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TAJIKISTAN: Urgent medical treatment denied again, defying UN Human Rights Committee

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

Jehovah's Witness prisoner of conscience 71-year-old Shamil Khakimov has again been denied urgently needed medical treatment in a specialised hospital, after a closed court hearing in his prison. The repeated denial of medical treatment is against multiple statements by the UN Human Rights Committee. Elsewhere, the family and friends of Ismaili Muslim prisoner of conscience Muzaffar Davlatmirov are still being denied information on where he is in jail.

Judge Marufjon Rustamzoda of Khujand City Court in Sugd Region on 2 November refused an application for 71-year-old Shamil Rasulovich Khakimov (born 30 January 1951) to be transferred from Strict Regime Prison YaS 3/5 for urgent medical treatment in a specialised hospital.

Prisoner of conscience Khakimov, a Jehovah's Witness, has long been seriously ill, has been repeatedly denied necessary medical treatment, and his health is rapidly declining. Among his multiple serious health problems are signs of gangrene in his legs, serious eyesight problems, and frequent severe headaches. He has not been able to wash himself since August 2022, and is due to be released in May 2023, but there are fears that he may die before then (see below).

The regime has long denied all prisoners access to the health care they need, and which it is their right to receive under Tajikistan's legally binding international human rights obligations (see below).

Regime officials from Strict Regime Prison YaS 3/5, Khujand City Court, and the Justice Ministry's Chief Directorate for the Enforcement of Criminal Punishments all deny that prisoner of conscience Khakimov has any serious health problems or need of specialised medical treatment (see below).

The Judge's decision ignores multiple reminders from the UN Human Rights Committee from March 2021 onwards that Tajikistan's human rights obligations require that Tajikistan must "ensure, without delay, that Mr. Khakimov receives adequate medical treatment at a specialised medical institution in accordance with his health care requirements, and that an alternative to imprisonment is secured for Mr. Khakimov" (see below)

Prisoner of conscience Khakimov was jailed in September 2019 (having been in pre-trial detention since February) for allegedly "inciting religious hatred," but his real "crime" seems to be that the regime thinks he led Khujand's Jehovah's Witness community. No evidence was produced that Khakimov or his community had harmed anyone (see below).

In August 2022, prisoner of conscience Muzaffar Davlatmirov (born 6 July 1963), an Ismaili religious leader, was jailed for 5 years for alleged "public calls for extremist activity". Independent journalist Anora Sarkorova told Forum 18 that he had criticised the regime's religious policies, and commented that the regime did not like the fact that Davlatmirov was respected in the region, and that he could influence people. He has now been transferred to an unknown prison, and the Judge in the case refused to state where this is. Prisoner of conscience Davlatmirov's relatives and friends have not been told where he is being held (see below).

Prisoners' freedom of religion or belief is denied. Prisoner of conscience Khakimov is only allowed to read a Bible with no-one else present. Muslims found praying (including the daily namaz prayers) or reading the Koran outside of prison prayer rooms and mosques (which are not open all the time) are often put into solitary confinement for two weeks (see below).

The United Nations (UN) Standard Minimum Rules for the Treatment of Prisoners (known as the Mandela Rules) are not being implemented, and multiple regime officials repeatedly deny all knowledge of them. Both the UN Human Rights Committee and the UN Committee against Torture have both called for Tajikistan to implement the Mandela Rules (see below).

At least 7 prisoners of conscience jailed for exercising freedom of religion or belief

There are now (24 November 2022) at least 7 prisoners of conscience jailed for exercising freedom of religion or belief

(https://www.forum18.org/archive.php?article_id=2625). One is Jehovah's Witness Khakimov, and the other known prisoners of conscience (including Davlatmirov) jailed for exercising freedom of religion or belief are Muslim.

