

14 October 2019

UZBEKISTAN: Muslim human rights defender's sentence imminent?

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

The Prosecutor asked Tashkent City Court to give 48-year-old Tulkun Astanov a five-year suspended sentence, with a verdict expected on or after 18 October. The Muslim human rights defender is being punished for visiting the state-controlled Muftiate to discuss hijab bans and other restrictions on freedom of religion and belief.

As the criminal trial of Muslim human rights defender Tulkun Astanov and one other at Tashkent City Court neared its end after seven weeks, on 9 October the State Prosecutor asked the Court to give 48-year-old Astanov a five-year suspended sentence. He gave his final address to the court on 14 October. The verdict might be handed down as early as 18 October.

Astanov is being tried to punish him for visiting the state-controlled Muslim Board to discuss his concerns over restrictions on Muslims' freedom of religion and belief in Uzbekistan (see below).

"Today the Court gave the final word to the defendant," Rukhiddin Komilov, a Tashkent human rights defender, told Forum 18 on 14 October. He is defending Astanov and the other man together with Toir Zhumashev, the defence lawyer. "The Court took no other actions, and possibly on 18 October or on a later date the sentence will be handed down."

Astanov is facing the more serious charges of storing or distributing "extremist" materials using telecommunications networks. The maximum punishment is eight years' imprisonment. He denies distributing any "extremist" materials (see below).

Officials at the Court refused to put Forum 18 through to the Judge hearing the case, Orif Klychev. Neither they, nor officials at Tashkent City Prosecutor's Office, would explain why Astanov is on trial (see below).

Ulugbek Jurayev, Assistant to Abdugafur Akhmedov, the newly-appointed Chair of the State Religious Affairs Committee, claimed to Forum 18 on 14 October that Akhmedov and his Deputies were busy.

Asked why the authorities are prosecuting Astanov simply for expressing his views on freedom of religion and belief in Uzbekistan and criticising the authorities, Jurayev replied: "I think extremist materials were seized from him, and that is why."

Told that Forum 18 has seen no evidence of extremism in the indictment, and was told by the defence that the security agencies also could not produce such evidence, asked why he is so sure about it, he said "I don't know the details."

The United Nations Special Rapporteur on the Independence of Judges and Lawyers, Diego Garcia-Sayán, visited Uzbekistan in September. He noted that "challenges continue to undermine the independence of the judiciary as an institution and the capacity of individual judges to decide the case before them solely on the basis of their conscience and in accordance with the law and the facts of the case" (see below).

Meanwhile, officials refused to explain why Muslim prisoner of conscience Khayrullo Tursunov has not been amnestied in view of the recent amnesties or pardonings of a number of Muslim prisoners of conscience or why Tursunov's relatives have not been allowed to visit him in prison in recent months (see below).

Defending hijab wearers

Muslim human rights defender Tulkun Tashmuradovich Astanov (born 25 April 1971) was present in Tashkent's Shaykhantaur District Court to observe when two Muslim women, Luiza Muminjanova and Nazimakhon Abdukakharova, tried unsuccessfully to challenge the ban on wearing the hijab (http://www.forum18.org/archive.php?article_id=2472) (Muslim head covering for women).

"The Court upheld the ban, which Astanov did not like," human rights defender Komilov told Forum 18. Astanov then decided to go with one other to the state-controlled Muftiate to ask why Muslim girls are banned from wearing hijab, among other questions.

At the 8 April meeting at the Muftiate, Astanov asked Deputy Chief Mufti Abdulaziz Mansur among other things why the hijab is banned, why imams have to be appointed by the state and preach sermons prepared for them by the state, and why the Muftiate does not help Muslims when their freedom of religion and belief is violated.

