorda, where conditions are harsher. This causes relatives great concern (see below).

Imam Abdukhalil Abdukhamidovich Abduzhabbarov (born 6 April 1975) is being held in solitary confinement in a single cell, with only a short daily exercise period, is allowed no phone calls, and can have only two two-hour meetings a year with up to three relatives only. He is only occasionally allowed to read the Koran.

Solitary confinement was condemned by former UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Juan Mendez, as it could amount to torture. The Interior Ministry ordered the prison transfer, allegedly "to ensure law and order" and falsely claimed to relatives that he is getting longer exercise periods (see below).

Prison officials have refused to discuss the conditions he is jailed under with Forum 18, including why he was transferred to a harsher prison, and why his and other prisoners' freedom of religion and belief and other human rights are being violated (see below).

Imam Abduzhabbarov and his wife Dinara have 10 children. About half of them have not seen their father for a year (see below).

Forum 18 was unable to find out how Imam Abduzhabbarov will be able to observe the Muslim holy month of Ramadan, which began in mid-May. He was punished for praying and fasting during Ramadan in Investigation Prison in 2017 (see below).

Relatives would like to bring a further appeal against Imam Abduzhabbarov's conviction to the Supreme Court in the capital Astana. But they told Forum 18 they do not have the means at present (see below).

Imam Abduzhabbarov was given the eight-year prison term in Oral (Uralsk) in West Kazakhstan Region in August 2017 for sermons preached between 2004 and 2006, before he left for Saudi Arabia, where he lived for 10 years. The authorities claim the sermons incited "religious hatred", which he denied.

Many prisoners of conscience

Imam Abduzhabbarov was one of 24 individuals known to have been given criminal convictions in 2017 to punish the exercise of freedom of religion or belief, 21 were Sunni Muslims, 2 Jehovah's Witnesses and 1 Baptist. All but three were jailed (see F18News 5 March 2018 http://www.forum18.org/archive.php?article_id=2359).

As well as criminal convictions, courts routinely hand down administrative punishments for exercising freedom of religion or belief, including fines, confiscation (and more rarely destruction) of religious literature, and bans on activity. Forum 18 found 284 such administrative punishments in 2017 (see F18News 30 January 2018 http://www.forum18.org/archive.php?article_id=2347).

Between January and mid-May 2018, Forum 18 found 32 such administrative prosecutions to punish exercising freedom of religion or belief.

New restrictions passed in first reading

On 16 May, the lower house of parliament, the Majilis, approved in the first reading a wide-ranging package of amendments that

seem set to increase still further the already tight restrictions on the exercise of freedom of religion or belief. A Working Group of the Majilis International Affairs, Defence and Security Committee sent the draft Law to the full Majilis after completing consideration of it in April (see F18News 30 May 2018 http://www.forum18.org/archive.php?article_id=2382).

The draft Amending Law proposes a significant harshening of the existing restrictions on freedom of religion and belief in the 2011 Religion Law, the Administrative Code, and many other laws (see F18News 29 November 2017 http://www.forum18.org/archive.php?article_id=2335).

Why was prisoner of conscience transferred?

After the September 2017 rejection of Imam Abduzhabbarov's Supreme Court appeal (see below), he was transferred to a new prison 1,250 kms (775 miles) away. This was on the orders of the Interior Ministry's Committee for the Criminal Execution System "to ensure law and order" in prison.

Imam Abduzhabbarov was transferred on 12 October 2017 from general regime prison RU-170/1 in the north-western city of Oral (Uralsk) to prison ZK-169/1 in the southern city of Kyzylorda, a mixed regime prison, according to a 12 February 2018 letter from Kyzylorda Regional Deputy Prosecutor Talgat Alibayev, seen by Forum 18. He did not explain why Abduzhabbarov's transfer to harsher prison conditions would achieve the aim of ensuring "law and order" in prison.

Abduzhabbarov's wife Dinara was not informed that her husband had been transferred to the Kyzylorda prison until 16 November 2017, more than a month later.

Farabi Uzakov of Kyzylorda Regional Prosecutor's Office, who prepared Alibayev's response, told Forum 18 on 15 May that the decision to transfer Imam Abduzhabbarov "had come down from the Committee in Astana". He insisted that the transfer was not a punishment. Asked why Abduzhabbarov was transferred to a prison with harsher conditions (see below), he responded: "I can't say the conditions are worse."

Abduzhabbarov's wife Dinara appealed to the Committee for the Criminal Execution System in Astana for her husband to be transferred to a prison in or near Shymkent, where she and their children live with relatives. However, in a 6 March 2018 letter seen by Forum 18, Bekbulat Turemuratov, the Committee's First Deputy Chair, rejected her appeal, saying Abduzhabbarov's conduct had not been assessed and therefore it could not be determined if his conduct had shown "positive steps" which would merit a transfer.

Solitary confinement, denials of religious literature

Since his transfer in October 2017, Imam Abduzhabbarov has remained in prison ZK-169/1 in Kyzylorda, which has far more restrictive conditions than the general regime camp in Oral.

Imam Abduzhabbarov is being held in solitary confinement in a cell, and is allowed only a 20 or 30 minute walk each day. On 31 January 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. No explanation has been given as to why he is being held in solitary confinement.

