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KAZAKHSTAN: Plagiarised "expert analysis", Jehovah's Witnesses to pay over 3 years' wages

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

Claims that reading Jehovah's Witness texts harms mental health has led to Jehovah's Witness communities being ordered to pay over 3 years' average wages to plaintiffs. A Justice Ministry "expert analysis" was used to make the claims, which succeeded despite 63 per cent of the "analysis" being plagiarised and an academic analysis finding it "cannot be accepted as comprehensive, complete, scientifically based, or in accordance with the normative demands presented to the specialists for investigation".

Two married couples who claim their mental health was harmed by reading Jehovah's Witness texts have won compensation from the Jehovah's Witnesses with the help of a Justice Ministry "expert analysis" of the texts. The "analysis" was completed in just eight days, and 63 per cent of it was found by a defence analysis to have been plagiarised from a 2008 Russian "analysis" with no reference to the source. The Kazakh Justice Ministry "analysis" claims to have found in 16 Jehovah's Witness publications "hidden commands for the full subjugation to and carrying out of all necessary recommendations and orders by elders".

The three Justice Ministry "experts" also claimed that an analysis of the literature "reveals a clearly structured process carried out with the use of a consistent change and combination of various methods of psychological and psychotherapeutic influence on adepts with the use of the technology of 'the provoking of cognitive dissonance', 'hypnotic trance', 'neurolinguistic reframing', 'modelling' and 'informational overload'."

However, four of the 16 texts had undergone and passed compulsory state censorship by the Religious Affairs Committee. The other texts were brought into Kazakhstan before religious censorship was introduced in 2011. Forum 18 was unable to find out if the regime regards the later July 2019 "analysis" of the 16 Jehovah's Witness publications as better than its censorship system's conclusions (see below).

Jehovah's Witness lawyers also presented a 6 April 2021 analysis they had commissioned from Galina Mustakimova of Kostanai State Pedagogical Institute. This found that 63 per cent of the Justice Ministry's "expert analysis" had been plagiarised from an 18 December 2008 Russian "expert analysis", without acknowledging this source. The Russian 25,000 word "analysis" was claimed to have been produced in four days, and was challenged at the time. Mustakimova concluded that the 2019 analysis "cannot be accepted as comprehensive, complete, scientifically based, or in accordance with the normative demands presented to the specialists for investigation" (see above).

An "expert" from the Justice Ministry's "Centre for Judicial Expert Analysis" has contributed to the earlier jailing of three prisoners of conscience – a Seventh-day Adventist, a Jehovah's Witness, and a Sunni Muslim. However, the "expert's" lack of qualifications led to a 2018 verdict on another Sunni Muslim prisoner of conscience being overturned by the Supreme Court. Despite this, on 13 October 2020 he was jailed for almost eight years after being tortured (see below).

The plaintiffs have been active in publicly attacking Jehovah's Witnesses, one couple setting up an organisation which then went to an intergovernmental conference. A Kazakh journalist who wished to remain anonymous commented to Forum 18 that civil society is "very weak" in Kazakhstan. "People are afraid to say a word out of place. And here you have a successful organisation created in an instant: they have people, they went to the OSCE, they held a demonstration, they produce various videos, and they gain money through the courts. I don't believe them" (see below).

In October 2020, a local television company broadcast footage of a demonstration against Jehovah's Witnesses which one of the plaintiffs organised. Unusually, no police appear to have been present. "How did they get permission for a demonstration?" a Kazakh journalist commented. The right to exercise the right of peaceful assembly and to hold demonstrations is repeatedly severely restricted by the regime (see below).

In the two cases – in Nur-Sultan in 2020 and in Taraz in 2021 – courts ordered that the Jehovah's Witness communities pay a total of 8,017,696 Tenge in compensation, or just over three years and four months' average wages for those in work. The Jehovah's Witness communities to which the plaintiffs belonged have state permission to exist.

Jehovah's Witnesses challenged both decisions. However, Nur-Sultan City Court rejected the appeal there on 23 June 2020 and Zhambyl Regional Court rejected the appeal there on 2 September 2021 (see below).

