

10 March 2021

TAJIKISTAN: "I do not know what the Mandela Rules are"

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

Prison authorities have repeatedly denied seriously ill Jehovah's Witness prisoner of conscience Shamil Khakimov the specialised medical treatment he needs. The 70-year-old has a bad leg "which smells like rotten meat" and has had coronavirus symptoms. The UN Mandela Rules for prisoners' treatment say medical decisions must be made by doctors, and the UN Human Rights Committee and the UN Committee against Torture have both called for Tajikistan to implement the Rules. Yet the prison governor told Forum 18: "I do not know what the Mandela Rules are." A Supreme Court official similarly denied knowledge of the Mandela Rules.

Strict Regime Prison YaS 3/5's authorities in the northern city of Khujand have refused to free seriously ill 70-year-old Jehovah's Witness prisoner of conscience Shamil Khakimov to allow him to get specialised medical treatment he needs or to give him appropriate medical treatment in prison.

The prison administration and courts have refused to implement the UN Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules), which require that decisions on prisoners' medical needs should be taken by doctors (see below).

Prisoner of conscience Khakimov was in September 2019 jailed for seven years, six months for allegedly "inciting religious hatred" (reduced in summer 2020 under amnesty by two years, three months). Part of the prosecution was based on his possession of a widely-used Tajik translation of the Bible (see below).

Prisoner of conscience Khakimov, a retired widower, is in poor health, had major leg surgery not long before his arrest, and suffers from high blood pressure. Since being jailed his health has "degraded significantly", and he has suffered from a possible coronavirus infection. His friends and family are "very concerned about his health" (see below).

In January 2021, the prison authorities removed prisoner of conscience Khakimov from the prison medical unit and sent him back to the ordinary cells, where other prisoners have verbally attacked him for having "a leg which smells like rotten meat" (see below).

Farukh Jalolov, governor of Strict Regime Prison YaS 3/5 in Khujand where prisoner of conscience Khakimov is held, told Forum 18: "I do not know what the Mandela Rules are." He claimed prisoner of conscience Khakimov was not hospitalised when he had coronavirus symptoms as: "He just had a cold and that is all. The rest is lies" (see below).

Prison authorities have banned Khakimov from reading the Bible openly in the presence of others, or having any conversations with others about God and his faith. Relatives of Muslim prisoners of conscience have told Forum 18 that their relatives are being allowed to pray openly, but not to read the Koran (see below).

The prison administration, Khujand Prosecutor's Office, and Khujand City Court have rejected legal appeals to free prisoner of conscience Khakimov, giving contradictory reasons (see below).

The Supreme Court and Sugd Regional Court both rejected the appeal claiming an unspecified "technical mistake" in the appeal. Illegally, neither court provided a copy of its decision (see below).

Haydar Kodyrov, Head of the International Section of the Supreme Court, told Forum 18: "I am not aware of the Mandela Rules." He refused to explain why the Supreme Court rejected Khakimov's appeal, and why the Court illegally did not supply its decision to his lawyer (see below).

Conditions in prisons have been documented as "abysmal", with very bad sanitation and health care. The regime has denied that it has had any prison deaths due to coronavirus, claiming deaths are due to "pneumonia". Relatives and friends of prisoners fear this is not the case, and the regime denies the possibility of independent monitoring of prison conditions (see below).

In August 2019 the UN Human Rights Committee and in June 2018 the UN Committee against Torture expressed their concern "that conditions of detention — such as overcrowding, and inadequate material conditions of detention, including adequate food and drinking water, heating, ventilation, and sanitary and hygiene facilities, as well as treatment for transmissible diseases, and

meaningful activities and outdoor exercise — do not meet international standards".

Both committees called for the UN Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) to be implemented, including for the provision of medical treatment (see below).

Independent imam Sirojiddin Abdurahmonov, who was also jailed in 2010, was jailed in February 2021 for five and a half years (https://www.forum18.org/archive.php?article_id=2642) along with an unknown number of others.

Conscientious objector Rustamjon Norov's appeal against a three and a half year jail sentence was due on 11 March (https://www.forum18.org/archive.php?article_id=2642), and a judge has refused to explain why he allowed a Russian Orthodox nun with no connection to the case to testify for the prosecution. On 10 March, the Supreme Court rejected Norov's appeal in his absence and in the absence of his lawyer and family. The Supreme Court did not inform either Norov's family or lawyer of the change in date, his family complained to Forum 18. They were told only later on 10 March after the hearing had taken place.

Jailed despite poor health

After a closed hearing in prison in Khujand, Jehovah's Witness Shamil Rasulovich Khakimov (born 30 January 1951) was on 10 September 2019 given a strict regime jail sentence of seven years, six months (https://www.forum18.org/archive.php?article_id=2506) for allegedly "inciting religious hatred". On release, the Judge deprived him of the right to participate in any religious organisation for a further three years. "I am guilty of nothing," Khakimov told the court.

Police opened the case against Khakimov after widespread raids in January and February 2019 on homes and police interrogations of Jehovah's Witnesses (https://www.forum18.org/archive.php?article_id=2455) across the northern Sugd Region. Some of the interrogations involved torture.

Khakimov was prosecuted for books, other literature, photos, videos, audios, computer files and mobile phone data seized from him and other community members. The Prosecutor's Office claimed these materials contain "features of extremist activity", (https://www.forum18.org/archive.php?article_id=2506) according to the indictment seen by Forum 18.

This was based on a 2016 "state religious expert analysis" of the Tajik translation of the Bible published by the Institute for Bible Translation (IBT) in Stockholm. (The IBT is not linked to Jehovah's Witnesses and its translations are used by a wide range of Christians.) The analysis – conducted by three local Imams – was carried out at the request of the National Security Committee (NSC) secret police and claimed: "The book does not correspond to our society of Hanafi Muslims, its propaganda and distribution among the Muslim people does not meet the goals of our society, and its distribution among Hanafi Muslims causes confrontation and schism, and leads to misunderstandings." (https://www.forum18.org/archive.php?article_id=2506)

Strict Regime Prison YaS 3/5 authorities informed Khakimov on 4 July 2020 that under amnesty, his jail term had been reduced by two years, three months and ten days. He is scheduled to be released on 16 May 2024. The post-jail ban on exercising freedom of religion or belief for a further three years remains unchanged, and will run until May 2027, by which time Khakimov would be 76.

Khakimov, a retired widower, is in poor health. He underwent major leg surgery not long before his arrest, and suffers from high blood pressure. Despite this, he had been held in pre-trial detention for more than six months following his 26 February 2019 arrest (https://www.forum18.org/archive.php?article_id=2463).

Serious health problems, health has "degraded significantly" in jail

Since being jailed in September 2019, prisoner of conscience Khakimov's health has "degraded significantly," Jehovah's Witnesses told Forum 18 on 1 February.

According to a medical diagnosis prepared by the Centre of Forensic Medical Expertise of Sugd Region using medical information from Dushanbe's Vascular Surgery Department on 4 April 2019, serious vascular diseases in Khakimov's left leg mean that "sores not only make him sick, but he cannot stand on his feet. His toes are black and purple, he falls frequently" among other problems.

Khakimov himself – not prison staff – has been using bandages along with an ointment to stop the infection spreading but, the Centre stated, "he still has no access to other drugs".

His family saw other symptoms and signs of poor health in December 2020, and Khakimov himself is along with his friends and family "very concerned about his health".

Possible coronavirus infection, Mandela Rules ignored

Prisoner of conscience Khakimov's son observed that his father "felt very sick and seemingly had Covid-19 symptoms" when he visited him on 10 December 2020, Jehovah's Witnesses told Forum 18.

Khakimov had asked for medical treatment, but the authorities denied this. On 17 December 2020, his lawyer filed a request to Strict Regime Prison YaS 3/5 for immediate hospitalisation "to receive a paid consultation with a vascular surgeon, as well as providing the opportunity for them to carry out necessary treatment in a medical institution", Jehovah's Witnesses told Forum 18. His family are willing to pay for all the costs of his medical treatment.

In late December 2020, after the lawyer's letter, the prison administration sent prisoner of conscience Khakimov to the prison's medical unit. However, it refused to send him to the specialised medical institution for the appropriate specialised treatment that had been requested.

In January 2021, the prison administration removed prisoner of conscience Khakimov from the medical unit and sent him back to the ordinary cells, where other prisoners have verbally attacked him for having "a leg which smells like rotten meat".

The United Nations Standard Minimum Rules for the Treatment of Prisoners (known as the Mandela Rules – A/C.3/70/L.3 (https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf)) state in Rule 27: "All prisons shall ensure prompt access to medical attention in urgent cases. Prisoners who require specialised treatment or surgery shall be transferred to specialised institutions or to civil hospitals." They also state: "Clinical decisions may only be taken by the responsible health-care professionals and may not be overruled or ignored by non-medical prison staff."

Although Khakimov's coronavirus symptoms have improved, his leg has not been improved and he has not been hospitalised for the specialised medical treatment he needs, Jehovah's Witnesses told Forum 18 on 9 March 2021.

Neither Khakimov, nor his family, nor his lawyer have received medical reports on his condition, even though the Mandela Rules state: "all prisoners should be granted access to their [medical] files upon request. A prisoner may appoint a third party to access his or her medical file."

