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Two years' imprisonment for Astana Adventist

Forum 18 (28.12.2015) - <http://bit.ly/1QljMI3> - Seventh-day Adventist prisoner of conscience Yklas Kabduakasov was arrested by officers of Kazakhstan's National Security Committee (KNB) secret police in the courtroom today (28 December) as the Prosecutor succeeded in having his punishment of seven years' restricted freedom changed into a prison term. The City Court in the capital Astana increased the sentence to two years' imprisonment in a general regime labour camp, those attending the appeal hearing told Forum 18 News Service. The 12 weeks Kabduakasov spent in pre-trial detention will count towards his two year prison term.

Prisoner of conscience Kabduakasov, who is 54, denies the allegations of inciting religious hatred on which he was convicted on 9 November. The charges were initiated by the KNB secret police, who spent more than a year seeking to punish him (see below).

The same KNB secret police investigator who prepared the criminal case against Kabduakasov, Nurlan Belesov, is also preparing the criminal cases against six Sunni Muslim prisoners of conscience awaiting trial in Astana's KNB Investigation Prison. They are accused of belonging to the banned Tabligh Jamaat Muslim missionary movement. The court-ordered pre-trial detention period already appears to have expired for five of the six, though they are still being held (see below).

Three more Sunni Muslim prisoners of conscience are being held in the KNB secret police Investigation Prison in the northern city of Karaganda [Qaraghandy] awaiting trial. The three - Bauyrzhan Serikov, Aidin Shakentayev and Murat Shopenov - were arrested on 7 October and ordered held in pre-trial imprisonment on 9 October. They too are accused of membership of Tabligh Jamaat.

Another prisoner of conscience imprisoned for exercising the right to freedom of religion or belief, Sunni Muslim Saken Tulbayev, no longer appears to be being physically tortured in prison but cannot pray the namaz (Muslim prayers), a human rights defender told Forum 18. Tulbayev was beaten after his transfer to a labour camp in Pavlodar in September, the human rights defender added (see below).

Meanwhile, a court-ordered three month ban on Transfiguration Church, a Baptist congregation in a village in West Kazakhstan Region, ended in mid-December. The church has not paid a large fine handed down in September to punish it for running a children's camp as it does not have the money (see below).

Many freedom of religion or belief violations in 2015

Kazakhstan imposes harsh controls on all exercise of the right to freedom of religion or belief. Only religious communities which want to and have been able to gain state registration are allowed to exist. Even registered religious communities face severe restrictions, including on where they may hold religious events. Religious literature and the sharing of beliefs is also under tight state restrictions, which include prior compulsory censorship of all published or imported materials and a licensing system for where approved religious literature can be sold or distributed.

There has been a significant rise in 2105 in violations of freedom of religion or belief, including the jailing of prisoners of conscience.

KNB secret police-initiated prosecution

The KNB secret police had been tracking Adventist Kabduakasov for a year as he spoke to others about his faith. The KNB appear to have rented the flat to which four university students invited him for religious discussions, appear to have organised the secret filming of the meetings with at least two hidden cameras, and prepared the prosecution case.

The KNB secret police finally arrested Kabduakasov in Astana on 14 August, accused of violating Criminal Code Article 174, Part 2. This punishes "incitement of social, national, clan, racial, or religious discord" by repeat "offenders" with prison terms of between five and ten years. On 9 November at the end of his first trial, Astana's Saryarka District Court No. 2 sentenced Kabduakasov to seven years' restricted freedom under Article 174, Part 1. He was allowed home that day to begin serving his sentence.

The 9 November verdict also ordered nine Christian books confiscated in searches at the time of Kabduakasov's arrest to be destroyed.

Appeal hands down two-year prison term

Kabduakasov appealed against the decision to Astana City Court, as did the Prosecutor, Asylzhan Gabdykaparov. Kabduakasov sought the overturning of the sentence and his full acquittal. The Prosecutor sought seven years' imprisonment in place of the restricted freedom sentence.

The appeal hearing began under Judge Gulnara Mergenova on 22 December, with a further hearing on 25 December. At the final appeal hearing on 28 December, the Judge

handed down the two year prison term and officials arrested him at the end of the hearing.

Prisoner of conscience Kabduakasov's lawyer Gulmira Shaldykova described the two-year prison term to Madi Bekmaganbetov of Radio Free Europe's Kazakh Service as "too harsh". She pointed out that Kabduakasov has eight children, six of them still minors. She said she would discuss with her client whether to appeal against the verdict to a higher court.

Kabduakasov's Pastor, Andrei Teteryuk of Astana's Adventist Church, condemned the sentence as a violation of the United Nations Universal Declaration of Human Rights and other international human rights documents that Kazakhstan has signed up to. "Freedom of religious confession and of conscience is the basic civil right in any society recognised as democratic and constitutional," he told Bekmaganbetov of Radio Free Europe.

The person who answered the phone of Investigator Gabdykaparov later on 28 December listened to Forum 18's request to speak to him and then put the phone down without responding. All subsequent calls went unanswered.

The telephone of KNB secret police investigator Belesov, who prepared the initial case, went unanswered each time Forum 18 called the same day.

Six Sunni Muslims in secret police prison awaiting trial

The same KNB secret police investigator Belesov is preparing the criminal prosecution in Astana of six Sunni Muslim prisoners of conscience. All six are accused of membership of the banned Muslim missionary movement Tabligh Jamaat. They face prosecution under Criminal Code Article 405. This punishes participation in the activity of a banned social or religious organisation with a fine or a prison term.

Tabligh Jamaat was banned as "extremist" in Kazakhstan by an Astana court in February 2013. Sharing some of its teachings or habits, possessing religious books often used in the movement or meeting with others close to the movement is enough for a criminal prosecution.

The KNB arrested 38-year-old Bolatbek Kozhageldinov, 31-year-old Khalambakhi Khalym, 33-year-old Nurzhan Nuradilov, 44-year-old Erbolat Omarbekov and 54-year-old Kubaidolla Tyulyubayev in late September. They arrested the sixth, Murat Takaumov, on 18 November, just days after his 31st birthday. All six prisoners of conscience are being held in Astana's KNB Investigation Prison.

Illegal imprisonment?

Astana's Saryarka District Court No. 2 extended the pre-trial detention of prisoners of conscience Kozhageldinov, Khalym, Nuradilov, Omarbekov and Tyulyubayev for a further month on 23 November. However, this expired on 23 December. An official of the court told Forum 18 on 28 December that it has no record of any application by prosecutors to extend the period of pre-trial detention. Nor could she find any record that any criminal trial had taken place in that court.

Holding pre-trial detainees in prison without court approval would be illegal, Forum 18 notes.

On 20 November the same Court ordered prisoner of conscience Takaumov's pre-trial detention for two months, which runs out on 18 January 2016.

Takaumov tried to challenge his pre-trial imprisonment. However, on 11 December Judge

Kairat Aitzhanov of Astana City Court rejected his appeal, according to the decision seen by Forum 18.

A total of 15 Muslims are known to have been convicted since late 2014 on criminal charges of Tabligh Jamaat membership. Eight are prisoners of conscience who are serving or have completed prison sentences of up to 4 years 8 months. The other seven Muslims are serving sentences of restricted freedom, where they can live at home but under tight controls.

No longer physically tortured - but no prayers possible

Sunni Muslim prisoner of conscience Tulbayev – also imprisoned for alleged membership of Tabligh Jammata was tortured after his transfer to labour camp in Pavlodar in September, human rights defender Yelena Semenova told Forum 18 from the city on 28 December. "I saw the result of the beatings," she noted of her 23 October meeting with him in labour camp. After this she lodged a complaint to the KNB secret police and to the camp authorities. But the torture only stopped after publicity was given to Tulbayev's maltreatment, she added.

Under the United Nations (UN) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which Uzbekistan acceded to in 1998, Kazakhstan is obliged to both arrest any person suspected on good grounds of having committed torture and try them under criminal law which makes "these offences punishable by appropriate penalties which take into account their grave nature". No arrests of prisoner of conscience Tulbayev's torturers appear to have been made.

Semenova said she had last visited prisoner of conscience Tulbayev in the labour camp in early December. "His situation is much better than it was when he first arrived there," she told Forum 18. However, she noted that because of the long work hours, he is unable to pray the namaz (Muslim prayers).

International law defends the right of prisoners to freedom of religion or belief. The International Covenant on Civil and Political Rights (ICCPR), ratified by Kazakhstan in 2003, states: "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person" (Article 10, Paragraph 1). This specifically includes those held in prisons, detention camps or correctional institutions (General Comment 21 on ICCPR Article 10). Among other relevant UN standards is the 1955 Standard Minimum Rules for the Treatment of Prisoners, which among other things state: "So far as practicable, every prisoner shall be allowed to satisfy the needs of his/her religious life by attending the services provided in the institution and having in his/her possession the books of religious observance and instruction of his/her denomination" (Rule 42).

"The prison is very bad"

"The prison is very bad," relatives complained to Forum 18 in mid-December. "Saken is being held with paedophiles and murderers." Relatives live a long way from the labour camp and can afford only rare visits, even when they are permitted. Prisoner of conscience Tulbayev's wife Rumina was able to visit in late October with their two-year-old daughter.

Relatives have sent a parcel containing new glasses to replace his old pair which was broken, possibly deliberately, relatives told Forum 18. They also sent two pairs of thick gloves to protect his hands while at work.

A court in Kazakhstan's commercial capital Almaty sentenced Tulbayev (who was also tortured in pre-trial detention) on 2 July to four years eight months' imprisonment. He

was also banned from exercising freedom of religion or belief, including praying with others and reading the Koran, until the end of 2022.

Large fine, three-month ban

Trouble began on 6 and 7 July for Transfiguration Baptist Church in the village of Darinskoe in Zelenov District of West Kazakhstan Region on the country's northern border with Russia. The Church organised a summer camp for children in the home of a church member in the nearby village of Yanvartsevo. The Church invited fellow Baptists from Russia and the United States to help with the camp.

Adil Nurmukhanov of the Regional Religious Affairs Department accused the Church of conducting religious activity away from its registered legal address without having gained the Department's permission as required in law. However, the church's pastor Viktor Demyashev insisted in subsequent court hearings that its statute defines the area of its activity as West Kazakhstan Region. Nurmukhanov also accused the Church of involving children without their parents' consent. Pastor Demyashev similarly denied this in court.

Prosecutors then brought a case against the Church to court under Administrative Code Article 490, Part 1, Point 1. This punishes "violation of procedures established in law for conducting rites, ceremonies and meetings" with a fine for legal organisations of 200 Monthly Financial Indicators and a three-month ban on their activity.

On 16 September, Judge Aleksandra Sidorova of Zelenov District Court No. 2 found the Church guilty, according to the court decision seen by Forum 18. She handed down the prescribed penalties: a fine of 200 Monthly Financial Indicators, 396,400 Tenge (then equivalent to 11,700 Norwegian Kroner, 1,300 Euros or 1,500 US Dollars) and a three-month ban on all the Church's activity.

On 18 September, a different Judge at the same court dismissed Prosecutors' attempts to deport three Russian citizens and one US citizen for participating in the summer camp, as all four had left Kazakhstan in late July, according to the court decision seen by Forum 18.

Transfiguration Church appealed against the fine and three-month ban. However, on 8 October, Judge Tlek Gusmanov of West Kazakhstan Regional Court dismissed the appeal, according to the decision seen by Forum 18.

"We don't have the money to pay"

Pastor Demyashev said that the Church has not paid the fine. "When officials came to us we told them we don't have the money to pay," he told Forum 18 from Darinskoe on 28 December.

He added that the ban began immediately the 16 September court decision was handed down. It therefore ended on 16 December. "But no one has visited us again," Pastor Demyashev noted.

"State prosecutor wants Yklas to serve 7 years in prison!"

Forum 18 (08.12.2015) - <http://bit.ly/1O9sWQ4> - State Prosecutor Asylzhan Gabdykaparov is seeking to have Protestant Christian Yklas Kabduakasov's punishment of seven years' restricted freedom turned into an actual seven-year prison sentence,

Seventh-day Adventist Pastor Andrei Teteryuk told Forum 18 News Service. The Prosecutor's protest – and Kabduakasov's appeal to have the sentence quashed – are due to be heard on 22 December at Astana City Court. The November verdict ordered that nine Christian books seized by the secret police in the case should be destroyed. "It is barbarism to destroy books," human rights defender Yevgeni Zhovtis told Forum 18. An Astana-based court bailiff – who has witnessed the destruction of religious books – explained to Forum 18 that bailiffs throw books ordered destroyed – including religious books – into the rubbish bin. "They are normally disposed off at a general rubbish dump outside the city."

The City Court in Kazakhstan's capital Astana is due to hear the appeal in the case of Protestant Christian Yklas Kabduakasov in the morning of 22 December, according to case documents seen by Forum 18 News Service. Judge Gulnara Mergenova is due to preside. Both the state prosecutor and Kabduakasov himself have appealed against the sentence of seven years' restricted freedom handed down on 9 November to punish him for talking to others of his faith. "The state prosecutor wants Yklas to serve the seven years in prison!" Astana Seventh-day Adventist Pastor Andrei Teteryuk told Forum 18 on 4 December.

Despite repeated calls, Forum 18 was unable to reach state prosecutor Asylzhan Gabdykaparov to find out why he is seeking to have Kabduakasov imprisoned. His colleagues either told Forum 18 he was out of the office or his telephone went unanswered between 2 and 8 December.

Although Gabdykaparov led the prosecution case in court, the National Security Committee (KNB) secret police spent more than a year preparing the prosecution.

The written verdict sentencing Kabduakasov orders that nine religious books seized in raids on his home and other locations – among other items – should be destroyed (see below).

The court order to destroy yet more religious books comes as Jehovah's Witnesses have failed to overturn in court repeated religious censorship on the import of their publications. Courts confined themselves to technical points, refusing to consider whether the Culture and Sport Ministry's Religious Affairs Committee had been right to ban specific Jehovah's Witness publications or not (see below).

Fines continue on individuals who offer religious literature outside the limited spaces enshrined in law where it is allowed to be distributed (see below).

"It is barbarism to destroy books"

Yevgeni Zhovtis of the Kazakhstan International Bureau for Human Rights and the Rule of Law condemned the court order to destroy books seized from Kabduakasov and others in the case. "It is barbarism to destroy books," he told Forum 18 on 3 December. "And it makes the authorities in Kazakhstan – who position themselves as modernising the country – look from the cultural point of view like the Taliban or ISIS."

Zhovtis noted that he had similarly objected over the court-ordered destruction of 121 religious books, mainly Bibles, in Akmola Region in March 2013. After an outcry, that decision was then overturned.

In May 2013, four books confiscated from a bookseller in East Kazakhstan Region – including two with prayers to Russian Orthodox saints Serafim of Sarov and Sergius of Radonezh – were ordered destroyed when the bookseller was fined. If it was carried out, this would have been the first known time that a court-ordered religious book destruction was carried out in Kazakhstan. Other religious literature destruction orders followed.

"We will fulfil court orders to destroy books"

An Astana-based court bailiff – whose role falls under the jurisdiction of the Justice Ministry – explained to Forum 18 in late November 2015 how he and his colleagues destroy items as ordered in court decisions. Asked if this includes the destruction of books, the bailiff responded: "Whatever the court orders, we will do it - we will fulfil court orders to destroy books."

The bailiff noted that courts often order the destruction of seized alcohol and books. Asked what bailiffs do to destroy books, including religious books, the bailiff responded: "Generally we throw them into the bin. They are normally disposed off at a general rubbish dump outside the city." By contrast, bailiffs hand confiscated weapons or gold to the police.

Asked if the bailiff had personally destroyed religious books, the bailiff responded: "There are cases of destruction of religious books, though not so many. I haven't done it, but I've seen others do it, of course." The bailiff said they had not come across cases where other bailiffs had refused to destroy religious books on grounds of conscience.

Judge orders religious book destruction

The KNB secret police had been tracking Adventist Kabduakasov for a year as he spoke to others about his faith. The KNB appear to have rented the flat to which four students invited him for religious discussions, appear to have organised the secret filming of the meetings with at least two hidden cameras, and prepared the prosecution case.

The KNB secret police finally arrested Kabduakasov in Astana on 14 August, accused of violating Criminal Code Article 174, Part 2. This punishes "incitement of social, national, clan, racial, or religious discord" by repeat "offenders" with prison terms of between five and ten years. On 9 November at the end of his trial, Kabduakasov was sentenced to seven years' restricted freedom under Article 174, Part 1.

Judge Akmaral Isayeva's written court decision – handed down some days after the verdict was pronounced in court and seen by Forum 18 – orders Kabduakasov to pay 149,742.52 Tenge (17,000 Norwegian Kroner, 1,800 Euros or 2,000 US Dollars) in procedural costs.

The verdict also reveals that nine religious books held by Astana KNB after they seized them in August are to be destroyed. Also ordered destroyed were audio and video cassettes, CDs and computer technology, including computers and a video camera. The KNB secret police had seized the items from Kabduakasov's home, place of work and car, and other addresses.

Forum 18 was unable to reach Judge Isayeva to find out why she had ordered the religious books destroyed. On 24 November her assistant said he could not comment on her behalf. On all other occasions, the Judge's telephone went unanswered.

"We consider the destruction order absurd"

The books Judge Isayeva ordered destroyed were "Worthy Answers" (2 copies) and "Central Asia, Kazakhstan and the History of Christianity" in Kazakh, as well as "Worthy Answers", "The Call for the Great Commission" (2 copies), "Relatives, live in abundance!" and "Share your Faith with Muslims" (2 copies) in Russian.

None of these books is among the 661 items on the General Prosecutor's Office list of banned religious literature published on its website. (Adolf Hitler's "Mein Kampf" is among the "religious" books listed as "extremist" and banned.)

"We consider the destruction order absurd," Adventist Pastor Teteryuk complained to Forum 18. "The books and other items don't belong to Yklas but to the Church and other Church members! We don't understand why they're preparing to destroy them."

Growing number of religious books and websites banned

A growing – but unknown – number of religious publications and web pages by Muslim, Protestant and Jehovah's Witness authors are being banned in court as "extremist", Forum 18 notes. Such court decisions are often not publicised and therefore impossible to challenge.

"The Call for the Great Commission" was one of five Christian books which a September 2013 "expert analysis" claimed "contain signs of ethnic and religious hatred and enmity and statements on the superiority of the Christian religion and the inferiority of the Islamic religion". An Astana court fined Baptist pastor Gennadi Vrublevsky in December 2013 for possessing the five books.

Although Police and KNB secret police officers have often hunted down and seized copies of "Worthy Answers" - by two local Protestants, Galymzhan Tanatgan and Zhomart Temir – Forum 18 can find no record that it has been banned.

Judge Isayeva's verdict notes that a 1 September six-page "expert" analysis concluded that "Worthy Answers" promotes "religious hatred and discord". The analysis has not been made public.

Ever more religious censorship

In defiance of Kazakhstan's international human rights commitments – and against the country's Constitution, which bans censorship – the Religion Law requires all religious literature printed, published or distributed in the country to undergo prior compulsory censorship at the Culture and Sport Ministry's Religious Affairs Committee.

An official of the "Expert" Analysis Department of the Religious Affairs Committee insisted that her department does not ban religious literature. "We just give recommendations of items to ban, but prosecutors and courts take the decisions," Asel Kuzembayeva told Forum 18 from Astana on 3 December. "As of today, we have given more than 400 negative evaluations." However, she said she was unable to send a list of the religious items for which her Committee has given a "negative evaluation".

Kuzembayeva insisted that just because her Department has given a "negative evaluation" of a religious book, it does not mean the book should be destroyed. She rejected characterisations of the Department's work as censorship, but was unable to say how it differed from censorship. "Items are only blocked if they violate the law," she claimed.

Kuzembayeva has produced several analyses of Jehovah's Witness literature, claiming that they contain "elements inciting religious hatred and discord". Her analyses were then used in court to ban the magazines and books.

Challenges to religious literature bans fail, further bans

On 2 December, a panel of three judges at Astana City Court rejected the Jehovah's Witnesses cassation appeal against the Religious Affairs Committee ban in late 2014 on

the import of 13 items, including issues of their magazine "The Watchtower", as well as copies of "Examining the Scriptures Daily 2015", a book Jehovah's Witnesses use regularly. The blocked items were in Kazakh and Russian. Kuzembayeva represented the Religious Affairs Committee in court, according to the decision seen by Forum 18.

The case had already been through lower courts. As in numerous earlier rejections of Jehovah's Witness suits challenging religious censorship, the courts did not evaluate whether or not the Religious Affairs Committee's findings of alleged promotion of religious discord were justified or not. Jehovah's Witnesses can lodge a final challenge to the Supreme Court.

"In the 13 publications that the Religious Affairs Committee banned from import between September and November 2014," Jehovah's Witnesses told Forum 18, "virtually all of the passages to which it objected are either direct quotations from the Bible or the Witnesses' sincere explanation of what they understand these quotations to mean."

On 20 and 25 August 2015, the Religious Affairs Committee denied Jehovah's Witnesses permission to import three more of their publications: "What Does the Bible Really Teach?", "Keep Yourselves in God's Love" and "Good News From God!", one of Kuzembayeva's colleagues – who would not give his name – confirmed to Forum 18 on 3 December. He refused to say if he could send Forum 18 copies of his Department's negative "expert analysis".

Jehovah's Witnesses note that the Religious Affairs Committee's August bans were the first on their publications since late 2014.

Jehovah's Witnesses appealed against the latest denials to the Culture Ministry, but without success, they told Forum 18. As in earlier censorship cases, they also tried to challenge these bans in court. However, in two separate cases on 30 November, Astana Inter-District Economic Court sent the cases back on technical grounds, according to the decisions seen by Forum 18. Jehovah's Witnesses are likely to resubmit them.

On 27 March, Jehovah's Witnesses filed an appeal to the United Nations Human Rights Committee over censorship bans of ten of their publications in January 2013. Challenges to these bans had failed in Kazakhstan's courts.

Fined for not paying fines

On 9 November, Judge Sayat Orazbayev of Balkhash Specialised Administrative Court in Karaganda Region punished Council of Churches Baptist Nikolai Popov for failing to pay two fines handed down in 2013 and 2014 to punish him for exercising the right to freedom of religion or belief, according to the decision seen by Forum 18. Popov was fined 10 Monthly Financial Indicators (MFIs), 19,820 Tenge, under Administrative Code Article 669 (failure to fulfil a court sentence or decision, other judicial act or bailiff's order).

The 54-year-old Popov is married with five children, ranging from 11 to 19. He told the court that he refused to admit his guilt for "sharing God's Word", according to the transcript seen by Forum 18.

Popov was punished for failing to pay two fines: a 29 October 2013 fine of 100 MFIs (173,100 Tenge) under the old Administrative Code Article 374-1, Part 1; and a 15 January 2014 fine of 50 MFIs (92,600 Tenge) under the old Administrative Code Article 375.

Council of Churches Baptists – who refuse to submit their congregations to state registration – have adopted a policy of civil disobedience, refusing to pay fines for exercising the right to freedom of religion or belief.

Court bailiff Bauyrzhan Darkeyev issued two orders on 13 May, "temporarily banning" Popov from leaving Kazakhstan until the 2013 and 2014 fines had been paid. Balkhash City Court approved the travel bans. Darkeyev summoned Popov on 3 November and drew up an administrative record over non-payment of both fines and handed it to court.

Popov appealed against the 9 November fine. However, on 2 December Judge Total Erimbetov at Karaganda Regional Court rejected his appeal, according to the decision seen by Forum 18.

Court bailiff Darkeyev defended his actions against Popov, insisting they had been taken on a "legal basis". Asked by Forum 18 on 3 December why Popov should have been punished for exercising the right to freedom of religion or belief, he responded: "Everyone must abide by the law, regardless of their religion or ethnic background." Darkeyev said that Popov is still banned from travelling abroad. "We can't remove the travel ban until he pays up. He knows this full well."

Fined for offering religious literature

A local police officer detained three Council of Churches Baptists – Vitaly Pan, Aleksandr Kulbeda and Valery Skorobogaty - for offering religious literature to local people in the village of Koszhar in Kyzylorda Region on 21 May. The officer took them to the police station in the nearby town of Aral. The officer drew up records of an offence against all three. He also confiscated 49 Christian books in Russian and Kazakh, including copies of the New Testament and brochures.

"Complex psychological philological religious studies expert examinations" of the confiscated books, completed on 22 June, found that they "did not preach any ideas in relation to other nations, races or religions", according to case documents seen by Forum 18.

On 24 August officials decided that the three men had not committed a criminal offence under Article 174, Part 1 (the same "offence" Kabduakasov was convicted of). Instead Erkin Abishev, head of Aral District Internal Policy Department, prepared cases under Administrative Code Article 490, Part 1 (seen by Forum 18). This punishes violating the state's censorship controls over religious literature. The cases were sent to three different courts.

All three were found guilty in November by different local courts of violating Administrative Code Article 490, Part 1, according to the decisions seen by Forum 18: Pan on 4 November by Judge Gulnara Tishtikbayeva of Kazali District Court of Kyzylorda Region; Kulbeda on 13 November by Judge Saparali Kurbanov of Sairam District Court of South Kazakhstan Region; and Skorobogaty in absentia on 27 November by Judge Didar Muratbekuly at Aral District Court of Kyzylorda Region. Each was fined 50 MFIs, 99,100 Tenge.

The Judge in Kulbeda's case ordered that the 49 Christian books seized from him be handed to Aral District Administration Internal Policy Department. Both in his and in Skorobogaty's case, the Judges ordered that they be prevented from distributing religious literature for three months (even though distributing religious literature is already illegal without a state licence and outside a registered venue authorised for sale or distribution).

An aide to Abishev at the Internal Policy Department said Abishev was in hospital. "Maybe the men were distributing books that weren't registered," the aide – who would not give his name – told Forum 18 from Aral on 3 December. Asked to explain why people do not have the right to offer uncensored religious literature to others, the aide responded: "People can't simply give out such religious books. The law specifies what places are approved for this."

The aide put the phone down before Forum 18 could ask what it intends to do with the 49 Christian books seized from the three men that the court ordered handed to the Internal Policy Department.

