

8 April 2008

KAZAKHSTAN: Heavy sentences on Muslims "to discredit Islam and believers"?

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

Fourteen of fifteen Muslims arrested in April 2007 were given prison sentences in February of between 14 and 19 and a half years at a closed trial in the southern city of Shymkent, Forum 18 News Service has learned. The fifteenth received a three-year corrective labour sentence. Human rights activist Yevgeny Zhovtis told Forum 18 that the KNB secret police claim that the group was preparing to blow up its office in Shymkent was not proven. Relatives of the men complained to Forum 18 that the KNB had planted evidence and that the trial was unfair. But Judge Shara Biysimbaeva – who led the trial – rejected this to Forum 18. KNB and Prosecutor's Office officials involved in the case refused to discuss it with Forum 18. "This has been done to discredit Islam and believers," one relative told Forum 18. Zhovtis said he believes this was a show trial to scare other Muslims who may try to be independent in their theology and practice from the state-backed version of Islam.

Fifteen Muslims arrested in April 2007, held in pretrial detention for ten months and convicted at a secret trial in the southern city of Shymkent in late February have all been given heavy sentences on allegations of terrorism. But relatives and human rights activists have insisted to Forum 18 News Service that at least fourteen are completely innocent and say the whole case was conducted improperly. Relatives of the convicts complained to Forum 18 that they have been imprisoned to punish them for their religious views and activities at the instigation of the National Security Committee (KNB) secret police. "It's all a fabrication of the KNB to boost their image and to demonstrate that they are worth the money the State is spending on them and their anti-terrorism programmes," one female relative told Forum 18. "This has been done to discredit Islam and believers," another told Forum 18.

Yevgeny Zhovtis, the head of the Almaty-based Kazakhstan International Bureau for Human Rights and Rule of Law, characterised the KNB's method of dealing with Muslims who have a different theology from the state-backed version of Islam as a "power struggle". The secrecy of the case, pretrial and trial methods and the severe punishment for crimes the men had not committed revealed that struggle, he maintained to Forum 18. Zhovtis said he believed this was a show trial to scare other Muslims who may try to be independent in their theology and practice.

Relatives and other local Muslims are concerned not only about the convicted men and their families, but also about the impact the trial and heavy sentences are already having in the area. "In the wake of this case, people in Shymkent city and surroundings are afraid to talk to religious Muslims, especially those with an outward Islamic appearance," one relative told Forum 18.

But Judge Shara Biysimbaeva – who led the trial - insisted that it had been fair. She told Forum 18 on 7 April that the court listened to all the testimonies from friends, colleagues and family members who wanted to speak in defence of the accused. Asked why the trial was mostly held behind closed doors in KNB premises, she said the court made the decision because of disturbances in the courtroom on the first day. "The relatives of the defendants were screaming in the courtroom and hit the guards," she claimed. "We could not carry out our normal work under those conditions, and had to continue in the isolation unit." Asked why the accused had received such severe punishments, Biysimbaeva insisted the verdicts were fair.

Forum 18 reached Altynbek Polatov of the Al-Farabi district Prosecutor's office of Shymkent city on 4 April to ask about the case. At first he did not want to admit that he was the Public Prosecutor in the case. "I don't know of any such case. You are mixing me up with someone else." When Forum 18 insisted that his name was on the verdict, Polatov said he did not want to talk about the case and put down the phone.

Shokhan Karabaev, the investigator in the case from the Shymkent branch of the KNB, was also unwilling to discuss it. "That case has been closed for a long time now, and I will not talk to you without permission from my boss," he told Forum 18 on 3 April, before putting the phone down. The telephone went unanswered on 3 and 4 April when Forum 18 tried to reach the numbers of the KNB Chief given by the local KNB.

The fifteen Muslims were arrested by the KNB on 24 and 25 April 2007 in South Kazakhstan Region and as far away as Karaganda [Qaraghandy] in the north and elsewhere on allegations of being involved in a religious terrorist group. Claiming that they were planning to cause explosions, the Shymkent city branch of the KNB held the men in its isolation unit until their trial by the

Shymkent City Al-Farabi district Criminal Court began on 15 January. The case was almost immediately transferred to a closed hearing in the premises of the KNB.

At the conclusion of the trial on 25 February, all fifteen were found guilty under various articles of the Criminal Code, including Article 24 ("preparation of a crime or an attempted crime"), Article 164 ("inciting social, national, tribal, racial or religious enmity") and Article 233 ("terrorism").