In a similar third case – in Almaty in 2021 – a court ordered a similar "expert analysis" of Jehovah's Witness publications, but the plaintiffs then withdrew their case. Though the court decision gives no reason, Jehovah's Witnesses told Forum 18 this was because the "expert analyses" of the plaintiffs' mental health found no psychological disorders (see below).

The regime has previously misused psychiatry and claims that health has been harmed to target religious communities it dislikes (see below).

"Precedents are being set"

Jehovah's Witnesses note that these court decisions have had no further legal consequences so far, but say they are concerned about such cases. "Court decisions are used as an increasing case law," they told Forum 18 from Almaty on 23 September. "Precedents are being set against the religion of Jehovah's Witnesses and their religious literature."

"Expert analysis"

Lyudmila Kunpan, the lawyer for the Nur-Sultan couple, sought an "expert analysis" of 16 Jehovah's Witness publications from the Almaty branch of the Justice Ministry's "Centre for Judicial Expert Analysis" on 26 June 2019. The 23-page analysis (seen by Forum 18) – signed by psychiatrists Zhannat Tatykhodzhayeva and Altinai Babykpayeva and psychologist Aizhan Kudaibergenova - was completed just eight days later, on 4 July 2019.

The analysis claimed to have found that the Jehovah's Witness literature contained "hidden commands for the full subjugation to and carrying out of all necessary recommendations and orders by elders". The psychological impact of these publications "leads to a change in the mood or indeed to the 'modification of the mood' and as a whole to the violation of the personal construction and could become a cause of social de-adaptation and neurotisation of the personality".

The three "experts" claimed that an analysis of the literature "reveals a clearly structured process carried out with the use of a consistent change and combination of various methods of psychological and psychotherapeutic influence on adepts with the use of the technology of 'the provoking of cognitive dissonance', 'hypnotic trance', 'neurolinguistic reframing', 'modelling' and 'informational overload'."

The three "experts" also claimed to find that the publications helped to form "dependent (addictive) conduct". This was achieved through the use of "an individual's low tolerance for frustration, inability to adapt to society, running away from reality and overcoming psychological discomfort by means of addictive realisation, that is by receiving subjective positive emotions leading to an artificial change in the mental state, which in turn leads to mental disorder or the exacerbation of mental illnesses".

Forum 18 asked psychologist Kudaibergenova in writing on 21 September how she and her colleagues were able to review and write their analysis of 16 publications within eight days. It also asked why 63 per cent of their analysis has been found to have been plagiarised from a 2008 Russian "expert analysis" without acknowledging this source (see below), and whether she and her colleagues had completed their own evaluation of the 16 texts. Forum 18 received no response by the end of the working day of 24 September.

An "expert" from the Justice Ministry's "Centre for Judicial Expert Analysis" has contributed to three prisoners of conscience – a Seventh-day Adventist, a Jehovah's Witness, and a Sunni Muslim – being jailed (https://www.forum18.org/archive.php?article_id=2608). However, the "expert's" lack of qualifications led to a 2018 verdict on another Sunni Muslim prisoner of conscience being overturned by the Supreme Court (https://www.forum18.org/archive.php?article_id=2569). Despite this, on 13 October 2020 he was jailed for almost eight years (https://www.forum18.org/archive.php?article_id=2608) after being tortured.

"Expert analysis" contradicts censorship conclusions

Jehovah's Witnesses told Forum 18 that 10 of the 16 works were brought into Kazakhstan before 2011, when the regime introduced compulsory prior state censorship on all religious literature published or distributed or imported into the country (https://www.forum18.org/archive.php?article_id=2409). Four of the other texts had passed this censorship system, which is run by the Religious Affairs Committee.

Forum 18 was unable to find out if the regime regards the later July 2019 "analysis" of the 16 Jehovah's Witness publications as better than its censorship system's conclusions on four of the texts. Nurgali Kabylov, Head of the Expertise [Censorship] Department of the Information and Social Development Ministry's Religious Affairs Committee (https://www.forum18.org/archive.php?article_id=2409), did not answer his phone at any time Forum 18 called between 22 and 24

September.