"I do not know what the Mandela Rules are"

Farukh Jalolov, governor of Strict Regime Prison YaS 3/5 in Khujand where prisoner of conscience Khakimov is held, told Forum 18 on 9 March: "I do not know what the Mandela Rules are."

The prison governor asked Forum 18 to explain the Mandela Rules. After Forum 18 had explained them, and asked why he refuses to hospitalise Khakimov in line with his obligations, Governor Jalolov claimed: "We take him regularly to the medical unit to treat his sores. We do not see a need to hospitalise him."

Jalolov claimed that "there is no need for an operation on the sores", and claimed prisoner of conscience Khakimov was not hospitalised when he had coronavirus symptoms as: "He just had a cold and that is all. The rest is lies."

The prison governor refused to answer when Forum 18 asked why prisoner of conscience Khakimov has not been hospitalised, or released under house arrest for the medical treatment he needs. "Further questions to the [Interior Ministry's] Chief Directorate for the Enforcement of Criminal Punishments in Dushanbe, please," he replied.

"I know what the Nelson Mandela Rules are, but I will not discuss anything"

Colonel Ilkhomjon Makhmudzoda, Deputy Head of the Chief Directorate for the Enforcement of Criminal Punishments, claimed to Forum 18 on 9 March: "I know what the Nelson Mandela Rules are, but I will not discuss anything with you. Please send your questions in writing to the Foreign Ministry."

Prisoners denied freedom of religion and belief

Strict Regime Prison YaS 3/5's administration has forbidden prisoner of conscience Khakimov to read the Bible openly in the presence of others. It has also forbidden him to have any conversations with others about God and his faith, Jehovah's Witnesses told Forum 18 on 10 March. "Previously the Bible was taken away from him, but later returned on condition that only he alone would read it."

Rule 2 of the Mandela Rules states in part: "The religious beliefs and moral precepts of prisoners shall be respected." Rule 66 states in part: "Every prisoner shall be allowed to satisfy the needs of his or her religious life by .. having in his or her possession the books of religious observance."

No one except prisoner of conscience Khakimov's son and lawyer can visit him. His prison address is:

Tajikistan

Until early 2020, prison administrations banned jailed members of the banned Islamic Renaissance Party (IRP) (https://www.forum18.org/archive.php?article_id=2625) from reading the Koran or praying the namaz (daily Muslim prayers). In 2021 they are being allowed to pray openly but not to read the Koran, relatives who asked to remain unnamed for fear of state reprisals told Forum 18 on 4 March.

Legal appeals to free prisoner of conscience rejected with contradictory claims

On 17 December 2020, President Emomali Rahmon signed amendments to the Criminal Code (https://www.forum18.org/archive.php?article_id=2625) which came into force on 21 December 2020. Crimes punished by Criminal Code Article 189 – under which prisoner of conscience Khakimov was jailed – have been transferred to the Administrative Code for first offences. First offences are now punished with fines or short-term jailing of five to 10 days if committed publicly or via public media. Second offences remain punishable under Criminal Code Article 189 with two to five year jail terms.

Prisoner of conscience Khakimov's lawyer therefore filed appeals to free him, taking into account the legal change, his serious health condition, and the coronavirus pandemic, Jehovah's Witnesses told Forum 18. Between 18 December 2020 and 15 January 2021 courts, the Prosecutor's Office, and the prison administration either rejected or did not consider these appeals.

The prison administration rejected the appeal on 18 December 2020, and on 30 December 2020 Khujand Prosecutor's Office replied that this was only within the competence of the prison administration and Khujand City Court.

On 8 January 2021, Khujand City Court rejected the appeal, claiming that this is the competence of Khujand Prosecutor's Office.

On 14 January, the Supreme Court in Dushanbe rejected the appeal, claiming an unspecified "technical mistake" in the appeal. Illegally, the Supreme Court did not provide a copy of its verdict. The Supreme Court claimed that a supervisory appeal should be filed with the Presidium of Sugd Regional Court.

On 15 January, Sugd Regional Court rejected the appeal, claiming an unspecified "technical mistake" in the appeal. Illegally, Sugd Regional Court did not provide a copy of its verdict.

"I am not aware of the Mandela Rules"

Haydar Kodyrov, Head of the International Section of the Supreme Court, told Forum 18 on 9 March: "I am not aware of the Mandela Rules." Forum 18 explained what the Mandela Rules are, and pointed out that under them, prisoner of conscience Khakimov should be hospitalised to receive specialised medical treatment and should have his freedoms including the freedom of religion and belief respected, and should be able to receive religious pastoral visits.

Asked about these topics, Kodyrov claimed: "We would like to help Khakimov within what Tajikistan's law and norms allow, but you need to write a letter to the Foreign Ministry. We cannot have a direct communication with you without it instructing us to do so."