Deputy Chief Mufti Mansur accused Astanov of being a "hooligan", and being disrespectful to the Muftiate's alleged "spiritual leadership". Police were called and later in the day officers arrested Astanov. (http://www.forum18.org/archive.php?article_id=2471)

Police "illegally opened criminal case"

A Tashkent court jailed Astanov and one other on 8 April for 15 days (http://www.forum18.org/archive.php?article_id=2471) for criticising Uzbekistan's lack of freedom of religion and belief. They were arrested and jailed the same day they met the state-controlled Spiritual Administration of Muslims, or Muftiate. Astanov was released late at night on 24 April, a day after his 15-day jail term expired.

However, before the 15-day jail term had ended, SSS secret police launched a criminal case against Astanov.

"We think that officers of Olmazor District police Struggle with Extremism and Terrorism Department arrested Astanov near the building of the Muftiate and brought him to Olmazor District Police Station on 8 April," human rights defender Komilov told Forum 18. "There police at first opened an administrative case against him, and then on the completion of the 15 days, on 22 April, they opened a criminal case against Astanov before releasing him."

Komilov explained that "This is the usual procedure - the state puts defendants in custody to keep them under pressure to cooperate and it is easier to fabricate criminal cases this way."

The criminal case was led from 23 April by State Security Service (SSS) secret police investigator Major Bakhoddinov, Komilov told Forum 18.

"Struggle with Extremism and Terrorism Department police violated the law and illegally opened the criminal case," Komilov stated. He explained that on 8 April, Muftiate officials had called the ordinary police to complain of alleged hooligan acts of Astanov. Police that brought him to a police station under hooliganism charges.

"However, it was Struggle with Extremism and Terrorism Department police officers who apprehended Astanov, and later questioned him in the police station." Komilov insisted that this is illegal. "Legally, police Struggle with Extremism and Terrorism Departments can only be involved in criminal cases."

"Charges have been fabricated"

Prosecutors brought charges against Astanov under Criminal Code Article 244-1, Part 3 Point (d) ("Production or storage with the purpose of distribution of materials that contain ideas of religious extremism, separatism, and fundamentalism, calls for pogroms or violent expulsion of citizens, or aimed at creating a panic among the population, as well as production, storage with the purpose of distribution or demonstration of attributes or symbols of religious-extremist terrorist organisations", committed "with use of the media or telecommunication networks as well as the internet"). This carries a maximum punishment of five to eight years' imprisonment.

Komilov complained to Forum 18 that the "charges have been fabricated" and that Astanov is being prosecuted for "actively raising freedom of religion and belief issues of Muslims in Uzbekistan with the authorities on social media, as well as for having dared to go directly to the Muftiate to discuss the ban on the hijab and other issues with officials there."

The criminal investigation is led by SSS secret police investigator Major B. Bakhoddinov.

The 25 July indictment - signed by Tashkent City Prosecutor Bakhridin Valiyev and SSS secret police investigator Major A. Zufarov and seen by Forum 18 - claims that "extremist materials belonging to the Islamic State of Iraq and Syria (ISIS) terrorist organisation were found on the mobile phone seized from Astanov during questioning".

Nowhere does the indictment say exactly what the alleged ISIS or Daesh materials are, nor is any proof given of any link between the materials found on Astanov's phone and ISIS or Daesh. The "extremist" materials found on Astanov's Facebook page are a video clip on the hadith (sayings) by the Muslim Prophet Muhammad on the fate of Syria, which displayed the flag of the banned Hizb ut-Tahrir (https://www.forum18.org/archive.php?article_id=170) Muslim movement.

Also on Astanov's Facebook page were several Muslim texts with the titles "Counsel by Religious Masters," "Sheikh Sodik Samarkandi on wearing hijab", "Identity of Muslim girls", "Novruz holiday (fireworship festival) is haram (forbidden) for Muslims",

"[Western] New Year celebration forbidden for Muslims".

"The only allegedly extremist thing the investigators could find in my materials, was the miniscule flag of Hizb ut-Tahrir in that video," Astanov told Forum 18 on 4 October. "I downloaded it from the internet since I was looking for the hadith of the Prophet on the fate of Syria, and unfortunately I was not careful enough to notice that flag."

Astanov added that he immediately removed the video from his Facebook account after the investigators told him about it. "In fact, long before I downloaded the video I had warned my readers about ISIS and Hizb ut-Tahrir (https://www.forum18.org/archive.php?article_id=170) and all the other extremist organisations." Forum 18 on 4 October verified the truthfulness of this on Astanov's Facebook account.

Trial begins

Prosecutors handed the criminal case against Astanov to Tashkent City Court, where it was assigned to Judge Orif Klychev. The trial began on 23 August.

On the petition of defence lawyer Zhumashev, Judge Klychev questioned Mahmud Tolipov, Chief of Olmazor District police Struggle with Extremism and Terrorism Departments, and his subordinate Senior Lieutenant Botyr Kholikiy during the 30 September hearing.

"Senior Lieutenant Kholikiy admitted that he participated in the detention of Astanov near the Muftiate building," Komilov told Forum 18. Kholikiy told the Court that Astanov did not resist arrest. However, he could a defence question about what legal basis the police Struggle with Extremism and Terrorism Department was involved in the arrest.

Komilov added that "Police Chief Tolipov claimed to the Court that he is not related to this case at all, and Judge Klychev asked him no further questions."

Komilov told Forum 18 that among the "Struggle with Extremism and Terrorism Department" police officers who interrogated Astanov was A. Khusainov (first name not shown in the case files).

Khusainov in the 23 September hearing claimed that he "only prepared a report of the confiscation of the phone but did not participate in the arrest or questioning of the defendant," Komilov said. "We asked him on what grounds officers of the police Struggle with Extremism and Terrorism Departments participated in the Administrative Code case, and he could not answer."

On 9 October the State Prosecutor Azizbek Islamov, representing Tashkent City Prosecutor's Office, asked the Court to give Astanov a five-year suspended sentence. He gave his final address to the court on 14 October. The verdict might be handed down as early as 18 October.

No answers

Judge Klychev's Assistant, Begzod (who refused to give his last name), who answered the Judge's number several times between 4 and 10 October, refused to tell Forum 18 why a criminal case was opened against Astanov. He also refused to put Forum 18 through to any other officials. "I already told you that no one from the Court will give any comments to you. You need to ask the Supreme Court's permission to talk to us," he told Forum 18 on 10 October.

Tashkent Court's Chancellery officials (no names were given) between 4 and 10 October refused to answer Forum 18's questions regarding the case or put it through to Judge Klychev or to Bakhtiyar Islamov, the Court's Chair.

Phones in Tashkent City Prosecutor's Office went unanswered between 9 and 10 October.

Asked why a criminal case was opened against Astanov, Olmazor District Police officials (who did not give their names) on 4 October referred Forum 18 to Olmazor police "Struggle with Extremism and Terrorism Department" Chief Talipov and Officer Kholikiy.

Reached by Forum 18 on the same day and asked about the case both officers claimed that it was a wrong number. When Forum 18 confirmed with Olmazor Police that the numbers are correct and called back, Chief Talipov said "What now, are you threatening me?" He then put the phone down.

The duty officer, who answered the phone of the SSS secret police headquarters in Tashkent on 4 October, wrote down Forum 18's question why Astanov was accused by the secret police of extremism simply for criticising the Muftiate and the regime for their violation of the freedom of religion and belief of Muslims and for sharing the teachings of some Imams and Hadith on their social media accounts. But no answer was given.

The SSS secret police officer also refused to put Forum 18 through to Investigator Bakhoddinov or other responsible officials. "I cannot do so, but only write down your complaint," he answered. "I do not have such information," was his response, when Forum 18 asked how it can get in touch with any SSS officers involved in the case.

United Nations concerns over judicial independence

The United Nations Special Rapporteur on the Independence of Judges and Lawyers, Diego Garcia-Sayán, visited Uzbekistan in late September as Astanov's trial continued.

In his 25 September statement at the end of his visit

(<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25043&LangID=E>), Garcia-Sayán noted that "a number of challenges continue to undermine the independence of the judiciary as an institution and the capacity of individual judges to decide the case before them solely on the basis of their conscience and in accordance with the law and the facts of the case".

"Substantial threats against judicial independence and the rule of law remain," Garcia-Sayán warned. He pointed to the heavy and constant presence of the security services throughout society and Uzbekistan's institutions. He was also concerned about broad powers that prosecutors retain in criminal proceedings, which limit the independence of judges to decide cases autonomously and in accordance with his or her conscience.

"The system as a whole should have a clearer human rights focus," Garcia-Sayán added.

Tursunov's relatives denied prison visits

Abdulla (he refused to give his last name), Press Secretary of the Interior Ministry's Chief Directorate for the Impementation of Punishments, which oversees prisons, refused to tell Forum 18 why Muslim prisoner of conscience Khayrullo Tursunov has not been amnestied in view of the recent amnesties or pardonings of a number of Muslim prisoners of conscience or why Tursunov's relatives were not allowed to visit him in prison in recent months.

Abdulla also refused to put Forum 18 through to Bakhrombek Adylov, Deputy Interior Minister, Head of the Chief Directorate, or any other officials. "Please send your questions in writing," he told Forum 18. When it asked for the email or mailing address, he consulted with some officials but then put the phone down without saying anything. Subsequent calls on the same day went unanswered.

Kazakhstan illegally extradited Khayrullo Turdiyevich Tursunov (born 4 April 1975) to Uzbekistan in March 2013. He was sentenced in June 2013 to 16 years in jail for meeting privately with other Muslims without state permission to study the Koran and pray. Shortly after his sentence, Tursunov was apparently deliberately exposed by the regime to the potentially fatal disease of tuberculosis. (http://www.forum18.org/archive.php?article_id=1893)

Officials from the southern Kashkadarya Region – possibly from the SSS secret police – arrived at the Labour Camp in Karshi in Bukhara Region where Tursunov is being held. They tortured him over a period of six hours on 17 April and threatened to extend his jail term. (http://www.forum18.org/archive.php?article_id=2477) They were trying to extract false testimony against a distant relative who has lived outside Uzbekistan since 2006. Tursunov refused to sign the pre-prepared statement.

Prison authorities have refused Tursunov's relatives permission to visit him in Karshi prison in recent months, Bayramali Yusupov, his distant relative who lives abroad, told Forum 18 on 2 October 2019. "Khayrullo is still in prison, and a couple of days ago I was told that for the last couple of months the prison authorities have not allowed relatives to visit him."

Yusupov told Forum 18 that "when Khayrullo was arrested up to 30 Uzbek citizens were arrested at the same time in a fabricated case. Allegedly they cooperated and organised an extremist organisation. Almost all of them have been released from prison except for Khayrullo."

A Muslim man - released after a lengthy jail term from the prison where Tursunov is held - told Yusupov by phone that Tursunov's prison is a "strict regime prison, and the authorities do not as a rule release prisoners from there directly". He said that Tursunov "should be moved to a less strict regime prison at first and only then he could be amnestied". The former prisoner has not seen Tursunov personally and does not know his conditions, Yusupov told Forum 18.

Tursunov's Labour Camp address is:

Uzbekistan

Bukhara Region

Korovulbazar sh.

Uchr. UYa-64/25

Tursunov Khayrullo Turdiyevich

(END)

Full reports on freedom of thought, conscience and belief in Uzbekistan
(<http://www.forum18.org/archive.php?query=&religion=all&country=33>)

For more background, see Forum 18's Uzbekistan religious freedom survey (http://www.forum18.org/archive.php?article_id=2314)

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

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