Sixth Muslim in KNB secret police pre-trial imprisonment

Forum 18 (24.11.2015) - <http://bit.ly/1SYXK5V> - Murat Takaumov became the sixth Muslim to be arrested by the secret police in Kazakhstan's capital Astana and held at the city's KNB secret police Investigation Prison. On 20 November a Judge ordered his pre-trial imprisonment for two months while he is investigated on charges of participating in the activity of a banned religious organisation, the Judge's assistant told Forum 18 News Service. The same Judge ordered the five others – arrested in September – to be held at the same Investigation Prison for a further month. They face up to six years' imprisonment if convicted of organising the activity of a banned religious organisation. During the September arrest of one, the man's wife went into premature labour "out of fear", Vitaly Ponomarev of Memorial human rights organisation told Forum 18. No officer of Astana KNB was prepared to discuss with Forum 18 why it had brought criminal charges against the Muslims and against a recently convicted Seventh-day Adventist. All six Muslims are allegedly connected to the banned Muslim missionary movement Tabligh Jamaat. Fifteen other alleged members have already been convicted since late 2014, with the harshest sentence a prison term of nearly five years.

The National Security Committee (KNB) secret police has arrested a sixth Muslim, Murat Takaumov, in the capital Astana. He was on Friday (20 November) given two months' pre-trial imprisonment, a court official told Forum 18 News Service. Like the other five – whose pre-trial imprisonment was extended by the same judge for a further month – Takaumov is being investigated on criminal charges for his alleged connections to the Muslim missionary movement Tabligh Jamaat, which has been banned as "extremist" in Kazakhstan. The KNB secret police – which is holding the six men – have questioned about 30 of their relatives and friends.

A total of 15 Muslims are known to have been convicted since late 2014 on criminal charges of Tabligh Jamaat membership. Eight are serving prison sentences of up to 4 years 8 months. The other seven are serving sentences of restricted freedom, where they can live at home but under tight controls.

Tabligh Jamaat was banned as "extremist" in Kazakhstan by an Astana court in February 2013. Sharing some of its teachings or habits, possessing religious books often used in the movement or meeting with others close to the movement is enough for a criminal prosecution.

In Central Asia Tabligh Jamaat members conduct house to house encouragement of Muslims to attend mosques and religious talks. Until the movement was banned in Kazakhstan, it used to send members on short-term missions to other towns and villages, where they slept in mosques and addressed local Muslims, both door to door and in the mosque, a close observer of Tabligh Jamaat in the region told Forum 18. Male adherents are often identifiable by their beards and South Asian clothing.

Court-ordered religious book destruction

Meanwhile, the written verdict in the case of Seventh-day Adventist Yklas Kabduakasov reveals that the Judge ordered that nine religious books seized from him and others are to be destroyed. A court bailiff in Astana, who is not involved in this case, told Forum 18 that bailiffs from the local department of the Justice Ministry's Branch for fulfilling court decisions carry out such destructions of religious literature ordered in court decisions.

Kabduakasov was sentenced in Astana on 9 November to seven years' restricted freedom to punish him for discussing his faith with others in a prosecution that was similarly led by the KNB secret police.

No KNB secret police comment

No-one at the Astana KNB secret police was prepared on 24 November to discuss why it has brought criminal prosecutions against the Muslims and the Adventist for exercising the right to freedom of religion or belief. The woman who answered the phone of the head, Kurman Elyubayev, refused to put Forum 18 through to him or anyone else. The man who answered the phone of the first deputy head told Forum 18 he was a "technical worker here to check the phones" and that no-one else was there. The man who answered the phone of a deputy head told Forum 18 it was a psychiatric hospital, not the KNB secret police.

The man who answered the phone at the main Astana KNB secret police number told Forum 18 on 24 November that he is not authorised to identify the KNB investigator in any specific case.

No one at the KNB secret police Investigation Prison in Astana was prepared to comment on 24 November about conditions for the six Muslim prisoners. Forum 18 asked the duty officer to put Forum 18 through to the prison head, but the man who came on the line refused to answer any questions and put the phone down.

Sixth secret police pre-trial prisoner

The KNB secret police in Astana arrested Takaumov, the latest Muslim to be imprisoned in the capital for alleged association with Tabligh Jamaat, on 18 November. Takaumov works as a legal consultant and has often taken up the rights of Muslims to freedom of religion or belief, including the rights of schoolgirls to wear the hijab (headscarf).

On 20 November Judge Nabi Pazylov of Astana's Saryarka District Court No. 2 ordered that Takaumov be held in two months' pre-trial detention, the Judge's assistant told Forum 18 from the court on 24 November. The KNB secret police are investigating Takaumov under Criminal Code Article 405, Part 2, he added.

Article 405, Part 2 punishes "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" with a fine or up to two years' imprisonment.

Takaumov was among local Muslims summoned by the KNB secret police for interrogation as part of the criminal cases against the five Muslims imprisoned since late September, Vitaly Ponomarev, head of the Central Asian programme at the Moscow-based Memorial human rights group, told Forum 18 from Moscow on 23 November. Ponomarev spoke to people connected to the cases in Astana in early November.

September arrests

Arrests in the Astana case began on 23 September, when the KNB secret police arrested three men in Astana, 38-year-old Bolatbek Kozhageldinov, 31-year-old Khalambakhi Khalym (a Kazakh from Mongolia who migrated to Kazakhstan in about 2006 and became a Kazakh citizen in 2011) and 33-year-old Nurzhan Nurodilov.

During Khalym's arrest, his wife tried to film the KNB secret police officers as they searched the family home. Officers seized her phone and deleted the recording, Ponomarev told Forum 18. "Out of fear" Khalym's wife then started to go into premature labour. Only after relatives intervened did the KNB secret police officers allow an ambulance to be called. Officers took Khalym's computer, a Koran and a book of hadiths (statements attributed to the Muslim Prophet Muhammad).

Kozhageldinov was asleep at home when the KNB secret police arrived to detain him. As he had no books or computer, officers had nothing to seize. Nurodilov – who works in a warehouse – was arrested at work. During a house search, KNB secret police officers seized religious literature, including a Koran and a copy of Said bin Ali bin Waqf al-Qahtani's "Fortress of a Muslim".

Following the arrests, the KNB secret police summoned several relatives. Officers demanded that they sign a statement, but when one tried to photograph the document officers quickly removed it, Ponomarev told Forum 18.

A fourth, 44-year-old Erbolat Omarbekov, was arrested on 23 September in Oskemen (Ust-Kamenogorsk), Ponomarev of Memorial human rights group told Forum 18. He was then brought to the capital. Omarbekov had moved back to his mother's in Oskemen in the spring.

Several days later the KNB secret police arrested the fifth man, Kubaidolla Tyulyubayev, while he was visiting Taldykurgan [Taldyqorghhan] in Almaty Region, Ponomarev added. Tyulyubayev, who is from the northern city of Karaganda [Qaraghandy], was brought to the capital to be held with the others in Astana's KNB Investigation Prison.

In all about 30 relatives and friends of the accused have been interrogated, some for up to seven hours at a time. At least one was threatened with arrest if they failed to give testimony incriminating the prisoners, local Muslims told Ponomarev.

Criminal charges

The KNB secret police investigator is investigating the five arrested Muslims under Criminal Code Article 405, Part 1. Article 405, Part 1 punishes organising the activity of a banned social or religious organisation with a fine or up to six years' imprisonment.

One individual close to the case told Ponomarev that Khalym is also being investigated for alleged "incitement of religious hatred". Criminal Code Article 174, Part 1 punishes "incitement of social, national, clan, racial, or religious hatred or antagonism" with imprisonment of two to seven years. The court official refused to confirm or deny to Forum 18 that Khalym is also being investigated under this Article.

This charge was apparently lodged on the basis of comments Khalym made at meetings with his friends between 2013 and 2015 which the KNB secret police appears to have secretly recorded on audio and video. The meetings reportedly discussed who should be sent where and when to conduct dawa (mission), apparently according to the Tabligh Jamaat practice of sending Muslims to preach in other locations. KNB secret police played recordings of these meetings to several people under interrogation as witnesses, Ponomarev told Forum 18.

Pre-trial imprisonment

On 25 September Judge Pazylov of Saryarka District Court No. 2 ordered that Kozhageldinov, Khalym, Nurodilov and Omarbekov be held in two months' pre-trial imprisonment while the investigation proceeded. The same Judge Pazylov ordered that Tyulyubayev similarly be held for two months on 29 September.

On 23 November, as the two months' initial pre-trial detention expired, the same Judge Pazylov extended the pre-trial imprisonment of Kozhageldinov, Khalym, Nurodilov, Omarbekov and Tyulyubayev for a further month, his assistant told Forum 18.

April KNB secret police warnings

On 29 April, the KNB secret police had warned at least four of the five Muslims arrested in September, Kozhageldinov, Khalym, Nurodilov and Omarbekov, not to conduct illegal activity related to the Tabligh Jamaat movement, pointing out that it has been declared "extremist". It said such activity violated Criminal Code Article 405. One of these written warnings was issued at home, the others at their places of work, Ponomarev told Forum 18. KNB secret police officers filmed the issuing of the warnings.

Following these warnings, Omarbekov moved from Astana back to his mother's in Oskemen, Ponomarev said.

At least two of those given a KNB secret police written warning challenged them in appeals to the General Prosecutor's Office, the KNB secret police, the Presidential Administration and the Nur Otan ruling party. They insisted they were members of no such organisations and held to the Hanafi school of Sunni Islam as propounded by the state-backed Muslim Board. They pointed to the number of children they have and presented character statements from neighbours, Ponomarev noted. They asked for the warnings to be withdrawn.

Astana KNB secret police responded on 22 May, claiming that the warnings had been a preventative measure and had not violated the individuals' human rights. Verbally Astana KNB secret police officers told the Muslims that they knew the men were not dangerous and that was why they had not been detained, Ponomarev added, citing individuals in Astana close to the case.

Earlier punishments

At least two of the six KNB-held prisoners have previously been fined for exercising the right to freedom of religion or belief.

Astana Specialised Administrative Court had fined Omarbekov 50 times the minimum monthly wage in June 2012 for his religious activity under Administrative Code Article 375, Part 1.

Article 375, Part 1 of the then Administrative Code punished "Violation of the demands established in law for the conducting of religious rites, ceremonies and/or meetings; carrying out of charitable activity; the import, production, publication and/or distribution of religious literature and other materials of religious content (designation) and objects of religious significance; and building of places of worship and changing the designation of buildings into places of worship". The Article has been transferred unchanged into the new Administrative Code as Article 490, Part 1. (The new Code came into force in January 2015.)

Khalym has twice been fined to punish him for exercising the right to freedom of religion or belief. On 18 July 2014, Judge Saule Samanbetova of Astana's Inter-District Specialised Administrative Court similarly fined him 50 times the minimum monthly wage

under Article 375, Part 1 of the then Administrative Code, according to the decision seen by Forum 18.

Because Khalym had not paid the fine, the Court handed the case on 20 February 2015 to Court Bailiffs to ensure payment, and they began proceedings on 4 March, according to official records.

On 11 March, Judge Kanat Imanaliyev of the same court fined Khalym 200 times the minimum monthly wage, 396,400 Tenge (11,200 Norwegian Kroner, 1,200 Euros or 1,300 US Dollars), under Article 490, Part 8 of the new Administrative Code. This punishes repeat offences of violating the Religion Law following a conviction within the previous year.

The Judge fined Khalym for selling religious literature outside an Astana shopping centre on 14 August 2014 and fined him the increased amount because of the July 2014 conviction. Anti-Extremism Police who detained Khalym also seized 26 religious books, according to the decision seen by Forum 18. The decision did not say what would happen to the confiscated religious books.

On 21 April, Khalym tried to delay payment of the fine, arguing that he was unable to pay such a large sum at once as he had a wife and two young children to support. He asked to be able to pay off 10,000 Tenge per month. However, in a decision seen by Forum 18, Judge Imanaliyev rejected his suit.

On 16 July court bailiffs began proceedings to recover the money from him, according to official records. However, Nurzhan Abirov, the bailiff assigned to the case, refused to tell Forum 18 on 24 November what action he had taken to recover both fines.

Tried to challenge Tabligh Jamaat ban

Omarbekov had also tried to challenge the February 2013 court-ordered ban on Tabligh Jamaat, regarding it as "illegal". However, in April 2013, Saryarka District Court refused to add him as a party to the case to allow him to challenge the ban. Astana City Court upheld this decision the following month, arguing that Omarbekov had no standing to challenge the decision as he had not been a party to the February 2013 case.

Seven years' restricted freedom for discussing faith

Forum 18 (09.11.2015) - <http://bit.ly/1Utf58a> - In a case brought by the KNB secret police, Seventh-day Adventist Yklas Kabduakasov was today (9 November) sentenced to seven years' restricted freedom by a court in Kazakhstan's capital Astana. He was found guilty of spreading "religious discord" by discussing his faith with a group of students who invited him to a flat rented by one of them. "My father's religious liberties and basic human rights were violated by the fact that he was kept under arrest without any grounds since 14 August and has now been sentenced," one of his sons Alibek Kabduakasov complained to Forum 18 News Service. The Prosecutor, the Judge and the KNB secret police all refused to discuss the case with Forum 18. Meanwhile, the auction to rent out the Din-Muhammad Mosque of Petropavl's Tatar-Bashkir community was abandoned as fewer than two bidders came forward. Community members welcomed the abandonment of officials' attempts to auction their Mosque to a third party against their wishes.

More than 12 weeks after his arrest by Kazakhstan's National Security Committee (KNB) secret police, Seventh-day Adventist Yklas Kabduakasov was this afternoon (9 November) sentenced to seven years' restricted freedom by a court in the capital Astana,

Forum 18 News Service has learned. Both Kabduakasov and his community repeatedly denied prosecution accusations that he spread "religious discord" when discussing his faith with and offering Christian books to others.

"My father's religious liberties and basic human rights were violated by the fact that he was kept under arrest without any grounds since 14 August and has now been sentenced," one of his sons Alibek Kabduakasov, who acted as his public defender, complained to Forum 18 from Astana on 9 November after the sentence was handed down. He said that they are preparing to appeal against both the punishment and his "unlawful arrest".

Until 2022, Kabduakasov will have to live under close scrutiny. The Judge banned him from leaving the city, changing his place of residence or place of work without permission. She also banned him from visiting places of public entertainment, such as cafes, restaurants, bars, night clubs and discos.

In addition, Kabduakasov was ordered to pay about 150,000 Tenge (4,200 Norwegian Kroner, 450 Euros or 490 US Dollars) to cover the cost of the "expert analyses" of his statements that formed the basis of the prosecution. It remains unclear by when he will need to pay this or if this fee is still payable if he wins his appeal.

Judge Akmaral Isayeva of Astana's Saryarka District Court No. 2 handed down the sentence at the end of the 16th and final hearing of the trial, which began on the morning of 8 October.

After the sentence was announced, officials unlocked Kabduakasov's handcuffs and he was allowed to leave the courtroom at the end of the trial, those present told Forum 18. Radio Free Europe's Kazakh Service showed film of Kabduakasov being congratulated on his release from imprisonment outside the courtroom.

Kabduakasov's lawyer Gulmira Shaldykova told Forum 18 from Astana after the hearing that as soon as the Judge issues the written verdict, she will lodge his appeal to Astana City Court.

The 54-year-old Kabduakasov has eight children, of which the youngest – a son Daniil – was born on 12 September (while Kabduakasov was already in prison). His two eldest children are adults.

Secret police-led criminal prosecutions

The KNB secret police are the driving force behind a series of criminal prosecutions of individuals for exercising the right to freedom of religion or belief by talking to others about faith. In addition to Kabduakasov, particular targets since late 2014 have been adherents of the Tabligh Jamaat Muslim missionary movement.

Fifteen are known to have been convicted and sentenced to up to four years eight months' imprisonment since late 2014, while a further five are in pre-trial detention in Astana (see below). Like Kabduakasov, seven of the 15 already convicted were punished with sentences of restricted freedom.

In Central Asia Tabligh Jamaat 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.

Arrest, trial, sentence

The KNB secret police had been closely monitoring Kabduakasov for a year before they arrested him in August 2015, appear to have rented the flat to which four students invited him for religious discussions, appear to have organised the secret filming of the meetings with at least two hidden cameras, and prepared the prosecution case.

Following Kabduakasov's 14 August arrest, the KNB secret police transferred him to the city's KNB secret police Investigation Prison. A court then ordered him held in two-month pre-trial detention. Christian books were seized from his home, while the Adventist Church he attends in Astana was also searched.

The KNB secret police Investigator, Senior Lieutenant Nurlan Belesov, prepared the case against Kabduakasov under Criminal Code Article 174, Part 2. This punishes "incitement of social, national, clan, racial, or religious discord" by repeat "offenders" with prison terms of between five and ten years.

The same Criminal Code Article 174 has also been used against civil activists. Two were arrested accused of inciting "national discord" and a third was warned in mid-October.

United Nations Special Rapporteur on the rights to Freedom of Peaceful Assembly and of Association, Maina Kiai, expressed his "particular concern" about Criminal Code provisions, such as Article 174, which "pose serious risks of criminalizing and penalizing legitimate activities of associations". "The Code does not strictly define what is meant by 'incitement of discord', which may leave the term open for arbitrary interpretation," he warned in his 16 June report following his January mission to Kazakhstan (A/HRC/29/25/Add.2).

Once Investigator Belesov and the Prosecutor's Office had completed Kabduakasov's case, it was handed on 25 September to Saryarka District Court No. 2. The trial began on 8 October.

Investigator Belesov attended only one hearing in the case, before church members began to attend in large numbers to support Kabduakasov. Another KNB officer, Aydin (last name unknown), who has responsibility for controlling Christian churches, testified in one hearing. He wore a black mask and no name for him was given, those familiar with the case told Forum 18.

For hearings in the case, Kabduakasov was brought from the KNB investigation prison in handcuffs. These were unlocked for the hearings once he had been placed in the cage in the courtroom.

Although Kabduakasov was prosecuted under Article 174, Part 2, Judge Isayeva at the last minute changed the accusation to Article 174, Part 1. This carries a penalty of imprisonment or restricted freedom of between two and seven years. However, the change allowed her to give a restricted freedom sentence rather than a term of imprisonment. The Prosecutor had demanded seven years' imprisonment.

"Prosecution provided no evidence"

The prosecution alleged that Kabduakasov had insulted Islam during discussions with a group of students who had invited him to talk to them at a flat in Astana that one of them claimed to have rented.

The prosecution also alleged that Kabduakasov had pressured his subordinates at work to adopt Christianity and beat and dismissed those who refused to do so.

"The prosecution provided no evidence during the trial of any employee beaten by Kabduakasov, nor any facts of him dismissing his employees," Shaldykova, Kabduakasov's lawyer, insisted to Forum 18 on 9 November. She added that witnesses presented by the prosecution who stopped working for Kabduakasov "left their jobs voluntarily". The Court did "not prove that he is guilty of the charges," she noted.

Alibek Kabduakasov agreed. "None of these charges were proven in Court," he told Forum 18. "My father did not force anyone to accept his faith - on the contrary, during his conversations with his employees he told them that it is their choice to become Christian or remain Muslim."

No comment

Prosecutor Asylzhan Gabdykaparov, who led the state prosecution in court, refused to discuss the case with Forum 18 on 9 November. Told Lawyer Shaldykova's argument, and asked what evidence of wrongdoing the prosecution produced in the trial, he responded: "No comments". When Forum 18 insisted, asking on what grounds Kabduakasov was given such severe punishment, Prosecutor Gabdykaparov put the phone down. Subsequent calls to him on the same day went unanswered.

Judge Isayeva, who heard the case, also declined to comment. "Please call the Press service for comments," she told Forum 18 from the court on 9 November, when Forum 18 asked why such severe punishment was given to an individual to punish him for exercising his right to freedom of religion or belief. Calls on the same day to the Press Service, as well as to Yerlan Tasyrov, the Chair of the Court, went unanswered.

Lawyer Shaldykova told Forum 18 that secret police Investigator Belesov not only prepared the charges but also represented the prosecution.

The KNB secret police officer who answered Investigator Belesov's phone on 9 November wrote down Forum 18's question of what evidence Investigator Belesov had of Kabduakasov beating his employees or dismissing them for not accepting his faith. However, the officer (who did not give his name) refused to answer or put Forum 18 through to the Investigator.

Where are the five Astana pre-trial detainees?

Meanwhile, Forum 18 has been unable to find out where the five Muslims accused of membership of the Tabligh Jamaat missionary movement are being held. The five – Bolatbek Kozhageldinov, Khalambakhi Khalym, Nurzhan Nurodilov, Erbolat Omarbekov and Kubaidolla Tyulyubayev - were arrested in Astana in late September and were ordered held in pre-trial detention for two months.

A KNB secret police investigator is preparing criminal cases against the five under Criminal Code Article 405, Part 1. The Article 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". Part 1 punishes organising such activity, with a fine or up to six years' imprisonment.

An official of Saryarka District Court No. 2 – where the five had been ordered imprisoned for two months in late September – told Forum 18 on 9 November that prosecutors have not yet presented criminal cases against the five to the court.

Officials of the Police Investigation Isolation Prison in Astana told Forum 18 that the five have never been held there. One official insisted that if the KNB secret police is investigating the case they will be in detention at the city's KNB Investigation Prison.

An official of Astana's KNB Investigation Prison refused to confirm or deny to Forum 18 on 9 November that the five Muslims are being held there.

What has happened to appeal?

The appeal lodged on behalf of 30-year-old prisoner of conscience Orazbek Apakashev on 13 October appears to have got nowhere. Arrested in March and held at Karaganda's KNB Investigation Prison, Apakashev was sentenced by Temirtau City Court in the northern Karaganda Region to three years' imprisonment on 29 September for alleged involvement in Tabligh Jamaat.

Karaganda Regional Court told Forum 18 on 9 November that no appeal has reached the court. An official of Temirtau City Court told Forum 18 the same day that Judge Natalya Shchegletova – who handed down the sentence and to whom the appeal would initially be sent – was away on leave from 2 to 16 November. "She would probably be dealing with this after her return," the official said.

Attempt to auction Din-Muhammad Mosque fails

Officials who put up for auction the Din-Muhammad Mosque of Petropavl's Tatar-Bashkir Mosque community closed the auction on 5 November, according to the auction announcement on the website of the Finance Ministry. It noted that the auction did not take place as fewer than two parties put forward bids to rent the Mosque for three years.

Officials refused state registration to the Mosque community and have been seeking to oust them from the place of worship they renovated with their own hands in the 1990s.

The auction had been launched on 20 October without the knowledge of the Mosque community, which found out about it only by chance a week later. As bidders for the Din-Muhammad Mosque were restricted to registered religious organisations, only one was eligible to apply: the state-backed Muslim Board. This is the only Muslim organisation the state has allowed to gain legal status in the entire country, although the Law does not prevent more than one Muslim organisation gaining state registration.

Members of the Tatar-Bashkir Mosque community expressed their relief to Forum 18 that their place of worship had not been auctioned to a third party.

Last days for embattled mosque?

Forum 18 (02.11.2015) - <http://bit.ly/1QI3vNV> - Without informing the community that regained the half-ruined building and restored it as a mosque in 1999, and continues to worship there, North Kazakhstan Region authorities have offered for tender the Din-Muhammad Tatar-Bashkir Mosque in Petropavl, according to the rental tender seen by Forum 18 News Service. The only eligible bidder is Kazakhstan's state-backed Muslim Board, to which the community does not belong. "An elderly lady in the community came running to us to say her son had found the announcement on the internet," community chair Ibragim Akhmedjanov told Forum 18. "She was shocked, and so is the whole community." But Kaziza Mukhamediyeva of the Regional Finance Department, which is putting up the building for auction, rejects any complaints. "It's not the property of that community," she told Forum 18. "Their praying there is illegal." Meanwhile a year after the United Nations Human Rights Committee ruled that Kazakhstan had violated the human rights of Viktor Leven, a Baptist, by punishing him for participating in a religious meeting, the authorities have rejected his attempts to have them abide by their obligations.

Sixteen years after the Tatar-Bashkir Muslim community in Petropavl [Petropavlovsk] in North Kazakhstan Region in 1999 regained the historic but half-ruined Din-Muhammad Tatar-Bashkir Mosque, fully renovated it and held the first namaz, the community appears days away from losing it, Forum 18 News Service has learned. Without informing the community, the authorities put the "former mosque" up for auction, with the successful bidder to be chosen on the morning of 5 November.

The only eligible Muslim bidder is Kazakhstan's state-backed Muslim Board, to which the community does not belong. Only mosques which are Sunni Hanafi and under the Board's control are allowed by the state to exist. Apart from the Din-Muhammad Mosque, all other independent mosque communities have been either closed or taken over by the Board, which takes one third of their income.

North Kazakhstan Regional Property and Privatisation Committee awarded the Din-Muhammad Mosque to the community "for free ownership" on 17 March 1999, according to the document seen by Forum 18.

"The Mosque was the property of our community, then they denied us re-registration and liquidated us," community chair Ibragim Akhmedjanov, who helped renovate the Mosque in the 1990s, told Forum 18 from Petropavl on 2 November. "Then they said the building had no owner and they seized it. Now they're offering it to the Muslim Board, but what right does the Muslim Board have to our Mosque? The Mosque is still functioning and we worship there regularly."

Meanwhile, courts in the capital Astana have rejected a suit by Council of Churches Baptist Viktor Leven. He is trying to get the General Prosecutor's Office to implement a 2014 decision by the United Nations Human Rights Committee that fining him and ordering his deportation for attending a meeting for worship violated his rights (see below).

Increasing numbers of freedom of religion or belief prisoners of conscience

Criminal trials and jailings of those who exercise their right to freedom of religion or belief continue. Seventh-day Adventist Yklas Kabduakasov – whose trial in Kazakhstan's capital Astana resumes tomorrow afternoon (3 November) – faces between five and 10 years in prison if convicted on charges of spreading "religious discord" when discussing his faith with and offering Christian books to others. He and fellow church members insist he is innocent of the charges. Five members of the Tabligh Jamaat Muslim missionary movement, many of whose members are prisoners of conscience for their beliefs, are in pre-trial detention in Astana.

On 2 July in Kazakhstan's commercial capital Almaty, Saken Tulbayev (who was tortured) was sentenced to four years eight months' imprisonment. He was also banned from exercising freedom of religion or belief, including praying with others and reading the Koran, until the end of 2022.

Denied state permission to exist

Following the 2011 Religion Law, Petropavl's Tatar-Bashkir Mosque community was among the many religious communities arbitrarily denied the compulsory re-registration that followed.

The Din-Muhammad Mosque, which mainly serves ethnic Tatars, was built in 1852, forcibly closed down in the 1930s under Stalin, and reopened after the community regained it in 1999. The state-backed Muslim Board insists that only the Sunni Hanafi

school of Islam is allowed, with all other approaches being banned, and that all mosques much be controlled by the Board.

The Mosque is Sunni Hanafi but independent of the state. All independent mosques, like the Din-Muhammad Mosque, have come under severe state pressure – including threats to use bulldozers - to close or be taken over. The Mosque may possibly be the last remaining publicly-accessible mosque independent of the state-backed Muslim Board.

On 28 April the regional Justice Department again rejected the Mosque's latest registration application, claiming unspecified information in it was "untruthful". Mosque community members think that the 7 June death from a heart attack of the community's Imam, Rafael Ryazapov, was caused by heavy state pressure on the mosque and its members. On the first day of Ramadan (and 11 days after Imam Ryazapov's death), Mosque community members could not meet for night prayers as the authorities cut off the electricity supply.

"Former mosque" to be auctioned

Unbeknown to the Tatar-Bashkir Muslim community, North Kazakhstan Region's Finance Department put up their Mosque building for auction on 20 October, according to the announcement posted on the website of the Finance Ministry. It described the building as "a main building of a former mosque of 209 square metres [2,250 square feet] and an extension of 90 square metres [970 square feet]" which it said is owned by North Kazakhstan Region's Culture, Archives and Documentation Department.

The auction is for bids to rent the building for three years, with a starting price of 148,155 Tenge (4,500 Norwegian Kroner, 475 Euros or 525 US Dollars). However, bidding is limited to religious organisations registered in Kazakhstan, according to the announcement seen by Forum 18.

As the authorities have allowed only one Muslim religious organisation in the whole of Kazakhstan to gain state registration since the compulsory re-registration following Religion Law changes in 2011 – the state-backed Muslim Board – the auction is likely to attract only one bidder. It remains unclear whether a religious community of another faith could bid to rent the building and then allow the Tatar-Bashkir Mosque community to continue to use it.

Mosque community members discovered the auction only by chance on 28 October. "An elderly lady in the community came running to us to say her son had found the announcement on the internet," Akhmedjanov told Forum 18. "She was shocked, and so is the whole community." He said the community immediately called a meeting on 29 October and has been trying to call officials to have the decision changed.

"There have been court and prosecutor's office decisions"

Lyudmila Sorokotyaga, head of the Cultural Heritage and Legal Department of the Regional Department, acknowledged to Forum 18 that the Tatar-Bashkir community renovated and has been caring for the historic building. "I and colleagues have been there, of course," she told Forum 18 from Petropavl on 2 November. "There is a community and services take place there. Everything is clean and in order, and we have no complaints about the way the community has protected the historical look of the monument."

However, Sorokotyaga dismissed suggestions that the building is set for confiscation from the community. "According to the documents the building is a monument and the state owns it now," she told Forum 18. "And people cannot be deprived of property just like that – there have been court and prosecutor's office decisions."

Sorokotyaga insisted the concerns of her Department focus solely on whether the building is being protected as a monument. She said the initiative for the auction came from the Finance Department, and in particular a Deputy Head Marat Zhambaliyev.

Colleagues of Zhambaliyev at the Finance Department told Forum 18 on 2 November that he is on leave for a further two weeks.

"Their praying there is illegal"

Kaziza Mukhamediyeva, the other Deputy Head of the Regional Finance Department, defended the auction. "The building is not being confiscated – it's state property," she insisted to Forum 18 from Petropavl on 2 November. "It's not the property of that community," she added, when asked how the place of worship can be taken away from the Tatar-Bashkir Muslim community which renovated the building in the 1990s and still uses it for worship. "Their praying there is illegal."

Mukhamediyeva would not explain how praying in the place of worship built as a mosque 160 years ago and which the community has been using since it regained ownership after the end of the Soviet period could be illegal.

Although the North Kazakhstan Region's Finance Department is putting up the building for auction, Akhmedjanov and other community members believe the man behind the decision is Muratbek Zeynullin, head of the Regional Religious Affairs Department.

Despite Forum 18's repeated calls on 2 November, Zeynullin refused to explain how a place of worship being used by one religious community – which regained it after the communist period and renovated it themselves – can be seized and handed to another religious community.

The telephone of Galym Shoikin, Chair of the Culture and Sport Ministry's Religious Affairs Committee in Astana, went unanswered on 2 November despite repeated calls.

United Nations says fine and deportation order were violation

On 21 October 2014, the United Nations Human Rights Committee ruled that the fine and deportation order handed down on Leven, a Baptist from Esil in Akmola Region, for participating in a meeting for worship in 2009 had violated his human rights under the International Covenant on Civil and Political Rights (CCPR/C/112/D/2131/2012).

The Kazakh-born Leven held German citizenship from 1992 and, since his return to Kazakhstan in 2000, has been a member of a Council of Churches Baptist congregation in Esil that meets for worship without state registration. The authorities accused him of being a "missionary" because, as a foreign citizen, he was present at a local meeting for worship without being registered with the state as a "missionary".

Leven was found guilty in October 2009 under Article 375, Part 3 of the then Administrative Code. He was ordered deported and also fined 6,480 Tenge (then 238 Norwegian Kroner, 29 Euros or 43 US Dollars). This decision was annulled by Akmola Regional Court in November 2009, but was reinstated after prosecutors complained. The Supreme Court refused to hear Leven's case, and the General Prosecutor's office also refused to re-examine a complaint he made about the way his case was treated.

Leven renounced his German citizenship in 2009 as required before applying for Kazakh citizenship, but this was rejected in 2010. He was later able to regain his German passport, but his residence permit was never renewed.

Leven submitted his appeal to the Human Rights Committee in January 2012 and was represented by Anastasiya Miller of the Kazakhstan International Bureau for Human Rights and the Rule of Law.

Unanimous decision

The Committee unanimously found that Kazakhstan had violated Leven's rights in punishing him. "The Committee concludes that the punishment imposed on the author [Leven], and in particular its harsh consequences for the author, who is facing deportation, amount to a limitation of the author's right to manifest his religion under [ICCPR] article 18, paragraph 1; that the limitation has not been shown to serve any legitimate purpose identified in article 18, paragraph 3; and neither has the State party shown that this sweeping limitation of the right to manifest religion is proportionate to any legitimate purpose that it might serve."

And the Committee added: "In accordance with article 2, paragraph 3 (a), of the Covenant, the State party is under an obligation to provide the author with an effective remedy, including review of his conviction and review of the cancellation of his residence permit. The State party is also under an obligation to prevent similar violations in the future."

Despite this clear decision, Kazakhstan's authorities failed to take any action either to restore Leven's rights or to change the law to prevent further similar violations.

Unfulfilled promises

"In spring of this year the Esil Prosecutor's Officer summoned me and said they would resolve the problems," Leven told Forum 18 from Esil on 2 November. "They called me again in the autumn and repeated their assurance, but nothing happened. They then told me that the General Prosecutor's Office won't accept any proposals."

Leven tried to challenge the failure of the General Prosecutor's Office to ensure he regains his residence permit and the original punishment is revoked. With the help of Astana-based lawyer Bauyrzhan Azanov he lodged a case at Astana's Esil District Court. However, on 7 September Judge Laura Isabekova rejected his suit, according to the decision seen by Forum 18.

Leven lodged a further appeal to Astana City Court. However, on 27 October, Judge Marat Manabayeva dismissed his appeal, according to the decision seen by Forum 18. "The Judge didn't even hold a hearing," Leven complained. "My lawyer was there before the appointed time and she just said she had already issued the decision."

An official at Astana City Court refused to put Forum 18 through to Judge Manabayeva on 2 November. "No one can talk to the judges – it is not allowed," she insisted.

The telephone of Saltanat Tuizhanova of Astana City Prosecutor's Office, who opposed Leven's suit in court, went unanswered each time Forum 18 called on 2 November.

The press secretary at Astana City Prosecutor's Office told Forum 18 that she cannot discuss cases by phone and can only answer written enquiries.

Further appeal

Leven told Forum 18 he has asked his lawyer Azanov to lodge a further appeal to Astana City Court. The appeal is still being prepared and has not yet been lodged. "They took my residence permit away from me," Leven told Forum 18. "In line with the United Nations decision, all I want is for them to return it. What they deprived me of they should return."

Then I could at least try again to gain Kazakh citizenship." He added that he never paid the fine, so no money can be restituted.

No passport, no child support

Leven noted that his wife Yelizaveta too has suffered from the authorities' targeting. While he was able to regain his German passport which he had renounced when he was trying to get Kazakh citizenship, she remains without any citizenship. "They keep saying her request for citizenship is with the president for signature, most recently in February 2015. But they never give it," Leven lamented.

Yelizaveta Leven told Forum 18 she had not applied to regain her German passport as the Kazakh authorities kept promising they would issue her with a Kazakh passport.

Viktor Leven added that their eight children were all born in Kazakhstan and have Kazakh birth certificates. The eldest is only 14 and it is only when they reach the age of 16 that it will be known if the authorities will withhold Kazakh passports from them too.

Because neither husband nor wife are Kazakh citizens, they are denied state financial support for their children.

"No mechanism" to correct human rights violations

The General Prosecutor's Office has "no mechanism" to correct human rights violations, for example violations pointed out by United Nations human rights agencies, an individual involved in Leven's case complained to Forum 18 on 2 November.

Similarly, the Kazakhstan International Bureau for Human Rights and the Rule of Law also complained about the country's failure to implement its obligations. "At present, no body has been created in Kazakhstan which could oversee the implementation of decisions by international human rights agencies, but this does not free the state from implementing the obligations taken on itself voluntarily," it maintained in a 7 September statement about Leven's case.

The Bureau noted that as of May 2015, only two of six decisions by the UN Committee Against Torture had been partially implemented, while no decision from the UN Human Rights Committee had been implemented.

No one at the General Prosecutor's Office was available on 2 November to explain why Kazakhstan is not implementing the decisions of the UN human rights mechanisms, including in Leven's case, and its other human rights obligations.

KNB secret police-inspired criminal prosecutions

Forum 18 (13.10.2015) - <http://bit.ly/1P4oqmP> - The trial of Seventh-day Adventist prisoner of conscience Yklas Kabduakasov continues in Kazakhstan's capital Astana tomorrow (14 October). He faces between five and 10 years' imprisonment if convicted of spreading "religious discord", charges fellow church members denied to Forum 18 News Service. The secret police had monitored him for a year before they arrested him in August 2015, appear to have rented the flat to which four students invited him for religious discussions, appear to have organised the secret filming of the meetings with at least two hidden cameras, and prepared the prosecution case. Secret police Investigator Nurlan Belesov, who prepared the case, refused to discuss it with Forum 18. The secret police similarly initiated many, and possibly all, of the criminal prosecutions of at least 15 alleged members of the Muslim missionary movement Tabligh Jamaat since December

2014. One, like Kabduakasov, remains in a secret police Investigation Prison. Five more are in pre-trial imprisonment.

Seventh-day Adventist prisoner of conscience Yklas Kabduakasov – whose criminal trial in Kazakhstan's capital Astana resumes tomorrow afternoon (14 October) – faces between five and 10 years in prison if convicted on charges of spreading "religious discord" when discussing his faith with and offering Christian books to others. He and fellow church members insist he is innocent of the charges.

The National Security Committee (KNB) secret police had been closely monitoring Kabduakasov for a year before they arrested him in August 2015, appear to have rented the flat to which four students invited him for religious discussions, appear to have organised the secret filming of the meetings with at least two hidden cameras, and prepared the prosecution case. Even if prosecutions are not being considered, the KNB secret police is known to closely monitor or religion or belief communities.

The KNB secret police also appears to have been behind a crackdown since late 2014 on members of the Muslim missionary movement Tabligh Jamaat who exercise their right to freedom of religion or belief by talking to others of their faith.

Tabligh Jamaat was banned as "extremist" in Kazakhstan by a court in the capital Astana in February 2013. Sharing some of its teachings or habits, possessing religious books often used in the movement or meeting with others close to the movement is enough for a criminal prosecution.

The 30-year-old prisoner of conscience Orazbek Apakashev, sentenced in the northern Karaganda Region to three years' imprisonment on 29 September for alleged involvement in Tabligh Jamaat, remains in Karaganda's KNB secret police Investigation Prison. His lawyer lodged his appeal against the sentence on 13 October (see below).

Similarly, the KNB was the leading force in the criminal prosecution of four alleged Tabligh Jamaat members in Aktobe, of whom three were held in pre-trial detention for more than four months. They were sentenced in April to up to two years' restricted freedom (see below).

These are among 15 alleged members of Tabligh Jamaat known to have been convicted and given criminal sentences as prisoners of conscience for their faith since December 2014. A further five prisoners of conscience are in prison awaiting criminal trial (see lists below).

No secret police comment on investigation

The KNB secret police arrested Adventist prisoner of conscience Kabduakasov in Astana on 14 August and transferred him to the city's KNB secret police Investigation Prison. A court then ordered him held in two-month pre-trial detention. Christian books were seized from his home, while the Adventist Church he attends in Astana was also searched.

The 54-year-old Kabduakasov has eight children, of which the youngest – a son Daniil – was born on 12 September (while Kabduakasov was already in prison). His two eldest children are adults.

The KNB secret police Investigator, Senior Lieutenant Nurlan Belesov, prepared the case against Kabduakasov under Criminal Code Article 174, Part 2. This punishes "incitement of social, national, clan, racial, or religious discord" by repeat "offenders" with prison terms of between five and ten years.

Investigator Belesov refused to discuss the case against Kabduakasov, including the KNB secret police's apparent role over a year in creating the conditions for the arrest. "I won't answer any of your questions," Belesov told Forum 18 from Astana on 13 October, without giving a reason. He then put the phone down.

After Belesov completed the case, the KNB handed it to Astana City Prosecutor's Office, which assigned it to Asylzhan Gabdykaparov. The case was handed to Astana's Saryarka District Court No. 2 on 25 September.

Like Belesov, Gabdykaparov also refused to discuss the criminal case against Kabduakasov, and in particular the KNB secret police role in setting up the case. After confirming that the KNB secret police had initiated and prepared the criminal case, all he would say to Forum 18 on 13 October was: "The court will come to its decision." He then put the phone down.

Trial begins

The criminal trial of Kabduakasov began under Judge Akmaral Isayeva at Saryarka District Court No. 2 on the morning of 8 October with little prior warning. The court website announced the start of the trial – without naming Kabduakasov – only once the hearing was underway.

"None of Yklas' friends and fellow church members knew anything about the 8 October hearing," one fellow church member told Forum 18 from Astana on 9 October. "But about 25 of us came to the 9 October hearing to support him. The small courtroom was full of church members."

The Adventist Church's pastor, Andrei Teteryuk, was also present on 9 October, Radio Free Europe's Kazakh Service noted that day. He stressed that, despite the prosecution claims that Kabduakasov is a church "leader", he is a member of the congregation like any other.

Judge Isayeva banned Radio Free Europe from filming anything more than three minutes of the hearing.

Kabduakasov arrived at the court in handcuffs from the KNB Investigation Prison where he has been held for nearly two months. The handcuffs were taken off in the courtroom and he was put in a cage for the hearing, the church member told Forum 18.

Prosecution allegations

As the trial started on 8 October, Prosecutor Gabdykaparov read the indictment, alleging that Kabduakasov had "publicly and more than once conducted deliberate actions directed at inciting religious discord and inciting the religious feelings of individuals". He claimed that in this Kabduakasov had used "literature and other information sources propagating religious hatred," according to a KazTAG news agency article that day.

The prosecution claims that Kabduakasov insulted Islam and Muslims in conversations with fellow employees of the building company where he works and pressured them to accept his faith. "No witnesses who support this allegation have spoken in court," the church member told Forum 18.

The prosecution also claims that Kabduakasov had made similar insults in meetings with a group of students in a flat. "This was not a church-owned flat – it was a flat one of the students claimed to have rented and Kabduakasov and another church member went about 10 times at the students' invitation between November 2014 and July 2015," the church member told Forum 18. "At the flat Yklas played the dombra [a stringed

instrument] and sang, and answered questions about his faith. There was no incitement and no pressure."

The four students who repeatedly invited Kabduakasov were from a Muslim background but did not practise their faith, the church member told Forum 18.

Three witnesses spoke at the 9 October hearing in Kabduakasov's support, denying that he had incited anyone to hate anyone.

"Operational video" filmed by secret police?

Short extracts from the "operational video" of Kabduakasov in the Astana flat to which he had been invited to talk about his faith over tea were shown in a hostile news item on local KTK television in the evening of 8 October. The video uses two separate camera angles and appears to have been filmed from static cameras, not from the students' mobile phones.

Friends of Kabduakasov strongly suspect that the flat was rented not at the students' initiative but by the KNB secret police and that the "operational video" was filmed by KNB secret police secret cameras.

Kabduakasov's friends also complained about the 8 October KTK report, which declared with no qualification that Kabduakasov "called his subordinates to a real war against Muslims". His friends denied this absolutely to Forum 18.

At the 9 October hearing, when Kabduakasov's lawyer Gulmira Shaldykova described the whole case as a KNB secret police "provocation", Judge Isayeva warned her "not to make such statements", Radio Free Europe noted.

Two visitors only

Apart from at court hearings, only two people are allowed to meet Kabduakasov in the KNB secret police Investigation Prison, his lawyer Shaldykova and one of his sons, Adilbek, who acts as his public defender.

After his August arrest, prisoner of conscience Kabduakasov was first held for 10 days in isolation, then held in a three-person cell with two Muslims, described by his friends as "Wahhabis" (a common term in Central Asia for traditional Muslims). At the request of the two Muslims he was then transferred to another cell, where his other two prisoners appear to be Slavs. One of them has a Bible to which Kabduakasov has access, his friends told Forum 18.

Appeal against three-year prison sentence

On 13 October, Tolegen Amerbekov, the lawyer for Muslim prisoner of conscience Apakashev, lodged an appeal against his sentence of three years' imprisonment for alleged involvement in Tabligh Jamaat. The appeal was lodged to Temirtau City Court, the assistant to Judge Natalya Shchegletova – who handed down the original sentence – told Forum 18 from the court on 13 October. The appeal will be handed on to Karaganda Regional Court.

Judge Shchegletova had convicted Apakashev on 29 September on charges of participation in a banned religious organisation.

Asyl Dautov of Temirtau Prosecutor's Office refused to discuss the case against Apakashev which led to his imprisonment. "The KNB arrested him and they conducted

the investigation," was all he would tell Forum 18 from Temirtau on 13 October. He stressed that the verdict has not yet entered into force.

The officer who answered the phone at Karaganda Regional KNB refused to discuss why Apakashev had been arrested and prosecuted. "This is closed information," he told Forum 18 on 13 October.

Amerbekov, the lawyer, refused to discuss his client's case with Forum 18 on 13 October.

Nearly eight months' secret police detention

Apakashev – who was arrested by the KNB secret police and the Anti-Extremism Police in the regional capital Karaganda on 22 February – is still being held in the KNB secret police Investigation Prison in Karaganda, the prison head (who did not give his name) told Forum 18 from the city on 13 October. However, he refused to give any other information about Apakashev, including about whether he is alive or not, his health or whether he has access to religious literature if he would like it.

Secret police led Aktobe prosecutions

The KNB secret police was also behind the prosecution of four men in Aktobe for alleged membership of Tabligh Jamaat, those close to the case told Forum 18.

On 19 December 2014, the KNB secret police arrested three Sunni Muslims, Bakitkali Konirbayev (who is now 49), Samat Shadmanov (who is now 40) and Adi Bakyt (who is now 36), according to the subsequent court verdict seen by Forum 18. They were ordered held in pre-trial detention which eventually lasted four months and ten days.

The KNB also demanded that a fourth Muslim, Nurulan Koyshybai, sign a statement that he would not leave Aktobe without seeking permission and would maintain good conduct.

The KNB secret police completed the investigation of the case against the four under Criminal Code Article 405, Part 2 for alleged Tabligh Jamaat membership. Once its case was complete the KNB handed it over to Aktobe Prosecutor's Office, which assigned the case to B. Ayten. The case was handed to Aktobe City Court No. 2 on 26 February 2015, according to case documents.

The trial began at the Court on 18 March under Judge Aliya Bektaliyeva. On 29 April she found all four men guilty. She sentenced Konirbayev, Shadmanov and Bakyt to two years of restricted freedom (the amount they will have to serve will be reduced because of the four months ten days they spent in pre-trial imprisonment). She sentenced Koyshybai to one year's restricted freedom. The three men who had been in pre-trial custody were released in the courtroom at the end of the trial.

During their sentences, the four men will not be able to leave the city without seeking permission. Judge Bektaliyeva also banned the men from visiting restaurants, cafes or places of public entertainment.

None of the four men appealed against their sentences as "they didn't hand down prison terms", one person close to the case explained to Forum 18 on 13 October.

During the court case, Koyshybai was also required to give evidence in the criminal prosecution of another alleged Tabligh Jamaat member Saken Tulbayev at his trial in Almaty.

20 known Tabligh Jamaat criminal cases

Fifteen known alleged members of Tabligh Jamaat (all men) given criminal sentences for exercising the right to freedom of religion or belief since December 2014 (name; sentence date and court; Criminal Code Article; sentence):

1. Mamurzhan Turashov; 2 December 2014 Sairam District Court, South Kazakhstan Region; Article 337-1, Part 1 of old Criminal Code (equivalent of Article 405 of current Criminal Code); 3 years' imprisonment.
2. Bakyt Nurmanbetov; 14 January 2015 Taldykorgan City Court, Almaty Region; Article 337-1, Part 2 of old Criminal Code (equivalent of Article 405 of current Criminal Code); 20 months' imprisonment.
3. Aykhan Kurmangaliyev; 14 January 2015 Taldykorgan City Court, Almaty Region; Article 337-1, Part 2 of old Criminal Code (equivalent of Article 405 of current Criminal Code); 20 months' imprisonment.
4. Sagyndyk Tatubayev; 14 January 2015 Taldykorgan City Court, Almaty Region; Article 337-1, Part 2 of old Criminal Code (equivalent of Article 405 of current Criminal Code); 20 months' imprisonment.
5. Kairat Esmukhambetov; 14 January 2015 Taldykorgan City Court, Almaty Region; Article 337-1, Part 2 of old Criminal Code (equivalent of Article 405 of current Criminal Code); 20 months' imprisonment.
6. Ruslan Kairanov; 14 January 2015 Taldykorgan City Court, Almaty Region; Article 337-1, Part 2 of old Criminal Code (equivalent of Article 405 of current Criminal Code); 18 months' imprisonment.
7. Bakitkali Konirbayev; 29 April 2015 Aktobe City Court No. 2; Article 405, Part 2; 2 years' restricted freedom.
8. Samat Shadmanov; 29 April 2015 Aktobe City Court No. 2; Article 405, Part 2; 2 years' restricted freedom.
9. Adi Bakyt; 29 April 2015 Aktobe City Court No. 2; Article 405, Part 2; 2 years' restricted freedom.
10. Nurulan Koyshybai; 29 April 2015 Aktobe City Court No. 2; Article 405, Part 2; 1 year's restricted freedom.
11. Saken Tulbayev; 2 July 2015 Almaty's Bostandyk Court No. 2; Article 174, Part 1 and Article 405, Part 2; 4 years 8 months' imprisonment (also banned from conducting any religious activity for 3 years after his release)
12. Bakytzhan Nuskabayev; 16 September 2015 Shymkent's Al-Farabi District Court; Article 405, Part 2; 1 year's restricted freedom.
13. Yerbol Zhaylymysov; 16 September 2015 Shymkent's Al-Farabi District Court; Article 405, Part 2; 1 year's restricted freedom.
14. Serik Otyنشyn; 16 September 2015 Shymkent's Al-Farabi District Court; Article 405, Part 2; 1 year's restricted freedom.
15. Orazbek Apakashev; 29 September 2015 Temirtau City Court, Karaganda Region; Article 405, Part 1; 3 years' imprisonment.

Five known alleged members of Tabligh Jamaat (all men) in prison awaiting criminal trial for exercising the right to freedom of religion or belief since December 2014 (name; pre-trial detention order date and court; Criminal Code Article being investigated under; pre-trial detention period)

1. Erbolat Omarbekov; 25 September 2015 Astana's Saryarka District Court No. 2; Article 405, Part 1; 2 months' detention.
2. Bolatbek Kozhageldinov; 25 September 2015 Astana's Saryarka District Court No. 2; Article 405, Part 1; 2 months' detention.
3. Khalambakhi Khalym; 25 September 2015 Astana's Saryarka District Court No. 2; Article 405, Part 1; 2 months' detention.
4. Nurzhan Nurodilov; 25 September 2015 Astana's Saryarka District Court No. 2; Article 405, Part 1; 2 months' detention.
5. Kubaidolla Tyulyubayev; 29 September 2015 Astana's Saryarka District Court No. 2; Article 405, Part 1; 2 months' detention.

Prosecutors abandon criminal cases

Meanwhile, prosecutors abandoned an attempt to bring two Jehovah's Witnesses to trial on criminal charges. Police detained the two women on 9 October 2014 as they were sharing their faith on the street and offering Jehovah's Witness literature. Tablet computers were confiscated from them, Jehovah's Witnesses told Forum 18.

On 2 March 2015 prosecutors opened cases against both women under Criminal Code Article 313. This punishes "Illegal distribution of publications propagandising the cult of brutality and violence" with a fine or up to two years' imprisonment. Forum 18 is not aware of prosecutors bringing such charges against others for distributing religious literature.

However, on 1 June prosecutors abandoned the attempted prosecutions and closed the cases against the two women.

Wave of prosecutions against "extremist" Muslims

Forum 18 (07.10.2015) - <http://bit.ly/1Qq4A6N> - In September alone in three different cities of Kazakhstan, at least four alleged members of the Tabligh Jamaat Muslim missionary movement were convicted and five more imprisoned as prisoners of conscience in pre-trial detention for two months, Forum 18 News Service has learned. In Temirtau, Orazbek Apakashev received a term of three years' imprisonment. A court in the capital Astana imprisoned five alleged members for two months' pre-trial detention at the KNB secret police's request. Forum 18 tried to reach the head of Astana KNB, Kurman Yelyubayev, or any of his deputies. "We're such an organisation that we can't answer your questions," Yelyubayev's assistant said to explain her refusal to transfer the call. Davlet Tlemisov, who led the prosecution in court in Shymkent of three alleged Tabligh Jamaat members, defended the sentences of one year's restricted freedom each. "These are dangerous people," he told Forum 18. He then admitted that they had not set off bombs, nor murdered anyone, nor incited anyone to commit crimes. "They hold meetings and discussions directed at violating the constitutional system," he claimed, but refused to explain.

Kazakhstan's security agencies – the Prosecutor's Office, the Police and the National Security Committee (KNB) secret police – have launched a wave of criminal prosecutions against Muslims who are alleged members of the Tabligh Jamaat missionary movement, Forum 18 News Service has learned. In September alone in three different cities, at least four prisoners of conscience were convicted and five more imprisoned in pre-trial detention. They join seven already known to be serving prison terms after earlier trials.