Zhurrat Yusupov received 19 and a half years; Oktyabr Baytugelov 19 years; Meyrambek Markulbekov and Yerkebulan Maktabekov 18 years; Nurzhan Akhmetov and Bakhitnur Nurpeysov 17 years; Nurlan Sarlybaev and Darkhan Abushakhmanov 16 years; Dastanbek Sugirov, Nurzhan Botabekov, Nurgeldy Narbekov, Umirbek Baymaknanov and Maksat Turmakhanbetov 15 years; and Khamit Nurseytov 14 years. The fifteenth, Yermek Zhakypov, received a three-year term of correctional labour.

Relatives told Forum 18 that they received a copy of the verdict, which Forum 18 has seen, only 15 days after the court case whereas they were supposed to file an appeal if they wished to do so within five days. "We have already applied to the regional court but we don't know whether or not the court has accepted our appeal," one relative told Forum 18. "The regional court would not confirm or deny to us whether they are going to take action."

Yermek Abdikulov, the lawyer of one of the convicts, confirmed to Forum 18 that the relatives of the convicts appealed to the regional court and are waiting to hear from the court now.

Forum 18 reached Nurgali Ismailov, the Deputy Chairman of the South Kazakhstan Regional Court on 4 April to ask whether or not the court accepted the appeal. "It's a closed case, and I cannot give you any information about it," he responded.

A female relative of one of the convicts, who has been left with two very young children, told how he was arrested on 25 April 2007. "It was 5 o'clock in the morning when the family woke up for the morning prayer," she told Forum 18 on 2 April. "All of a sudden our doors were pushed open and a group of armed and masked people rushed in." She told Forum 18 that these persons rummaged through the whole apartment for about an hour and only after that told them that they were from the KNB.

"Later when I went into our bedroom to find my headscarf to cover myself, I saw that things had been moved in the room, and a coloured plastic bag was lying on the mattress that did not belong to us," she reported. The KNB officers took the bag and said they were going to take it as material evidence, she said. "Only in the court did we learn that the bag supposedly contained printed materials, leaflets inciting religious hatred and calling on people to fight infidels."

The wife of another convict insisted that all her husband did was to sell religious literature at different mosques. "We have four small children and he was doing it to earn a little money to buy bread," she told Forum 18 on 1 April. "No-one had a job in our family, and we had no other means to survive." Asked whether the literature her husband sold contained calls to hatred or struggle against the State, she said the literature was all approved by the State. "The KNB planted narcotics on my husband before arresting him on 24 April 2007."

Relatives also complained to Forum 18 that during the pretrial period they were allowed to see the detainees only twice, while some were allowed only one visit. "The KNB isolation unit would allow only two people from each family to visit," one man told Forum 18. "Some of those men have large families and many children, who have not seen their fathers for almost a year. Now they are going to spend between 14 and 19 years in prison."

Yerbol Baykonakov, the Head of the Religious Affairs Unit in the Department of Internal Policy of South Kazakhstan Regional Akimat (administration), told Forum 18 on 4 April that he was informed of the case but did not know the convicts personally or how actively they were involved in religion. "The KNB did not ask for our opinion nor did they involve us in any way in the court process," he said.

Abdikulov, the lawyer of one of the convicts, complained to Forum 18 on 3 April that the KNB and the court were harsh on his client. "Based on the evidence the KNB produced, the court could only accuse my client of inciting religious hatred, and punish him with at most two years of jail, not the 15 years he received."

Abdikulov said it was not clear how the evidence had been gathered. He said the whole scenario the KNB tried to prove was that allegedly these people knew each other, that they were part of the same religious terrorist organisation, and were planning to blow up the KNB building in Shymkent.

"One of the convicts, Yusupov, was arrested earlier in relation to another case in Karaganda. It is not clear whether he was a part of any terrorist organisation but it is believed that the KNB just used him to put these persons behind bars," Abdikulov reported. "We know that in the Karaganda case, many Hizb ut-Tahrir followers were released from prison after renouncing their affiliation. But those who resisted - one of whom was Yusupov - were kept in prison."

Hizb ut-Tahrir is a radical Islamist party, which is banned in Kazakhstan (for an account of its views, see

http://www.forum18.org/Archive.php?article_id=170).

Abdikulov added that the convicts claim that most of them saw each other for the first time in the process. "Only a few of them happened to know each other. They also deny all the allegations that they planned to blow up the KNB building." He told Forum 18 that the only material evidence supposedly seized from the convicts by the KNB about the alleged plans to blow up the building were video footage of the front of the KNB building and a map of the street where it is situated. "Everyone in Shymkent knows where the building is situated and no-one needs a map to find it," Abdikulov declared. "It's also strange that all these 'terrorists' just surrendered to the KNB without putting up any resistance."