"Expert analysis" revealed as plagiarism

When the plaintiffs used the 2019 "expert analysis" in the case in Taraz in 2021, Jehovah's Witness lawyers on 16 March commissioned Galina Mustakimova of Kostanai State Pedagogical Institute to review the 2019 "Centre for Judicial Expert Analysis" claims.

Mustakimova completed her analysis (seen by Forum 18) on 6 April 2021, and found that only 37 per cent of the text of the 2019 "expert analysis" was original. Sixty three per cent of the Justice Ministry's "expert analysis" had been plagiarised from an 18 December 2008 "expert analysis" of Jehovah's Witness literature (https://www.forum18.org/archive.php?article_id=1516) conducted by staff at Russia's Gorno-Altai State University at the request of local prosecutors. The Kazakh "expert analysis" did not acknowledge its Russian source.

The Russian 25,000 word "analysis" was claimed to have been produced in four days, but on 1 December 2010 one of the authors denied to Forum 18 that they had ever conducted an official "expert" analysis of Jehovah's Witness literature (https://www.forum18.org/archive.php?article_id=1516). When Forum 18 noted that it had seen the analysis, the author conceded that they had conducted an analysis of "a small number" of Jehovah's Witness publications in 2008 at the request of the city prosecutor: "He asked the university, and I and a colleague were chosen."

2019 analysis "cannot be accepted as comprehensive, complete, scientifically based"

The conclusions of the Kazakh Justice Ministry "experts", Mustakimova noted, "are not proved in the process of analysis, but represent the subjective opinion of specialists, derived in the course of general reasoning about the supposedly harmful effect on the consciousness of readers, which was not the subject of special research and generalization, and therefore there is no reason to assert the recognition of this fact as real."

Mustakimova concluded that the 2019 analysis "cannot be accepted as comprehensive, complete, scientifically based, or in accordance with the normative demands presented to the specialists for investigation".

As "analysis is conducted by a centre of judicial expert analysis, people think it is solid"

"Expert analyses" are routinely used to justify a range of regime violations of freedom of religion and belief (https://www.forum18.org/archive.php?article_id=2409). They can be used as one element to prove a case in both criminal and civil cases.

Each analysis must relate to a concrete circumstance. "If the circumstances are different, then an expert analysis in one case cannot be used in another," a Kazakh legal expert who wished to remain anonymous explained to Forum 18.

The legal expert noted that the analysis on the 16 Jehovah's Witness publications had been produced by an institution that is clearly affiliated with the state, the Justice Ministry's "Centre for Judicial Expert Analysis". "But I wouldn't say that it represents the view of the state," the legal expert stressed. "It is the view of the specific experts working in a state institution and providing such services."

The legal expert pointed out that the analysis had been commissioned on a paying basis and could have been commissioned from other institutions. "But simply because an expert analysis is conducted by a centre of judicial expert analysis, people think it is solid."

"People are afraid to say a word out of place"

Yergali Abishov and his wife Irina Kvan were Jehovah's Witnesses for about two decades, but left in spring 2019. In August 2019, Abishov registered an organisation called Terra Libera. The following month he spoke at the Organisation for Security and Co-operation in Europe (OSCE) Human Dimension Implementation Meeting (HDIM) in Warsaw, attacking the Jehovah's Witness community and what he saw as his own government's failure to prosecute members of religious communities.

The Netherlands Helsinki Committee noted at the 2019 HDIM "an increase in the number of such Government Operated NGOs (GONGOs) can also be observed from other well-resourced countries such as Azerbaijan and Kazakhstan (<https://www.shrmonitor.org/europes-biggest-human-rights-conference-under-pressure/>). Increasingly, HDIM speaking time is filled with statements that are based on very one-sided interpretations of human rights problems, fitting the narrative of the respective governments."