After more than seven months' pre-trial imprisonment, a court in northern Karaganda Region sentenced Orazbek Apakashev to three years' imprisonment. In Shymkent, three men were convicted and given sentences of restricted freedom. The sentences came as a Muslim from Almaty, whose appeal against his four year and eight month prison term was rejected, was transferred to labour camp in Pavlodar.

And five other Muslims allegedly close to the Tabligh Jamaat movement were imprisoned for two months in the capital Astana and await possible trial on criminal charges which carry a maximum six-year prison sentence.

Trials follow 2013 ban

In February 2013, without prior public announcement, Astana's Saryarka District Court granted Astana City Prosecutor's Office suit to have Tabligh Jamaat banned throughout Kazakhstan as "extremist". 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.

Since the ban, a growing number of Muslims are facing imprisonment if officials believe they are close to Tabligh Jamaat. However, trials of people alleged to be members have been surrounded in secrecy and it is possible others have been sentenced without this becoming known.

All the new cases are under Criminal Code Article 405. 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". Part 1 punishes organising such activity, with a fine or up to six years' imprisonment. Part 2 punishes participating in such activity, with a fine or up to two years' imprisonment.

Earlier known imprisonments

Among known such criminal prosecutions resulting in prisoners of conscience, on 2 December 2014 one Muslim - Mamurzhan Turashov - was sentenced to three years' imprisonment in Sairam in South Kazakhstan Region. On 14 January 2015 in Taldykorgan [Taldyqorghhan] in Almaty Region, five Muslims - Bakyt Nurmanbetov, Aykhan Kurmangaliyev, Sagyndyk Tatubayev, Kairat Esmukhambetov and Ruslan Kairanov - were sentenced to prison terms of between 18 and 20 months.

On 2 July in Kazakhstan's commercial capital Almaty prisoner of conscience Saken Tulbayev was sentenced to four years eight months' imprisonment. He was also banned from exercising freedom of religion or belief, including praying with others and reading the Koran, until the end of 2022 three years after his release.

Also currently imprisoned in pre-trial custody for exercising the right to freedom of religion or belief is 54-year-old Seventh-day Adventist prisoner of conscience Yklas Kabduakasov. The criminal case against him was handed for trial to Astana's Saryarka District Court No. 2 on 25 September, where it was assigned to Judge Akmaral Isayeva, according to court records. Kabduakasov was arrested in Astana on 14 August by the

KNB secret police. They claim he was spreading "religious discord" when discussing his faith with and offering Christian books to others.

Tabligh Jamaat members have also been among the frequent victims of the administrative fines handed down to those who exercise freedom of religion or belief without prior state approval, such as talking to others of their faith, selling or distributing religious books or gathering for religious meetings. Others similarly punished include Protestant Christians, Hare Krishna devotees, Jehovah's Witnesses and commercial booksellers.

Three-year prison term

Apakashev, who lives in the city of Temirtau in Karaganda Region, began practising Islam in 2008. Prosecutors alleged that he later began associating with followers of the Tabligh Jamaat movement despite knowing of the 2013 court-ordered ban.

Prosecutors drew up a case against Apakashev under Criminal Code Article 405, Part 1. The KNB secret police and the Anti-Extremism Police arrested him in Karaganda on 22 February. Karaganda Regional Prosecutor sent the case to Temirtau City Court on 12 June, according to court records.

Apakashev's trial began at Temirtau City Court under Judge Natalya Shchegletova on 1 July. Hearings were said to be open. The prosecution case was led by Asyl Dautov of Temirtau Prosecutor's Office, while the lawyer Tolegen Amerbekov defended Apakashev. Twice - on 6 August and 7 September - Judge Shchegletova had to order the police to bring witnesses - including one from Astana and three from Taldykurgan - to court hearings.

At the 14th, final hearing on 29 September, Judge Shchegletova found Apakashev guilty and gave him a three year general regime prison sentence, Gulbakshin Zhitikova, spokesperson for Karaganda Regional Court, told KazTAG news agency the same day. She noted that the sentence has not yet come into legal force.

Three one-year restricted freedom sentences

In the city of Shymkent, in South Kazakhstan Region, prosecutors brought criminal cases against three local Muslim men, 49-year-old Bakytzhan Nuskabayev, 35-year-old Yerbol Zhaylymysov and 44-year-old Serik Oтынshyn. All were charged under Criminal Code Article 405, Part 2 as prosecutors alleged that they belonged to Tabligh Jamaat. The three were not arrested, but had to sign declarations that they would maintain "good behaviour" and not leave the city without first asking permission, according to court records.

The case was brought to court by Davlet Tlemisov of South Kazakhstan Regional Prosecutor's Office. The KNB's Anti-Extremism Department was also involved in preparing the case.

The three men's trial began on 2 September under Judge Talgat Kakharov at Shymkent's Al-Farabi District Court. On 16 September, Judge Kakharov found all three men guilty. Given what he said was the "less serious nature" of the crimes which did not demand imprisonment, he sentenced each to one year's restricted freedom, according to the verdict seen by Forum 18. As part of the restrictions, the Judge banned them from leaving the city without permission. He also banned them from visiting cafes, restaurants, bars, night clubs and discos.

Tlemisov defended the sentences handed down on Nuskabayev, Zhaylymysov and Oтынshyn. "These are dangerous people," he claimed to Forum 18 from Shymkent on 7

October. Asked whether they – or to his knowledge any other alleged members of Tabligh Jamaat – had set off bombs, he admitted they had not. Asked if they had murdered anyone or incited anyone to commit murder, he said they had not.

Asked what specifically the three men might have done to deserve criminal conviction, Tlemisov insisted they were members of a "closed organisation" that had been banned by a court. "They hold meetings and discussions directed at violating the constitutional system," he claimed. He refused to say if this meant they had called for an uprising or a coup. "They also read books which an expert analysis has found are not in accord with the law". He refused to say what objectionable views such books might contain.

Mambetov was unable to say who might have suffered from anything the three men might have done.

Nuskabayev has been fined several times for exercising the right to freedom of religion or belief, including at least three times in 2014.

Nuskabayev is on the Justice Ministry's list of those banned from leaving Kazakhstan because of unpaid fines from earlier court proceedings. One was a 2014 administrative fine for exercising the right to freedom of religion or belief. The other was a punishment for crossing the Kazakhstan/Kyrgyzstan border illegally, handed down on 30 March 2015.

Five men's two-month pre-trial detention

The KNB secret police arrested four alleged members of Tabligh Jamaat in Astana on 23 September at the request of the KNB secret police investigator, Astana KNB announced the same day on the KNB website, though without naming them.

On 25 September, Judge Nabi Pazylov of Saryarka District Court No. 2 ruled that the four men – Erbolat Omarbekov, Khalambakhi Khalym, Bolatbek Kozhageldinov and Nurzhan Nurodilov – should be held in two months' pre-trial detention, a court official told Forum 18 on 6 October.

"The pre-trial legal procedures were based on information on the active participation of the detainees in the activity of the extremist organisation Tabligh Jamaat, which is banned in Kazakhstan," the KNB secret police claimed. "These people had more than once been informed by the national security organs that Tabligh Jamaat had been banned through the courts and given official warnings of criminal responsibility for participation in its activity." The four were being held in the Police pre-trial detention prison in Astana.

The KNB secret police said the four were being investigated under Criminal Code Article 405.

A fifth was then arrested, apparently several days after the four. On 29 September, the same judge ordered that Kubaidolla Tyulyubayev should similarly be held in two-months' pre-trial detention. The five were represented by five different lawyers.

All five Muslims are accused of organising Tabligh Jamaat activity and are facing prosecution under Criminal Code Article 405, Part 1, the court official noted. The official refused to name the KNB secret police investigator.

Forum 18 tried to reach the head of Astana KNB, Kurman Yelyubayev, or any of his deputies. However, on 7 October Yelyubayev's assistant refused to put Forum 18 through to any of them. "We're such an organisation that we can't answer your questions," she told Forum 18, but refused to explain why the KNB secret police could not answer journalists' questions.

Other criminal prosecutions

Another alleged member of Tabligh Jamaat, Nurulan Koyshybai, was also investigated under Criminal Code Article 405, he declared in evidence submitted in Tulbayev's trial in Almaty (see below).

Koyshybai was among four alleged Tabligh Jamaat adherents sentenced in April in Aktobe.

Appeal rejected

Tulbayev's lawyer Aiman Umarova appealed against his four year eight month prison sentence, handed down in Almaty on 2 July. However, on 11 August Almaty City Court returned the initial appeal lodged in late July. He resubmitted his appeal on 17 August, but on 7 September the appeal collegium of Almaty City Court under Judge Serik Karymsakov rejected it, according to the decision seen by Forum 18.

"I met Saken many times in the Investigation Prison in Almaty," the lawyer Umarova told Forum 18 from the city on 7 October. "He was depressed about his situation." She noted that he was sent to the punishment cell in July for 15 days for refusing to go out for the prescribed exercise. "He didn't know it wasn't compulsory – it's a right, not an obligation," Umarova noted.

Prisoner transferred to distant labour camp on religious holiday

Early on 24 September, the prison authorities began Tulbayev's transfer from the Investigation Prison in Almaty, where he had been held since shortly after his 1 April arrest, to the general regime labour camp No. 18 (AP-162/3) in Pavlodar, Tulbayev's relatives told Forum 18 on 7 October. They confirmed that he has already arrived there.

Relatives learned of the imminent transfer only on 23 September, when they met the head of Almaty's Investigation Prison Nurlan Taibekov. He gave them one hour's notice to collect warm clothes for Tulbayev to take to labour camp to keep him warm during the winter.

"We asked how they could transfer Saken if he had been put again in the punishment cell about five days earlier for possessing a copy of the Koran which did not have the required stamp to show it had been approved by prison guards," relatives told Forum 18. "Taibekov insisted that Saken would be moved out at 6 am the following morning."

Relatives believe that prison officials specially chose the Muslim festival of Kurban Bairam (Eid al-Adha), marked in Kazakhstan on 24 September, to transfer Tulbayev. "It was hard for him because it is an important day."

Among the items relatives brought in a bag for Tulbayev was an Islamic calendar for 2016. Prison guards searched the bag for 40 minutes and did not reject any item. "We're not sure if everything was handed over to him," relatives said.

The Pavlodar labour camp is nearly 1,500 kilometres north of Almaty by road on a journey that takes more than 15 hours. That Tulbayev has been sent there will make visiting him difficult and expensive, relatives complained to Forum 18.

Annual operation against religious "extremists"

Erkin Mambetov, head of the Department for the Struggle against Extremism in the Criminal Police Department of the Interior Ministry in Astana, has revealed that since

2012 an annual operation has been held to counter religious "extremism". Operation Uchastok (Russian for District) is held from 1 September to 1 December each year.

Officers visit residents' homes "to discover operational information on people participating in radical religious movements, where they hold meetings and live, and uncover violations of migration law", KazTAG quoted him on 28 September as telling an international conference on countering violent extremism.

Mambetov said that in a six month period in 2015, more than 630 reports came in about individuals "possibly holding radical religious views and who spread these radical ideas".

Mambetov put the number of those sentenced and imprisoned or arrested and held in pre-trial detention on charges of religious extremism at more than 600. Among those he identified was the imprisoned head of a Tabligh Jamaat cell in Almaty (an apparent reference to Tulbayev). He claimed that more than 350 of those prisoners "had moved to more moderate positions".

Mambetov did not make any distinction in his quoted remarks between individuals who hold a particular faith and those who commit or incite violence.

Forum 18 tried to reach Mambetov on 7 October but his phone went unanswered.

Two-month KNB secret police detention – prosecution to follow?

Forum 18 (20.08.2015) – <http://bit.ly/1m3muzh> - Kazakhstan's KNB secret police arrested Seventh-day Adventist Yklas Kabduakasov on the evening of 14 August after searching his home in the capital Astana and confiscating religious books. Also searched the same day was the Adventist church where he worships. On 15 August an Astana court ordered he be held in two-month pre-trial detention at the secret police Investigation Prison, the court chancellery told Forum 18 News Service. Prisoner of conscience Kabduakasov is challenging this detention at a hearing tomorrow morning (21 August), his lawyer Gulmira Shaldykova told Forum 18. The secret police claim he was spreading "religious discord" when discussing his faith with and offering Christian books to others. KNB secret police Investigator Diyar Idrishov refused to discuss Kabduakasov's case. "I was merely a witness to his arrest and am not involved in the investigation," he told Forum 18. He said Investigator Nurlan Belesov was leading the criminal case (with a possible five to 10 year prison sentence), but the man who answered his phone repeatedly hung up when Forum 18 asked about the case.

Seventh-day Adventist prisoner of conscience Yklas Kabduakasov is to challenge a court decision to imprison him for two months' pre-trial detention, his lawyer Gulmira Shaldykova told Forum 18 News Service from Kazakhstan's capital Astana on 20 August. The challenge is due to be heard tomorrow morning (21 August) at Astana City Court. The 54-year-old Kabduakasov was arrested by the National Security Committee (KNB) secret police on the evening of 14 August and is being held at their Investigation Prison in the city. They claim he was spreading "religious discord" when discussing his faith with and offering Christian books to others.

Judge Nabi Pazylov of Astana's Saryarka District Court No. 2 ordered Kabduakasov's two-month pre-trial detention at a hearing on Saturday 15 August, the court chancellery told Forum 18 on 20 August. "We consider such detention cases even on a Saturday or a Sunday," the official – who did not give his name – said. "It makes no difference what day it is." He said the detention suit had been brought by the KNB secret police investigator. The lawyer Shaldykova represented Kabduakasov at the hearing.

Kabduakasov's arrest was mentioned at the weekly service of his Adventist congregation in Astana on Saturday 15 August, a congregation member told Forum 18.

Arrest

Kabduakasov, who works for an Astana-based building company Stroinvest, was stopped by the traffic police in Astana on 14 August and taken back to his home in the city, those close to him told Forum 18 from Astana on 18 August. Once there, KNB secret police officers searched his home and confiscated several Christian books. At about 6 pm, at the end of the search, the KNB officers arrested him.

At least some family members learnt of Kabduakasov's arrest only in the early hours of 15 August. Later on 15 August, the KNB secret police Investigator summoned relatives to bring Kabduakasov something to eat in prison.

The church in Astana that Kabduakasov attends was also searched on 14 August, Forum 18 understands.

Kazakhstan's tight restrictions on exercising the right to freedom of religion or belief include a ban on anyone apart from individuals appointed specifically by registered religious communities and who have personal registration with the state as "missionaries" (whether local citizens or foreigners) from conducting "missionary" activity. Any religious literature such state-approved "missionaries" use also requires specific state approval. Anyone else who even talks to another person about their faith or gives them a book on a religious theme therefore risks punishment.

"Looking for some way to find evidence against him"

The KNB secret police are believed to have been keeping Kabduakasov under surveillance in recent months, including through the use of video surveillance, as they disliked his practice of discussing his faith with others. In May the KNB secret police apparently gave him a written warning about his "missionary activity" which they insisted was "illegal", those close to him told Forum 18. The KNB secret police is known to closely monitor all religion or belief communities.

"They have been looking for some way to find evidence against him," someone close to him told Forum 18.

"Incitement of religious discord"?

The KNB secret police is investigating Kabduakasov for "incitement of social, national, clan, racial, or religious discord" under Criminal Code Article 174, Part 2, the court chancellery and Kabduakasov's lawyer separately confirmed to Forum 18. Part 2 of the Article prescribes punishment for repeat "offenders", with prison terms of between five and 10 years.

On 2 July a court in Kazakhstan's commercial capital Almaty sentenced Sunni Muslim prisoner of conscience Saken Tulbayev to four years eight months' imprisonment in a general regime labour camp under Criminal Code Article 174, Part 1, according to the verdict seen by Forum 18. The court also found him guilty under Criminal Code Article 405, Part 2 (participation in a banned religious movement) and punished him with one year's imprisonment (to run concurrently) and a ban on "activity directed at meeting the religious needs of believers" between his scheduled release from prison in December 2019 and December 2022. His family insist that publications used to prosecute him had been planted by police in the family flat.

This Article of the current Criminal Code – which came into force on 1 January 2015 – replaced Article 164 of the previous Criminal Code under which both Astana-based retired Presbyterian Pastor Bakhytzhan Kashkumbayev and Ridder-based atheist writer Aleksandr Kharlamov were investigated.

Among earlier cases, Article 164 of the then Criminal Code was also used to convict a Protestant preacher, Sarybai Tanabaev, who was given a two-year suspended sentence in June 2009 in the southern city of Taraz.

"Merely a witness to his arrest"

The KNB secret police Investigator leading the case is Nurlan Belesov, his colleague Investigator Diyar Idrishov told Forum 18 from Astana on 19 August. "I was merely a witness to his arrest and am not involved in the investigation," he said, before putting the phone down.

The man who answered Investigator Belesov's phone at Astana KNB on 20 August – who did not give his name – repeatedly put the phone down as soon as Forum 18 asked about Kabduakasov's case.

Investigator Belesov is believed to be the officer in Astana KNB with responsibility for keeping the city's Christian congregations under surveillance, those familiar with his activity told Forum 18.

Reached on the evening of 19 August, the duty officer at the KNB secret police Investigation Prison – who would not give his name – repeatedly refused to give Forum 18 any information about Kabduakasov, without giving any reason. The officer would only confirm that Kabduakasov is still alive. The duty officer on 20 August similarly refused to give any information.

Koran, Namaz calendar refused

Meanwhile, the 46-year-old Sunni Muslim prisoner of conscience Tulbayev is likely to remain in the Investigation Prison in Almaty until the appeal against his conviction is heard, his sister Feruza Tulbayeva and wife Rumina Fakhrudinova told Forum 18 from the city on 20 August. He was told he could then be sent to a prison camp some distance from Almaty to serve his sentence.

"Saken spent 16 days alone in the punishment cell, from 7 to 23 July," they complained. "Now he is back in a three-person cell."

Ayman Umarova, Tulbayev's lawyer who met him in prison on 13 July, described the prison to Forum 18 three days later as "awful". She added that "I cannot imagine what the conditions in the incarceration room are".

Because the marriage of Tulbayev and his wife was not registered with the state, she is not regarded as a relative and cannot thus apply to see him in prison, Fakhrudinova lamented to Forum 18. She added that his sister and mother can apply to the Investigator for permission to visit and are preparing to do so.

Family members have been able to hand in food parcels for him, but prison officials have twice refused to accept a Koran and a calendar giving the times for the namaz (Muslim prayers), his wife Fakhrudinova complained. "They said he is not allowed to have such literature." She believes, however, that he has been able to have some access to a Koran.

Tulbajev's verdict was handed down on 2 July, but the written decision (seen by Forum 18) was handed to him in prison only on 7 July, the day he began his punishment cell term. His sister and wife say the Judge handled the case with so many violations of the law, and that the lawyer is preparing various challenges. No appeal against the verdict itself has yet been heard by Almaty Regional Court.

Why do authorities close public prayer rooms?

Forum 18 (17.08.2015) - <http://bit.ly/1Otfstut> - Muslims who used the prayer room at a Shymkent market were "of course" unhappy when Shymkent City Administration and the local National Security Committee (KNB) secret police closed it in early July, a source at the market told Forum 18 News Service. Officials gave the Muslims no reasons for the enforced closure. Kanat Kalybekov of the Internal Policy Department of the City Administration claimed to Forum 18 that "there was no prayer room in the market officially". Shymkent KNB denied any involvement in its closure. Officials have closed prayer rooms in many public buildings – including colleges, prisons, hospitals and airports – since the harsh 2011 Religion Law was adopted. Prayer rooms at Aktau and Atyrau Airports were closed in 2014. Students at Nazarbayev University in Kazakhstan's capital Astana are banned from exercising freedom of religion or belief. "There are no prayer rooms in the University, and we warn new students at admission that if they want to pray they can only do so in their dormitory room alone," Askhad Bekzhanov, Chief of the University's Department of Student Affairs, told Forum 18.

In South Kazakhstan Region in early July, Shymkent City Administration and the local National Security Committee (KNB) secret police closed a Muslim prayer room at the Avtonur open air market, sources from the market who wished to remain unnamed for fear of state reprisals confirmed to Forum 18 News Service on 13 August. Officials gave the Muslims who prayed there no reasons for the enforced closure, sources added. "They are of course unhappy about the closure."

The enforced closure of the prayer room by the administration and the KNB secret police was first mentioned by Nur.kz news agency on 14 July. The agency noted that one angry local resident was arrested after threatening to blow up both institutions in retaliation for the enforced closure.

The authorities have systematically been closing or trying to close prayer rooms and chapels in public buildings, including colleges, prisons, hospitals, care homes, airports and administrative buildings. Such enforced closures appear to have begun following the adoption of the harsh new Religion Law in October 2011, and despite protests from Muslims, Russian Orthodox and others.

Indeed, the then chair of the government's then Agency of Religious Affairs, Kairat Lama Sharif, told parliament on 8 September 2011 as it began considering the harsh new Religion Law: "Prayer rooms in state institutions, educational establishments, hospitals and military units will no longer exist."

"There was no prayer room in the market officially"

Avtonur market, where the prayer room was closed down, is a major trading venue in Shymkent where clothes, car parts and other items are sold.

On the morning of 8 July, a man was arrested allegedly for threatening Shymkent City Administration that he will "blow up the buildings of the City Administration and KNB secret police unless they re-open it", South Kazakhstan Regional Court announced. Abdrakhmanov (first name not given) noticed that morning that the prayer room had

been closed down, and allegedly made the call to the Administration from a mobile phone. Shymkent's Al-Farabi District Court ordered he be held for two months in pre-trial detention while an investigation proceeds under Criminal Code Article 273 ("filing a false report on a terrorist act").

Asked by Forum 18 on 12 August why the prayer room was closed, Kanat Kalybekov, Head of the Internal Policy Department of the City Administration, responsible for the Administration's religious policy, tried to avoid the question. "Well, there was no prayer room in the market officially, and the man who made the call was drunk."

When Forum 18 repeated the question as to why officials closed the prayer room, Kalybekov insisted: "The market workers used a room in the territory of the market as a prayer room unofficially." Asked why the authorities deprived them of the room for prayers, he claimed: "I actually don't know whether or not there was a prayer room at all." He then refused to explain why he was giving contradictory comments or to speak further with Forum 18.

The duty officer at Shymkent City Department of the KNB secret police (who did not give his name) claimed to Forum 18 on 12 August that the KNB was "not involved" in the prayer room's closure. Told that the local media wrote about its role and that sources from the market confirmed it to Forum 18, he responded: "We are not going to give you information over the phone. Please, come to our office in Shymkent."

Nazarbayev University "cannot allow religious activity"

The authorities reportedly sought to close the prayer room at Nazarbayev University in the capital Astana, sources in the city told Forum 18. University staff then began long negotiations with officials, and eventually a compromise was reached where the prayer room became a "reflection room". The room was reportedly used for some other purposes as well as "reflection". However, it appears this compromise no longer allows for prayers.

"There are no prayer rooms in the University, and we warn new students at admission that if they want to pray they can only do so in their dormitory room alone," Askhad Bekzhanov, Chief of the Department of Student Affairs at the University, told Forum 18 on 20 August.

Asked why students cannot pray in the main buildings of the University but only in the dormitory, and then only alone without the participation of their fellow students, Bekzhanov replied: "We are a secular University, we cannot allow religious activity in our premises." He added that "We do not encourage our students to become involved in religious activity, but rather to focus on their studies."

Asked if this does not violate students' freedom of religion or belief, Bekzhanov claimed: "Absolutely not. According to our Religion Law it is illegal to hold religious activity in secular educational institutions, and we follow the Law."

The University website notes that "In the dormitories, each block of flats for students are controlled and supervised by special employees to eliminate any housing problems that might arise."

Lyazzat Arykbayeva, the University's chief official overseeing dormitories, confirmed that students can only pray alone in their dormitory rooms, and that there are no prayer rooms in the University. "We never meant to have prayer rooms," she insisted to Forum 18 on 17 August. "We absolutely do not allow students to use their rooms for religious activity with others."

Asked if these restrictions do not violate students' rights to freedom of religion or belief, she referred Forum 18 to Bekzhanov, stressing that "he is responsible for moral and educational issues".

Regional airport prayer rooms long closed

At least two of Kazakhstan's regional airports which had prayer rooms – in Aktau [Aqtau] and Atyrau, both on the Caspian Sea – had them closed in 2014, officials of the airports confirmed to Forum 18.

"Management closed the prayer room more than a year ago, but didn't give a reason," the Information Bureau of Aktau Airport told Forum 18 on 17 August. "There were cases when passengers were dissatisfied at the decision, but not often." Similarly, an official of Atyrau Airport said she had no information about why the prayer room there had been closed in 2014.

When he opened Atyrau Airport's prayer room in September 2008, the Regional Imam Kazbek-kazhi Akhmetov told the Inform.kz website that "it is particularly pleasant that the namazkhana [prayer room] was opened during the month of Ramadan sacred to Muslims".

Three airports with international flights - in Astana, Almaty and Karaganda [Qaraghandy] - still have one prayer room in the international departures section of each, airport officials confirmed to Forum 18. Astana Airport previously had three prayer rooms, one each in international and domestic departures and one in arrivals. "There is no longer a prayer room in the arrivals section," an official told Forum 18 on 17 August. She was unable to say when or why the prayer rooms had been closed.

Fined again for not paying earlier fine

North Kazakhstan Regional Justice Department, responsible for the execution of court decisions, brought a case against Yevgeni Lyakhov, member of a Baptist church in the village of Novoishim. They were seeking to punish him for refusing to pay a fine imposed in April 2014 for exercising the right to freedom of religion or belief. Lyakhov had been fined 185,200 Tenge for "illegal religious activity".

Lyakhov's congregation, like other congregations of the Council of Churches Baptists, refuses to seek state permission to exercise the right to freedom of religion or belief. Members of the Council of Churches are frequently fined for meeting for worship without state registration. They operate a policy of civil disobedience, refusing to pay fines as they do not consider they should be fined for meeting for worship.

Those refusing to pay have been imprisoned for up to 15 days. One Baptist, Nikolai Novikov, even faced the prospect of criminal prosecution, though officials have said the case will be closed.

Many Council of Churches Baptists have also been placed on the Justice Ministry's register of those unable to leave the country for refusing to pay fines for exercising the right to freedom of religion or belief.

Because of his refusal to pay the 2014 fine, Lyakhov too was listed on the exit ban list.

On 29 July 2015, Judge Talgat Imanalin of Gabit Musrepov District Court found Lyakhov guilty under Administrative Code Article 669 ("failure to fulfil a court decision"). The Judge fined him the designated fine for individuals under this Article, 10 Minimum Financial Indicators (MFIs) or 19,820 Tenge (865 Norwegian Kroner, 95 Euros or 105 US

Dollars). The court decision, seen by Forum 18, notes that Lyakhov told the Court that he could not pay the fine "since I do not have the money".

In contrast to what the Court decision claims on why he did not pay the earlier fine, Lyakhov told Forum 18 on 17 August that "I do not remember saying that I didn't pay the fine because I don't have the money." He had not paid "because I don't believe that I violated the Law," he insisted. "It is my lawful right to practice my faith peacefully without the interference of the authorities."

In early August, Lyakhov filed an appeal to the Regional Court, he told Forum 18. However, he has not so far received notification when the hearing will be. "We as Baptists are peaceful citizens and believers. We do not disturb anyone with our religious activity, and do not understand why Kazakhstan imposes such heavy restrictions on us," he lamented.

Lyakhov "must pay the new fine and the earlier fine"

District Court officials referred Forum 18 on 11 August to Chair of the Court Zhasulan Kabysh. His Assistant, Yerken Sharshenbayev claimed to Forum 18 on 11 August the Chair is "busy," and cannot speak to Forum 18.

Sharshenbayev insisted to Forum 18 that the Court decision means that Lyakhov "must pay the new fine and the earlier fine." Asked what measures the authorities will take if he still refuses to pay the fines, Sharshenbayev refused to say. "I am not authorised to give further comments," he said, and asked Forum 18 to send an official letter.

Lyakhov's fellow Baptists told Forum 18 that the authorities "may confiscate Yevgeni's property towards payment of the fines".

As well as putting individuals on the exit ban list, court bailiffs have in the past seized or put restraining orders on cars, furniture, washing machines and even a calf in response to unpaid fines.

"What right do authorities have to scare our children?"

Forum 18 (13.08.2015) - http://www.forum18.org/archive.php?article_id=2089 - About 20 officials, including police and Prosecutor's Office officials, raided a church-run children's camp in Almaty Region near Kazakhstan's commercial capital on 30 July, camp organisers have told Forum 18 News Service. "Officials questioned the minors without the presence of their parents," Pastor Sergei Li of Kapshagai Baptist Church told Forum 18 on 10 August. "One seven-year old girl was frightened and cried, and after that I told them to stop questioning the children." Police questioning of children and organisers lasted from morning until late evening.

Asked why police and other authorities questioned children in the absence of their parents and frightened them, Lieutenant Colonel Bayken Shalkarov, Deputy Head of Kapshagai Police, refused to answer. "I will not answer you, send your official letter to us.", he told Forum 18 on 10 August before putting the phone down.

After the raid the authorities then handed materials – including video footage – to the local electronic media alleging that the camp organisers were teaching religion "illegally" (including by foreign citizens) and without the knowledge of parents, and were using suspicious drinks and chewing gum. The media included these claims in television broadcasts and online reports, to the outrage and distress of church members.

Several parents, including church member Nadezhda Kogay (who was in the camp when it was raided), told Forum 18 that they were "fully satisfied with the Church" over the conduct of the camp, and that "they gave their permission for giving their children the English lessons".

The authorities decided not to bring criminal charges against any of the organisers, but insist they will bring administrative charges. They refused to explain to Forum 18 what charges will be brought.

Harsh controls

The raid on the children's camp came as the National Security Committee (KNB) secret police and the local administration forcibly closed a Muslim prayer room at a market in the southern city of Shymkent. And a member of a Baptist Church which meets for worship without state permission has been fined again, this time for refusing to pay earlier fines for meeting for worship without state registration.

Kazakhstan imposes harsh controls on all exercise of the right to freedom of religion or belief. Only religious communities which want to and have been able to gain state registration are allowed to exist. Even registered religious communities face severe restrictions, including on where they may hold religious events. Religious literature is also under tight state restrictions, which include prior compulsory censorship of all published or imported materials and a licensing system for where approved religious literature can be sold or distributed.

Religious communities can be punished if children are present at religious events without the specific written permission of their parents. Foreigners are not allowed to exercise freedom of religion or belief unless they are invited by a registered religious community and have personal state permission to do so. Religious communities the government does not like are intermittently subjected to attacks through the media, often using material provided by officials.

Raid

The approximately 20 officials of Kapshagai City Prosecutor's Office and Police, accompanied by educational psychologists, raided the children's camp on the morning of 30 July. The camp, held in the Altyn Emel (Golden seat) resort, began on 28 July and was due to finish in the morning of 31 July. It was organised by the state-registered Kapshagai Baptist Church, a member congregation of Kazakhstan's Baptist Union.

After the officials raided all the rooms, in which were various age groups of children, they "pounded on the doors with such force that the children became nervous and frightened," Pastor Li stated. "The officials continued speaking very loudly, and broke into the bigger hall, where there was also a lesson for children. They behaved like they were detaining some criminals."

The officials also "filmed everything without or permission" and disrupted the programme for the whole day. "They also questioned our Church ministers until late in the evening."

Police then confiscated "all the material – posters, signs, and other study materials from the walls, as well as all the presents and prizes." Pastor Li added that among the confiscated materials were "no religious books or printed materials, but just posters made by the children for learning English based on stories from the Bible."

What "offences", what charges?

Kapshagai Police told Pastor Li in early August that "at first they planned to open a criminal case but then they decided that an administrative case will be opened for illegally teaching children religion", he told Forum 18.

Lieutenant Colonel Shalkarov of Kapshagai Police claimed that "the Church taught children religion in violation of the Law,". Asked exactly what charges are being brought, Shalkarov stated that it "will be an administrative case." But he refused to say what "offences" the charges would relate to. When Forum 18 insisted, he replied: "We are waiting for the religious expert analysis of the confiscated materials, and within fifteen days we will decide what charges."

Religious "expert" analyses are generally conducted by state religious affairs officials. They form part of the system of state religious censorship, and are used to provide "evidence" to punish those who distribute religious materials which have not been censored by the state.

Told that the Church says there were no religious books, booklets, or other materials but only posters made by the children, Shalkarov did not answer. Nor did he respond when asked what is wrong with teaching children Bible stories, and why a registered Church cannot teach children of their own members and other children with the permission of their parents.

Media use police material to attack Church

Apparently citing information and using film provided by the police, several local television channels and electronic media between 4 and 5 August attacked the Baptist Church. Almaty TV channel and its electronic subsidiary Almaty News broadcast and posted materials on 4 August alleging that "foreigners illegally organised a Bible camp for children in Kapshagai". The "law-enforcement authorities detained representatives of the Evangelical Christian Baptist Church, and charged them for illegally engaging under-age children in religious activity."

Police "detained South Korean and American citizens who had, under the guise of free English courses, arranged a Bible camp without special [state] permission. The active members of the sect propagated their religious views to the children, conducted worship services and gave out religious literature," the channel claimed. And it added: "In the place were found bottles of suspicious liquids and chewing gum of an unknown source. And all of this the organisers gave [for consumption] to the children."

"It was found that the parents did not know about the religious element in the study course," Almaty News claimed. "The liquids and chewing gum will undergo forensic examination, and the confiscated religious materials will undergo religious expert analysis," it quoted police as declaring.

Pastor Li objected to the allegations. "All the parents knew very well that the children will be taught on the basis of the Bible and they also gave their written permission," he told Forum 18. All the parents are Church members, except one woman who is not a member but started attending the Church recently, he added. "She also gave her written permission."

Pastor Li noted that the foreigners who had been helping with the camp were not obstructed from leaving the country. Police had returned their passports to them after questioning on 30 July.

About the liquid mentioned by the media, Pastor Li explained that it was "coolade prepared by the organisers for the children as cool drinks, since the weather is hot, and it

was also used as an aid about how Jesus turned water into wine in the Bible." He said the sticks of chewing gum were to be given to children as prizes for their activities.

In the criminal case against retired Presbyterian Pastor Bakhytzhan Kashkumbayev in the capital Astana, police alleged in October 2012 that his Grace Church used "hallucinogens". The Church insisted the red tea they used as a non-alcoholic communion wine was a product widely available locally and rejected police claims as a deliberate smear.

Education Department denies media allegations

In its reporting of the raid on the children's camp, Almaty News quoted Asem Suttibayeva, Head of Kapshagai City Education Department, as declaring that "without a special certificate, no one in Kazakhstan has the right to teach religion, and particularly to under-age children."

Suttibayeva adamantly denied that she spoke against the Baptists. "I only told the media that the Baptist Church is not registered with us as an educational institution," she told Forum 18 on 11 August. "I didn't tell them that the Church can't teach their children religion or that they have to have our Department's permission for that. The media took my words out of context."

Suttibayeva also told Forum 18 that she did not personally participate in the raid, but the law-enforcement agencies required educational psychologists from her Department to participate.

"The authorities gave us the materials for broadcast"

Asked by Forum 18 on 10 August why Almaty TV channel and its subsidiary Almaty News attacked the Baptist Church, Tatyana Lisitskaya, Deputy Chief Editor, responded: "The authorities gave us the materials for broadcast."

Asked why the channel gave the Baptist Church members no chance to respond to the official allegations, she stated: "There were statements of the Church members in the video material, but we cut them out because we didn't think them necessary." Asked whether she does not think it is an organised campaign of slander against the Church, Lisitskaya replied: "I am not going to evaluate the actions of the authorities." She then refused to speak further to Forum 18.

Media attacks have often been used by the authorities to incite hostility against people exercising freedom of religion or belief.

Another TV channel also attacks Church

On 5 August Eurasia TV channel also attacked the Church during its main evening news. It made similar claims against the Baptist Church about "suspicious" drinks and chewing gum given to children, as well as alleging that the Church "illegally" organised a Bible camp.

The channel included an interview with Yuliya Denisenko, head of a state-sponsored "anti-sect" centre, who said that the "authorities have the right to intervene when religious sects distribute extremist literature".

The TV showed video-footage provided by the police of Church member and parent Kogay, who happened to be in the camp when the authorities raided and filmed, saying that "We do not teach other children, and our children are not talking about God to children on the street," and that "We have the right to teach our children our religion".

Kogay was "outraged" by the raid and the subsequent media attacks. "What right do the authorities have to scare our children, and with what right do they film me with a hidden camera, and the TV takes my words out of context?" she asked Forum 18 on 11 August.

Pastor Li and Kogay told Forum 18 that they will prepare a letter to the TV channel to rebut the material.

Eurasia's report continued with a comment by Denisenko that "these extremist sects separate their children from the outside world, and zombify them. When they grow up they listen to every command of their religious teachers, and obey them even if they say to go and make a revolution on the street." As Denisenko was speaking, the TV showed scenes of terrorist explosions in various parts of the world.

Denisenko, who is a member of the government's Council for Links with Religious Organisations, attached to the Culture Ministry's Religious Affairs Committee, has frequently supported state attacks on religious communities. In April 2013 as an official of Kostanai Religious Affairs Department she participated in an "anti-terrorism" raid on a Jehovah's Witness meeting in a home.

State-funded "anti-sect" centres often attack so-called "non-traditional" beliefs. Local media have often used comments from police, other officials and employees of "anti-sect centres" to attack people and communities exercising freedom of religion or belief.

"Dissatisfied"

Denisenko told Forum 18 on 12 August that she is "dissatisfied" with Eurasia TV. "First of all I was not even in Kazakhstan on 5 August, so how could they take an interview from me?" she asked. "Secondly, in the material in the newscast, you may have seen, I never mentioned the Baptist Church," she explained. "I do not think the Baptists are a sect, and I never spoke against them." She then elaborated that it "may be from my earlier interviews, where I talked about totally different religious movements," and that "they cut and pasted it for this news material."

Asked if she will demand the TV give a rebuttal, Denisenko told Forum 18: "I will investigate this and then make a decision."

Yelena Klivets, Chief Editor of the news department of Eurasia TV, claimed to Forum 18 on 11 August: "I wasn't at work when this news material was prepared and broadcast." Told about the falsifications church members and Denisenko say her journalist colleagues made when they prepared the material, and that the Baptists were not given a chance to speak for themselves, and asked if the TV station will issue a rebuttal, Klivets responded: "Let the Baptists and others write official letters to our General Manager, and then with the help of our lawyers we will investigate what we can do."

Mosque again denied legal status, Imam dies, electricity "temporarily" cut off

Forum 18 (17.07.2015) - http://www.forum18.org/archive.php?article_id=2082 - Kazakhstan has once more denied legal status to the Din-Muhammad Mosque community in Petropavl and the regional Justice Department has refused to tell the community or Forum 18 News Service what exactly is wrong with their application, despite the authorities claiming it is "not truthful". An official of the Religious Affairs Department stated that the authorities have not stopped the Community using the Mosque as "we do

not want to stir up the Tatars and Bashkirs". But a community member stated that "we all know that sooner or later we will be forced out of the building".

Mosque community members think that the 7 June death from a heart attack of the community's Imam, Rafael Ryazapov, was caused by heavy state pressure on the mosque and its members. On the first day of Ramadan (and 11 days after Imam Ryazapov's death), Mosque community members could not meet for night prayers as the authorities cut off the electricity supply.

Also, three Turkish academics have been deported from the Sufi-named Ahmet Yesevi University – a joint venture between the Turkish and Kazakh governments - for sharing Sufi teachings with their students. The three - Turgay Dincay, Ilyas Ordueri, and Recep Cengiz - were also fined.

Muslim prisoner of conscience Saken Tulbayev, sentenced on 2 July to four years eight months jail in a labour camp and banned from exercising freedom of religion or belief from his scheduled December 2019 release until December 2022, is according to his lawyer being kept in "awful" conditions. An appeal against his conviction was filed on 14 July.

And a criminal case against Baptist Nikolai Novikov is not yet closed, but is expected to be closed once the Prosecutor in the case signs a police report.

Mosque legal status application refused again

Kazakhstan has once more denied legal status to the Din-Muhammad Mosque community in Petropavl in North Kazakhstan Region. On 28 April the regional Justice Department rejected the Mosque's latest registration application, which the Mosque community submitted on 9 February. Ibrahim Akhmedjanov, the Chair of the Community elected on 25 December 2014, told Forum 18 on 16 July 2015 that the Community has since early May several times written to the Justice Department and the Religious Affairs Department to find out what exactly is wrong or missing in their founding documents, but have not received a clear response.

The Din-Muhammad Mosque, which mainly serves ethnic Tatars, was built in 1852, forcibly closed down in the 1930s under Stalin, and reopened after the end of the Soviet Union. The state-backed Muslim Board insists that only the Sunni Hanafi school of Islam is allowed, with all other approaches being banned, and that all mosques must be controlled by the Board.

The Mosque is Sunni Hanafi but independent of the state. All independent mosques, like the Din-Muhammad Mosque, have come under severe state pressure – including threats to use bulldozers - to close or be taken over. The Mosque may possibly be the last remaining publicly-accessible mosque independent of the state-backed Muslim Board.

Who is "not truthful"?

The Justice Department's 28 April 2015 rejection letter claims that "based on the expert opinion of the North Kazakhstan Religious Affairs Department the information provided in the documents about the Community is not truthful", that the "foundations of the religious teachings of the Community and their religious movement not indicated", that "not everything is clear about the organisational structure of the Community", and that "there are spelling and style errors in the translation of the Charter of the Community into the Kazakh language". No specific information is given to back any of these wide-ranging allegations.

Dinara Shaldybayeva of the regional Justice Department would not on 9 July give Forum

18 any reason for refusing registration to the Din-Muhammad Mosque. She claimed the reason "was written in the conclusion from the Religious Affairs Department". When Forum 18 asked what exactly was wrong in the Community's application or founding documents, Shaldybayeva would not answer the question. "If a conclusion is negative, how can we ignore it?" She added that the Community has the right to go to court. "I see no illegality in our action."

Nazhiba Akkuzhina, Chief Expert of the regional Religious Affairs Department, claimed to Forum 18 that "I don't know if the registration application was seen in this Department". When Forum 18 pointed out that the Justice Department claimed that the refusal to register the Mosque was based on the negative opinion of her Religious Affairs Department, she claimed that "I cannot say if we were involved".

Community Chair Akhmedjanov told Forum 18 that "we removed from our name the title Tatar-Bashkir, and gave our name as the Din-Muhammad Muslim Community. Officials had insisted to us in the past that this was the main stumbling block. But the authorities seemingly do not want to register us at all."

A member of the Community, who wished to remain anonymous for fear of state reprisals, on 15 July commented to Forum 18 that "the authorities will always find some reason, something wrong, in our applications to deny us a right to exist". They stated that the authorities "deliberately continue to ignore the needs and wishes of the Tatars, and by their actions want to crush the will of members of the Community".

Since 2012 the Din-Muhammad Mosque community has been struggling against strong state pressure on its Imam and members to gain state registration. On 4 February 2014, three officials of a Liquidation Commission appointed by a court to dissolve the community arrived at the Mosque to prepare an inventory of all its possessions. "The mosque is to be handed over to another religious organisation", Marat Zhamaliyev, deputy head of the regional Finance Department, told Forum 18. He refused to say which religious community the mosque will be given to. Told by Forum 18 that the mosque community still exists, regularly holds the namaz (prayers) in the mosque and intends to continue to exist, Zhamaliyev responded: "We're not liquidating the mosque, we're liquidating the community". He insisted that the juridical community had been liquidated by a court and therefore did not exist.

"We do not want to stir up Tatars and Bashkirs"

A Muslim, who wished to remain anonymous for fear of state reprisals, told Forum 18 on 15 July that an official of the Religious Affairs Department some time ago told them that the reason the authorities have not stopped the Community using the Mosque building is that: "We do not want to stir up the Tatars and Bashkirs". The Muslim did not wish to name the official, fearing reprisals. "But we all know that sooner or later we will be forced out of the building", they said.

Illegal state demands, heavy pressure

Kazakhstan demands that groups of people can exist as a religious community and exercise freedom of religion or belief only if they have state permission. This is gained via a complex and restrictive state registration system, including examinations of a community's beliefs that are illegal under Kazakhstan's international human rights obligations.

The ban on exercising human rights without state permission violates international law, as is outlined in the Organisation for Security and Co-operation in Europe (OSCE)/Venice Commission Guidelines on the Legal Personality of Religious or Belief Communities. Kazakhstan is both an OSCE participating State and a Venice Commission member state.

No independent mosques or Shia Muslim communities have been given state permission to exist. Neither have any Ahmadi Muslim communities, all of which have been forcibly closed by the state. The state also subjects Muslim communities to special language restrictions which do not apply to other faiths – officials demand that they use Kazakh rather than the language of their choice (Russian, Tatar, Chechen, Azeri) for sermons. Unlike communities of other faiths (Russian Orthodox, Armenian Apostolic, Jewish) they cannot have an ethnic affiliation in their name. The Din-Muhammad Mosque's efforts to negotiate an exception were rejected.

Will the Din-Muhammad Mosque community be registered?

Baurzhan Bakirov, Head of the section overseeing work with mosques of the Culture and Sports Ministry's Religious Affairs Committee in the capital Astana, on 16 July claimed to Forum 18 that the Committee is waiting for Ramadan to be over, and "then we will register them." Asked how this is possible when the authorities rejected the Mosque's latest application, and under what conditions they will be registered, he stated that the Mosque must be controlled by the state-backed Muslim Board. "We will have the Muslim Board and the Community come together and sign an exclusive agreement that the community will be under the auspices of the Board, and that the Board will not interfere in how the Community uses their building and they will be able to elect their Imams."

Community Chair Akhmedjanov told Forum 18 that "this is not possible as the Charter of the Muslim Board clearly states that the buildings of mosques under its auspices are its property". He noted that "we want our property back and the restoration of our property rights. They are not willing to do this".

Death of Imam Ryazapov

The Din-Muhammad Mosque's Imam Rafael Ryazapov died of a heart attack on 7 June, after the authorities' 28 April rejection of the Mosque community's latest registration application. Several Community members, who wished to remain anonymous for fear of state reprisals, told Forum 18 that they thought Imam Ryazapov suffered a heart attack because he was under constant pressure from the authorities. One person stated that "Imam Rafael was a good man, struggled for years to receive registration without success, and was under tremendous pressure from the authorities. He could not bear it any longer and suffered a heart attack."

Imam Ryazapov has indeed faced heavy state pressure. For example, on the night of 20 December 2012 the ARA (Agency for Religious Affairs, now replaced by the Religious Affairs Committee) telephoned the Imam and some elderly members of the community demanded they attend an 09.00 meeting with the Head of North Kazakhstan Region's administration, Serik Bilyalov. He threatened them that if they did not join the Muslim Board the community would be liquidated and the mosque would be taken over by the local authorities who would use it for some public non-religious purpose. A central ARA official claimed to Forum 18 that "there is no pressure on the mosques".

Imam Ryazapov himself on 15 December 2014 told Forum 18 that "we live under constant fear that any time we will be thrown out of the Mosque since, according to court documents, it no longer belongs to us".

Asked whether she thought state pressure on Imam Ryazapov and the Community hastened his death, Akkuzhina of the Religious Affairs Department responded: "Of course it's a big loss for the city, but I can't say the reason [for his death]".

Electricity cut off on first day of Ramadan

Community Chair Akhmedjanov stated that on 18 June, the first day of Ramadan (and 11 days after Imam Ryazapov's death), Mosque community members could not meet to pray the Taraweeh prayer service as Petropavl Energy Department officials cut off the electricity supply. "We asked the Department in writing to restore electricity to the Mosque, and they did this the next day", he stated.

However, the Energy Department described the restoration of power as "temporary until 1 August". The Energy Department told the Community that they should get their documents in order before then. Akhmedjanov explained to the Energy Department that they cannot do this as their most recent registration application was rejected.

Zinaida Gorodnichyeva of the Division of the Energy Department responsible for agreements, whose officials cut off the Mosque's electricity, stated that the Community "should before 1 August explain in writing that they are in the process of gaining registration". "Maybe," she told Forum 18 on 17 July, "our Division will temporarily provide them with energy after 1 August". She would not state how long "temporarily" meant and then refused to talk to Forum 18, stating that further discussion must be between the Community and her Division.

In late 2013 the Din-Muhammed Mosque also suffered from a brief cut off of its electricity supply.

Turkish academics deported from Sufi-named university for Sufi activity

Three Turkish academics working at the Ahmet Yesevi University in Turkestan in South Kazakhstan Region - Turgay Dincay, Ilyas Ordueri, and Recep Cengiz – were on 9 June fined and later deported from Kazakhstan, according to the court decisions seen by Forum 18. All three were accused of illegally teaching their students the "unregistered in Kazakhstan Naqshbandi Muslim religious movement's teachings", as well as being involved in "illegal missionary activity" from November 2014 until February 2015. The authorities also confiscated religious books and DVD disks from the three which had not been censored by the state.

Judge Svetlana Imankulova of Turkestan City Court fined all three the maximum penalty of 100 Monthly Financial Indicators (MFI), or 198,200 Kazakh Tenge (about 8,630 Norwegian Kroner, 970 Euros, or 1,050 US Dollars) with deportation under the Code of Administrative Offences' Article 490 ("Violation of the Religion Law") Part 3. This part bans: "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".

"They were fined because they taught religion privately in their rented flats in Turkestan without prior state permission", Saltanat Kulzhesarova of Turkestan City Court's Chancellery told Forum 18 on 7 July. She added that "they taught the teachings of Naqshbandi which is not accepted as the official version of Islam in Kazakhstan".

The Naqshbandi movement is a prominent part of the Sufi mystical tradition within Islam. The state-backed Muslim Board insists that only the Sunni Hanafi school of Islam is allowed. But the Naqshbandi movement and the Hanafi school are not seen by many Muslims within either to be mutually incompatible.

Ironically, Ahmet Yesevi University is named after the 12th century Sufi poet of that name from what is now Kazakhstan. The University is a joint venture of the governments of Turkey and Kazakhstan.

Judge Nurmakhan Zhumatayev of the Regional Court on 30 June rejected Ordueri's appeal and his deportation order entered into force on 30 June. The deportation order for Dincay and Cengiz entered into force on 19 June as they did not appeal within the 10 days allowed for an appeal.

In January 2013 Kazakh members of a Naqshbandi movement – which the authorities stated they had closed down – were fined under Administrative Code Article 375, Part 3 for "illegal missionary activity" in a private home.

Another Turkish academic at Ahmet Yesevi University, who wished to remain unnamed for fear of state reprisals, told Forum 18 that the punishments did not affect the other Turkish teachers or employees. They did not wish to discuss the cases.

Muslim prisoner of conscience in "awful" conditions

Muslim prisoner of conscience Saken Tulbayev was on 2 July sentenced to four years eight months jail in a labour camp and banned from exercising freedom of religion or belief from his scheduled December 2019 release until December 2022, despite his family and others insisting that evidence was planted by police and false witnesses produced.

Ayman Umarova, Tulbayev's lawyer, told Forum 18 on 16 July that the prison where Tulbayev is kept "is awful". She added that "I cannot imagine what the conditions in the incarceration room are".

Umarova met Tulbayev on 13 July to discuss the appeal, and it was filed on 14 July.

Case against former Baptist prisoner of conscience not yet closed

A criminal case against Council of Churches Baptist Nikolai Novikov is not yet closed. He had refused to pay a 2013 fine for offering uncensored religious literature on the streets. He has also refused to pay other fines he was given for exercising his freedom of religion or belief, as they are unjust. But the police told Novikov that after appeals from what they described as "half the world" the case – which violated legal procedures – was being closed.

Novikov told Forum 18 on 16 July that Police Captain Aydin Ispolov in early July told him that the police have reported to the Prosecutor's Office that it has closed the case without an indictment. But the case will be considered finally closed only after the Prosecutor signs the report. Captain Ispolov told Novikov that he thinks that the Prosecutor will sign, but that it will take some time because of procedures. He asked Novikov to call him in August. Like dozens of Council of Churches Baptists with unpaid fines, Novikov remains on the Justice Ministry's list of those banned from leaving Kazakhstan.

Muslim prisoner of conscience given nearly 5 years' jail and ban until end 2022 on exercising freedom of religion or belief

Forum 18 (08.07.2015) - A human rights defender who attended the trial and family members have condemned the imprisonment of Sunni Muslim Saken Tulbayev, accusing prosecutors of planting evidence and using false witnesses, Forum 18 News Service notes. The 46-year-old Tulbayev – who has been in prison since 1 April – received a four year eight month prison sentence in Kazakhstan's commercial capital Almaty at the end of his long-running trial on 2 July.

Judge Arai Nugumanova also banned prisoner of conscience Tulbayev from exercising his freedom of religion or belief until December 2022, three years after his release.

Prayer technically banned?

