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UZBEKISTAN: Will authorities pardon tortured, jailed Shia Muslim?

By Mushfig Bayram, Forum 18

The Chief Directorate for the Enforcement of Punishments refused to say what stage Shia Muslim prisoner of conscience Jahongir Kulijanov's request for pardon has reached. Among 20 Shias detained in Bukhara in February 2017 and tortured, fined in August 2017, Kulijanov was jailed for five years in September 2017 for having works on Shia history.

Relatives of Shia Muslim Jahongir Kulijanov, serving a five-year prison term for exercising freedom of religion or belief, are hoping his appeal for a pardon will be granted and he will be freed. Bahodir Akromov, now the acting head of the Interior Ministry's Chief Directorate for the Enforcement of Punishments, told relatives on 29 January that his Chief Directorate had forwarded Kulijanov's application for a pardon to the State Commission which considers such pardons. Yet he remains in prison in the southern town of Kyzyltepa.

Akromov's assistant, who refused to give his name, refused to tell Forum 18 on 29 March at what stage the consideration of Kulijanov's amnesty request is. "You need to come to our office to find out," he replied. When Forum 18 insisted with the question, he referred Forum 18 to the Foreign Ministry. "Send your questions to them."

Bukhara Regional Criminal Court jailed Jahongir Rizoyevich Kulijanov (born 5 October 1982) in October 2017 on charges of storing "extremist religious materials" on his mobile phone and computer. The five-year term is deemed to run from his arrest on 30 May 2017. Human rights defenders deny that the materials - on the history of Shia Islam - constituted incitement to harm the human rights of others (see below).

Officials often search mobile phones and other electronic devices in the hunt for religious materials which have not undergone the compulsory prior state censorship of all religious materials. Punishments can be severe, and from around 2013 the authorities have often jailed for up to five years or fined Muslims (including foreign citizens) found with the Koran and Muslim sermons on their mobile phones (see Forum 18's Uzbekistan religious freedom survey <http://forum18.org/archive.php?article_id=2314>).

"Kulijanov is an innocent Shia believer, the case was fabricated," Shukhrat Ganiyev, an independent human rights defender from Bukhara, who helped in preparing Kulijanov's defence, complained to Forum 18 on 19 March.

Some community members suggest the authorities may have targeted Kulijanov because he was being spoken of as a potential imam to lead the city's Khoji mir Ali Shia Mosque (see below).

While most Uzbek Muslims are Sunnis, a small Shia minority - many of them ethnic Iranians - live in and around the southern cities of Bukhara and Samarkand.

Kulijanov was among nearly 20 Shia Muslims detained in Bukhara in February 2017 and was one of five subsequently jailed for several weeks. Later in 2017, while he was already in pre-trial detention, he and another Shia Muslim were given a criminal conviction and fined (see below).

Officials have refused to discuss with Forum 18 allegations that officers of the then National Security Service (NSS) secret police tortured Kulijanov and others from Bukhara's Shia Muslim community with beatings to extract confessions (see below).

On 14 March, President Shavkat Mirziyoyev renamed the secret police from the National Security Service to the State Security Service (SSS). Its functions appear to remain the same.

Will Kulijanov be freed?

Following his jailing, Kulijanov's relatives wrote a petition on his behalf to President Mirziyoyev. On 29 January, Bahodir Akromov, Deputy Head (now acting head) of the Interior Ministry's Chief Directorate for the Enforcement of Punishments, which oversees

prisons, sent his relatives a written response.

Akromov said in the letter, seen by Forum 18, that the request sent to the President for Kulijanov to be pardoned had been handed to the Chief Directorate. "Kulijanov was made aware of the request and he gave his agreement to write a petition for pardoning," Akromov's response, seen by Forum 18, declares. It added that the Chief Directorate was sending Kulijanov's petition to "the authorised State organ", the State Commission on pardoning convicts.