Zhovtis, the human rights activist, insisted that none of the accusations were proven. "The Court did not really have convincing evidence that these men had motives to blow up the KNB building," he told Forum 18 on 1 April. "To some of the court sessions the KNB would admit only lawyers they had approved," he added. "None of those lawyers ever complained to us that anything went wrong in the case whereas the relatives complained to us about how the whole case was dealt with."

Asked how he evaluated the testimony about the convicts from the imams of some mosques which the convicts attended, Zhovtis said the imams were afraid and had to say something. "Their mosques are not in favour with the government, and they obviously do not want their mosques to be closed down," he told Forum 18. "But even what they said in court cannot be a basis for punishing these people with 15 to 19 years in prison."

None of the testimonies that could exonerate the defendants were taken into account by the court, Zhovtis complained. "Mostly the testimonies of questionable people in masks who said they indirectly knew these men were taken into account."

The Organisation for Security and Co-operation in Europe (OSCE) has found that court proceedings in Kazakhstan do not offer the guaranteed right to a fair trial. In a February 2007 report on trial monitoring, the OSCE found that Kazakh court proceedings needed to offer "the right of the public to attend court, equality between the parties and the presumption of innocence" (see <http://www.osce.org/astana/24153>).

Murat Telibekov of the Union of Kazakhstan Muslims complained of the severe punishments handed down in the Shymkent case. "I take this as state pressure on those who may be active Muslim believers," he told Forum 18 on 27 March. He warned that this kind of pressure may cause people to become ostracised by society and could lead to radicalism.

Telibekov – who believes Muslim communities should be able to function independently of the state-backed Muftiate (Spiritual Board of Muslims of Kazakhstan) - said people in rural areas have very little income and almost no social activities. "As a result people in these areas are often attracted to different Islamic movements." He said that sometimes such people may grow beards, dress up differently, and even read their prayers a little differently in the mosque. "Imams in the mosques get irritated by this and reprimand those people for trying to be different from others."

Telibekov added that mosques in the South Kazakhstan Region are well-known for trying to be independent from the Muftiate. "I am not saying that there may not be people linked to terrorists in Kazakhstan, but I am saying that this is not the way to deal with people who may be genuine believers," he declared.

Ninel Fokina, head of the Almaty Helsinki Committee, agreed that human rights advocates in Kazakhstan are concerned that the whole case was dubious. "Most of the evidence was built up on the testimony of one of the convicts, where he allegedly admitted that he knew these people were planning to cause explosions," Fokina told Forum 18 on 4 April.

She was also concerned that the court decided to continue the trial behind closed doors after some of the female relatives caused disturbances in the courtroom. "You know these are women and they may be emotional about the injustice done to their husbands and brothers," Fokina told Forum 18. "That cannot serve as a basis to announce a closed trial. They could have reimposed order in the courtroom instead. There is a law on when a trial can be closed, and it was not respected," she declared. "The question is why journalists, civil society and international organisations were not allowed in. It looks like the court just needed an excuse to kick us out of the room."

Vitaly Mantrov, correspondent of the independent Russian-language weekly newspaper "Svoboda Slova", reported that he was the only journalist who came to the press conference organised after the conclusion of the trial on 25 February by the relatives of the convicts and the Information Centre for Democracy, a non-governmental organisation. Asked why other invited journalists and media did not attend, Mantrov said that most media outlets in the South Kazakhstan Region are not independent and were not interested in covering the story. "The independent media is almost non-existent in the area and those few journalists who may be independent did not come either," he told Forum 18 on 1 April.

While relatives of the convicts told Forum 18 that the KNB had threatened journalists not to cover the case, Mantrov said he had not heard of such threats.

Zhovtis, the human rights activist, told Forum 18 that he raised the Shymkent Muslim case among other human rights concerns in a

meeting with the deputy chief of the presidential administration, Maulen Ashimbaev, on 25 March.

As well as independent Muslims, Baptists who wish to practice their faith independently of the authorities and Hare Krishna devotees are among other recent victims of state-backed pressure (see F18News 28 March 2008 http://www.forum18.org/Archive.php?article_id=1106). (END)

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

For more background, see Forum 18's Kazakhstan religious freedom survey at http://www.forum18.org/Archive.php?article_id=701.

More 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>.

A survey of the religious freedom decline in the eastern part of the Organisation for Security and Co-operation in Europe (OSCE) area is at http://www.forum18.org/Archive.php?article_id=806 and a survey of religious intolerance in Central Asia is at http://www.forum18.org/Archive.php?article_id=815.

A printer-friendly map of Kazakhstan is available at <http://www.nationalgeographic.com/xpeditions/atlas/index.html?Parent=asia&Rootmap=kazakh>

If you need to contact F18News, please email us at:
f18news @ editor.forum18.org

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY