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KAZAKHSTAN: Imam imprisoned after 10 years' absence

By Felix Corley, Forum 18 (<https://www.forum18.org>)

Immediately Imam Abdukhalil Abduzhabbarov arrived in Kazakhstan after over 10 years' absence, NSC secret police arrested the Sunni Muslim teacher. They transferred Imam Abduzhabbarov to Oral, where he awaits criminal trial for allegedly "inciting religious hatred or discord" and "terrorism".

More than 10 years after he left Kazakhstan in 2006, 41-year-old Sunni Muslim imam and teacher Abdukhalil Abduzhabbarov is back in his home country and in prison in Oral (Uralsk) in West Kazakhstan Region. The Saudi authorities deported him, his wife and their 10 children back to Kazakhstan on 17 February. The National Security Committee (NSC) secret police arrested Abduzhabbarov on arrival at Almaty airport the following evening, family members told Forum 18. They then transferred him to the Investigation Prison in Oral.

The NSC secret police in Oral is investigating Abduzhabbarov on charges of allegedly "inciting religious hatred or discord" under Criminal Code Article 174 and alleged "propaganda of terrorism" under Criminal Code Article 256, according to a 20 February statement on the NSC secret police website. The charges carry punishment of many years' imprisonment.

The NSC secret police Investigator in Oral in Abduzhabbarov's case is Daniyar Ashim. Reached on 20 February, he refused absolutely to give Forum 18 any information on the case. So too did fellow NSC Investigator, Didar Tulepov, who had told Forum 18 in November 2016 that he had opened the criminal case against Abduzhabbarov (see F18News 24 November 2016 http://www.forum18.org/archive.php?article_id=2233).

"Serious concern" about Abduzhabbarov case

Vitaly Ponomarev of the Russian human rights group Memorial, who has been following the case, expressed "serious concern" about Abduzhabbarov following his "illegal deportation back to Kazakhstan".

"As far as I know, Abduzhabbarov never engaged in 'propaganda of terrorism'," Ponomarev told Forum 18. "He made no calls, statements or lectures in support of terrorism."

As for allegedly "inciting discord", in the years before his 2006 emigration, Abduzhabbarov and the "official" imams in West Kazakhstan Region "held differing views on religious questions", Ponomarev added. "These differences of opinion did not go beyond internal religious arguments, but were made more dramatic after the interference of state bodies."

As noted below, the broad and imprecise framing of "crimes" such as "inciting discord" has been strongly criticised by Kazakh and international human rights defenders.

Criminal charges

The broadly-framed Criminal Code Article 174 is widely used to punish those the government does not like. It punishes "Incitement of social, national, clan, racial, or religious hatred or discord, insult to the national honour and dignity or religious feelings of citizens, as well as propaganda of exclusivity, superiority or inferiority of citizens on grounds of their religion, class, national, generic or racial identity, committed publicly or with the use of mass media or information and communication networks, as well as by production or distribution of literature or other information media, promoting social, national, clan, racial, or religious hatred or discord".

Kazakh and international human rights defenders, including the United Nations (UN) Special Rapporteur on the rights to Freedom of Peaceful Assembly and of Association and the UN Human Rights Committee, have strongly criticised Criminal Code Article 174 and its wide application (see F18News 2 February 2017 http://www.forum18.org/archive.php?article_id=2252).

Criminal Code Article 174, Part 1 punishes these actions committed by individuals. If convicted, they face two to seven years imprisonment, or two to seven years restricted freedom. Typically, during sentences of restricted freedom individuals live at home,

but are not able to leave their town or city without seeking permission. They are often also banned from visiting restaurants, cafes or places of public entertainment.

Part 2 punishes these actions "committed by a group of persons, a group with prior planning, repeatedly, with violence or threat of violence, or by an official, or by the leader of a public association". If convicted they face five to 10 years imprisonment, "with deprivation of the right to hold specified positions or to engage in specified activity for up to three years".

If convicted, Abduzhabbarov is likely to be added to the Finance Ministry Financial Monitoring Committee List of individuals "connected with the financing of terrorism or extremism". All known prisoners of conscience convicted under Criminal Code Article 174 have been added to this List, thus freezing any bank accounts they may have, without any additional due legal process. As individuals are not told when they are added to the List, they normally only find out they have been added when they or relatives attempt to withdraw money from their bank (see F18News 10 June 2016 http://www.forum18.org/archive.php?article_id=2187).

Criminal Code Article 256 ("Propaganda of terrorism or public calls to commit terrorism"), which includes the production, storage for distribution or distribution of [unspecified in the Article] specified materials, carries a punishment of five to nine years' imprisonment plus confiscation of property. If committed by an individual using a state or non-state official position, or with the use of the mass media or other communication networks, or with foreign support, or in a group, the punishment is seven to 12 years' imprisonment with confiscation of property.

"Continued attempts to influence Muslims"

In its 20 February statement, the NSC secret police accused Imam Abduzhabbarov of the crimes of "spreading the ideas of so-called takfir" (the identification by a Muslim of other people as infidels) in western Kazakhstan in the early 2000s. The NSC claimed it had opened a criminal case against him in 2015. It claimed that while living in Saudi Arabia from 2006 Abduzhabbarov "continued attempts to influence Muslims in Kazakhstan and students who were studying abroad".

The NSC did not explain why it had opened a 2015 criminal case long after the alleged crimes, and long after Abduzhabbarov left Kazakhstan in 2006.

Severe freedom of religion and belief restrictions

All exercise of freedom of religion and belief by anyone in Kazakhstan is under tight government restrictions. Muslims who try to exercise this freedom without state permission face extra restrictions not applied to others who try to exercise this freedom and related human rights.

Only one Muslim organisation – the state-controlled Muslim Board, which with the state only permits Hanafi Sunni Islam – is allowed to exist. Only mosques under the Board's control are allowed to gain registration as its branches. The Board also insists on appointing all imams and taking one third of all mosques' financial income. All other expressions of Islam, including Islamic activity independent of the Muslim Board, is banned (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

Pre-trial detention

Abdukhalil Abdukhamidovich Abduzhabbarov (born 6 April 1975) was transferred after his arrest from Almaty to Oral. He was placed in Oral's Interior Ministry Investigation Prison. (The NSC secret police does not have its own Investigation Prison in Oral.)

Neither the prison's Special Department nor the Prison Chief (who would not give his name) would give Forum 18 any information on 21 February about when Abduzhabbarov arrived at the prison, or whether he can pray or have access to religious literature.

The UN Standard Minimum Rules for the Treatment of Prisoners (known as the Mandela Rules, A/C.3/70/L.3) require governments to respect the freedom of religion or belief and other human rights of prisoners – including those in pre-trial detention. Muslim prisoners of conscience have stated that their human rights are violated in prison, including by being banned from reading the Koran and other religious books (see eg. F18News 9 March 2016 http://www.forum18.org/archive.php?article_id=2156).

Forum 18 has been unable to establish which court approved Abduzhabbarov's pre-trial detention, and for how many months it was ordered. Oral City Court told Forum 18 on 21 February that it had not approved Abduzhabbarov's pre-trial detention. Similarly all seven courts in Almaty which can approve pre-trial detention denied to Forum 18 on 20 and 21 February that they had done so.

Article 14 of the Criminal Procedural Code requires court approval for pre-trial detention within 72 hours of arrest. A court would have had to approve Abduzhabbarov's pre-trial detention by the evening of 21 February.

Abduzhabbarov's prison address is:

Zapadno-Kazakhstanskaya Oblast

g. Oral

Ul. Mukhita 124

Sledstvenny izolyator RU-170/1

Kazakhstan

Deportation

Although the NSC secret police claims the criminal case against Abduzhabbarov was opened in 2015, it appears to have started trying to get him back some years before that. The Saudi authorities held him in custody from December 2015 at the request of the Kazakh authorities.

In October 2016, the Saudi authorities put Abduzhabbarov and his family on a Turkish Airlines flight to Kazakhstan via Istanbul. The extradition was at Kazakhstan's request. However, in Istanbul they all refused to board the onward flight and asked for political asylum in Turkey (see F18News 24 November 2016 http://www.forum18.org/archive.php?article_id=2233).

After living at Istanbul airport for four months, on 16 February 2017 the Turkish authorities deported Abduzhabbarov and his family back to Medina in Saudi Arabia, Ponomarev of Memorial noted. They were given no prior notice of their deportation.

Before their enforced departure from Istanbul airport, Turkish police tortured Abduzhabbarov and his sons by beating them, Abduzhabbarov noted on a video message recorded immediately after his arrival in Saudi Arabia and posted online. In the video, Abduzhabbarov appears surrounded by his 10 children with his left arm in a sling.

On 17 February the Saudi authorities deported the entire family via Dubai back to Almaty in Kazakhstan, where they arrived the following day. On arrival the Kazakh authorities arrested Abduzhabbarov. His wife Dinara and their children travelled on to Shymkent in South Kazakhstan Region.

The NSC secret police statement said that it had requested Abduzhabbarov's extradition from Saudi Arabia.

Many freedom of religion and belief prisoners of conscience

Many people have in recent years been jailed for exercising freedom of religion and belief. For example, Rustam Musayev was jailed in Almaty Region in June 2016 for two years for talking about his Islamic beliefs to NSC secret police informers (see F18News 10 November 2016 http://www.forum18.org/archive.php?article_id=2229).

At least 47 Sunni Muslims have been sentenced on charges of alleged involvement in the Muslim missionary movement Tablighi Jamaat since December 2014. Of these, 33 received prison terms, while the remaining 14 received restricted freedom sentences. All these cases were initiated by the NSC secret police (see eg. F18News 9 January 2017 http://www.forum18.org/archive.php?article_id=2245).

Similarly, Seventh-day Adventist prisoner of conscience Yklas Kabduakasov was in December 2015 sentenced to two years in a labour camp, for discussing his Christian faith with students recruited by the NSC secret police in a NSC-rented flat (see F18News 29 December 2015 http://www.forum18.org/archive.php?article_id=2136).

The trial of another Muslim, Kuanysh Bashpayev, for criticising the state-controlled Muslim Board began in Pavlodar on 14 February. He is on trial under Criminal Code Article 174. Yet another Muslim, Satymzhan Azatov, is under arrest in Astana facing similar charges (see F18News 6 February 2017 http://www.forum18.org/archive.php?article_id=2253).

Because of the secrecy surrounding allegedly terrorism-related prosecutions, it is unclear if other Muslims have also been sentenced for exercising freedom of religion and belief or for other reasons.

Two Jehovah's Witnesses in the capital Astana, Teymur Akhmedov and Asaf Guliyev, are in pre-trial detention awaiting criminal trial for talking to NSC secret police informers about their faith. The NSC arrested them in January and is investigating them under Criminal Code Article 174. Akhmedov was imprisoned despite suffering from cancer (see F18News 2 February 2017 http://www.forum18.org/archive.php?article_id=2252).

Imam, Islamic teacher

Imam Abduzhabbarov – an ethnic Uzbek who also used the name Sheikh Khalil – studied Islam in a mosque in his native South

Kazakhstan Region. In 1999 he graduated from the International Islamic University in the Pakistani capital Islamabad. On his return he taught in the then Kazakhstan-Kuwaiti University in Shymkent, which lost its state registration and had to close in 2004.

In 2003 Abduzhabbarov moved to Atyrau on the northern shores of the Caspian Sea in western Kazakhstan to teach in a madrassah (Islamic school) attached to the city's Imangali Mosque. On the recommendation of the Mosque's imam he advised on Arabic calligraphy in the new Attakua Mosque built in Rembaza on the southern edge of the city.

In November 2003, the Regional Prosecutor's Office accused Abduzhabbarov of rejecting state registration and violating the Religion Law under the then Administrative Code Article 375, Part 1. Prosecutors accused him of leading evening prayers illegally during Ramadan in October 2003 in the illegally-built Attakua Mosque in Rembaza, attended by up to 20 Muslims.

However, witnesses testified in court that the authorities had assigned the land for the Mosque, that it had not been completed and only the building workers had used the uncompleted building for worship. In December 2003 an Atyrau court acquitted Abduzhabbarov of the charges. The following month Atyrau Regional Court rejected the Prosecutor's Office appeal against the acquittal.

In June 2004, the authorities finally registered the Darus-Salam Muslim community, under which the Attakua Mosque was able to begin functioning. Up to 70 Muslims would regularly attend Friday prayers there. Darus-Salam later organised courses in Islam and Arabic, with up to 40 attendees, most of them young people.

However, in summer 2004 Abduzhabbarov had to leave Atyrau and moved to Oral, capital of the neighbouring West Kazakhstan Region. Officials had given "unofficial warnings" that the Mosque would not get registration if Abduzhabbarov remained in Atyrau. He maintained contact with Mosque members after his move to Oral.

Local media later noted differences between Imam Abduzhabbarov and other local clergy, who appeared less knowledgeable about Islam and were said to mix folk elements into their religious practice. The media accused Abduzhabbarov of being a Wahhabi or Salafi.

In Oral the NSC secret police conducted open surveillance of Imam Abduzhabbarov and his family. In May 2006 – four months after he and his wife had participated in the haj pilgrimage to Mecca - he and his family (they then had five children) went on the umra pilgrimage to Mecca. Even on the train to Almaty to catch the flight to Saudi Arabia police checked their papers several times.

Although the family did not intend to remain abroad for long, they decided to remain in Medina in Saudi Arabia. "It soon became clear that returning to their homeland was not safe," Ponomarev added.

From exile in Saudi Arabia, Imam Abduzhabbarov remained in contact with Muslims back in Kazakhstan. Some visited him while they were on the haj pilgrimage. (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.

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