Earlier arrest of Kulijanov and his Shia co-believers

Trouble for Kulijanov and other members of Bukhara's Shia Muslim community who used to attend the city's Khoji mir Ali Shia Mosque began on 2 February 2017. Officers of Bukhara City Police and the then NSS secret police arrested him, his brother Saidjamol Kulijanov, and eighteen others. Six were arrested while they were having a meal in a local cafe. The rest were arrested later the same night.

Fifteen of the arrested, including Kulijanov's brother Saidjamol, were released the following day after questioning. However, five - Jahongir Kulijanov, Shavkat Azimov, Alibek Khusanov, Jamshid Khasanov and Sharof Sharapov - were given 15-day administrative arrests and held in custody. Police "claimed to the detainees and their legal representatives that they had gathered for an illegal religious meeting in the cafe, which is why they were put under investigation," human rights defender Ganiyev told Forum 18.

"However, the official reasoning of the administrative arrests was different," Ganiyev explained. The Police claimed in the case files the detainees were punished for harassing a woman and insulting a police officer. "This fabrication was so that the police could keep them in custody to invent 'evidence' to open a criminal case."

NSS Investigators subject five to torture and humiliation

The NSS secret police was "involved in the case from the very beginning," Ganiyev maintained. "Though the five men were kept in Bukhara City Police Department's Detention Centre for fifteen days, NSS officers Ruslan Allazarov and Anvar Mamasoliyev interrogated them and tortured them to extort confessions."

Kulijanov and others were "regularly subjected to humiliation and beaten severely," Ganiyev complained to Forum 18. As a result of beatings, "Kulijanov for a period of time lost hearing, and had constant pain in his internal organs. He had to be hospitalised."

NSS Investigators Allazarov and Mamasoliyev "tortured Kulijanov and the other four men under administrative arrest to extort confessions that they were involved in illegal religious activity," Ganiyev told Forum 18, "that in their religious gatherings they were making calls on the attendants to fight against the so-called Islamic State, which occupied parts of Syria and Iraq."

Relatives of the five men, who asked not to be identified for fear of state reprisals, confirmed this to Forum 18. "The officers kicked them, leaving bruises on their bodies, and pushed them to the ground," one relative lamented. "While they were lying on the floor, officers pressed their boots on their heads, and insulted them, saying that they visited the toilet in those boots." The relative explained to Forum 18 that toilets in police stations "normally are Asian-style, without proper cleaning or sanitation".

Investigator Allazarov also "used threats and harassment to force some of the fifteen who were released earlier to write statements that Kulijanov organised illegal religious meetings, and that he made calls in these meetings to jihad and Islamic revolution in Uzbekistan," Ganiyev added.

Officials refuse to discuss torture

Torture, or threats of this, by police and other officials are "routine" in Uzbekistan, the United Nations (UN) Committee Against Torture found in 2007. The UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment obliges states to arrest and prosecute anyone suspected of committing torture (see Forum 18's Uzbekistan religious freedom survey <http://forum18.org/archive.php?article_id=2314>).

Asked on 28 March 2018 why the General Prosecutor's Office did not investigate the complaints regarding beatings of Kulijanov and the other Shia Muslims by NSS secret police investigators in order to extort confessions, officials of the General Prosecutor's Office (who would not give their names) referred Forum 18 to Gulnoza Rakhimova, the Press Secretary.

An official who answered Rakhimova's phone introduced himself as "one of the Prosecutors". He then claimed to Forum 18 that Rakhimova is "on a business trip". He refused to answer why the General Prosecutor's Office did not investigate the NSS secret police's actions. He then put the phone down.

Forum 18 asked the duty officer (who did not give his name) at the secret police's central office in Tashkent whether the secret police had investigated the reported torture by its officers in Bukhara. He asked Forum 18 to send questions in writing, and declined

to put Forum 18 through to any officials.

Kulijanov's custody extended, criminal case opened

On 17 February 2017 when the 15-day arrests were completed, four of the detainees were released. However, Kulijanov's custody was extended for another 10 days, Ganiyev told Forum 18. On 18 February, Bukhara City Police opened a case against him under Criminal Code Article 216.