A Kazakh journalist who wished to remain anonymous commented to Forum 18 that civil society is "very weak" in Kazakhstan. "People are afraid to say a word out of place. And here you have a successful organisation created in an instant: they have people, they went to the OSCE, they held a demonstration, they produce various videos, and they gain money through the courts. I don't

believe them."

Human Rights Watch noted in 2019 (when Abishov formed his organisation) that the regime arbitrarily denies registration to civil society organisations it dislikes (<https://www.hrw.org/news/2019/09/13/kazakhstan-feminist-group-denied-registration>).

Nur-Sultan case

Abishov and Kvan brought a suit to Nur-Sultan's Saryarka District Court claiming that their mental health had been harmed by their time as Jehovah's Witnesses, which they noticed only after leaving the community. They sought damages from both the Jehovah's Witness community in the capital, as well as the community in the southern city of Taraz, where they had lived earlier.

Their lawyer Lyudmila Kunpan commissioned an "expert analysis" on 16 Jehovah's Witness publications in July 2019 (see above). In August 2019, two "expert analyses" of Abishov and Khvan's mental state were produced. Both claimed that neither had suffered any psychological disorders before becoming Jehovah's Witnesses in the late 1990s, but that both had suffered since then.

Abishov and Khvan's conditions had developed from "regular reading of literature of religious content during the time they visited and were members of the Jehovah's Witness community of Taraz and of Astana [now Nur-Sultan]". The analysis described such reading as "a medical technique of psychotherapeutic and psychological influence". The methods used in the literature had "changed the structure of the personality" of both, the "expert analyses" maintained.

Further psychological analyses in October 2019 claimed that Abishov and Khvan had developed "psychological dependence" on the Jehovah's Witness community during their membership.

On 10 March 2020, Saryarka District Court partially accepted Abishov and Kvan's claim and awarded them damages from both Jehovah's Witness communities. The Nur-Sultan community was ordered to pay 1,168,366 Tenge (almost six months' average wages) and the Taraz community was ordered to pay 4,468,366 Tenge (over one year and 10 months' average wages). Claims for much higher compensation were rejected.

Both Jehovah's Witness communities appealed against the decision. However, on 23 June 2020, Nur-Sultan City Court rejected their appeal, according to the decision seen by Forum 18. In particular, the Court insisted that the July 2019 analysis of the 16 Jehovah's Witness publications was of a "scientifically-founded nature".

The appeal court decision notes: "During the given period from 1997 to 2019, the plaintiffs studied the literature recommended in the organisation, regularly attended meetings of the community, and adhered in life to the recommendations or the association. Among the sources of literature studied by the plaintiffs were 16 publications being the subject of study by the specialists."

On 21 September 2020, the Supreme Court declined to hear the Jehovah's Witness communities' final appeal against the lower court decision. It claimed the communities simply "disagreed with the legal evaluation given by the local courts of the totality of the evidence", according to the decision seen by Forum 18.

"How did they get permission for a demonstration?"

Maksat Bekbembetov and his wife Alina Bekbembetova in the southern city of Taraz were Jehovah's Witnesses for about two decades, but left in 2016 and 2018 respectively. Since then, Bekbembetov in particular has been active in opposing Jehovah's Witnesses publicly.

In October 2020, a local television company broadcast footage of a demonstration against Jehovah's Witnesses by up to 20 people which Bekbembetov organised and addressed outside a house of culture in Taraz. Unlike the regime's normal reaction to demonstrations, no police were visible at the demonstration in the television report. He subsequently posted the report on his YouTube channel.

Bekbembetov's YouTube channel also contains material produced by Terra Libera in Nur-Sultan featuring him, Abishov and others together.

"How did they get permission for a demonstration?" a Kazakh journalist who wished to remain anonymous commented to Forum 18. The Kazakhstan International Bureau for Human Rights and the Rule of Law has documented, in a report published on 6 April 2021 (https://bureau.kz/wp-content/uploads/2021/04/2021_report-pa.pdf), that the regime repeatedly severely restricts exercise of the right of peaceful assembly and to hold demonstrations.

