

13 October 2015

KAZAKHSTAN: KNB secret police-inspired criminal prosecutions

By Felix Corley, Forum 18

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 (see Forum 18's Kazakhstan religious freedom survey <http://www.forum18.org/Archive.php?article_id=1939>).

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 (see F18News 12 December 2014 <http://www.forum18.org/archive.php?article_id=2023>).

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 (three of whom have been released on completing their prison terms). 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 (see F18News 20 August 2015 <http://www.forum18.org/archive.php?article_id=2092>).

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.

Kabduakasov's prison address:

SIZO KNB g. Astana

010003 Astana

Ul. Shyntas 2

Kazakhstan

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 (see F18News 7 October 2015 <http://www.forum18.org/archive.php?article_id=2108>).

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.

Apakashev's prison address:

SIZO KNB Karagandinskoi Oblasti

100000 g. Karaganda

Prospekt Bukha-Zhyrau 17

Kazakhstan

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 (see F18News 7 October 2015 <http://www.forum18.org/archive.php?article_id=2108>).

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. Mamurzhay 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 (reduced to one year on appeal, freed in August on completion of sentence).
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 (reduced to one year on appeal).
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 (reduced to one year on appeal, freed in August on completion of sentence).
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 (reduced to one year on appeal, freed in August on completion of sentence).
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 (reduced to one year on appeal).
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 Nuradilov; 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. (END)

Reports on freedom of thought, conscience and belief in Kazakhstan can be found at <http://www.forum18.org/Archive.php?query=&religion=all&country=29>.

For more background, see Forum 18's Kazakhstan religious freedom survey at http://www.forum18.org/Archive.php?article_id=1939.

For a personal commentary from 2005 on how attacking religious freedom damages national security in Kazakhstan, see F18News http://www.forum18.org/Archive.php?article_id=564.

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

A printer-friendly map of Kazakhstan is available at <http://education.nationalgeographic.com/mapping/outline-map/?map=Kazakhstan>.

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