Between his scheduled release from prison in December 2019 and December 2022, prisoner of conscience Tulbayev is now banned from the unclearly phrased "activity directed at meeting the religious needs of believers". This would appear, a Kazakh legal expert told Forum 18, to include praying alone or with others, reading the Koran or other religious literature, attending a mosque, or going on pilgrimages.

Article 50 of the new Criminal Code allows a ban on sentenced individuals conducting specific state, professional "or other activity" for between one and 10 years as part of a sentence. It remains unclear what specific exercise of freedom of religion or belief Judge Nugumanova has banned Tulbayev from conducting after he completes his prison sentence.

One Kazakh legal expert told Forum 18 that under Kazakh law a court can technically even ban someone from praying – even though this breaks international human rights law. Exercising freedom of religion or belief is defined in Article 1 of the 2011 Religion Law as "activity directed at meeting the religious needs of believers", the legal expert noted. The Religion Law also contains other wide-ranging restrictions on freedom of religion or belief (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939). "If they regard prayer as 'meeting religious needs', then they could ban it, strictly speaking."

Yevgeni Zhovtis of the Kazakhstan International Bureau for Human Rights and the Rule of Law condemned the three-year ban on Tulbayev's freedom of religion or belief as "another total stupidity and total absurdity". He noted that although Kazakh law allows such a ban – in defiance of the country's international human rights obligations – "it will be interesting how they will prohibit him from going to mosque and so on" he observed to Forum 18 on 8 July.

Too busy to explain freedom of religion or belief ban

Judge Nugumanova's assistant – who would not give her name – said the Judge would not be able to comment on her verdict. Asked whether the three-year ban until December 2022 the Judge imposed will prevent Tulbayev from praying or reading the Koran, or what other manifestations of freedom of religion or belief are banned, she said the Judge was too busy to be able to give explanations.

"Absolutely fabricated"

One of prisoner of conscience Tulbayev's family friends, Askar Sattarov, insisted that the case was "absolutely fabricated". "Those who organised this spectacle committed fundamental mistakes," he told local KTK television immediately after the verdict was announced. "They have no understanding in questions of religion. For them, any person who engages in freedom of religion or belief is an extremist."

No funds for appeal

Judge Nugumanova had not yet completed the written verdict as of late on 7 July, her assistant told Forum 18 from Almaty's Bostandyk Court No. 2 at the end of the working day on 7 July. She said the 15-day period for lodging an appeal to Almaty City Court begins when Tulbayev's lawyer receives the written verdict.

Tulbayev's family told Forum 18 they have no money to fund a lawyer to appeal against the verdict. "The lawyer Zhandos Bulkhair worked for free, taking only small amounts for expenses," Feruza Tulbayeva, Tulbayev's sister, told Forum 18 on 7 July. "He defended Saken well and we're very grateful to him, but he can't carry on working for no money."

Transfer to distant labour camp?

Tulbayev's family fear that if any appeal fails and the sentence comes into legal force, Tulbayev could be transferred to serve his sentence in a labour camp far from Almaty. "At the moment the prison is only 40 minutes away by bus, but if he's transferred for example to North Kazakhstan Region, he would be so far from us," Tulbayeva told Forum 18.

No family visits, beard shaved, no Koran – and no prayer mat?

Tulbayev's family have been allowed no private meetings with him since his 1 April arrest. The only time they could see him and talk very briefly with him was at court hearings. They have been able with great difficulty to hand in parcels for him at the prison with food, glasses and clothes (see F18News 10 June 2015 http://www.forum18.org/archive.php?article_id=2072). It is unknown whether he has received all these parcels.

Following his transfer to the prison Tulbayev's relatives were twice refused permission to hand over a copy of the Koran for him and prison authorities have defended this denial to Forum 18. Also, his beard has been forcibly shaved and clothes changed (see F18News 10 June 2015 http://www.forum18.org/archive.php?article_id=2072). Tulbayev also asked for a prayer mat. Family members told Forum 18 he remains without a Koran, but it remains unclear if he is now allowed a prayer mat or not.

Police "extremist" register

The 16 April indictment in Tulbayev's case – seen by Forum 18 - reveals that even before the criminal case was launched, he "is on the register of the Department for the Struggle with Extremism of Almaty City Police as an active member of the religious extremist organisation Tabligh Jamaat".

Tabligh Jamaat, a Muslim missionary movement, was banned as "extremist" in Kazakhstan by a court in the capital Astana in February 2013 (see F18News 12 December 2014 http://www.forum18.org/archive.php?article_id=2023).

Trials of people alleged to be part of Tabligh Jamaat have been surrounded in secrecy. Such trials in South Kazakhstan Region ended in December 2014 with a three-year prison sentence being imposed, and in Taldykorgan [Taldyqorgha] in Almaty Region five prison terms of between 18 and 20 months were imposed (see F18News 14 January 2015 http://www.forum18.org/archive.php?article_id=2027).

Forum 18 has been unable to find out what being "on the register" of the Department for the Struggle with Extremism means, or how many people are subject to such police scrutiny. The man who answered the phone there on 7 July claimed to Forum 18 it was a wrong number, but refused to say which Department Forum 18 had reached or give any other number for the Department for the Struggle with Extremism.

Secret state surveillance

Zhovtis of the Kazakhstan International Bureau for Human Rights and the Rule of Law

notes that the police Department for the Struggle with Extremism compiles a list of individuals who according to its information are members or active participants in any organisation on the list of banned organisations (extremist, terrorist and radical). "The police then undertake secret surveillance of these people," he told Forum 18.

All religious or belief communities are thought to be under surveillance by the ordinary police and National Security Committee (KNB) secret police (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939). Forum 18 knows of several prominent leaders of registered Protestant churches who have discovered over the past 10 years that the police and KNB secret police have placed them on a "signal register" (signalny uchet in Russian). In cases known to Forum 18 this then prevents them from changing their officially-registered place of residence, selling a legally-owned car, or gaining state child benefit for newly-born children (see eg. F18News 6 May 2011 http://www.forum18.org/archive.php?article_id=1568). Individuals under state surveillance are also subject to close scrutiny and questioning when leaving Kazakhstan.

KNB secret police surveillance can also lead to state attempts to discredit or blackmail people.

First fined, then criminal case opened

Tulbayev, a devout Muslim, was fined in absentia on 30 December 2014 for preaching to passengers at a railway station in Oskemen and did not pay the fine. Such missionary activity without state permission is illegal, in defiance of Kazakhstan's international human rights obligations. On 10 February 2015 – unknown to Tulbayev – the criminal case against him was opened (see F18News 10 June 2015 http://www.forum18.org/archive.php?article_id=2072). Prosecutors alleged that he had given a book and two copies of an 11-page leaflet to two young men outside an Almaty mosque after Friday prayers on 6 February. The young men are claimed to have "voluntarily" handed in the literature and were questioned by police on 10 February, according to the 16 April indictment.

"Expert analysis"

On 10 February Captain Dias Shortanbayev, Deputy Head of the Investigation Department of Almaty Police, commissioned an "expert analysis" of the book and the 11-page leaflet from Almaty's Institute of Judicial Expertise. After 10 hours of analysis, "experts" Kadyrkul Yesilbayeva and Dinara Musina presented their conclusion (seen by Forum 18) to Shortanbayev the following day.

The "experts" concluded that the mostly Russian-language book – "Fazail Amali" by Muhammad Yusuf Kandhlawi, published in Russia in 2007 – did not incite religious hatred or call for the overthrow of the constitutional order. They found that the leaflet (in both Kazakh and Russian) did incite religious hatred, though it did not call for the overthrow of the constitutional order. They concluded that both the book and the leaflet contained ideas from the banned Tabligh Jamaat movement. Testimony at the trial from an official of the state-backed Muslim Board contradicted this claim (see below).

Raid

At about 10.30 pm on the evening of 11 February, police raided the four-room flat in Almaty's Bostandyk District which Tulbayev shares with his 82-year-old mother, his wife Rumina Fakhrudinova, two of his three children, his sister Feruza Tulbayeva and her child. During their three-hour search, officers confiscated notes and booklets. On leaving the flat, they also claim to have found 43 copies of a leaflet which Tulbayeva insisted to Forum 18 had been planted (see F18News 10 June

2015 http://www.forum18.org/archive.php?article_id=2072). The raid was filmed by the police, but the recording shown in court has breaks in it – attributed by the police to battery problems (see below).

On 12 February Captain Shortanbayev sent the further texts they confiscated or claimed to have confiscated from Tulbayev for "expert analysis". The 13 March analysis from the same Institute of Judicial Expertise, which took 20 hours to compile, was conducted by the same Musina and another "expert", Bibigul Zhumasheva.

The analysis concluded that two of the texts (a Russian-language brochure "The Bloody Legacy of Wahhabism" and an 11-page leaflet calling for the creation of a caliphate) contained incitement to religious hatred. None of them contained calls for the overthrow of the constitutional order.

Tulbayev's family insisted to Forum 18 that "The Bloody Legacy of Wahhabism" is widely available in mosques and Tulbayev must have picked up a copy there. They insist the 11-page leaflet was planted by police.

No comment

Captain Shortanbayev declined absolutely to discuss the case he prepared against Tulbayev on every occasion Forum 18 called him, including on 7 July.

Musina declined to comment on her "expert analyses" or her subsequent testimony during the trial. "We don't have the right to give such commentary," she told Forum 18 from Almaty on 7 July. But she insisted that "we are independent experts who take no side in a case".

Asked about the lawyer and family's insistence that the 11-page leaflet for which prisoner of conscience Tulbayev was prosecuted was a Wahhabi, not a Tabligh Jamaat text, she stood by what she had written in her analysis. Testimony at the trial from an official of the state-backed Muslim Board contradicted her claim (see below). She insisted that she had no knowledge of the provenance of the texts. "We analyse what we are presented with."

Charges

On 1 April Tulbayev was arrested and held at the local police station. After a court ordered he be held in pre-trial detention, he was transferred to Almaty's Investigation Prison, where he has been held ever since. Prisoner of conscience Tulbayev was charged under Criminal Code Article 174, Part 1 and Criminal Code Article 405, Part 2. Like most of the new Criminal Code, Articles 174 and 405 came into force on 1 January 2015 (see F18News 9 July 2014 http://www.forum18.org/archive.php?article_id=1976).

Article 174, Part 1 punishes "incitement of social, national, clan, racial, or religious hatred or antagonism" with imprisonment of two to seven years. This replaced the old Criminal Code's Article 164 under which both retired Presbyterian Pastor Bakhytzhan Kashkumbayev and atheist writer Aleksandr Kharlamov have been investigated (see F18News).

Article 405, Part 2 punishes "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" with a fine or up to two years' imprisonment.

The case was prepared in Kazakh, a language Tulbayev's family insist he does not speak

well. It was finally completed and handed over to Almaty's Bostandyk District Court No. 2 on 6 May.

Trial

The trial began at Bostandyk District Court No. 2 in Kazakh with an initial hearing on 22 May, with a further hearing on 27 May. It was only from the 28 May hearing that the language of the hearings was changed to Russian at Tulbayev's lawyer's request. The prosecution was then ordered to translate all the case materials into Russian.

Prisoner of conscience Tulbayev was brought to and taken from each hearing in handcuffs, and even remained handcuffed during some hearings.

The state-sponsored "experts", Musina and Zhumasheva, had difficulty answering defence lawyer Bulkhayr's questions in court, but insisted the 11-page leaflet was a Tabligh Jamaat text. Judge Nugumanova eventually acceded to the lawyer's request to allow a Muslim theologian to be questioned. Alai Adilbayev, a member of the state-backed Muslim Board's Council of Scholars, told the court that the leaflet was not from Tabligh Jamaat but was of Salafi Muslim content.

Like Tabligh Jamaat, Salafism is banned in Kazakhstan (see F18News 29 November 2011 http://www.forum18.org/archive.php?article_id=1640). Publications from this school of Islamic thought are banned and those who possess them prosecuted (see F18News 17 April 2015 http://www.forum18.org/archive.php?article_id=2056).

Tulbayev insisted that the 11-page leaflet contradicted his religious views and had been planted by police. The video recording of the search, which has frequent breaks and was shown in court, depicts a systematic search of the Tulbayev family flat. But suddenly at the end Captain Shortanbayev allegedly remembered they at he had forgotten to search the entrance hall, Kazis Toguzbayev of Radio Free Europe noted on 2 July. When Shortanbayev returned to the hall, he "found" the 11-page leaflet. He also "found" 43 copies of a leaflet in Kazakh, which Tulbayev cannot read (see F18News 10 June 2015 http://www.forum18.org/archive.php?article_id=2072).

Questioned in court, investigator Captain Shortanbayev explained the frequent breaks in the video recording as due to battery problems.

Testifying on Tulbayev's behalf was Muhammad Khusein-haji Alsabekov, a Chechen imam who heads the Sharia and Fatwa Department of the Muslim Board and a long-time friend. The Muslim Board is the only public expression of Islam allowed in Kazakhstan and controls all of the community, only permitting Sunni Hanafi Islam (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

At the final presentation of the case on 29 June, prosecutor Askhat Esenov demanded a five-year prison sentence. Tulbayev denied inciting religious hatred and said that as Tabligh Jamaat is not a formal organisation he cannot be a member of it.

At the 11th and final hearing on 2 July, Judge Nugumanova found prisoner of conscience Tulbayev guilty on both charges and sentenced him to four years and eight months' imprisonment in an ordinary regime labour camp. She also banned him from exercising freedom of religion or belief for three years after his release from jail.

Observing almost all the hearings in the trial for the Kazakhstan International Bureau for Human Rights and the Rule of Law was the lawyer Gulmira Kuatbekova.

Throughout the case, and again on 7 July, colleagues at Bostandyk District Prosecutor's Office claimed to Forum 18 that prosecutor Esenov was out of the office.

Prisoner of conscience Tulbayev "not guilty"

"Saken is not guilty – the case was fabricated," human rights defender Bakhytzhan Toregozhina of Ar.Rukh.Khak – who attended three hearings of the trial – told Forum 18 from Almaty on 6 July. She noted that although Tabligh Jamaat was banned in Kazakhstan in 2013, "it is understood that believers can't stop believing".

Toregozhina said it was not proved in court that Tulbayev had spread Tabligh Jamaat ideas. "The leaflets he had allegedly distributed were not from Tabligh Jamaat but purely Wahhabi, with whom Tabligh Jamaat adherents do not agree," she told Forum 18. "Unfortunately, this is not the first time here that leaflets have been planted on religious believers. Saken is very cautious, and what he says can be trusted. He is not guilty."

Toregozhina said a case should be lodged to the United Nations Human Rights Committee under Article 18 ("Freedom of thought, conscience and religion") and Article 26 ("Equality before the law") of the International Covenant on Civil and Political Rights. "There is also reason to complain under Article 14 ('Right to a fair trial')". She said that before such a complaint, all legal defence mechanisms within the country must be gone through.

Muslim preacher the latest prisoner of conscience

Forum 18 (10.06.2015) - Kazakhstan's trial of a Muslim prisoner of conscience who exercised his freedom of religion or belief without state permission, Saken Tulbayev, is due to resume sometime after 12 June at a court in the commercial capital Almaty, Forum 18 News Service has learned. He has been a prisoner of conscience in detention since 1 April and his trial began in mid-May, seven weeks after his arrest. He denies the state's charges of inciting religious hatred and participating in a banned "extremist" organisation, the Muslim missionary Tabligh Jamaat movement. Tulbayev faces up to seven years' imprisonment if convicted.

"They want to finish the trial quickly," his sister Feruza Tulbayeva insisted to Forum 18. "We believe this case has been fabricated as my brother is not involved in anything and presents no harm to anyone."

"The case is connected to Saken Tulbayev's religious activity," Gulmira Kuatbekova, a lawyer who is observing the trial for the Kazakhstan International Bureau for Human Rights and the Rule of Law, told Forum 18 from Almaty on 27 May. She described the conducting of the investigation and start of the trial in Kazakh – a language Tulbayev does not understand well – as a violation of his rights.

UN Special Rapporteur on the rights to Freedom of Peaceful Assembly and of Association Maina Kiai has noted "a general unwillingness to properly protect human rights in the country, and of a sense of impunity by some officials". He also noted state intimidation of those he met.

Fined for Islamic preaching

Tulbayev, who will mark his 46th birthday on 16 June, has prayed the namaz (Muslim prayers) regularly for 20 years with no problem, his sister told Forum 18. "He goes to many mosques and speaks of himself as a "real Muslim". He is well known in Islamic

circles and more widely around town." She said he is recognisable by his long beard and south Asian clothes.

Tulbayeva noted that her brother tries to travel to Pakistan for religious reasons for four months each year when he has money. He supports himself and his family by undertaking irregular work.

The authorities have already handed Tulbayev's case to court bailiffs for failing to pay a fine handed down in absentia in Oskemen in East Kazakhstan Region on 30 December 2014, to punish him for "missionary activity" without state permission 10 weeks earlier. But he has not been placed on the Justice Ministry's exit blacklist barring him from leaving the country, unlike many others who have refused to pay fines imposed on them for exercising their right to freedom of religion or belief. These are for such "offences" as meeting for worship without state permission, or sharing religious literature which has not been censored by the state (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

At least 14 Baptists and Muslims are known to have in 2014 become short-term prisoners of conscience for refusing to pay fines for the "offence" of exercising their freedom of religion or belief without state permission.

Tulbayev was punished for preaching to passengers at a railway station in Oskemen. Judge Edil Kuderbayev of Oskemen Specialised Administrative Court found Tulbayev guilty under the then Code of Administrative Offences' Article 375, Part 3, according to the decision seen by Forum 18. The court decision notes that although Tulbayev was informed of the trial he did not appear and gave no reason for his absence. The Judge fined him 100 Monthly Financial Indicators, 185,200 Tenge (then about 7,320 Norwegian Kroner, 820 Euros, or 1,020 US Dollars). Tulbayev did not appeal against the decision.

The then Article 375, Part 3 punished "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".

Article 375, Part 3 has been incorporated into Article 490, Part 3 of the new Administrative Code, which added the new "offence" of "spreading the teachings of a religious group which is not registered in Kazakhstan" (which would technically embrace foreign religious officials at today's government-run "Congress of Leaders of World and Traditional Religions"). Article 490 and other parts of the new Administrative Code – which with the new Criminal Code have been strongly condemned by local human rights defenders – mainly came into force on 1 January 2015 (see F18News 21 July 2014 http://www.forum18.org/archive.php?article_id=1979).

Criminal case

A criminal case was opened against Tulbayev on 10 February, an unidentified security official told local agency Tengrinews on 28 May. He was charged under Criminal Code Article 174, Part 1 and Criminal Code Article 405, Part 2.

Article 174, Part 1 punishes "incitement of social, national, clan, racial, or religious hatred or antagonism" with imprisonment of two to seven years. This replaced the old Criminal Code's Article 164 under which both retired Presbyterian Pastor Bakhytzhan Kashkumbayev and atheist writer Aleksandr Kharlamov have been investigated (see below). Like most of the new Criminal Code, Article 490 came into force on 1 January 2015 (see F18News 9 July 2014 http://www.forum18.org/archive.php?article_id=1976).

Article 405, Part 2 punishes "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" with a fine or up to two years' imprisonment.

Long jail terms, the shortest being 18 months, have been imposed on prisoners of conscience alleged like Tulbayev to be part of the banned Muslim missionary movement Tabligh Jamaat who exercise their freedom of religion or belief (see eg. F18News 14 January 2015 http://www.forum18.org/archive.php?article_id=2027).

The investigator on Tulbayev's case, Captain Dias Shortanbayev of Almaty City Police, refused to discuss anything with Forum 18. "I won't talk to you by phone," he kept repeating on 9 June, before putting the phone down.

Raid on family, planted evidence

At about 10.30 pm on 11 February, eight police officers raided the four-room flat in Almaty's Bostandyk District which he shares with his 82-year-old mother, his wife Rumina Fakhrudinova, two of his three children, his sister and her child. "They were looking for proof that my brother was a member of an illegal group," Tulbayeva told Forum 18.

"They found one 10-page brochure which he had picked up in a local mosque. Then as they were leaving, they claimed to have found 43 copies of a leaflet in Kazakh on top of the coat rack in the corridor – I was present in the flat and the leaflets were not there before. I would have seen them immediately had they been there."

The officers claimed to Tulbayev that he had been giving out leaflets outside a mosque at Friday prayers on 6 February. "He stated he didn't," Tulbayeva added.

The police – who filmed their three-hour search – finally left at about 1.30 am on the morning of 12 February, Tulbayeva said.

Accusations based on planted evidence

The two texts the police claimed to have found in the family's home formed the basis of the state accusations. "The first was printed on poor-quality paper, which anyone could find and read. The second, the leaflets, were in Kazakh which my brother can barely read. He couldn't have written them or even translated them."

Tulbayeva told Forum 18 that she had told the officers on film that the leaflets had been planted, and also wrote this on the record of the search that they were obliged to sign. She repeated this when police summoned her for interrogation on 21 March.

However, the police investigator sent the two texts for an "expert analysis". This concluded that they contained elements of "extremism", Tulbayev's lawyer told Kazis Toguzbayev of Radio Free Europe.

During one interrogation of Tulbayev, officers confronted him with several people who claimed to have received the leaflets from him. "This was the first time my brother had ever seen these people," Tulbayeva told Forum 18.

All the documents in the case were prepared in Kazakh, a language Tulbayev can barely understand. "We were brought up in a Russian-speaking family and, although he knows Urdu, English and Arabic in addition to Russian, his Kazakh is poor," Tulbayeva noted.

Prisoner of conscience arrested, denied family visits and Koran, beard forcibly shaved

On 1 April police summoned Tulbayev for what he thought would be a further interrogation. However, they arrested him and transferred him to Almaty's Investigation Prison, where he has been held ever since. Three days after his arrest, they took him to Bostandyk District Court No. 2, where Judge Shinar Yergaliyeva ordered he be held in pre-trial detention. Almaty City Court rejected his appeal against the detention on 15 April.

While prisoner of conscience Tulbayev is held in pre-trial detention, in line with normal procedure, Investigator Shortanbayev's permission is needed for family members to be allowed to visit him or pass on parcels. But he refused to allow any family visits and, Tulbayeva complained, "put all kinds of obstacles in the way of passing on warm clothing". Tulbayev's wife twice went to the police and waited for hours before getting a signature on the form to hand in a parcel. The family also wanted to hand in a copy of the Koran for him, but this was refused.

One of the prison's Deputy Directors, who refused to give his name, defended the denial of the Koran to prisoner of conscience Tulbayev. "The Religion Department of the Akimat [local administration] needs to give permission," he insisted to Forum 18 from the prison on 10 June. "If he gets that permission then it's not a problem."

The Deputy Director denied that this constituted censorship. "Even if it says Koran or Bible on the cover, maybe something else is written there," he claimed. "We don't have theologians here who can check." Strict censorship of religious literature, including severe limitations on where texts may be distributed, is imposed by the state (see Forum 18's [Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939](http://www.forum18.org/archive.php?article_id=1939)).

Since his 1 April detention, Tulbayev has been required to wear secular clothes rather than the South Asian clothes he favoured. Officials also forcibly shaved his long beard, Tulbayeva told Forum 18.

Inspector Shortanbayev initially investigated Tulbayev under Criminal Code Article 174, Part 1. He later added accusations under Article 405, Part 2. The case was finally completed and handed over to Almaty's Bostandyk District Court No. 2 on 6 May.

Trial

Tulbayev's trial began under Judge Arai Nugmanova with an initial hearing on 22 May, with Kazakh designated as the language of proceedings, although she appears to have known he does not speak it well.

Other trials of people alleged to be part of Tabligh Jamaat have been surrounded in secrecy. Such trials in South Kazakhstan Region ended in December 2014 with a three-year prison sentence being imposed, and in Taldykorgan [Taldyqorghhan] in Almaty Region five prison terms of between 18 and 20 months were imposed (see F18News 14 January 2015 http://www.forum18.org/archive.php?article_id=2027).

In contrast, access to hearings in Tulbayev's trial was open. Unlike many other court rooms, this courtroom does not have a cage, so Tulbayev did not have to sit behind bars to participate in the trial. He was brought to court in handcuffs, which were only opened in the courtroom, Toguzbayev of Radio Free Europe told Forum 18.

At the first hearing of the trial proper on 27 May, Tulbayev's lawyer Zhandos Bulkhair lodged a suit to have the case sent back to prosecutors, as it had been conducted in Kazakh, which Tulbayev does not understand well, and to require the two texts (one of which Tulbayev denies having) to be analysed by an expert in theology. Bostandyk District Prosecutor's Office official Askhat Esenov called for this suit to be rejected, trial observer Kuatbekova told Forum 18. Tulbayev lodged a suit for the trial to be heard in Russian and to have all the case materials translated into Russian.

At the end of the 27 May court hearing, Tulbayev's wife was allowed to give him perfume for use in ritual purification before prayers, Tulbayeva told Forum 18.

When the trial resumed on the morning of 28 May, Judge Nugmanova the only one of Bulkhair's request that was accepted was that the trial continue in Russian and that the case materials be translated into Russian. Prosecutor's Office officials promised to hand translations to the defence by 8 June.

Tulbayev's lawyer Bulkhair told Toguzbayev of Radio Free Europe after the hearing that he was dissatisfied that the Judge had refused to send the case back to Bostandyk District Prosecutor's Office. Bulkhair pointed to many legal violations in the way the Prosecutor's Office had prepared the case.

Next stage in trial

Tulbayev and his lawyer Bulkhair received the translated case materials in early June. Judge Nugmanova has called a further meeting of the parties to the case on the morning of 12 June.

Despite repeated calls to Bostandyk District Prosecutor's Office between 27 May and 10 June, officials told Forum 18 each time that Esenov was out of the office.

New police target

Although Tulbayev's criminal trial is already underway, prosecutors appear to be targeting at least one other individual known to him for possible prosecution. Police have summoned Abdulaziz (last name unknown), apparently as a suspect, one source close to the case told Forum 18.

"This is really sad," the source told Forum 18. "He's a good man, has many children and little money. He's the only person who made a real effort to try to defend Saken."

"The appeals from around the world have had their effect"

The criminal case being prepared against Council of Churches Baptist Nikolai Novikov appears to be about to be closed. "The appeals from around the world have had their effect," he told Forum 18 from Oral (Uralsk) in West Kazakhstan Region on 10 June. "They told me there were so many appeals it seemed that half the world had written."

The case was opened under Criminal Code Article 430, Part 1. This punishes failure to fulfil a court decision over a period of more than six months with imprisonment or restricted rights for up to three years. Novikov had refused to pay a 2013 fine for offering uncensored religious literature on the streets. He has also refused to pay other fines he was given for exercising his freedom of religion or belief, as they are unjust (see F18News http://www.forum18.org/archive.php?article_id=2056).

Police Investigator Captain Aydin Ispolov visited Novikov on 9 June to take back the

documentation on the case, Novikov told Forum 18. The Investigator said that the case was being closed and he would be informed of this in writing.

Oral Prosecutor's Office refused to discuss the case against Novikov with Forum 18 on 10 June.

Atheist's case drifts - but pastor's case closed?

Meanwhile, prosecutors have still not closed or presented to court the criminal case opened against atheist writer and campaigner Aleksandr Kharlamov in January 2013 (see F18News 18 April 2013 http://www.forum18.org/archive.php?article_id=1826). "There's no movement in the case – it's just drifting," he told Forum 18 from his home in Ridder in East Kazakhstan Region on 10 June. "They're following a policy not to convict me and not to close the case."

Kharlamov said the town Prosecutor's Office and the Regional Prosecutor's Office both denied that they are continuing the case against him, referring him to the General Prosecutor's Office.

Criminal cases are required to be completed within a certain deadline or be closed. However, cases can be suspended and then the period of suspension does not count towards the deadline on completing the case.

Yet while the criminal case drifts with no resolution, Kharlamov remains under restrictions. He must live at home in Ridder and not leave the town without written permission from the state. When he went to Almaty in early 2015 to take part in a conference organised by the Kazakhstan International Bureau for Human Rights and the Rule of Law, he had to go to the police investigation department to get written permission, he told Forum 18.

By contrast, the second criminal case against Astana-based retired Presbyterian Pastor Bakhytzhan Kashkumbayev appears to have halted. It may have been closed because the deadline for completing such cases has expired, a source close to the case told Forum 18 on 10 June.

Inconvenient pastor and atheist?

The long-running investigations of Pastor Kashkumbayev and atheist writer Kharlamov – both in their sixties – were launched apparently to punish them for exercising the right to freedom of religion or belief.

Kashkumbayev and his Grace Church in Astana were under investigation from July 2011 (see F18News 19 October 2012 http://www.forum18.org/archive.php?article_id=1756) and Kharlamov since January 2013, when the criminal case was launched against him (see F18News 18 April 2013 http://www.forum18.org/archive.php?article_id=1826).

Kashkumbayev was convicted in October 2013 in the first criminal case for allegedly harming a church member's health – which allegation the member in question strongly denies, telling Forum 18 that Kashkumbayev is "totally innocent and has not harmed my health at all". The second case – which now appears to have been closed – was separated from the first during the trial, and he faced possible further punishment for allegedly harming another church member's health (see F18News 9 July 2014 http://www.forum18.org/archive.php?article_id=1976).

Kharlamov faces possible punishment for articles he wrote in defence of atheism. They both strongly deny committing any offence and the proceedings against them were

marked by a lack of due legal process and malpractice by the authorities (see eg. F18News 22 January 2014 http://www.forum18.org/archive.php?article_id=1918).

Both were detained in a psychiatric hospital for no medical reason, Kharlamov being told by a doctor that this was "because you are an inconvenient person for the authorities" (see F18News 7 October 2013 http://www.forum18.org/archive.php?article_id=1884).

Baptist facing three years jail for breaking state censorship?

Forum 18 (17.04.2015) - A Baptist in Kazakhstan, Nikolai Novikov, could face up to three years' imprisonment for refusing to pay a 2013 fine for offering uncensored religious literature on the streets, Forum 18 News Service has learned. He has refused to pay that and other fines he was given, as he states they are unjust. "We are looking at whether a crime was committed," Prosecutor Aydin Rashidov told Forum 18 from Oral (Uralsk) in West Kazakhstan Region on 16 April. "The court bailiff has prepared the materials, but it is too early to say if Novikov is guilty or not."

Prosecutor Rashidov insistently claimed that as Novikov's "crime" was only of what he described as "middling seriousness", if convicted Novikov would not be imprisoned. However, Rashidov stated that he would have to live under restrictions – such as being subject to a curfew every night at his house - for up to three years.

Novikov is due to meet police Investigator Ispolov on 20 April to hear what the next moves in the case will be. "He wants me imprisoned, for one, two or three years," Novikov told Forum 18 from Oral on 17 April. Forum 18 was unable to reach Investigator Ispolov.

Council of Churches Baptists have a policy of civil disobedience, refusing to pay the many administrative fines imposed on them. These are for such "offences" as meeting for worship without state permission, or sharing religious literature which has not been censored by the state (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

The 34-year-old Novikov – who is married with four young children - has been fined three times in two years, jailed for five days, placed on Kazakhstan's exit ban list, and has had a restraining order placed on his car and his garage (with a threat of its confiscation). "I didn't pay because I don't consider myself guilty," he explained to Forum 18 in January. "These fines were illegal" (see F18News 12 January 2015 http://www.forum18.org/archive.php?article_id=2026).

State censorship

Kazakhstan imposes strict state censorship on all religious materials, including highly restrictive controls on who may sell distribute material and where it may be sold or distributed (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

Many individuals have been punished under the Code of Administrative Offences for selling religious books or other items – or offering them to others – without the required licence from the Regional Religious Affairs Department. Such fines have been imposed in Oral and Ekibastuz in recent months (see below).

In addition to restrictions on what religious literature can be sold or given away and where, some religious books and materials have been banned by the courts as "extremist". The recently-published list of banned "extremist" works includes one work by an early Wahhabi Muslim and two Christian books (see below).

"Illegal distribution on the street"

Novikov was detained on 1 March 2013 as he "illegally distributed on the street booklets and literature of religious content belonging to the Baptists" in the village of Budarino in Akzhaik District, 90 kms (55 miles) south of Oral. The books were confiscated and sent for a "psychological/philological expert analysis", which was completed about 10 days later. Such "expert analyses" are a routine part of the state's mechanism of repression (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

On 5 May 2013 an administrative case was prepared against Novikov under the then Administrative Code's Article 375, Part 1 ("Violation of the demands established in law for the conducting of religious rites, ceremonies and/or meetings; carrying out of charitable activity; the import, production, publication and/or distribution of religious literature and other materials of religious content (designation) and objects of religious significance; and building of places of worship and changing the designation of buildings into places of worship"). This Article has now been replaced by an identical Article 490, Part 1 of the new Administrative Code (see F18News 21 July 2014 http://www.forum18.org/Archive.php?article_id=1979).

On 20 May 2013 Novikov was found guilty and fined 50 Monthly Financial Indicators (MFIs), according to the decision seen by Forum 18. This was his second fine by the same court in less than two months (see F18News 11 November 2013 http://www.forum18.org/archive.php?article_id=1895).

After Novikov refused to pay, insisting he should not be punished for exercising his right to freedom of religion or belief, bailiffs began moves to recover the money on 15 July 2013. In September 2013 he was placed on an exit blacklist banning him from leaving the country. On 18 August 2014, Oral Specialised Administrative Court found him guilty of violating Administrative Code Article 524 ("Failure to carry out court decisions") by refusing to pay the May 2013 fine. Novikov was sentenced to five days' imprisonment to start from that afternoon (see F18News 8 October 2014 http://www.forum18.org/archive.php?article_id=2004).

On 16 March 2015, bailiff Yerkebulan Andakulov sent a request to Oral Police Chief Manarbek Gabdullin calling for Novikov to face criminal prosecution. On 4 April, the Police prepared documentation to bring him to court under Criminal Code Article 430, Part 1, Baptists told Forum 18. This punishes failure to fulfil a court decision over a period of more than six months with imprisonment or restricted rights for up to three years.

Is criminal prosecution legal?

Novikov points out that Article 890, Part 1 of the new Administrative Code specifies that, apart from in tax and anti-monopoly cases, "a decision on imposing an administrative punishment is not subject to enforcement if it has not been enforced within one year from the day of its entry into legal force". Such violations of the law by the authorities have not prevented prosecutions being brought and punishments being imposed (see eg. 23 February 2015 http://www.forum18.org/archive.php?article_id=2043).

Novikov told Forum 18 that he had written a complaint to the Prosecutor's Office several days earlier, complaining that Bailiff Andakulov had been acting illegally by initiating a prosecution as the "offence" had taken place nearly two years earlier.

Bailiff Andakulov refused absolutely to discuss why he is seeking to have Novikov imprisoned to punish him for refusing to pay a fine he regards as unjust. "Send your questions in writing," he told Forum 18 on 15 April. Forum 18 has received no reply to its written question sent the same day.

Commercial vendors of religious materials fined

Meanwhile, administrative prosecutions to punish individuals for commercially distributing religious materials without state approval have continued.

On 3 April, Judge Aynur Kadyrova of Oral Specialised Administrative Court in West Kazakhstan Region found Eldar Sundetkaliyev guilty under Administrative Code Article 490, Part 1, Point 3 ("Violating the requirements of the Religion Law for .. import, production, publication and/or distribution of religious literature and other religious materials, and items for religious use"). She fined him 50 MFIs, 99,100 Tenge (about 4,130 Norwegian Kroner, 490 Euros, or 530 US Dollars), according to the verdict seen by Forum 18. This is about one month's average wages.

The maximum punishment for individuals under this Article is the 50 MFIs imposed on Sundetkaliyev (see F18News 21 July 2014 http://www.forum18.org/archive.php?article_id=1979).

The 24-year-old Sundetkaliyev was punished for offering for sale on 11 February, via the slando.kz website, tablet computers for children loaded with a programme teaching them how to pray the namaz (Muslim prayer). A 17 March "expert analysis" by N. Mirzakhmetov of the government-backed Scientific Research Centre on Questions of Religion found that the programme taught a "non-traditional" (Salafi) way of praying and could therefore sow divisions in the community. The confiscated tablet computer was ordered to be kept in the case file.

Ekibastuz in the northern Pavlodar Region has been a focal point of such prosecutions, with four known cases in the past six months. In separate cases on 16 February, Judge Aygul Kaidarova of the city's Specialised Administrative Court found Yekaterina Kriger and Rosa Amankulova guilty under Administrative Code Article 490, Part 1 of selling religious items without approval. Each was fined 50 MFIs (about one month's average wages), 99,100 Tenge, and banned from conducting commercial activity for three months, according to the verdicts seen by Forum 18.

Judge Murat Ermekov of Pavlodar Regional Court rejected Amankulova's appeal on 11 March, according to the decision seen by Forum 18. Kriger does not appear to have appealed against her punishment.

A single mother with two young children, Kriger ran a stall at the Bolashak shopping centre in Ekibastuz which was visited by police on 19 November 2014. They found her selling three amulets and 26 chains with pendants, all bearing Arabic inscriptions. A "religious expert analysis" the following month declared that the texts were religious and the Prosecutor's Office then sent the case to court as Kriger's stall was not authorised to sell religious items. The Judge ordered that the 29 items confiscated by the police should be destroyed, the verdict notes.

Amankulova's stall at the market was raided on 21 November 2014, where officers found 23 amulets and other items. A "religious studies expert analysis" similarly deemed them to be religious.

Daniyar Iskakov, the Prosecutor's Office official who handled the prosecutions, refused to discuss why individuals should be punished for selling religious items without state

permission. "I can't give any explanation without approval from higher up," he told Forum 18 from Ekibastuz on 16 April.

On 13 November 2014, Judge Nurolla Esenzholov of the same court had fined two commercial vendors in separate cases under the old Administrative Code Article 375, Part 1, according to court records. Sardar Alekperov and Valentina Selivanova were each fined 100 MFIs (about two months' average wages) for selling religious materials in unapproved locations. Neither appealed against their fines.

"Sardar was simply selling Muslim items for people to put on cars," a local resident who knows Alekperov told Forum 18 from Ekibastuz on 15 April 2015. "Lots of people sell such items here, but only he was fined." The resident said Alekperov reluctantly paid the fine. "The case is now closed."

Banned texts list published

In December 2014, apparently for the first time, the General Prosecutor's Office published on its website a list of religious and other texts deemed "extremist" by various courts and whose production, import or distribution is banned. The most recent update to the list, from 14 January 2015, contains 661 items.

A growing number of religious publications and web pages by Muslim, Protestant and Jehovah's Witness authors have been banned by courts as "extremist", Forum 18 notes. Such court decisions have often not been publicised and have therefore been impossible to challenge (see F18News 10 October 2014 http://www.forum18.org/archive.php?article_id=2005). It remains unclear whether challenging such decisions is now possible – or indeed if the list includes all works which have been banned as "extremist".

Among the items the General Prosecutor's Office lists as banned – not all of which relate to religions or beliefs – is a Russian translation of the work "Explanation of the Three Fundamental Principles of Islam". This is at least partly written by Salafi Muslim Mohammed ibn Abdul-Wahhab, who helped found a precursor to the present-day kingdom of Saudi Arabia. This was banned by an Astana court in February 2014 after 54 copies were confiscated by Customs (see F18News 10 October 2014 http://www.forum18.org/archive.php?article_id=2005).

Also on the General Prosecutor's Office's list is the Russian translation of "Healing the Broken Family of Abraham" by American Protestant Don McCurry. This was banned by an Almaty court in November 2012. It found that the book contains "elements of incitement to religious hatred and discord". The ruling formed the partial basis of the attempt to prosecute Astana-based retired Presbyterian pastor Bakhytzhan Kashkumbayev on criminal charges of "extremism". (see F18News 9 October 2013 http://www.forum18.org/archive.php?article_id=1885).

Another Christian book on the list used to bring court cases is "Jesus: More than a Prophet". The book – a Russian translation of an English-language collection of essays by 15 Muslims who became Christians – was edited by Richard Wootton. At the request of Burabai Prosecutor's Office in Akmola Region, it was banned by Judge Bayan Adilbekova of Burabai District Court on 20 November 2014, according to the decision seen by Forum 18. She banned the import, production and import of the work, as well as any electronic or internet distribution of it.

The decision to ban the book came after copies were confiscated from two Council of Churches Baptists, Vyacheslav Cherkasov and Zhasulan Alzhanov, in May 2014 as they were offering Christian literature on the street near the market in Shchuchinsk in Akmola Region.

On 13 June 2014, Berik Manakhayev of the Justice Ministry's Central Institute for Judicial Expertise produced a 14-page "expert" analysis of the 44 different confiscated books, declaring that only one was illegal. He alleged that "Jesus: More than a Prophet" contains "elements inciting religious hatred and discord", according to the analysis seen by Forum 18. Manakhayev took 46 hours to complete the analysis of the 44 texts and the Central Institute charged the Burabai Police 26,394.02 Tenge for this work.

Manakhayev's colleagues at the Central Institute for Judicial Expertise told Forum 18 on 17 April 2015 that he was on leave until after 4 May.

On 24 September 2014, Burabai's Prosecutor Askhat Dzhakipbekov sent his suit to court. The court drew entirely on Manakhayev's findings when it banned the book.

In October 2014, Cherkasov and Alzhanov had each been fined 200 MFIs (about four months' average wages) and sentenced each to 10 days' imprisonment (see F18News 10 October 2014 http://www.forum18.org/archive.php?article_id=2005).

This means that their punishment for distributing the book came more than a month before a court had ruled it "extremist" and banned its distribution.

"A general unwillingness to properly protect human rights"

Forum 18 (25.02.2015) - Kazakhstan continues to jail people for exercising the right to freedom of religion or belief, Forum 18 News Service notes. Vasiliy Kliver, a Baptist in Aktobe Region was on 5 February given a 5-day jail term for non-payment of a 2008 fine. Judge Saule Spandiyarova ignored an Administrative Code limitation on punishments when jailing Kliver. He told Forum 18 that: "we are not afraid, and are glad to suffer for the Lord." Maina Kiai, the UN Special Rapporteur on the rights to Freedom of Peaceful Assembly and of Association noted after visiting Kazakhstan in January "a general unwillingness to properly protect human rights in the country, and of a sense of impunity by some officials" He also noted state intimidation of those he met. Talgat Rakhimov, Head of West Kazakhstan Region Religious Affairs Department, refused to tell Forum 18 why sports fans can share their views anywhere on the street without state permission, but religious believers need state permission. And a registered Protestant church has been raided by law-enforcement officials and those present forced to write statements.

Kazakhstan continues to jail people for exercising the right to freedom of religion or belief, and harass people exercising this right in public. The state also continues to raid even those religious or belief communities which have state permission to exist under the country's highly restrictive Religion Law, Forum 18 News Service notes.

After a 19 - 27 January visit to the country, Maina Kiai, the United Nations (UN) Special Rapporteur on the rights to Freedom of Peaceful Assembly and of Association noted in his concluding statement on 27 January what he described as "a general unwillingness to properly protect human rights in the country, and of a sense of impunity by some officials (..) It was remarkable that in many of the meetings I had with Government officials, the emphasis was on the restrictions to the rights rather than the rights themselves. This is a misconstruction of human rights, where the focus must be on facilitating and enjoying the right first and foremost, before restrictions which need to be interpreted narrowly."

As happened in connection with UN Special Rapporteur on Freedom of Religion or Belief Heiner Bielefeldt's 2014 visit to the country (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939), civil society activists and others who wish to meet Kiai were intimidated by the authorities (see below).

"Why do I have to be punished for the same alleged violation time and again?"

Vasily Kliver, a Council of Churches Baptist in Aktobe Region was on 5 February 2015 given a 5-day jail term, being freed on 10 February. Council of Churches Baptists have a policy of not paying fines handed down to punish them for exercising the right to freedom of religion or belief. The authorities often impose short terms of imprisonment for this "offence". Kliver himself was jailed for five days in June 2009.

Long jail terms, the shortest being 18 months, have recently been imposed on alleged members of the Muslim missionary movement Tabligh Jamaat (see eg. F18News 14 January 2015 http://www.forum18.org/archive.php?article_id=2027).

Kliver's most recent jail term was for not paying two fines given to him in March 2008 and April 2010. He told Forum 18 on 21 February 2015 that police arrested him at home on the morning of 5 February. They then took him to a court where he was tried and then sent to jail.

"Why do I have to be punished for the same alleged violation time and again?", Kliver asked. "I already served a five-day jail term for the 2008 fine in 2009. It's not fair to punish me for the same thing twice". He added that "the authorities fined me in violation of my constitutional rights to begin with."

Kliver also noted that Judge Saule Spandiyarova, who presided at his February 2015 trial, ignored that fact that the Code of Administrative Offences' Article 890 states that penalties such as those imposed on Kliver in 2008 expire after one year unless the authorities cannot find or identify the violator. Kliver pointed out that – as the police arrest proved – "they know very well who I am, where I live, and found me easily each time."

"We are not afraid, and are glad to suffer for the Lord"

Kliver told Forum 18 that he was treated "normally" while in jail and fed three times a day. Asked what he thinks of the authorities' repeated punishments of him and others for exercising the right to freedom of religion or belief, he replied: "we are not afraid, and are glad to suffer for the Lord."

"There is a distinct lack of confidence and trust in the judiciary"

Asked why Kliver was punished twice for not paying the same fine, Judge Spandiyarova on 18 February told Forum 18 that "if this citizen is not happy with my decision, let him complain to higher authorities." Spandiyarova also did not want to explain why she ignored the limitation of action under Article 890. "The Baptists are not interpreting the law properly," she claimed – but without giving reasons for her claim.

The Judge refused to say whether more arrests or other punishments will be given to Kliver in future. "I do not have time to talk to you over the phone for hours," Spandiyarova stated. She then put the phone down.

UN Special Rapporteur on the rights to Freedom of Peaceful Assembly and of Association Kiai noted: "There is a distinct lack of confidence and trust in the judiciary. Although

authorities repeatedly make reference to the 'rule of law'□, the practice in Kazakhstan reflects strong adherence to 'rule by law'□, perhaps a holdover from the past Soviet era."

Criticising this, Kiai affirmed that: "Law is meant to serve people, rather than people serving the law, with the guiding spirit being one that supports the dignity of the person as the key subject of the law."

Manap Niyazbayev, who worked as a bailiff in Aktobe Bailiffs Department until late 2014, told Forum 18 on 18 February that the "authorities will go on punishing him [Kliver] and giving him more jail terms until he pays the fines." He added that "bailiffs can even open a criminal case against him for this."

"We only warned him this time"

Kenzhetai Baytinov, an ethnic Kazakh Council of Churches Baptist in Oral (Uralsk) in West Kazakhstan Region, was on 26 January stopped in a local open air market while sharing his faith with another person. Later he was taken to the Regional Administration's Religious Affairs Department, where he was warned that he will be given an administrative punishment unless he stops his street preaching. He was then released, he told Forum 18 on 25 February.

Talgat Rakhimov, Head of the Religious Affairs Department, on 23 February told Forum 18 that: "We did not open a case against him since he is a nice fellow. We only warned him this time that he must stop unauthorised missionary activity in public places." He added that "Baytinov was fined before, and if he continues he will be given a new fine".

Baytinov has been fined five times in the last two years (see eg. F18News 13 March 2014 http://www.forum18.org/archive.php?article_id=1937) and has been fired from his job as a school caretaker because of state pressure (see F18News 21 November 2013 http://www.forum18.org/archive.php?article_id=1898).

Rakhimov told Forum 18 (correctly) that "the Religion Law states that one must receive prior authorisation from the local authorities, and then carry out the missionary activity only within specially designated rooms or buildings but not on the street" (see Forum 18's Kazakhstan religious freedom survey

Asked why sports fans can share their views anywhere on the street or in a market without state permission, but religious believers cannot, Rakhimov stated that "it's our law, everyone must obey it. I do not have the right to comment on the law". He then said he did not wish to talk further with Forum 18.

UN Special Rapporteur on Freedom of Religion or Belief Bielefeldt has unequivocally underlined that: "According to international standards, freedom of religion or belief unequivocally includes the right to bear witness to one's conviction, to communicate within and across denominational boundaries and to try to persuade others non-coercively. This also covers missionary activities" (see F18News 22 April 2014 http://www.forum18.org/archive.php?article_id=1950).

Meeting by registered religious community raided

In a part of southern Kazakhstan the meeting for worship of a state registered Protestant church was raided in February. Law-enforcement officials from various agencies, including police officers in bullet-proof vests, raided the church which does not wish to be named for fear of state reprisals. A church member who did not wish to be named stated to Forum 18 that "officials behaved very rudely towards worshipers, disrupted the

worship, and harassed the believers to make them write statements to explain why they attended the meeting".

A prosecutor claimed to Forum 18 that the authorities raided the worship meeting because "we acted on a complaint from the neighbours." He did not say when the investigation will end, and whether any charges were being prepared against the church.

Kazakhstan demands that groups of people can exist as a religious community and exercise freedom of religion or belief only if they have state permission. This is gained via a complex and restrictive state registration system (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939). The ban on exercising human rights without state permission violates international law, as is outlined in the Organisation for Security and Co-operation in Europe (OSCE)/Venice Commission Guidelines on the Legal Personality of Religious or Belief Communities (see http://www.legislationline.org/download/action/download/id/5719/file/VC_ODIHR_Guidelines_Legal_personality_religious_communities_2014_en.pdf). Kazakhstan is both an OSCE participating State and a Venice Commission member state.

As noted above, even communities with state registration are targeted by officials. Other examples beside the church in southern Kazakhstan include: the Full Gospel Church in Atyrau where the Anti-Terrorism Police with the Justice Department are bullying people identifying themselves as founders on registration applications, and trying to stop the Church meeting for worship without state permission; the Din-Muhammad Mosque community in Petropavl whose Mosque has been liquidated, but are still struggling against "legal" and extra-legal harassment to try to gain registration; and the registered Hare Krishna community in Kostanai who have been raided by police and their leader fined. It has appealed to the United Nations (UN) Human Rights Committee to be able to exercise freedom of religion or belief without fear of criminal or administration punishment.

"This incident was calculated to instil fear and intimidation"

UN Special Rapporteur on the rights to Freedom of Peaceful Assembly and of Association Kiai highlighted secret police surveillance of himself and people he met: "I am deeply disappointed by an incident that has left me very worried about the safety of individuals I met during my trip, and generally concerned about the situation of human rights in Kazakhstan.

While in Aktau city, I held a meeting with members of civil society on 23 January 2014. As we left the meeting venue, I learned that unknown persons, sitting in the back seat of a vehicle parked directly facing the entrance of the venue, were taking photographs of individuals leaving the building. They also took photographs of my driver. All this was done using equipment, and in a manner commonly associated with secret police surveillance.

I approached the men and demanded to know who they were and the purpose in taking the photographs; they then hurriedly drove off without responding."

UN Special Rapporteur Kiai reported the incident to police, who later produced a suspect, along with a written "confession". But the suspect was unequivocally not the same person who was taking photographs. Kiai commented that: "I am concerned that the handling of this incident is indicative of a general unwillingness to properly protect human rights in the country, and of a sense of impunity by some officials (..) this incident was calculated to instil fear and intimidation."

The government also used intimidation against civil society activists in relation to UN Special Rapporteur on Freedom of Religion or Belief Bielefeldt's visit. The police and National Security Committee (KNB) secret police monitor and attempt to plant spies inside religious and belief communities (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

Restrictions on linked fundamental freedoms

Commenting on the state's linked legal restrictions on the freedoms of religion or belief, peaceful assembly and of association, UN Special Rapporteur Kiai stated that: "The concern over extremism has hampered the association rights of religious groups as well. Interlocutors informed me that authorities exercise close and excessive control on the activities of religious organizations. Thus they are subjected to mandatory re-registration leading to many religious groups being denied registration. Small religious groups with membership of less than 50 individuals cannot obtain registration, and cannot engage routinely in religious observances as a result, even when held in private venues".

UN Special Rapporteur Kiai continued: "I urge the government to engage in a thorough review of the broad legal framework (..) with a view to bringing it into compliance with international human rights standards."

Former rehab centre residents "scared and tired of police pressure"

Forum 18 (02.02.2015) - The judge who in mid-January upheld one of the two administrative fines totalling three months' average wages imposed on a Protestant-run drug and alcohol rehabilitation centre in the village of Sychevka in Pavlodar Region of north-eastern Kazakhstan has defended her action. But Judge Lyudmila Klimashina refused to explain why the authorities and the Court are punishing the charity work of the Protestants who only seek to help individuals with addiction problems. "We've given our decision, and you can read what's in there," she told Forum 18 News Service from Pavlodar Regional Court on 29 January. "I'm not going to discuss it with you over the phone."

In 2014 the Centre – a branch of a Centre in Karaganda which gained legal status in 1999 – housed 14 residents, including three children whose parents were also resident. All were there voluntarily and could leave whenever they wished to.