The most recently known jailings before prisoner of conscience Davlatmirov were of Imam Mahmadsodyk Sayidov, Abdugafor Rajabov, and Aslamkhon Karimov. They were on 4 June 2021 jailed for five years (https://www.forum18.org/archive.php?article_id=2760). The 28-year-old Imam Sayidov was the state-appointed imam of the Nonvoyi Poyon [residential district] Mosque in Kulob, which the other two men attended. National Security Committee (NSC) secret police officers arrested Imam Sayidov immediately after he refused to preach a State Committee for Religious Affairs and Regulation of Traditions, Ceremonies and Rituals (SCRA) (https://www.forum18.org/archive.php?article_id=2625) provided sermon and preached his own sermon instead (https://www.forum18.org/archive.php?article_id=2760).

Closed hearings in Strict Regime Prison YaS 3/5

Judge Rustamzoda of Khujand City Court held three closed hearings in the prison where prisoner of conscience Khakimov is held, Strict Regime Prison YaS 3/5 in Sugd Region, on 27 October, 1 and 2 November 2022. Khakimov and his lawyer participated in the hearings.

"Khakimov was able to testify in detail about his state of health on 27 October," Jehovah's Witnesses told Forum 18 on 21 November. "He told the Court that he cannot walk independently and can only see about 1 metre [about 1 yard] ahead". He can only walk by holding on to a wall or someone else because of increasingly serious eyesight problems, multiple serious leg and toe problems, and frequent severe headaches.

Prisoner of conscience Khakimov is has been in 2022 progressively losing his eyesight (https://www.forum18.org/archive.php?article_id=2760). An ophthalmologist stated that "his right eye is inoperable and he is gradually losing sight in his left eye", Jehovah's Witnesses told Forum 18 on 13 July 2022. Also, "open ulcers on his left leg have started to fester and exude pus again".

Despite this, Khujand Court's Secretary Javohir (who refused to give his last name), who was present on 1 November, claimed to Forum 18 on 2 November that Khakimov "could walk normally without assistance. The prison medical unit can provide adequate care."

There is now early evidence of gangrene in his legs, as well as heart disease, Jehovah's Witnesses told Forum 18 on 2 November. At the end of the hearing on 1 November, Khakimov's lawyer filed a petition for an independent specialist medical examination to examine the severity of his state of health. On 2 November Judge Rustamzoda rejected the petition, claiming that "the opinion given by the prison specialists was satisfactory, and he does not see a reason for another opinion."

Jehovah's Witnesses told Forum 18 that the prison medical unit does not have any qualified medical specialists in Khakimov's multiple increasingly severe medical conditions, or the necessary specialised medical equipment. Even a non-specialist medical member of the prison medical unit staff admitted in court that "Khakimov's health has worsened, and the medical unit is not able to give him proper constant attention and care."

A doctor who has visited Khakimov in prison earlier in 2022 privately admitted that "his condition is severe". However, to regime officials the doctor felt under pressure to describe Khakimov's health as satisfactory (https://www.forum18.org/archive.php?article_id=2760). Jehovah's Witnesses are still to arrange a consultation for him with a "proper vascular surgeon." No surgeon has yet been willing to attempt to visit Khakimov in prison.

"Against our hopes, the Court did not show mercy to this elderly man"

The current governor of Strict Regime Prison YaS 3/5, Colonel Jamoliddin Khushbakhtzoda, repeatedly insists that prisoner of conscience Khakimov's health is fine (https://www.forum18.org/archive.php?article_id=2760). "He is given all medical care, whatever he needs," he told Forum 18 on 30 June.

The prison's deputy governor claimed to the Court that Khakimov is "provided with the most comfortable conditions the prison could offer." However, Jehovah's Witnesses pointed out to Forum 18 on 21 November that "since early August Khakimov has not been able to wash or shower himself because of open wounds on his legs, and he cannot without assistance take care of himself."

Judge Rustamzoda also rejected a request for prisoner of conscience Khakimov to be transferred to a hospital outside prison for the specialist medical treatment he needs. Jehovah's Witnesses have been repeatedly requesting this from the regime, and offered to pay all medical expenses. They repeated this offer to the Judge, but as before without success.

Judge Rustamzoda did not answer his phone whenever Forum 18 called from 1 November onwards, and each time court officials claimed he was "busy" in unspecified ways.

There have been multiple reminders from the UN Human Rights Committee, seen by Forum 18, that the regime's human rights obligations require that prisoner of conscience Khakimov must be hospitalised for the specialised medical treatment he needs. On 19 March 2021, on 18 June 2021 (https://www.forum18.org/archive.php?article_id=2678), and on 13 September 2021 (https://www.forum18.org/archive.php?article_id=2690) the Human Rights Committee stated that Tajikistan should "ensure, without delay, that Mr. Khakimov receives adequate medical treatment at a specialised medical institution in accordance with his health care requirements, and that an alternative to imprisonment is secured for Mr. Khakimov, while his case [communication 3905/2021] is under consideration by the Committee or until further notice".

"Against our hopes, the Court did not show mercy to this elderly man, who is imprisoned solely because of an arbitrary ban on Jehovah's Witnesses," Jehovah's Witnesses observed to Forum 18.

Khakimov "may not survive his sentence"

"Our numerous attempts to obtain early release, or to ensure that Khakimov receives adequate medical treatment, have so far have failed," Jehovah's Witnesses told Forum 18. "His prison term will end on 16 May 2023, but we fear that he may not survive his sentence because of his deteriorating health."

Petitions for release from prisoner of conscience Khakimov have been illegally blocked by the prison (https://www.forum18.org/archive.php?article_id=2690), and the office of the regime's "Human Rights Ombudsperson" (to which a copy of a petition to President Rahmon was sent) has refused to discuss the multiple violations of prisoners' human rights, or to indicate whether the "Human Rights Ombudsperson" is doing anything to defend human rights (https://www.forum18.org/archive.php?article_id=2690).

On 7 October 2021, the Justice Ministry's Chief Directorate for the Enforcement of Criminal Punishments claimed that the petition had been forwarded to the President. As of 24 November 2022 no reply had been received.

Repeated denials of medical care, banned from attending son's funeral

The regime has long denied all prisoners access to the health care they need, and which it is their right to receive under Tajikistan's legally binding international human rights obligations (https://www.forum18.org/archive.php?article_id=2643).

Khakimov, a retired widower, has long been in poor health. He underwent major leg surgery not long before his February 2019 arrest (https://www.forum18.org/archive.php?article_id=2506) and suffers from high blood pressure.

Prison authorities have repeatedly denied seriously ill prisoner of conscience Khakimov the specialised medical treatment he needs. In January 2021 fellow prisoners attacked him for having a bad leg "which smells like rotten meat" (https://www.forum18.org/archive.php?article_id=2643) and he has had coronavirus symptoms.

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)) state in Rule 27 that: "All prisons shall ensure prompt access to medical attention in urgent cases. Prisoners who require specialized treatment or surgery shall be transferred to specialized institutions or to civil hospitals." The Mandela Rules also state that medical decisions must be made by doctors.

Also, prisoner of conscience Khakimov was in September 2021 stopped from attending his only son's funeral (https://www.forum18.org/archive.php?article_id=2690). His son was prisoner of conscience Khakimov's only living close relative, and only his son and his lawyer were being allowed to visit him (https://www.forum18.org/archive.php?article_id=2690). Visits from fellow Jehovah's Witnesses are banned. In 2022 only his lawyer is being allowed to visit him.

Rule 58 of the Mandela Rules states in part that: "Prisoners shall be allowed, under necessary supervision, to communicate with their family and friends at regular intervals .. By receiving visits."

Rule 70 states in part that prisoners must be allowed "to attend the funeral of a near relative or significant other".

Both the UN Human Rights Committee and the UN Committee against Torture have both called for Tajikistan to implement the Mandela Rules (https://www.forum18.org/archive.php?article_id=2643).

Yet regime officials have repeatedly denied having heard of the Mandela Rules (https://www.forum18.org/archive.php?article_id=2760). For example, the then-prison governor Farukh Jalolov told Forum 18 in March 2021 (https://www.forum18.org/archive.php?article_id=2643): "I do not know what the Mandela Rules are." A Supreme Court official similarly denied knowledge of the Mandela Rules.

Major General Nuriddin Rakhmon, Deputy Head of the Justice Ministry's Chief Directorate for the Enforcement of Criminal

Punishments, and other officials on 14 and 21 November 2022 refused to discuss prisoner of conscience Khakimov's prison conditions, or why the Mandela Rules are not implemented. Major General Rakhmonon then put the phone down and did not answer later calls.

Strict Regime Prison YaS 3/5 prison officer Abdurakhimova (who refused to give her role, or her first name) on 15 November refused to explain to Forum 18 why prisoner of conscience Khakimov has not been transferred to an appropriate hospital. She insisted that "Khakimov is all the time in the medical unit. Medical personnel are taking a good care of him."

Abdurakhimova also insisted that Kakhimov can wash himself and take a shower, claiming that "the personnel help him." Like her colleagues, Abdurakhimova also denied all knowledge of the Mandela Rules, claiming that: "I do not know what these Mandela Rules are, and you should speak to the Governor."

Strict Regime Prison YaS 3/5 Governor Colonel Jamoliddin Khushbakhtzoda on 15 November insisted to Forum 18 that: "Everything is fine. There is no extraordinary situation with Khakimov." When Forum 18 then asked why the Mandela Rules were not implemented, he put the phone down and did not answer later calls.

Seven years' jail even though "I am guilty of nothing"

On 10 September 2019, a court in the northern city of Khujand jailed Jehovah's Witness Shamil Rasulovich Khakimov (born 30 January 1951) for seven years, six months for allegedly "inciting religious hatred" (https://www.forum18.org/archive.php?article_id=2506). He had been in pre-trial detention since February 2019, and was prosecuted for books, other literature, photos, videos, audios, computer files, and mobile phone data seized from him and other community members, which the Prosecutor's Office claimed contain "features of extremist activity". No evidence was produced that Khakimov or his community had harmed anyone.

"I am guilty of nothing," Khakimov told the Court (https://www.forum18.org/archive.php?article_id=2506). Khakimov's real "crime" seems to be that the regime thinks he led Khujand's Jehovah's Witness community.

In 2007 the regime banned the Jehovah's Witnesses (https://www.forum18.org/archive.php?article_id=2625). On 7 September 2022 the UN Human Rights Committee published a View (CCPR/C/135/D/2483/2014 (https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f135%2fd%2f2483%2f2014&Lang=en)) that "none of the reasons put forward by the State party's authorities and courts" for banning Jehovah's Witnesses and refusing them re-registration are lawful under Article 18 ("Freedom of thought, conscience and religion") of the International Covenant on Civil and Political Rights.

Sodik Shonazarov, Senior Advisor of the Legal Policy Section of the Presidential Administration, refused on 7 October 2022 to explain to Forum 18 what the regime would do (if anything) to implement the Human Rights Commission's decision (https://www.forum18.org/archive.php?article_id=2785). Multiple State Committee for Religious Affairs and Regulation of Traditions, Ceremonies and Rituals (SCRA) (https://www.forum18.org/archive.php?article_id=2625) officials, including Deputy Head Khuseyn Shokirov, all refused between 30 September and 3 October to discuss the Human Rights Committee's decision (https://www.forum18.org/archive.php?article_id=2785) with Forum 18.

The regime's investigation into Khakimov revealed that in 2016, the Department for Religious Affairs and Regulation of Traditions, Ceremonies and Rituals of Sugd Regional Administration commissioned a "state religious expert analysis" of the Tajik translation of the Bible (https://www.forum18.org/archive.php?article_id=2506) published by the Institute for Bible Translation (IBT) in Stockholm. (The IBT is not linked to Jehovah's Witnesses and its translations are used by a wide range of Christians.) The analysis – conducted by three local Imams – was carried out at the request of the National Security Committee (NSC) secret police and stated that the Bible should be banned.

Khakimov's sentence was reduced in summer 2020 (https://www.forum18.org/archive.php?article_id=2643) by two years, three months. In September 2021, his sentence was reduced by a further year (https://www.forum18.org/archive.php?article_id=2690) under amnesty. Now due for release on 16 May 2023, aged 72, Khakimov would be still denied his freedom of religion and belief by being banned until May 2026 from participating in any religious organisation (https://www.forum18.org/archive.php?article_id=2506).

