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The right to believe, to worship and witness
The right to change one's belief or religion
The right to join together and express one's belief

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KYRGYZSTAN: "A fabricated case" states Judge, but women still under arrest

By Mushfig Bayram, Forum 18 (https://www.forum18.org)

Kyrgyzstan is keeping two Jehovah's Witnesses, Nadezhda Sergienko and her daughter Oksana Koryakina, under arrest more than 19 months after their March 2013 arrest for alleged swindling. Both women strongly deny the authorities' allegations, and Judge Sheraly Kamchibekov acquitted the two women of all charges. He told Forum 18 News Service on 4 November that "it was a fabricated case" and that he did not believe the prosecution's claims. However, the two women remain under house arrest as the prosecution has appealed against the acquittal. The two women's co-believers have told Forum 18 that they think the arrests and detentions may be reprisals by the authorities for registration applications Jehovah's Witness communities have made. The lawyer for the people alleged to have been swindled argues in appealing against the acquittal that Jehovah's Witnesses "do not have registration in Osh, Jalalabad and Batken regions". As Judge Kamchibekov observed to Forum 18, "this has nothing to do with the case".

Kyrgyzstan is keeping two Jehovah's Witnesses, Nadezhda Sergienko and her daughter Oksana Koryakina, under arrest more than 19 months after their March 2013 arrest for alleged swindling. Both women strongly deny the authorities' allegations, and Judge Sheraly Kamchibekov acquitted the two women of all charges on 7 October. He told Forum 18 News Service on 4 November that "it was a fabricated case" and that he did not believe the prosecution's claims. However, the two women remain under house arrest as the prosecution has appealed against the acquittal. They cannot leave their home city of Osh without court permission and they cannot leave their home between each evening and the following morning.

Judge Kamchibekov said that the appeal case should be heard in the Regional Court within five to six weeks. He thinks that the appeal should be decided in the Jehovah's Witnesses favour, as there is no evidence of their alleged crimes.

The two women's co-believers have told Forum 18 that they think the arrests and detentions may be reprisals by the authorities for registration applications Jehovah's Witness communities have made (see F18News 2 April 2013 http://www.forum18.org/archive.php?article_id=1819). That the reason for the arrests and prosecutions is discriminatory would appear to be backed by the behaviour of the police and prosecutors (see below).

Other religious or belief communities do not appear to have faced such specific reprisals, but they routinely endure harassment up to and including violence with the complicity of the authorities (see Forum 18's Kyrgyzstan religious freedom survey http://www.forum18.org/archive.php?article_id=2013).

Acquittal

Judge Kamchibekov acquitted Sergienko and Koryakina of all the criminal charges they faced on 7 October at Osh City Court. He told Forum 18 that "it seemed to me that it was a fabricated case". The Judge also stated that he believed the two women's testimony that they were not at the location where the alleged offences were claimed by the prosecution to have happened, and also did not believe the prosecutions allegations that the women were swindlers.

The authorities alleged that Sergienko and Koryakina conjured live snakes from eggs and then swindled old women out of their life savings (see F18News 2 April 2013 http://www.forum18.org/archive.php?article_id=1819). However, Jehovah's Witnesses pointed out, the authorities were unable to prove in court either that the alleged offences took place, or that if they had taken place that the defendants were responsible.

Prosecutors produced three alleged victims, Natalya Smirnova, Yevdokiya Merkulova and Galina Beze. However, during identification parades, Beze stated on 22 March 2013 that neither Sergienko nor Koryakina had defrauded her. Smirnova, Merkulova and Beze claimed they had been defrauded by "unknown Russian women" who said they were sent by a priest of the Russian Orthodox Church in Osh.

However, police admitted in court that they did not investigate anyone apart from the two Jehovah's Witnesses. Police Investigator

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Nargiza Abdrahmanova did on 24 April 2013 question Fr Viktor Reymgen of the Russian Orthodox Church in Osh. But she admitted this was only to obtain information about what she described as "the religious sect of Jehovah's Witnesses".Â•

None of this stopped police Investigator Ali Mavlyanov from via a court putting the defendants under house arrest (see F18News 2 April 2013 http://www.forum18.org/archive.php?article_id=1819).

At the 7 October 2014 hearing which led to the acquittal, Jehovah's Witnesses pointed out that police also did not investigate whether the defendants had or had received the money allegedly taken from their alleged "victims". The only search conducted of the defendants' home took place on 21 May 2013, more than six months after the alleged crime. Police Investigator Abdrahmanova, according to the official search record, only looked to see if the defendants had "prohibited literature".

Why arrest and prosecute the innocent?

