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KAZAKHSTAN: Ever harsher jailings for religious talks

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

In April 2017 Kazakhstan jailed Kuanysh Bashpayev for later banned Islamic talks. Now Galymzhan Abilkairov, one of two who posted some of the talks online before the ban, has been jailed for seven years, seven months. Dadash Mazhenov's verdict is due on 5 November.

First the Kazakh authorities jailed Muslim teacher Kuanysh Bashpayev in 2017 on "extremism" charges for talks on Islam that others recorded. Then they banned his recorded talks as "extremist". Next the NSC secret police arrested in April 2018 two young men on "terrorism" charges for each posting four of his talks on social media several years before the ban. Now the first of the two, 30-year-old Galymzhan Abilkairov, has been jailed for seven years and seven months. The second, 28-year-old Dadash Mazhenov, is expecting a verdict on 5 November. Both reject accusations that reposting the sermons on Islam constituted terrorism.

Both Abilkairov and Mazhenov – who live in the central Akmola Region - are married and each has a young son.

Yevgeny Zhovtis of the Kazakhstan International Bureau for Human Rights and Rule of Law insists that there is no evidence that either Abilkairov or Mazhenov practised any terrorism or extremism. He argues that the cases are a "clear misuse" of anti-extremism and anti-terrorism laws (see below).

"The authorities are using either Article 174 of the Criminal Code ("Incitement of religious discord") or Article 256 ("Propaganda of terrorism") to prosecute so-called Islamists who in practice have not committed any acts of terrorism or extremism," Zhovtis told Forum 18 on 30 October. He noted that the authorities use a "very vague" definition of "extremism" and make no mention of "violent extremism". "Such trials are promoting radicalisation because of injustice," he stated.

The United Nations Human Rights Committee in its July 2016 Concluding Observations on Kazakhstan (CCPR/C/KAZ/CO/2) expressed concern about "the broad formulation of the concepts of 'extremism', 'inciting social or class hatred' and 'religious hatred or enmity' under the State party's criminal legislation and the use of such legislation on extremism to unduly restrict freedoms of religion, expression, assembly and association" (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=2409).

Meanwhile, in the western Atyrau Region, the NSC secret police have arrested two Muslims who many years ago knew Murat Bakrayev. The NSC opened a criminal case against Bakrayev and is seeking his extradition from Germany to punish him for his recorded sermons. Bakrayev's relatives and friends say the NSC is seeking to pressure the two men arrested in Atyrau to testify against him to help the extradition case. Criminal cases have been launched in Atyrau against both men but the NSC Investigator refused to discuss the cases (see below).

Sunni Muslim prisoner of conscience Imam Abdukhalil Abduzhabbarov has lodged a final appeal against his August 2017 conviction to the Supreme Court in the capital Astana. The court accepted the appeal on 23 October 2018. Imam Abduzhabbarov has been in solitary confinement since his transfer to a labour camp in Kyzylorda in late 2017 (see below).

Shchuchinsk: Investigated for posting Bashpayev's Islam talks online

On 20 January, in a case initiated by Akmola Region NSC secret police, officials began an investigation into the social media accounts of Shchuchinsk resident Galymzhan Ramazanovich Abilkairov (born 29 January 1988). The investigation was launched "on the lines of countering extremism and terrorism". It found that in 2015 he had posted on his VKontakte account talks on Islam by Sunni Muslim Kuanysh Bashpayev, who was then living in Saudi Arabia.

At about the same time, in a case also initiated by Akmola Region NSC secret police, officials began an investigation into the social media accounts of another Shchuchinsk resident Dadash Temirgaliyevich Mazhenov (born 28 September 1990). He too was investigated for posting Bashpayev's talks on Islam on his VKontakte account.

In April 2017, a court in the north-eastern city of Pavlodar sentenced Bashpayev to four and a half years' imprisonment to punish

him for talks he gave on his faith between 2008 and 2011. He had been arrested in October 2016 on his return to Kazakhstan from Saudi Arabia (see F18News 11 April 2017 http://www.forum18.org/archive.php?article_id=2272).

On 12 September 2017, Pavlodar City Court declared nine of Bashpayev's recorded talks "extremist" and banned them, according to the decision seen by Forum 18. They remain on the General Prosecutor's list of banned "extremist" literature. They are not on its list of banned "terrorist" literature.

The banning order was based on a 15 April 2017 six-page "expert analysis" of Bashpayev's sermons – ordered by the NSC secret police four days earlier – prepared by Dinara Musina and Gulnara Mukhatayeva of Almaty's Centre for Judicial "Expert" Analysis. The analysis, seen by Forum 18, claimed to find "extremism".

Shchuchinsk: Arrests, indictments

On 12 March 2018, investigators completed their report into Abilkairov's alleged "crimes". That same day, NSC Investigator Lieutenant Adil Balgozha commissioned two "expert analyses" in both Abilkairov and Mazhenov's cases from the Justice Ministry's Centre for Judicial "Expert" Analysis in Astana.

Three "experts" – Sholpan Azhibayeva, Ziyadyam Abdulzhanova ("psychological/philological experts") and Aigerim Seifullina (a political scientist) – completed the 15-page "expert analyses", for Abilkairov on 14 April and for Mazhenov on 17 April.

In the assessment for Mazhenov, seen by Forum 18, Azhibayeva and Abdulzhanova conclude that the recordings do not incite religious or other hatred and discord or the violent overthrow of the government.

Seifullina, however, claimed that the recordings constituted "propaganda of terrorism" by "spreading concepts justifying the use of violent acts on a religious basis". She added that the recordings contained no public calls to commit terrorism or to form organisations to conduct terrorism.

On the morning of 23 April, at the instigation of NSC Senior Investigator Lieutenant Colonel Talgat Shaimerdenov, both Abilkairov and Mazhenov were arrested in Shchuchinsk, according to arrest notifications seen by Forum 18. They were transferred to Burabai District Police's detention centre.

Late on 25 April, Burabai District Court in Shchuchinsk ordered that both Abilkairov and Mazhenov be held in pre-trial detention, according to court records. The two were held at the local detention centre for four days before being transferred to the Investigation Prison in the regional capital Kokshetau. They have both been held there since late April.

The 25 June indictment against Mazhenov – prepared by NSC Investigator Balgozha and seen by Forum 18 - claimed that he had violated Criminal Code Article 256, Part 2. Mazhenov had set up his VKontakte page on 18 May 2015 and had posted four talks by Bashpayev. He deleted the page in August 2017, before Bashpayev's talks had been banned as "extremist".

The 14 July indictment against Abilkairov – prepared by NSC Senior Investigator Shaimerdenov and seen by Forum 18 - claimed that between September 2013 and April 2018, he had violated Criminal Code Article 256, Part 2. It noted that four lectures on Islam by Kuanish Bashpayev which he had reposted had been declared "extremist" and banned by Pavlodar City Court on 12 September 2017.

Article 256, Part 2 punishes: "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 - 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.

Forum 18 tried to reach NSC Investigator Shaimerdenov in the regional capital Kokshetau to find out why he brought cases against Abilkairov and Mazhenov for posting online talks about Islam which were not banned at the time and which do not call for others' human rights to be violated. However, Shaimerdenov's phone went unanswered each time Forum 18 called on 30 October.

Abilkairov: Trial, long jail term

Prosecutors handed Abilkairov's case to Burabai District Court in Shchuchinsk on 30 July, where it was assigned to Judge Zhanna Salykbayeva. The trial began on 17 August.

At a September hearing, one of more than ten hearings in Abilkairov's case, the four witnesses renounced the testimony they had given during the investigation, saying it had been given under duress, Radio Free Europe's Kazakh Service noted on 12 September.

At the request of Abilkairov's defence, the court summoned one of the "experts", Seifullina, who had produced the 17 April "expert analysis" finding that materials from his social media constituted "propaganda of terrorism".

"Answering the questions from the lawyer and defenders in court, the young expert was unable to give any coherent answers," the Kazakhstan International Bureau for Human Rights and Rule of Law – which sent an observer to monitor the trial – noted on 25 October. It added that she was also unable to explain "what are the basic criteria and approaches under which extremism is determined and what informational materials were used".

The defence therefore concluded that she was an "inappropriate" person to have conducted the "expert analysis" and "moreover does not even have a licence as an expert", the Bureau noted.

In his final address to the court, Abilkairov rejected the accusations against him and noted that, with a young son, he is the only breadwinner in the family. Olzhas Kurmashev of Burabai District Prosecutor's Office called for Abilkairov to be jailed for eight years.

At the final hearing on 19 October, Judge Salykbayeva convicted Abilkairov and handed down a seven year and seven month jail term in a medium-level labour camp, according to the decision seen by Forum 18. She did not order the confiscation of his property. She ordered him to pay a fee of 61,137.58 Tenge to the Justice Ministry's Centre for Judicial "Expert" Analysis for the 17 April analysis in the case.

Kurmashev of Burabai District Prosecutor's Office refused to answer Forum 18's questions as to how Abilkairov had promoted "terrorism" by posting online talks on Islam that at the time had not been banned and, when they were banned, were deemed "extremist" not "terrorist". He also refused to say whether anyone had suffered from Kurmashev's actions. "I'm not authorised to answer any questions," Kurmashev kept repeating before putting the phone down.

"Abilkairov rejected all the accusations against him – he simply put up the recordings of Bashpayev's talks but didn't distribute them," his lawyer Bakhyt Suleimenova told Forum 18 on 29 October. "He didn't know they were ever deemed 'extremist', and this happened two years after he put them online."

Abilkairov is preparing his appeal against his conviction, Suleimenova added. Any appeal would be heard at Akmola Regional Court in Kokshetau.

Mazhenov: Trial

Prosecutors handed the case against Mazhenov to Burabai District Court in Shchuchinsk on 11 July, where it was (as with Abilkairov) assigned to Judge Zhanna Salykbayeva. The trial began on 15 August. About a dozen hearings have already taken place.

"I never and to no one conducted propaganda of anything connected to religion," Mazhenov told Saniya Toiken of Radio Free Europe's Kazakh Service during a break in trial proceedings on 22 October. "I am interested in nothing except my family. Of course when my son, who is not yet one, grows up I will tell him he is a Muslim and should pray the namaz. I'm an adherent of ordinary Salafism. We never spoke up against our ruler [President Nursultan Nazarbayev] and we do not call on anyone to do this."

At the 22 October hearing, Mazhenov's defender, his mother Irina Mazhenova, asked for the new Prosecutor Magzhan Sarimov to be removed from the case as she believes he is not well informed about it. However, Judge Salykbayeva rejected this.

During the trial, Judge Salykbayeva also rejected defence motions to have a new, more qualified expert to review the content of Bashpayev's talks. "We prepared our own independent expert analysis also, but the court wouldn't accept this either," Mazhenova told Forum 18 from Shchuchinsk on 30 October.

Mazhenov's trial is due to resume on 5 November, according to court records. A verdict could be issued that day, Mazhenova told Forum 18.

Yevgeny Zhovtis of the Kazakhstan International Bureau for Human Rights and Rule of Law insists the trials of Abilkairov and Mazhenov were not "free and fair". He questions the way prosecutors have brought the cases. "There is no evidence that either Abilkairov or Mazhenov practised any terrorism or extremism," he told Forum 18 on 30 October. "Such trials are promoting radicalisation because of injustice," he stated.

Atyrau: Two arrests

On 20 October, the NSC secret police arrested two Muslims in the western Atyrau Region. They arrested Erzhan Ruslanovich Sharmukhambetov (born 26 November 1980) in Atyrau. Arrested with him was his wife, but she was freed the following day. Atyrau Region Specialised Inter-District Criminal Court ordered that Sharmukhambetov be held in pre-trial detention for two months, court officials told Forum 18 on 24 October.

Also arrested on 20 October was Ermek Serikovich Kuanshaliyev. He is from the town of Dossor, 90 kms (55 miles) north-east of

Atyrau. Forum 18 has been unable to find out if a court has ordered that he too be held in pre-trial detention.

Sharmukhambetov and Kuanshaliyev are childhood friends of Sunni Muslim Murat Bakrayev. He was arrested in Germany on 15 September at the request of the Kazakh authorities, who had issued an Interpol Red Notice against him and are seeking his extradition.

The Kazakh authorities accuse Bakrayev – who has not visited Kazakhstan since he and his family left in 2005 - of inciting religious hatred, propaganda of terrorism or extremism, and organisation of a banned organisation. He rejects all the accusations (see F18News 17 October 2018 http://www.forum18.org/archive.php?article_id=2423).

Bakrayev's relatives and friends say the NSC secret police arrested Sharmukhambetov and Kuanshaliyev to pressure them to testify that he instructed them to carry out certain tasks.

The criminal cases against Sharmukhambetov and Kuanshaliyev are being investigated by NSC Investigator Nurzhan Bisengaliyev. However, he refused absolutely to give any information about the cases. "I cannot give information because of the secrecy of the investigation," he told Forum 18 from Atyrau on 24 October.

A German court is due to hear the extradition case against Bakrayev on 6 November, relatives told Forum 18.

Abduzhabbarov: Supreme Court appeal lodged

Sunni Muslim prisoner of conscience Imam Abdukhalil Abduzhabbarov has lodged a final appeal against his conviction to the Supreme Court in the capital Astana. The court accepted the appeal on 23 October and assigned it to a judge two days later, according to court records.

Kazakhstan gained Imam Abduzhabbarov's extradition from Saudi Arabia and he was arrested as he landed back in the country in 2017. He was jailed for eight years in August 2017 for sermons he gave before he left Kazakhstan in 2006 (see F18News 29 August 2017 http://www.forum18.org/archive.php?article_id=2311).

Since late 2017 Imam Abduzhabbarov has been in solitary confinement in a prison in Kyzylorda, where he is allowed just two meetings with relatives each year. He last saw his wife in April 2018 and is not due to see her again until 2019. The prison administration refused to allow him to have a copy of the Koran in Arabic (see F18News 17 October 2018 http://www.forum18.org/archive.php?article_id=2423). (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=2409.

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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