Prisoner of conscience Khakimov's prison address is:

Tajikistan

Viloyati Sugd

735700 Shahri Khujand

Khakimov Shamil Rasulovich

Prisoners' freedom of religion or belief denied

Prisoner of conscience Khakimov is forbidden to read the Bible openly in the presence of others (https://www.forum18.org/archive.php?article_id=2643), Jehovah's Witnesses told Forum 18 on 10 March. "Previously the Bible was taken away from him, but later returned on condition that only he alone would read it."

Until early 2020, prison administrations banned jailed members of the banned Islamic Renaissance Party from reading the Koran or praying the namaz (https://www.forum18.org/archive.php?article_id=2625) (daily Muslim prayers). In 2021 they were allowed to pray openly but not to read the Koran (https://www.forum18.org/archive.php?article_id=2643), relatives who asked to remain unnamed for fear of state reprisals told Forum 18 on 4 March 2021.

In November 2022, an independent religious expert and several Muslims, who asked to remain anonymous for fear of state reprisals, told Forum 18 that "most prisons have either a mosque or prayer room. Prisoners are only allowed to pray (including the daily namaz prayers) and read the Koran there, and are not allowed to pray or read the Koran anywhere else." They noted that "prayer rooms and mosques are not always open, and if someone is found praying or reading the Koran elsewhere they are often put into solitary confinement for two weeks."

Rule 2 of the Mandela Rules states in part: "The religious beliefs and moral precepts of prisoners shall be respected." Rule 66 states in part: "Every prisoner shall be allowed to satisfy the needs of his or her religious life by .. having in his or her possession the books of religious observance."

Ismaili Muslim prisoner of conscience Muzaffar Davlatmirov sent to unknown prison

Prisoner of conscience Muzaffar Davlatmirov (born 6 July 1963), an Ismaili religious leader, was in August 2022 jailed for 5 years for alleged "public calls for extremist activity" (https://www.forum18.org/archive.php?article_id=2782). "Davlatmirov is not an extremist, and did not call for 'extremist' activity," a local person who knows him told Forum 18.

"Davlatmirov was widely known and respected by the local Ismaili people," independent journalist Anora Sarkorova told Forum 18. She noted that he had criticised the regime's religious policies, and commented that the regime did not like the fact that Davlatmirov was respected in the region, and that he could influence people (https://www.forum18.org/archive.php?article_id=2782).

The regime has also closed all Ismaili prayer houses in the south-eastern Mountainous Badakhshan region and the Ismaili Education Centre in Khorugh (https://www.forum18.org/archive.php?article_id=2782). No official notification or reason was given – including from the SCRA (https://www.forum18.org/archive.php?article_id=2625) - for the closures or how long they will last.

Judge Abdukhanon Nazarzoda, Chair of Badakhshan Regional Court, which sentenced Muzaffar Davlatmirov, told Forum 18 on 14 November that prisoner of conscience Davlatmirov "was transferred to a prison." Judge Nazarzoda refused to say which prison Davlatmirov is now held in.

Prisoner of conscience Davlatmirov's relatives and friends have not been told where he is being held (https://www.forum18.org/archive.php?article_id=2782). This violates Rule 68 of the Mandela Rules, which states in part: "Every prisoner shall have the right, and shall be given the ability and means, to inform immediately his or her family, or any other person designated as a contact person, about his or her imprisonment, about his or her transfer to another institution and about any serious illness or injury."

Judge Nazarzoda refused again (https://www.forum18.org/archive.php?article_id=2782) to explain to Forum 18 why the Mandela Rules are not being implemented.

Major General Nuriddin Rakhmon, Deputy Head of the Justice Ministry's Chief Directorate for the Enforcement of Criminal Punishments, and other officials on 14 and 21 November refused to state where prisoner of conscience Davlatmirov is being held, or why the Mandela Rules are not implemented. Major General Rakhmonon then put the phone down and did not answer later calls. (END)

Full reports on freedom of thought, conscience and belief in Tajikistan (<https://www.forum18.org/archive.php?country=31>)

For more background, see Forum 18's Tajikistan religious freedom survey (https://www.forum18.org/archive.php?article_id=2625)

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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