Prosecutor Nazar Kenzheyev on 12 November 2014 refused to tell Forum 18 why the two Jehovah's Witnesses have been under arrest for so long and why he appealed against their acquittal. "It is an investigation secret, and I cannot talk to you over the phone," he claimed. Asked if the Jehovah's Witnesses are being punished because of their exercise of freedom of religion or belief, and their requests to local keneshes (authorities) in southern Kyrgyzstan to receive state registration, he put the phone down.

Police Investigators Abdrahmanova and Mavlyanov, were equally unwilling to discuss why the women have been under arrest for so long and the authorities are still attempting to prosecute them on unsafe evidence. "I will not tell you anything about the case", Abdrahmanova told Forum 18 on 6 November before putting the phone down. Mavlyanov on 6 November put the phone down as soon as he was asked why Sergienko and Koryakina were put under house arrest.

Forum 18 was not given the opportunity to ask police and prosecutors why they are apparently making no effort to find, arrest and prosecute the real criminals, if the crimes took place.

Appeal against acquittal

Prosecutor Kenzheyev and Tatyana Tomina, the legal representative of Smirnova, Merkulova and Beze, have appealed against the acquittal.

Tomina claimed in her appeal, seen by Forum 18, that one of the Jehovah's Witnesses' lawyers, Shane Brady, was not authorised to participate in hearings in Kyrgyzstan. Judge Kamchibekov dismissed this claim. Indeed, Brady has legally represented the Jehovah's Witnesses in a 4 September hearing of the Constitutional Chamber of the Supreme Court (see F18News 24 October 2014 http://www.forum18.org/archive.php?article_id=2008).

Tomina also claims that the Court did "not take into account Smirnova's husband's testimony" - even though this was only about how much money was claimed to have been taken, and he admitted that he only heard about the loss of money days after the event and did not witness any alleged visit by the acquitted Jehovah's Witnesses.

The appeal case, Judge Kamchibekov stated, should be heard in the Regional Court within five to six weeks. He also told Forum 18 that "unfortunately, their house arrest continues until the acquittal decision enters into force". Jehovah's Witnesses told Forum 18 on 12 November that they submitted an objection to the appeal to Osh Regional Court in early November.

"This has nothing to do with the case"

Another argument Tomina uses in her appeal is that the Court consider that Jehovah's Witnesses "do not have registration in Osh, Jalalabad and Batken regions" and that "the defendants in violation of the Religion Law distributed religious literature and have visited homes". As Judge Kamchibekov observed to Forum 18, "this has nothing to do with the case".

The Judge also stated that "nowhere in law does it say that a registered organisation such as Jehovah's Witnesses cannot share their beliefs with others, and that they cannot knock on doors or visit people". He observed that Jehovah's Witnesses "do not enter people's homes by force or without the householders' consent".

Jehovah's Witnesses and other belief communities routinely endure harassment, up to and including violence, with the complicity of the authorities (see Forum 18's Kyrgyzstan religious freedom survey http://www.forum18.org/archive.php?article_id=2013).

"Technical issues"?

Tomina told Forum 18 on 11 November that she appealed against the acquittal of the two Jehovah's Witnesses "because I believe my clients and Koryakina and Sergienko defrauded them". Asked whether she really thinks that the two women could conjure live snakes out of chicken eggs as claimed by her clients, Tomina loudly responded "you defend the Jehovah's Witnesses and I defend the Russian Orthodox."

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Asked why Smirnova, Merkulova and Beze all asked her to represent their claim in Court, and who directed the women to her, Tomina replied "the investigators". When asked why the authorities decided that the plaintiffs needed her as a legal representative, she replied: "why you as a journalist are not just writing what people tell you and keep investigating the technical issues. It is not your business."

Tomina also told Forum 18 that she had "asked one of the defendants, a Russian woman, why she instead of being Russian Orthodox converted to Jehovah's Witnesses". Asked what that has to do with the case, Tomina stated that "I wanted to prove that she cannot be trusted by the Court as I suspect that she became a Jehovah's Witness for material gain".

Asked whether she does not think that the whole case is fabricated, and that the Jehovah's Witnesses are being punished for exercising their freedom of religion or belief, Tomina did not reply. (END)

For more background information see Forum 18's Kyrgyzstan religious freedom survey at http://www.forum18.org/archive.php?article_id=2013.

More reports on freedom of thought, conscience and belief in Kyrgyzstan can be found at http://www.forum18.org/Archive.php?query=&religion=all&country=30.

A compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments can be found at http://www.forum18.org/Archive.php?article_id=1351.

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