In an August 2011 report to the UN General Assembly on solitary confinement (A/66/268 (<http://undocs.org/A/66/268>)), then-United Nations (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 "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 that: "Segregation, isolation, separation .. whatever the name, solitary confinement should be banned by States as a punishment or extortion technique" (<http://news.un.org/en/story/2011/10/392012-solitary-confinement-should-be-banned-most-cases-un-expert-says>).

Imam Abduzhabbarov is allowed only two two-hour meetings with relatives each year. Only two or three relatives are allowed to attend each visit. As he and his wife have 10 children, this means that about five of them have not seen their father for more than a year, relatives complained. Imam Abduzhabbarov is not allowed to make telephone calls, and any letters he writes are checked by the prison authorities before being sent.

Imam Abduzhabbarov is not allowed to have religious literature of his choice in his cell. Prison officials "give Abdukhilil the Koran to read, then they take it back", relatives complained to Forum 18.

Denials of prisoners' freedom of religion and belief

Many 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). 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 and belief and other human rights of prisoners.

"So far as practicable, every prisoner shall be allowed to satisfy the needs of his or her religious life by attending the services provided in the prison and having in his or her possession the books of religious observance and instruction of his or her denomination", Rule 66 notes.

Rule 65 of the Standard Minimum Rules requires prisons to allow communal religious observance led by a "qualified representative" of that faith and private visits to prisoners by such representatives at individual prisoners' request.

Denials of the Koran and other Islamic literature, as well as the forcible shaving off of beards, appears to be a standard punishment imposed by the authorities on male Muslims jailed for exercising their freedom of religion or belief. In the case of prisoner of conscience Saken Tulbayev, a prison Deputy Director in Almaty attempted to justify part of this punishment by claiming to Forum 18 that "even if it says Koran or Bible on the cover, maybe something else is written there" (see F18News 10 June 2015 http://www.forum18.org/archive.php?article_id=2072).

Credible claims of torture have often been made in relation to prisoners of conscience jailed for exercising their freedom of religion or belief (see eg. F18News 29 December 2015 http://forum18.org/archive.php?article_id=2136).

Under the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which Kazakhstan acceded to in 1998, the government is obliged to both arrest any person suspected on good grounds of having committed torture, and to try them under criminal law which makes "these offences punishable by appropriate penalties which take into account their grave nature". No arrests of anyone strongly suspected of having tortured prisoners of conscience jailed for exercising freedom of religion and belief appear to have been made.

Why does Kazakhstan violate prisoners' human rights?

Forum 18 was unable to find out how Imam Abduzhabbarov will be able to observe the Muslim holy month of Ramadan, which began in mid-May. In June 2017, he spent at least 10 days in the Investigation Prison punishment cell in Oral for praying and fasting in Ramadan. While in the punishment cell he was given only black bread and water, and had to stand (see F18News 13 July 2017 http://www.forum18.org/archive.php?article_id=2296).

The official who answered the phone at Kyzylorda prison ZK-169/1's Special Department, who would not give her name, claimed that a colleague who was familiar with Abduzhabbarov's conditions was away. "He receives visits," she insisted to Forum 18 on 15 May. She said she was unable to say if he was allowed to have a Koran or other religious literature in his cell, or whether he is allowed to pray visibly. She refused to discuss any other aspect of his prison conditions.

Imam Abduzhabbarov's prison address is:

Kyzylordinskaya Oblast

120001 g. Kyzylorda

ul. Tole bi 112

Uchr. ZK-169/1

Abdukhalil Abdukhamidovich Abduzhabbarov

Kazakhstan

"We don't have possibility" for Supreme Court challenge

Imam Abduzhabbarov's relatives say they do not have the means at present to bring a further appeal against his conviction to the Supreme Court in Astana. "We would like to challenge the conviction to Kazakhstan's Supreme Court, but we don't have the possibility at the moment," Imam Abduzhabbarov's relatives told Forum 18 on 15 May. "He is not guilty of anything. He never called on anyone to fight."

The National Security Committee (NSC) secret police arrested Imam Abduzhabbarov at Almaty Airport in February 2017 after the Kazakh authorities had obtained his extradition from Saudi Arabia. They then transferred him to Oral, where he had lived in the early 2000s before leaving for Saudi Arabia, where he lived for 10 years.

Prosecutors brought a case against him under the old Criminal Code Article 164, Part 3 (which is equivalent to Article 174, Part 3 of the new Code), which was in force at the time of Abduzhabbarov's alleged "crime". The UN Special Rapporteur on the rights to Freedom of Peaceful Assembly and of Association, the UN Human Rights Committee, and Kazakh human rights defenders have all

strongly criticised the broad and unclear formulation of Criminal Code 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).

Article 164 of the old Criminal Code punished: "Incitement of social, national, clan, racial, or religious hatred or 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 hatred or discord".

On 16 August 2017, at the end of a long trial, Oral City Court found Imam Abduzhabbarov guilty of inciting religious discord "with serious consequences" in recordings of his sermons and talks given in 2004 to 2006. Abduzhabbarov rejected the accusations against him. The Judge handed down an eight year general regime prison term. Abduzhabbarov's bank accounts were subsequently blocked (see F18News 29 August 2017 http://www.forum18.org/archive.php?article_id=2311).

West Kazakhstan's Regional Court rejected Imam Abduzhabbarov's appeal on 21 September 2017. (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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If you need to contact F18News, please email us at:
f18news @ editor.forum18.org

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY