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TAJIKISTAN: Conscientious objector's military trial imminent

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

18-year-old Jehovah's Witness conscientious objector Daniil Islamov faces up to two years' imprisonment if convicted at Qurghonteppa Military Court. Forcibly conscripted in April, he has been detained in a military unit. Protestant Pastor Bakhrom Kholmatov lost his appeal against his three-year prison term.

The trial appears imminent at Qurghonteppa Military Court in Khatlon Region of 18-year-old Jehovah's Witness conscientious objector Daniil Islamov. He was forcibly conscripted into the military against his will in April and has been held since then in military custody. He faces up to two years' imprisonment if convicted. Islamov requested civilian alternative instead. However, the regime insisted that he must perform military service despite health problems he has had since childhood.

Judge Alisher Rafikzoda of Qurghonteppa Military Court, who is due to hear the case, told Forum 18 on 31 August through his Assistant that the date of the trial is "not yet decided".

The Armed Forces General Staff told Oksana Islamova, Islamov's mother, that her son cannot be offered alternative service since there is no legal act regulating it (see below).

Elsewhere, Sugd Regional Court on 18 August upheld the three-year prison sentence given to Pastor Bakhrom Kholmatov of Sunmin Sunbogym (Full Gospel) Protestant Church for allegedly "singing extremist songs in church and so inciting 'religious hatred'" (see below).

Meanwhile, President Emomali Rahmon on 28 August signed amendments to the Law on Regulation of Traditions, Ceremonies and Rituals. These oblige individuals, including officials, to wear "national dress", seen by many as a de facto ban on wearing the hijab (Islamic headscarf) or other "non-traditional" religious apparel. The new amendments also ban offering of food on the third, seventh or fortieth day after a funeral as is usually practiced in Central Asia. And they assign to the state responsibility for organising participation from Tajikistan in haj or umra pilgrimages to Mecca (see F18News 12 September 2017 http://www.forum18.org/archive.php?article_id=2315).

Education and Science Minister Nuriddin Sayid ordered school children and students to attend classes on 1 September, the date announced by the state as the Muslim festival of Id al-Adha (Sacrifice). Also on 25 August Imam-hatyps of mosques in the capital Dushanbe told fathers attending Friday prayers to send their children to school on 1 September (see F18News 12 September 2017 http://www.forum18.org/archive.php?article_id=2315).

No alternative to compulsory service

Military service of two years is compulsory for almost all able-bodied young men between the ages of 16 and 27. Article 1 of the November 2000 Law on Universal Military Obligation and Military Service mentions alternative service, adding: "The procedure for undergoing alternative service is determined by Law." However, no such Law enacting alternative service has ever been adopted.

Tajikistan has ignored repeated insistence by United Nations (UN) human rights bodies and local human rights groups that the country must make provision for individuals to opt out of military service on grounds of conscience.

In its Concluding Observations of 22 July 2004 on Tajikistan's record under the International Covenant on Civil and Political Rights (CCPR/CO/84/TJK), the UN Human Rights Committee declared: "The State party should take all necessary measures to recognize the right of conscientious objectors to be exempted from military service."

In its Concluding Observations of 23 April 2013 (CCPR/C/TJK/CO/2), the UN Committee "reiterates its previous concern" about "the State party's lack of recognition of the right to conscientious objection to compulsory military service, and at the absence of alternatives to military service".

The UN Committee added: "The State party should take necessary measures to ensure that the law recognizes the right of individuals

to exercise conscientious objection to compulsory military service, and establish, if it so wishes, non-punitive alternatives to military service."

Islamov refused Alternative Service

Jehovah's Witness Daniil Islamov, a resident of Dushanbe, turned 18 on 31 January. He received army call-up papers on 21 April. "Despite his health problems since childhood because of injuries to his spine and concussion," Jehovah's Witnesses told Forum 18 on 23 August, "he went to the Military Conscription Office in Firdavsi District of Dushanbe the day after receiving the notice, with a request to be enlisted in alternative service."

However, the Conscription Office's medical department examined Islamov and pronounced him fit for active military service. That same day, he was "forcibly taken" to the military unit in Qurghonteppa in Khatlon Region, some 100 kms (60 miles) south of Dushanbe.

Islamov refused to serve in the military or take the military oath as he is a Jehovah's Witness, and was refused a possibility to perform alternative civilian service.

Arrested for refusing to serve in military

Lieutenant Colonel M. Kulmakhmadov, Commander of the military unit, opened a criminal case against Islamov on 7 June and he was placed under arrest. The case was investigated by Rakhmonali Saidaliyev, Qurghonteppa's Military Prosecutor. He handed it to Qurghonteppa Military Court on 10 August, Saidaliyev told Forum 18 on 23 August. He added that Islamov "is currently in custody in the military unit."

Islamov was arrested for "refusing to wear the military uniform and taking the military oath", Prosecutor Saidaliyev said. He is facing trial under Criminal Code Article 376, Part 1.

Article 376, Part 1 punishes "Evasion by an enlisted serviceman of fulfilment of military service obligations by way of inflicting on oneself injury (self-mutilation) or evasion by simulation of sickness or by other deception" with constraint during military service of up to two years, or arrest of between three and six months, or custody in disciplinary military unit of up to two years, or imprisonment of up to two years.

Asked what Islamov had done that could be described as a crime under the Criminal Code, Saidaliyev avoided the question. "We referred the case to Court. If you really want to know you can attend the hearing." Told that Islamov is a member of Jehovah's Witnesses, who uphold the principle of not serving in the military or taking arms, and asked why Islamov cannot be provided alternative service which he is willing to do, Saidaliyev replied: "Tajikistan does not have alternative service."

An official of the chancellery of Qurghonteppa Military Court (who did not give his name) told Forum 18 on 24 August that the Court has 28 days to study the case and investigate the circumstances.

Asked on 24 August what Islamov had done that could be described as a crime, Judge Alisher Rafikzoda, Chair of the Military Court, who will hear the case, replied, "Please be patient, we have not given our verdict yet." Asked why Tajikistan does not provide alternative service for those who cannot serve in the military on grounds of conscience, he did not answer.

Why the trial as a serviceman?

Neither Prosecutor Saidaliyev nor Judge Rafikzoda would explain why Islamov is being tried as a serviceman when he never chose to be conscripted into the military.

Zaydullo Tavazoda, Deputy Chief of the International Department of the General Staff, insisted to Forum 18 on 30 August that Islamov "became a serviceman as soon as he was conscripted and appeared before the Conscription Office, and therefore his case is being investigated by the military."

The Dushanbe-based human rights organisation the Office of Civil Freedoms, which defends the rights of those conscripted into the military, has long complained that civilians have been treated as conscripts and can thus be brought to trial in military courts.

General Staff rejects mother's enquiry

Oksana Islamova, Islamov's mother, wrote to the Armed Forces General Staff asking why her son cannot be enlisted in alternative service.

Colonel Musa Odinazoda, Deputy Chief of the General Staff and Head of the Organisation and Mobilisation Department, responded to her on 26 June, insisting that Islamov must serve in the active military. He noted that Article 1 of the Law on Universal Military

Obligation and Military Service specifies that the procedure for alternative service is defined by Law. "However, up till now, an appropriate legal act regulating this issue has not been enacted," he told Islamova.

The General Staff's reception official (who did not give her name) put Forum 18 through on 30 August to Colonel Odinzoda's phone. However, this went unanswered.

Why no Law to enact alternative service?

Asked why despite repeated UN recommendations, Tajikistan has not adopted a Law or regulations enacting alternative service, Tavazoda of the General Staff did not answer. "Please, send your questions in writing," he said, and declined to talk further to Forum 18.

"The issue [of alternative service] is not on the agenda of Parliament," Kobijon Abdukodirov of Parliament's Legal Department told Forum on 30 August. Asked why Tajikistan has ignored repeated UN recommendations, made over more than a decade, and is violating international conventions it is party to, he responded that the initiative for such a Law must come from the Defence Ministry and other law-enforcement agencies.

Dilrabo Samadova, Head of the human rights organisation the Office of Civil Freedoms, in defence of Islamov, told Forum 18 on 30 August that "though Tajikistan's Law mentions alternative service, no regulations exist to make this right a reality". She added that "Tajikistan's human rights organisations several times made efforts for the adoption of such a Law and prepared recommendations which were referred to Parliament. But they were rejected."

"The right to refuse military service on the basis of religious beliefs is an inseparable part of the concept of the right to freedom of thought, conscience and religious faith, guaranteed in Article 18 of the Universal Declaration of Human Rights and in Article 18 of the International Covenant on Civil and Political Rights."

Samadova told Forum 18 that though Article 43 of Tajikistan's Constitution declares that the "defence of the homeland, guarding of State interests, strengthening of its independence, security and defence power is a sacred duty of the citizen," Article 26 guarantees individuals' right freely to choose and practice a religion.

"Although the Constitution does not mention the right to refuse military service and Tajikistan does not have a Law on alternative service," Samadova added, "the fact that Tajikistan is party to the said UN Declaration and Convention means it must implement the UN recommendation to recognise the right to refuse military service." She pointed out that the Constitution's Article 10 declares that international conventions Tajikistan has signed are constituent parts of the country's law.

Pastor Kholmatov's prison sentence upheld

On 18 August, Sugd Regional Court upheld the three-year prison sentence given to Pastor Bakhrom Kholmatov of Sunmin Sunbogym Church, Malzuma Jumayeva, Chief of the Court Chancellery, told Forum 18 on 25 August. However, she refused to give details of the appeal or comment on it.

She referred Forum 18 to Mukhammad Mirzozoda, Deputy Chair of the Court. Judge Mirzozoda in his turn through his secretary referred Forum 18 on 25 August to Bakhtiyor Okilzoda, Chair of the Court. "Only he can answer your questions on the case," the Secretary told Forum 18.

Judge Okilzoda on 28 August refused to comment or give details of the case. "I do not know you and cannot give information on this case over the phone. I will talk to you in my office."

Prisoner of conscience Pastor Kholmatov was punished for allegedly "singing extremist songs in church and so inciting 'religious hatred'". Khujand City Court sentenced him in early July under Criminal Code Article 189, Part 1 ("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").

The National Security Committee (NSC) secret police arrested Pastor Kholmatov on 10 April after they raided his Church in Khujand, and harassed and physically tortured with beatings its members (see F18News 28 April 2017 http://www.forum18.org/archive.php?article_id=2276).

The 42-year-old Pastor, who is married with three children, was first held in NSC secret police custody after his arrest. He was later transferred to the Investigation Prison in Istaravshan, 80 kms (50 miles) from Khujand. It remains unclear whether he remains there or has been transferred to a prison camp to serve his sentence.

Kholmatov's bank accounts not blocked

On 18 August Tajikistan's National Bank published a list of individuals whose bank accounts have been frozen for alleged ties with terrorist organisations. Mavjuda Khasanova, Press-Secretary of the National Bank, told Forum 18 on 28 August that Pastor Kholmatov's name is not on the list.

The list includes members of the Tabligh Jamaat Muslim missionary movement, which is banned in Tajikistan, and Mukhiddin Kabiri, Chair of the Islamic Renaissance Party, which has also been banned.

The authorities banned the Tabligh Jamaat movement and the Salafi school of thought even though no crimes have been connected with them (see Forum 18's Tajikistan religious freedom survey http://www.forum18.org/archive.php?article_id=2138). (END)

More coverage of freedom of thought, conscience and belief in Tajikistan is at <http://www.forum18.org/Archive.php?query=&religion=all&country=31>.

For more background see Forum 18's Tajikistan religious freedom survey at http://www.forum18.org/Archive.php?article_id=2138.

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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