Kodyrov refused to explain why the Supreme Court rejected Khakimov's appeal, and why the Court illegally did not supply its verdict to his lawyer.

Two UN human rights committees call for Mandela Rules implementation

Human rights defender and lawyer Shukhrat Kudratov, who was jailed between 2014 and 2018, was quoted in a CABAR (Central Asian Bureau for Analytical Reporting) report of 6 June 2020 (<https://cabar.asia/en/pneumonia-or-coronavirus-why-do-people-die-in-tajikistan-s-prisons>) as saying that "there are no elementary conditions for treatment in the prisons. All medicines and means of treatment, including syringes are provided by the relatives of the inmates."

CABAR noted that 11 prisoners had allegedly died of "pneumonia", but relatives and other prisoners feared the real cause of death was coronavirus. Access to prisons has been denied, and a World Health Organisation delegation in May 2020 did not explain why it had not followed civil society calls to visit prisons.

Human Rights Watch's World Report 2021 described conditions in Tajikistan's prisons as "abysmal", with the regime exposing prisoners to the risk of coronavirus and denying treatment to those with Covid-19 symptoms (<https://www.hrw.org/world-report/2021/country-chapters/tajikistan>).

The UN Human Rights Committee's August 2019 Concluding Observations (CCPR/C/TJK/CO/3 (<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/250/10/PDF/G1925010.pdf?OpenElement>)) expressed the Committee's concern about: "overcrowding, the poor material conditions of detention, .. the lack of adequate medical care .. and the insufficient efforts to facilitate the monitoring of such places by the International Committee of the Red Cross."

The Human Rights Committee stated that Tajikistan should: "improve the material conditions of detention and the provision of adequate and timely medical care, in accordance with the Covenant and the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)".

Similarly, the UN Committee against Torture's June 2018 Concluding Observations (CAT/C/TJK/CO/3 (<https://undocs.org/en/CAT/C/TJK/CO/3>)) recorded the Committee's concern "that conditions of detention — such as overcrowding, and inadequate material conditions of detention, including adequate food and drinking water, heating, ventilation, and sanitary and hygiene facilities, as well as treatment for transmissible diseases, and meaningful activities and outdoor exercise — do not meet international standards".

The Committee against Torture stated that Tajikistan should "bring the conditions of detention in places of deprivation of liberty into line with international standards, such as the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), by, inter alia, ensuring that detainees are provided with adequate material and hygienic conditions, including sufficient natural and artificial light; adequate sewage systems and sanitary installations, including toilets and showers; heated cells; sufficient ventilation; an adequate quality and quantity of food, bedding, blankets and items for personal hygiene; health care; .. provide specialised medical care to prisoners suffering from infectious diseases."

Journalist Daler Sharipov who was arrested in January 2020 and in April 2020 jailed for one year for "extremism" and "inciting religious hatred" (https://www.forum18.org/archive.php?article_id=2568) for writing a booklet containing "absolutely no malice or incitement there to religious hatred" was released on 29 January 2021 after completing his sentence. He told Current time TV that prisons are a "difficult and dangerous lesson to go through". Asked about prison life, he replied: "I want to spend time with my family and come to my senses."

The United Nations Working Group on Arbitrary Detention found in a decision of 27 November 2020 (A/HRC/WGAD/2020/89 (https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session89/A_HRC_WGAD_2020_89.pdf)), made public today (10 March 2021), that Tajikistan's jailing of Sharipov had been "arbitrary". It called for his immediate release and "an enforceable right to compensation and other reparations". It also called for "a full and independent investigation of the circumstances surrounding [Sharipov's] arbitrary deprivation of liberty" and "appropriate measures against those responsible for the violation of his rights".

Former prisoner of conscience Sharipov was jailed under Criminal Code Article 189, Part 1 as then worded ("Inciting national, racial, local or religious hatred or dissension, humiliation of national dignity, as well as propaganda of the superiority of citizens based on their religion, national, racial, or local origin, if committed in public or using the mass media").

This is the same Criminal Code Article under which former prisoner of conscience Pastor Bakhrom Kholmatov was jailed for three years in July 2017 (https://www.forum18.org/archive.php?article_id=2298) for allegedly "singing extremist songs in church and so inciting 'religious hatred'".

Prisoner of conscience Khakimov was also jailed for seven years, six months (https://www.forum18.org/archive.php?article_id=2506) under this Criminal Code Article. (END)

Full reports on freedom of thought, conscience and belief in Tajikistan (<https://www.forum18.org/archive.php?country=31>)

For more background, see Forum 18's Tajikistan religious freedom survey (https://www.forum18.org/archive.php?article_id=2625)

Forum 18's compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments (https://www.forum18.org/archive.php?article_id=1351)

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