Article 216 punishes "Illegal establishment or reactivation of illegal public associations or religious organisations, as well as active participation in their activities". Punishments range from a fine of up to a hundred times the minimum monthly wage to imprisonment for up to five years.

Azimov, Kulijanov's fellow-believer, was also investigated in the same case under the same charges. He and the other three were released only after they signed undertakings not to leave Uzbekistan until the case is over.

On 27 February 2017, Kulijanov was released from custody. The Police "in a deceptive way reassured him that the authorities will leave him alone now, and that he will only pay fines," Ganiyev told Forum 18.

Arrested for second time

However, three months after his release from custody, the NSS secret police arrested Kulijanov again on 30 May 2017, holding him in their investigation prison.

On 1 June 2017 NSS secret police Investigator Sarvar Yunusov opened a further case against him under Criminal Code Article 244-1, Part 3.

Article 244-1 punishes the "production, storage, distribution or display of materials containing a threat to public security and public order". Its Part 2 punishes: "Dissemination of materials containing ideas of religious extremism, separatism, and fundamentalism, calls for pogroms or violent eviction, or aimed at creating panic among the population, as well as the use of religion for purposes of breach of civil concord, dissemination of calumnious and destabilising fabrications, and committing other acts aimed against the established rules of conduct in society and public order".

Part 3 (a) punishes this "crime" with prior planning or by groups of individuals, Part 3 (b) punishes it by officials, and Part 3 (c) punishes this "with financial or other material aid from religious organisations, as well as foreign states, organisations, and citizens". Part 3 (d) punishes this "crime" when the media or internet is used. Punishment is imprisonment of between five and eight years.

The NSS secret police confiscated Kulijanov's mobile phone, on which they found a Russian-language audio file recounting the story of the Battle of Karbala in 680 (61 in the Islamic Calendar), when Husayn ibn Ali, the grandson of the Muslim prophet Muhammad, was killed. Shia Muslims regard the Battle as a tragedy and Husayn as a martyr.

The NSS accused Kulijanov of "spreading extremist ideas in Uzbekistan".

Ganiyev pointed out to Forum 18 that "similar stories have been told in the Shia Mosque Khoji mir Ali, which Kulijanov attended regularly during Ashura holidays. The tragedy was also recounted in books endorsed by the State Religious Affairs Committee."

First criminal trial

On 22 August 2017, Judge Alisher Uralov of Bukhara Region's Bukhara District Criminal Court convicted both Kulijanov and Azimov in the first criminal case under Criminal Code Article 216 ("Illegal establishment or reactivation of illegal public associations or religious organisations, as well as active participation in their activities"), according to the decision seen by Forum 18.

The Judge convicted Kulijanov and Azimov for "illegal religious meetings" in 2015, as well as for "spreading the extremist ideas of Iraqi Shia leader Sayid Ali Sistani and Iranian Shia leader Khusaini Shirazi". The Judge fined each 50 times the minimum monthly wage or 7,488,750 Soms.

Judge Uralov, who now works for the Bukhara Regional Administrative Court, refused to discuss the case with Forum 18 on 28 March 2018. Asked why he fined Kulijanov and Azimov and why the authorities subsequently imprisoned Kulijanov for exercising freedom of religion or belief, Judge Uralov told Forum 18: "I cannot answer your questions. Please send them in writing." He then put the phone down.

During the trial, Azimov as well as other witnesses in the case told the Court that the "investigating officers tortured them and forced them to sign confessions and showed the traces on their bodies of bruises the Judge ignored all of it, and did not react to the illegal

actions of the investigators."

"Upon our request, observers from the US embassy came to the court observe the hearing," Ganiyev told Forum 18. "However, Judge Uralov, seeing them, each time postponed the hearing."

Ganiyev added that he had also raised the criminal case against Kulijanov and Azimov with the United Nations (UN) Special Rapporteur on Freedom of Religion or Belief, Ahmed Shaheed, who visited Uzbekistan in the first half of October 2017.

Second criminal trial

While the first criminal trial was underway, the then NSS secret police were already investigating the second criminal case against Kulijanov. The case was brought to Court by Amrillo Khoshimov, Deputy Prosecutor of Bukhara Region.

Kulijanov was charged with storing on his mobile phone and personal computer "extremist religious materials". These consisted of audio files, in Russian, on the history of the Battle of Karbala and the killings of Shia Imams, and opinions of Shia scholars on matters of the Islamic faith.

Judge Abdumannon Shaydoyev of Bukhara Regional Criminal Court tried and convicted Kulijanov on 11 September 2017, handing down a five-year prison term to be served in an ordinary regime labour camp. The Judge convicted him under Criminal Code Article 244-1, Part 3 (a) and (d) ("production, storage, distribution or display of materials containing a threat to public security and public order" by a group of people and using the media or the internet). The prison term was deemed to run from the date of his arrest, 30 May 2017.

However, for reasons he did not explain the Judge did not issue the written verdict until 24 October 2017, 43 days later.

Asked about the case, an assistant (who would not give his name) to Ikram Muslimov, Chair of Bukhara Regional Criminal Court, referred Forum 18 on 28 March 2018 to Judge Shaydoyev. Judge Shaydoyev the same day claimed to Forum 18 that it was a wrong number.

When Forum 18 called back the Chair Muslimov's number, the officials asked Nozim Jurayev of the Court to talk to it. Jurayev claimed that Judge Shaydoyev "is in a hearing". Asked who from the Court Forum 18 could discuss the case with, he responded: "The Court will not discuss its decisions. If the defendant is not happy with the decision, he can file an appeal."

Telephones of Bukhara Regional Prosecutor's Office went unanswered on 27 and 28 March.

"For the purpose of spreading Shia beliefs"

In the Court verdict seen by Forum 18, Judge Shaydoyev argues that Kulijanov "visited Shia holy sites in Iraq and Iran between 2011 and 2015". The Judge also claimed that "for the purpose of spreading Shia beliefs Kulijanov downloaded from the Arsh-313 (Shia) website audio files of religious extremist materials prepared by an individual named Amin Ramin on the 'history of the movement of Imam Husayn [massacred Shia Imam]', 'the meaning of Karbala [tragedy]', 'Programme of Imam Husayn', and 'chastity of [Prophet] Muhammad', 'Yassir Habib explains the fatwa of Seyyid Ali Sistani' [...] for the purpose of sharing with others."

Judge Shaydoyev argues that "based on the expert analysis of the State Religious Affairs Committee from 15 May 2017, import, storage and distribution of these materials in the territory of Uzbekistan is not allowed".

Judge Shaydoyev also argues that, according to testimony of witnesses, Kulijanov "illegally" shared these materials with Azimov and others in religious gatherings in his home and in Azimov's furniture shop on various occasions in 2015.

Ganiyev told Forum 18 that these materials "are not extremist in nature and contain no calls to violence but only give the account of the violent killings of the Shia Imams and opinions of various Shia clergy on issues of the Shia faith and history."

"Unfair" court process

Ganiyev complained to Forum 18 that Kulijanov's Court process was "unfair." He questioned why the verdict was issued 43 days after the hearing. "The announcement of the verdict was postponed because of the visits of international human rights observers in the country in that period," Ganiyev maintained. (UN Special Rapporteur on Freedom of Religion or Belief, Ahmed Shaheed, visited Uzbekistan in the first half of October 2017.)

Ganiyev told Forum 18 that another violation was that "Kulijanov was kept in NSS custody until 3 November 2017 so he could not appeal against the decision, since he had 10 days after 24 October to file an appeal." He said that "Kulijanov was afraid to tell the Court that he was beaten by the NSS Investigators since he still was in their clutches."

Ganiyev also lamented that "for such serious charges there was only one hearing, which lasted only one and half hours."

Judge Shaydoyev "without any basis refused Kulijanov's lawyer's petitions to invite independent experts as well as experts of the State Religious Affairs Committee for the hearing," Ganiyev told Forum 18. He said that the State Committee experts told the lawyer in a meeting that the "audio file is not banned because it is commonly known Islamic history".

Judge Shaydoyev "also ignored all the lawyer's arguments on Kulijanov's innocence." Though the Court summoned eight of Kulijanov's fellow-believers, arrested with him in February 2017, Prosecutor Khoshimov "questioned only one of them, asking him what his business was, what he sold and for how much".

"Equally strange was Judge Shaydoyev," Ganiyev added. "The Judge told the witnesses in Court that the audio file from Kulijanov's phone is indeed a history, but it is not allowed to listen to or read it."

Why was Kulijanov prosecuted and arrested?

Asked why he thinks Kulijanov was prosecuted and arrested, Ganiyev told Forum 18 that the NSS secret police "claimed in the case materials that Kulijanov visited Iraq and Iran for extremist purposes." Ganiyev was adamant that Kulijanov is "not an extremist."

Kulijanov "as a devout believer", visited Karbala and Najaf in Iraq, Shia Islam's two holiest cities, "along with hundreds of other Shia believers from Samarkand and Bukhara", Ganiyev told Forum 18. "After he returned from the pilgrimage, he sent a letter of gratitude to Uzbekistan's then President Islam Karimov for the fact that the authorities allowed the pilgrimage."

Kulijanov and others "listened to or read stories on the Karbala tragedy and the history of Shia Islam on the internet in Russian, especially of Amin Ramin, an ethnic Russian who became a Shia believer, as well as downloaded these files," Ganiyev said. The reason they had to do so, he explained, "is because there are very few Shia religious books in Uzbekistan. Almost all such books are either in Farsi or Arabic." He noted that all the 14 books they have in the Khoji mir Ali Mosque are in Arabic and Farsi.

"When Kulijanov and witnesses, his fellow-believers, told the Court that they had few options over where to read about their faith or history, Judge Shaydoyev ridiculously said that it is OK to read those books in Arabic or Farsi but not in Uzbek or Russian," Ganiyev objected. "It is like saying you can read or listen to news in Arabic or Farsi but not in Uzbek or Russian."

Kulijanov's fellow believers from Khoji mir Ali Mosque, who asked not to be identified for fear of state reprisals, told Forum 18 on 22 March that the "real reason why the authorities targeted Kulijanov is that approximately two years ago our Imam [of the Khoji mir Ali Mosque, Ibrohim Habibov] with the support of members of the Mosque Community proposed that Kulijanov become the next Imam after he steps down in the near future." They added that the "authorities may have been looking for opportunities to stop this from happening".

Imprisoned in Kyzyltepa

On 3 November 2017, Kulijanov was transferred from the NSS detention prison in Bukhara, where he had been held since his arrest in May 2017. He was sent to the ordinary regime labour camp in Kyzyltepa in Navoi Region, some 60 kms (40 miles) away.

Kulijanov's relatives visited him in early March 2018 and they think he is "doing fine", Ganiyev told Forum 18. "They cannot give detailed information since they do not want the authorities to punish him in the prison."

Kulijanov's prison address is:

Navoi Region

Kyzyltepa

UYa 64/47

15 otryad, 152 brigada

Kulijanovu Jahongiru Rizoyevichu

Uzbekistan

Petitions to central authorities unsuccessful

Ganiyev told Forum 18 that "we sent letters numerous times to the General Prosecutor and the President, but our complaints were each time sent for investigation to Bukhara Regional NSS secret police, against whose actions we actually complained." (END)

For more background, see Forum 18's Uzbekistan religious freedom survey at http://www.forum18.org/Archive.php?article_id=2314.

Full reports on freedom of thought, conscience and belief in Uzbekistan can be found at <http://www.forum18.org/Archive.php?query=&religion=all&country=33>.

For a personal commentary by a Muslim scholar, advocating freedom of religion and belief for all as the best antidote to Islamic religious extremism in Uzbekistan, see http://www.forum18.org/Archive.php?article_id=338.

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

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

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