The journalist commented on the October 2020 footage and other videos by Bekbembetov and Abishov that "most likely it was a state commission".

Taraz case

In October 2020, the lawyer for the Bekbembetovs sought "expert analyses" of the Bekbembetovs' mental state from the Almaty branch of the Justice Ministry's "Centre for Judicial Expert Analysis". In almost identical wording to the "expert analyses" in relation to Abishov and Kvan in Nur-Sultan (see above), it found that Bekbembetov and Bekbembetova had not suffered any psychological disorders before becoming Jehovah's Witnesses in the mid-1990s, but that they had suffered since then.

Bekbembetov and Bekbembetova's conditions had developed from "regular reading of literature of religious content during the time they visited and were members of the [Jehovah's Witness] community". The analysis described such reading as "a medical technique of psychotherapeutic and psychological influence". The methods used in the literature had "changed the structure of the personality" of Bekbembetov and Bekbembetova, the "expert analysis" maintained.

In November 2020, the lawyer sought a further "expert analysis" of Bekbembetova's mental state from the "Centre for Judicial Expert Analysis". This found that she was in a state of "psychological dependency" for having been in the Jehovah's Witness community caused by the "medical technique of psychotherapeutic and psychological influence".

In December 2020, the Bekbembetovs' lodged their suit against the Taraz Jehovah's Witness community to which they had belonged to Taraz City Court, where it was assigned to Judge Bauyrzhan Manketebi.

The hearings began in January 2021. Jehovah's Witness lawyers presented letters from the Religious Affairs Committee between 2013 and 2018 that four of their texts in Kazakh and Russian had successfully undergone the regime's compulsory prior religious censorship.

The lawyers also presented the 6 April analysis they had commissioned from Galina Mustakimova of Kostanai State Pedagogical Institute. She had found the 2019 analysis of 16 Jehovah's Witness publications to be largely plagiarised, concluding that it "cannot be accepted as comprehensive, complete, scientifically based, or in accordance with the normative demands presented to the specialists for investigation" (see above).

On 26 April 2021, Judge Manketebi partially found in favour of the Bekbembetovs and ordered that the Taraz Jehovah's Witness community pay 2,380,964 Tenge (almost one year's average wages for those in work). A claim for much higher compensation was rejected.

The decision, seen by Forum 18, claimed that while the plaintiffs were part of the Jehovah's Witness community they, "studied the literature recommended in the organisation which was the subject of study by the specialists (the specialists' analysis of 4 July 2019), regularly attended meetings of the community, and adhered in life to the recommendations or the association". This led to the "moral harm" against them for which compensation should be paid, the court decision claims.

The Jehovah's Witness community appealed against the decision. However, on 2 September 2021 Zhambyl Regional Court rejected the appeal, according to the decision seen by Forum 18. Jehovah's Witnesses told Forum 18 they are planning to lodge a final appeal to the Supreme Court.

Almaty case

On 21 January 2021, Almaty's Nauryzbai District Court accepted a suit from another couple claiming their mental health had been harmed by their earlier membership of a Jehovah's Witness community, according to the decision seen by Forum 18.

At a hearing on 12 February, Judge Dariga Ospanova ordered an "expert analysis" from Almaty's Centre of Psychological Health about the couple's mental health, as well as how "the reading of literature of religious content impacted on the mental and psychological state" of the couple when they were members of the Jehovah's Witness community.

Judge Ospanova also commissioned an "expert analysis" from the Almaty branch of the Justice Ministry's "Centre for Judicial Expert Analysis" (which conducted the 2019 "analysis" of 16 publications) about 9 Jehovah's Witness publications, including what "psychological impact" they have "on the mass consciousness of readers".

One question was: "Is the emergence of the phenomenon of dependence from the regular reading of literature by members of the Jehovah's Witness centre possible?" The last was: "What techniques of psychological influence are used in the religious literature – methods, means of psychological influence (suggestions, implantations)."

However, in a response (seen by Forum 18) the "Centre for Judicial Expert Analysis" told the court it did not have a specialist able to complete the analysis as the one psychologist it had was not allowed to undertake the analysis because she had completed an analysis of objects at the request of the plaintiffs' lawyer in the case in March 2020.

On 24 May 2021, Judge Ospanova accepted a request from the plaintiffs to withdraw their suit against the Jehovah's Witness community. The decision, seen by Forum 18, gives no reason for the withdrawal of the suit. Jehovah's Witnesses told Forum 18 this

was because the "expert analyses" of the plaintiffs' mental health found no psychological disorders. The Judge noted that the plaintiffs can present the case to court again.

Misusing psychiatry and health claims, denying prisoners medical treatment

The regime has previously misused psychiatry and claims that health has been harmed to target religious communities it dislikes. Masked police raided Grace Church in Astana in October 2012. They seized computers, valuables and religious books they insisted were "extremist", though they could not explain what was "extremist" about them.

Police also took blood specimens from Church members to see if the Church uses "hallucinogenic" substances for Communion (https://www.forum18.org/archive.php?article_id=1756) – local media carried the same allegations. The alleged "hallucinogens" were a commonly drunk local red tea used as a non-alcoholic communion wine.

Prosecutors brought a criminal case against Pastor Bakhytzhan Kashkumbayev, claiming he had harmed the health of a church member (https://www.forum18.org/archive.php?article_id=1929) who repeatedly insisted that they had not been harmed and that the Pastor was "totally innocent". Pastor Kashkumbayev was convicted in February 2014, despite credible claims of lack of legality and due process throughout the entire investigation and trial.

In 2013 the regime separately put Pastor Kashkumbayev and atheist writer Aleksandr Kharlamov into a psychiatric hospital. While in the psychiatric hospital, Kharlamov was not allowed to wear glasses, stopping him from reading, or to have a toothbrush - allegedly on safety grounds. One doctor told Kharlamov that you are here "because you are an inconvenient person for the authorities". No official ever produced medical reasons for these incarcerations (https://www.forum18.org/archive.php?article_id=2366), despite repeated questioning by Forum 18 and others.

Nor was any official brought to justice for torturing Kashkumbayev or Kharlamov by their wrongful psychiatric confinement, despite the United Nations (UN) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment requiring that all suspect torturers must be arrested and put on criminal trial for torture.

The regime has also been unwilling implement its binding international legal obligations to care for the health of its prisoners. In January 2017 the NSC secret police arrested Teymur Akhmedov and another Jehovah's Witness in Astana for discussing their faith with others. A judge ordered Akhmedov to be held in pre-trial detention despite the national cancer centre stating that Akhmedov needed to be hospitalised for an operation (https://www.forum18.org/archive.php?article_id=2252). This broke the UN Standard Minimum Rules for the Treatment of Prisoners (known as the Mandela Rules A/C.3/70/L.3 (https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf)), yet the judge claimed jailing was necessary to defend "a civilised society". Akhmedov was sentenced in May 2017 to a five year jail term with a further three-year ban on conducting "ideological/preaching activity" and was still not hospitalised for the treatment he needed (https://www.forum18.org/archive.php?article_id=2277).

Despite serious heart problems which were diagnosed in July 2019 as requiring a heart transplant, 42-year-old Muslim prisoner of conscience Zhuldyzbek Taurbekov (jailed in January 2020 for seven years) has been repeatedly denied the specialised medical treatment he needs (https://www.forum18.org/archive.php?article_id=2621) or legally-permitted early release from his sentence to receive this treatment. The regime's judges and prison authorities have repeatedly refused to implement the Mandela Rules, or answer Forum 18's questions about why prisoner of conscience Taurbekov has been repeatedly denied the medically-proven treatment he needs. (END)

Full reports on freedom of thought, conscience and belief in Kazakhstan (<https://www.forum18.org/archive.php?query=&religion=all&country=29>)

For more background, see Forum 18's Kazakhstan religious freedom survey (https://www.forum18.org/archive.php?article_id=2409)

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

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