"Because of the authorities' actions against the Centre, eight of the 14 rehabilitants have left after the Police raided us and began questioning them at various times," Centre director Yuri Morozov complained to Forum 18 on 28 January. "They were scared and tired of the police pressure." He explained that the remaining six are staying at the Centre to protect it from theft, and answer questions and inquiries of any visiting authorities.

"We have seen only one of the eight who left us, and we understood that he was back into drinking again," Morozov lamented. "We do not know what happened to the rest."

The authorities have been trying to punish the Centre since 2010. However, after four years' investigation the police had to abandon a criminal case of inciting "religious hatred" for lack of evidence. Two administrative cases were then launched, which resulted in the December 2014 fines and the suspension of the Centre's activity for three months.

Rehabilitation centres targeted

Kazakhstan's harsh 2011 Religion Law bans almost any religious activity away from state-registered religious premises (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

Protestant-run drug and alcohol rehabilitation centres have been repeated targets of official harassment. The moves appear to be part of a behind-the-scenes official campaign against communities regarded as "non-traditional", especially those running social projects, as revealed in a September 2014 letter from East Kazakhstan's deputy regional prosecutor, seen by Forum 18 (see F18News 14 October 2014 http://www.forum18.org/archive.php?article_id=2006).

One small Orthodox-run rehabilitation centre in Almaty faces no obstruction to its work, the head of the centre Fr Anatoly Izmerov told Forum 18 on 2 February. Forum 18 could find no Muslim-run rehabilitation centres. Similarly, the Catholic Church runs no rehabilitation centres, although the church tries to help drug- or alcohol-dependent individuals who request such help, Archbishop Tomasz Peta of Astana told Forum 18 on 2 February.

Punished for religious activity

In two separate hearings on 15 December 2014, according to the decisions seen by Forum 18, Judge Amangeldy Ishchanov of Pavlodar District Court fined the Centre in Sychevka 100 Monthly Financial Indicators (MFIs) under old Administrative Code Article 374, Part 1. In a second hearing he fined director Morozov 50 MFIs under Article 374, Part 2 and ordered the suspension of the Centre's activity.

The fine of 100 MFIs or 185,200 Tenge (Norwegian Kroner, Euros or US Dollars) represents about two months' average wage.

Article 374, Part 1 of the old Administrative Code punished "violation of the law on social organisations" by conducting activity not mentioned in an organisation's statutes. The maximum penalty for organisations was 200 MFIs. Article 374, Part 2 punished illegal activity by social organisations with a maximum fine for leaders of 100 MFIs and suspension of an organisation's activities for from three to six months. The "offences" are now punished by Article 489, Parts 1 and 2 of the new Administrative Code, which came into force on 1 January 2015.

In two separate hearings at Pavlodar Regional Court on 19 January 2015, Judges Rakimberly Suleymenov and Lyudmila Klimashina respectively upheld the penalties given to the Centre and Morozov, as well as the three-month suspension of the Centre's activity, according to the decisions seen by Forum 18. However, Judge Klimashina amended the decision to remove accusations that the Centre had violated health norms, accepting that the record of an offence mentioned only violations of the Religion Law.

Forum 18 pointed out to Judge Klimashina the similar attempted prosecution of a Pentecostal-run rehabilitation centre in Aksu. There the District Court threw out the case, explaining that the presence of religious books and believers in the Centre was not enough to classify it as a religious association (see below).

Asked why the Pavlodar Courts gave a contradictory decision over the Sychevka Centre, Judge Klimashina responded: "First of all every case is different, and then it's not ethical for you to call us. You are meddling with the judiciary and state organs." She refused to talk further to Forum 18.

"Now I have to pay both fines since the Regional Court decision was final in terms of execution of the penalties," Centre director Morozov lamented to Forum 18. "But we will continue our appeals by way of cassation and through the Prosecutor General's Office, since we don't agree with the decisions and penalties."

Rehabilitation Centre "harmed the psychological and physical health"

Police – including officers from the Department for the Struggle with Extremism – raided the Sychevka Centre on 9 March 2014, seizing 18 religious books (including Bible texts) and other materials. Investigators claimed to have discovered activity which was not envisaged in its statute, including religious worship.

In the first case, Major Roman Gudim of the Regional Police's Investigation Department admitted in court that a criminal investigation had been initiated against the Centre in 2010 that it had been spreading religious materials inciting "religious hatred", but that during the March 2014 search nothing of that nature had been found. The criminal case was abandoned on 24 November 2014.

Natalya Fesenko of the Analysis and Interconfessional Relations Centre of Pavlodar Regional Religious Affairs Department described the Centre in court as "bearing a destructive character" and claimed it had "harmed the psychological and physical health" of those who had chosen to live there. She alleged that the Centre "zombified" its residents. She complained that it had really been a religious organisation and had deceived the Justice Ministry when gaining registration that it was secular.

Centre representative Igor Skurikhin insisted in court that religious activity had not taken place there since the new restrictions in the 2011 Religion Law had come into force and complained that the accusations against the Centre had been prepared "with violations".

Judge Ishchanov ruled in the first case that religious activity at the Centre had been outside the terms of its statute and therefore a violation. He ordered that the confiscated religious texts be kept in the case file.

In the second case, attention focused on whether it had been safe for the three children of resident parents also to be living at the Centre. Fesenko claimed in court it had not.

Judge Ishchanov ruled against the Centre, issuing the second fine (on Morozov personally) and banning its activity for three months. However, the second ruling also orders that during the three month suspension, the Centre must also "stop the use of religious literature which has not undergone a religious studies expert analysis". It is not explained which of the confiscated religious books (including the New Testament) had not undergone such "expert analysis" by state officials, nor why this provision was included in the punishment for having children resident in the centre with their parents.

In separate rulings – also issued on 15 December 2014 and seen by Forum 18 – Judge Ishchanov rebuked the leaderships of Pavlodar Regional Police and of the Sanitary-Epidemiological Service (and the District head of administration) for their officials' failure to take action against the Centre for so long.

Religious or health care "expert"?

Rustem Dosmatov, Expert of Pavlodar Regional Religious Affairs Department, confirmed to Forum 18 on 29 January that Fesenko is an employee of the Religious Affairs Department. Asked why Fesenko, who is not a health specialist, gave an evaluation of the impact of the Centre's work on residents' health, Dosmatov responded: "The Police asked us." When Forum 18 repeated the question, he said, "She evaluated the religious

activity."

Asked whether it is right for one State organ to ask another State organ for a religious "expert analysis" of religious activity or books, Dosmatov changed his previous statement, claiming that Fesenko is an "independent" expert. Asked why he is contradicting himself, Dosmatov responded, "Why don't you call us back tomorrow?" He refused to talk further.

Administrative case fails again

Meanwhile, a police officer who brought a second administrative case against Vladimir Styopin, the church overseer of a Pentecostal-led drug and alcohol rehabilitation centre in the town of Aksu in Pavlodar Region, again failed to secure a prosecution. Rizabek Bilyalov was attempting to have Styopin punished under the old Administrative Code Article 374-1, Part 1 for leading an unregistered religious community at the centre.

The old Article 374-1, Part 1 ("Leading, participating in, or financing an unregistered, halted, or banned religious community or social organisation") carried a fine of 100 MFIs. The "offences" and punishments under Article 374-1 have been transferred unchanged into the new Administrative Code's Article 489, Parts 9, 10 and 11.

On 28 October 2014, Judge Gulnar Mukhametkaliyeva of Aksu Specialised Administrative Court again threw out the case, according to the decision seen by Forum 18. She ruled that any religious activity at the Centre "does not involve the required numbers and the necessary characteristics of a religious association which would demand its registration". Despite clearing Styopin of any wrongdoing, Judge Mukhametkaliyeva ordered that a confiscated booklet, "His Name is Love", be kept in the file and not returned to him.

Colonel Murat Alikhanov, Chief of Aksu District Police, defended the Police actions. Asked by Forum 18 on 28 January why the Police continued action against the Rehabilitation Centre after the first failed prosecution, he responded: "The Court earlier referred the case back to the Police for further investigation, and so our job was to do namely that and present it back to the Court."

But, Colonel Alikhanov added, "after the latest Court decision we will not take further action against the Centre."

Raid against "sect"

A police "investigative operational group" had raided the centre in July 2014. They were responding to an alleged complaint by a local resident that a "sect" was operating there. Officers inspected, filmed and photographed the centre. They also seized a copy of a 48-page booklet "His Name is Love".

A judicial/psychological/philological "expert" analysis of the seized booklet from the Justice Ministry's Central Institute of Judicial Expert Analysis in Astana found that it contained "no statements of an arousing nature, calling for an incitement to religious and ethnic enmity, the superiority of one religion over another or statements of the superiority of citizens because of their attitude to religion".

Police officer Bilyalov then launched the first administrative case against Styopin, but Judge Mukhametkaliyeva sent it back on 7 October 2014, as the case had not been properly documented. Bilyalov refused to discuss his attempts to prosecute Styopin with Forum 18 in October 2014 (see F18News 14 October 2014 http://www.forum18.org/archive.php?article_id=2006).

Four 20-month prison terms, one 18-month term

Forum 18 News Service (14.01.2015) - Four alleged members of the Muslim missionary movement Tabligh Jamaat – Bakyt Nurmanbetov, Aykhan Kurmangaliyev, Sagyndyk Tatubayev and Kairat Esmukhambetov – were sentenced today (14 January) to 20-months' imprisonment each, human rights defender Aliya Akhmediyeva of the Kazakhstan International Bureau for Human Rights and the Rule of Law told Forum 18 News Service. Judge Sara Zhanbyrbayeva of Taldykorgan City Court sentenced the fifth - Ruslan Kairanov – to 18-months' imprisonment. Like a December 2014 Tabligh Jamaat-related criminal trial, this too was largely held in secret. Akhmediyeva saw transcripts of talks at religious meetings held in Nurmanbetov's home – apparently recorded by the KNB secret police. "I could find nothing inflammatory or inciting crime in these transcripts," she told Forum 18.

In the second such case in as many months, five men have been convicted today (14 January) at a criminal trial in Taldykorgan [Taldyqorgha] in Almaty Region of south eastern Kazakhstan for participation in the Muslim missionary movement Tabligh Jamaat, which is banned as "extremist". Four of the five – Bakyt Nurmanbetov, Aykhan Kurmangaliyev, Sagyndyk Tatubayev and Kairat Esmukhambetov – were sentenced to 20 months' imprisonment each in an ordinary regime labour camp. The fifth - Ruslan Kairanov – received an 18-month ordinary regime labour camp sentence, human rights defender Aliya Akhmediyeva of the Kazakhstan International Bureau for Human Rights and the Rule of Law told Forum 18 News Service on 14 January.

Neither court officials nor the individuals' lawyers were prepared to discuss the sentences with Forum 18. Despite repeated calls since December 2014, Forum 18 has been unable to reach Talgat Umakhanov of Taldykorgan Prosecutor's Office, who led the prosecution case. Forum 18 was not immediately able to reach any of the men's relatives. Written verdicts are expected within several days.

Nurmanbetov, Tatubayev and Esmukhambetov have been under arrest since September 2014. Kurmangaliyev and Kairanov were arrested in the courtroom after the verdicts were announced, Akhmediyeva added.

As with the criminal trial in South Kazakhstan Region which ended in December 2014 in a three-year prison sentence, the Taldykorgan trial was surrounded by secrecy (see below).

Tabligh Jamaat was banned as "extremist" at an unadvertised court hearing in the capital Astana in February 2013, despite no evidence being produced that any of its members in Kazakhstan had harmed or plotted to harm anyone (see below).

All five of the Taldykorgan defendants were prosecuted under the old Criminal Code Article 337-1, Part 2. This punished "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 was replaced by an almost identical Article 405 in the new Criminal Code.

Tabligh Jamaat members have also been among the frequent victims of the administrative fines handed down to those who conduct religious activity without prior state approval, such as talking to others of their faith, selling or distributing religious books or gathering for religious meetings. Others similarly punished include Protestant Christians, Hare Krishna devotees, Jehovah's Witnesses and commercial booksellers.

September 2014 arrests

Following their arrest in Taldykorgan in September 2014, Nurmanbetov, Tatubayev and Esmukhambetov were held in court-ordered pre-trial detention in Taldykorgan Investigation Prison LA-155/16. The two others not arrested, Kurmangaliyev and Kairanov, had to sign declarations that they would not leave the town, state-appointed lawyer Urukhiya Mukasheva told Forum 18 on 6 January 2015.

The criminal case was led by Umakhanov of Taldykorgan Prosecutor's Office. Only Nurmanbetov was defended by a lawyer of the family's choice, Serikzhan Dyusembekov. In addition to Mukasheva, Aidar Zhanadilov was also among the state-appointed lawyers representing the others.

Trial

The case against the five reached Taldykorgan City Court on 25 November 2014, and was assigned to Judge Sara Zhanbyrbayeva.

The first hearing was held on 9 December, with subsequent hearings on 18, 24 and 29 December and 6 January 2015, according to court records. The verdict was due to have been announced at a hearing on the morning of 8 January, but was deferred until the afternoon of 14 January.

The five defendants insisted in court that they respected the law and were not planning to overthrow or subvert the state, Akhmediyeva told Forum 18. "I believe in God and pray," she cited one of the defendants as explaining to the court.

Akhmediyeva said she had seen transcripts of talks at religious meetings held in Nurmanbetov's home – apparently recorded by National Security Committee (KNB) secret police officers or agents. "I could find nothing inflammatory or inciting crime in these transcripts," she said. Prosecutors pointed to the defendants' visits to Bangladesh as proof of the men's membership in Tabligh Jamaat, even though – according to Akhmediyeva – no other proof of such membership appears to have been presented.

During the trial, Kairanov admitted that he was guilty and mistaken, and had "set himself on the path of correction", Akhmediyeva noted. "This is perhaps why he got the shorter sentence." She added that as the individuals had attended meetings at Nurmanbetov's home, prosecutors regarded him as the organiser.

Were hearings open or closed?

Judge Zhanbyrbayeva's assistant repeatedly refused to tell Forum 18 if the trial hearings were open or closed, or give much other information on the case. All he would do was confirm dates of the hearings as they happened.

Lawyer Mukasheva insisted to Forum 18 that the hearings have been open. However, Taldykorgan-based human rights defender Akhmediyeva tried to attend two of the December 2014 hearings, only to be denied admittance as the hearings were "closed", she told Forum 18. Judge Zhanbyrbayeva then told her by phone that the trial was closed. Akhmediyeva believes the Judge closed proceedings partly to prevent the men's relatives from attending.

Akhmediyeva went to the Chair of the Court, Zhasamurat Sagymbekov, on 9 January to find out if and why the trial was closed. He insisted it was open and summoned Judge Zhanbyrbayeva to tell her to ensure open access – including by relatives – to the

remainder of the trial. Relatives and Akhmediyeva were able to attend the final hearings on 14 January.

Tabligh Jamaat banned

In February 2013, without prior public announcement, Astana's Saryarka District Court granted Astana City Prosecutor's Office suit to have Tabligh Jamaat banned throughout Kazakhstan as "extremist". 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.

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. In May 2013 Astana City Court upheld this decision. The Judge argued that Omarbekov had no standing to challenge the decision as he had not been a party to the February 2013 case.

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.

Other criminal cases

Alleged Tabligh Jamaat member Mamurzhan Turashov, a 41-year-old father of five, was given a three-year prison term on 2 December 2014 in South Kazakhstan Region. He was punished under the old Criminal Code Article 337-1, Part 1, which banned the creation or leadership of a banned group. 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 what Turashov had done wrong, apart from Tabligh Jamaat membership.

Police announced through the local media on 26 November 2014 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.

An officer of Almaty's Police Department for the Struggle with Extremism – who did not give his name – claimed to Forum 18 on 9 January that no individuals had been arrested in the city on accusations of alleged membership of Tabligh Jamaat.

Saltanat Azyrbek, acting head of Almaty Police Press Service, totally refused to give Forum 18 any information by telephone on 11 December 2014. Forum 18 had received no response by the end of the working day in Almaty on 14 January 2015 to its written questions sent on 11 December 2014 and resent on 8 January 2015.

"Social justice" the Kazakh way

Forum 18 (12.01.2015) - Fined three times in two years, imprisoned for five days, and placed on Kazakhstan's exit ban list (and with a restraining order imposed on his car) for exercising his right to freedom of religion or belief, Council of Churches Baptist Nikolai

Novikov is facing a further punishment: the confiscation of his garage. On 5 January he received a restraining order on his garage from Court bailiff Erkebulan Andakulov, as well as an order to establish its value ahead of a forced public sale to pay off at least one of the fines, Novikov told to Forum 18 News Service on 12 January.

The 34-year-old Baptist Novikov, who lives with his wife and four young children in Oral (Uralsk) in West Kazakhstan Region, refuses to pay any of the fines. These were imposed for his participation in a meeting for worship without state permission (see below). "I didn't pay because I don't consider myself guilty," he explained to Forum 18. "These fines were illegal." Other Council of Churches Baptists similarly insist they should not be punished for meeting for worship. Their churches refuse to seek the compulsory state registration Kazakhstan demands.

Kazakhstan – in defiance of its binding international legal obligations – demands that groups of people can exist as a religious community and exercise freedom of religion or belief only if they have state permission. Even communities with state registration are targeted by officials. Recent examples include: the Full Gospel Church in Atyrau where the Anti-Terrorism Police with the Justice Department are bullying people identifying themselves as founders on registration applications, and trying to stop the Church meeting for worship without state permission; the Din-Muhammad Mosque community in Petropavl whose Mosque has been liquidated, but are still struggling against "legal" and extra-legal harassment to try to gain registration; and the registered Hare Krishna community in Kostanai who have been raided by police and their leader fined. It has appealed to the United Nations (UN) Human Rights Committee to be able to exercise freedom of religion or belief without fear of criminal or administration punishment (see F18News 19 December 2014 http://www.forum18.org/archive.php?article_id=2025).

Bailiff Andakulov insisted to Forum 18 from Oral on 12 January that Novikov "has to fulfil the orders of the court". Andakulov then claimed that he had annulled the order, but refused to explain which order and when. He then put the phone down. Subsequent calls went unanswered. Despite Andakulov's claim, Novikov told Forum 18 that he has had no information that either of the orders have been annulled.

Punishments, including exit bans preventing people leaving the country, are routinely imposed on people exercising freedom of religion or belief (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

Punished for refusing to pay earlier fines

Novikov was fined 50 MFIs on 4 April 2013 by Akzhaik District Court under the old Administrative Code Article 374-1, Part 2. The same court fined him 50 MFIs on 20 May 2013, this time under old Administrative Code Article 375, Part 1. The old Article 375 banned "Violation of the Religion Law" and the old Article 374-1, Part 2 banned "Participation in the activity of an unregistered, halted, or banned religious community or social organisation".

Fifty Monthly Financial Indicators (MFIs) - 92,600 Tenge in 2014, 99,100 Tenge (about 4,200 Norwegian Kroner, 460 Euros, or 550 US Dollars) in 2015 - is equivalent to about one month's average salary.

From 1 January 2015 Article 374-1 has been replaced by the identical Article 489. The old Article 375 has been replaced by an expanded Article 490 (see F18News 21 July 2014 http://www.forum18.org/Archive.php?article_id=1979).

Novikov told Forum 18 that he thinks his garage is worth only about 150,000 Tenge

(about 6,340 Norwegian Kroner, 690 Euros, or 820 US Dollars). He fears that court bailiffs could move on to seize more of his property to meet the unpaid fines.

After refusing to pay the 2013 fines, in September 2013 Novikov was placed on the Justice Ministry's exit blacklist. On 14 February 2014, court bailiffs in Oral visited Novikov's home and put a restraining order on his family car. On 18 August 2014, Oral Specialised Administrative Court imprisoned him for five days under old Administrative Code Article 524 (see F18News 8 October 2014 http://www.forum18.org/archive.php?article_id=2004).

These previous punishments were also imposed at the instigation of Bailiff Andakulov of Oral's 4th Territorial Department.

Although Andakulov issued the two new orders – which related to just one of the unpaid fines – on 9 December 2014, Novikov received them only on 5 January 2015, he told Forum 18.

Worship without state permission banned reminder

A 19 December 2014 letter from Aset Doskeyev of Almaty's Religious Affairs Department – seen by Forum 18 – warns local registered religious communities that holding meetings for worship away from state registered places of worship is punished with administrative fines of 50 or 100 MFIs for individuals and 200 MFIs for communities, with a three-month ban on their activity. It also orders communities "to bring your documents into line with the norms of the law and to agree them with the Almaty Religious Affairs Department within 15 calendar days of receiving the notice".

Doskeyev refused to explain which documents religious communities will have to amend and how. However, he insisted to Forum 18 on 12 January that all religious communities must abide by the restrictions in the Religion Law. He pointed out that religious activity by communities that do not have registration is banned, as is religious activity outside registered places of worship. He refused to discuss how such restrictions accord with freedom of religion or belief commitments in Kazakhstan's Constitution and its international human rights obligations.

The ban on exercising human rights without state permission violates binding international law, as is clearly shown in the Organisation for Security and Co-operation in Europe (OSCE) / Venice Commission Guidelines on the Legal Personality of Religious or Belief Communities (see http://www.legislationline.org/download/action/download/id/5719/file/VC_ODIHR_Guidelines_Legal_personality_religious_communities_2014_en.pdf). Kazakhstan is both an OSCE participating state and a Venice Commission member state.

The Religion Law imposes a complex and restrictive state registration system, including state checks on a community's beliefs and demands for at least 50 people willing to identify themselves in writing to the authorities as founders. Many people are afraid to do this, for fear of state reprisals (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

More official targets

Among other recent administrative fines imposed to punish people for exercising the right to freedom of religion or belief, two drug and alcohol rehabilitation centres established by religious communities have been targeted (see F18News 2 February 2015 http://www.forum18.org/archive.php?article_id=2034).

"Social justice"?

Another Council of Churches Baptist has been punished for talking to others on the street about his faith and offering religious literature without the compulsory state permission. On 19 December 2014, Judge Nurlan Nuralin of Aiyrtau District Court of North Kazakhstan Region found Maksim Volikov guilty of violating the old Administrative Code Article 375, Part 1 ("Violation of the Religion Law"), according to the decision seen by Forum 18. In line with the request by Prosecutor Almaz Fazylov, the Judge fined him 50 MFIs and imposed "a ban on his activity for three months".

Despite noting that as a mitigating factor Volikov has six young children, Judge Nuralin gave him the prescribed fine for an individual. "The Judge considers that imposing this fine will be sufficient for the restitution of social justice and the education of the offender," the decision states.

Judge Nuralin also ordered that more than 165 religious books, booklets, magazines and CDs – including Bible texts - seized from Volikov should be handed to the Regional Religious Affairs Department.

The books were seized from Volikov on 21 August 2014 as he was offering them outside a shop in the village of Novoukrainka. The court decision notes that nowhere in the village is authorised for the distribution of religious literature.

Prosecutor Fazylov refused absolutely to discuss why he had demanded that Volikov be fined for exercising his right to freedom of religion or belief. "I can't give any information by telephone," he kept repeating to Forum 18 on 12 January.

No one at the Regional Religious Affairs Department in Petropavl was able to tell Forum 18 on 12 January whether Volikov's literature is now with them and what the Department is planning to do with it.

On 25 July 2014, North Kazakhstan Regional Court rejected Volikov's appeal against an earlier administrative fine of 100 MFIs under the old Administrative Code Article 374-1, Part 1. This was imposed for leading a church in his home without state permission (see F18News 21 July 2014 http://www.forum18.org/archive.php?article_id=1979).

Like other Council of Churches Baptists, Volikov refuses to pay fines imposed to punish him for exercising his right to freedom of religion or belief. Local Baptists told Forum 18 on 23 December 2014 that he is intending to appeal against the latest fine and is also seeking the return of the seized books.

Sharing any beliefs with others can only be done if a person is given state permission to be a "missionary" using state-approved materials within state-approved geographic limits. Books have often been confiscated during police raids (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

More punishments for sharing beliefs

Jehovah's Witnesses have been frequent targets of prosecution under the old Administrative Code Article 375, Part 3 ("Violation of the Religion Law"). Fines are 100 MFIs.

Among cases in late 2014, on 6 August 2014, North Kazakhstan Regional Court upheld the fine imposed by a lower court on 11 July on Vitaly Nikitenko. He had been fined for

sharing his faith in the village of Saumalkol on 3 March 2014, according to the decision seen by Forum 18.

On 12 November 2014, Astana City Court in the capital upheld the fine imposed by a lower court on 13 October on Marat Babulov. He had been fined for sharing his faith on the streets on 2 August 2014, according to the decision seen by Forum 18.

Two Jehovah's Witnesses in Astana were fined for sharing their faith on the streets on 4 October 2014, according to the decisions seen by Forum 18. On 4 December 2014, Astana City Court upheld the fine imposed by a lower court on 10 November on Samat Musin. On 18 December 2014, Astana City Court upheld the fine imposed by a lower court on 11 November on Tatyana Kostrygina.

Punished for selling books

A commercial bookseller has been punished for selling religious books and other religious items, without having the required permission from the regional Religious Affairs Department. On 14 October 2014, Judge Nurolla Esenzholov of Ekibastuz Specialised Administrative Court in the north-eastern Pavlodar Region fined Vasilya Dzhubayeva 100 MFIs under the old Administrative Code Article 375, Part 1 ("Violation of the Religion Law"), according to court records. Dzhubayeva did not appeal against the fine.

A brief statement on the court website on 13 November 2014, which did not name Dzhubayeva, did not say what religious books and items she had been selling. Many booksellers have been prosecuted for the "offence" of selling religious material (see eg. F18News 17 June 2014 http://www.forum18.org/archive.php?article_id=1970).

Kazakhstan imposes strict state censorship on religious materials, including highly restrictive controls on who may sell distribute material and where it may be sold or distributed (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

Criminal trial verdict expected

The activities of the Tabligh Jamaat Muslim missionary movement have some similarities with the activities of Baptists and Jehovah's Witnesses prosecuted by the state for exercising their freedom of religion or belief. The criminal trial of five alleged Tabligh Jamaat members is expected to conclude soon at Taldykorgan City Court in Almaty Region. The trial of Bakyt Nurmanbetov, Aykhan Kurmangaliyev, Sagyndyk Tatubayev, Kairat Esmukhambetov and Ruslan Kairanov began on 9 December 2014. Three of the five have been under arrest since September 2014 (see F18News 12 December 2014 http://www.forum18.org/archive.php?article_id=2023).

The final hearing was due on 8 January 2014 but was postponed to an unknown date as one of the lawyers was unable to attend, Aliya Akhmediyeva of the Kazakhstan International Bureau for Human Rights and the Rule of Law told Forum 18 from the city that day.
