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Muslim prisoner of conscience given nearly 5 years' jail and ban until end 2022 on exercising freedom of religion or belief

Forum 18 (08.07.2015) - A human rights defender who attended the trial and family members have condemned the imprisonment of Sunni Muslim Saken Tulbayev, accusing prosecutors of planting evidence and using false witnesses, Forum 18 News Service notes. The 46-year-old Tulbayev – who has been in prison since 1 April – received a four year eight month prison sentence in Kazakhstan's commercial capital Almaty at the end of his long-running trial on 2 July.

Judge Arai Nugumanova also banned prisoner of conscience Tulbayev from exercising his freedom of religion or belief until December 2022, three years after his release.

Prayer technically banned?

Between his scheduled release from prison in December 2019 and December 2022, prisoner of conscience Tulbayev is now banned from the unclearly phrased "activity directed at meeting the religious needs of believers". This would appear, a Kazakh legal expert told Forum 18, to include praying alone or with others, reading the Koran or other religious literature, attending a mosque, or going on pilgrimages.

Article 50 of the new Criminal Code allows a ban on sentenced individuals conducting specific state, professional "or other activity" for between one and 10 years as part of a sentence. It remains unclear what specific exercise of freedom of religion or belief Judge Nugumanova has banned Tulbayev from conducting after he completes his prison sentence.

One Kazakh legal expert told Forum 18 that under Kazakh law a court can technically even ban someone from praying – even though this breaks international human rights law. Exercising freedom of religion or belief is defined in Article 1 of the 2011 Religion Law as "activity directed at meeting the religious needs of believers", the legal expert noted. The Religion Law also contains other wide-ranging restrictions on freedom of religion or belief (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939). "If they regard prayer as 'meeting religious needs', then they could ban it, strictly speaking."

Yevgeni Zhovtis of the Kazakhstan International Bureau for Human Rights and the Rule

of Law condemned the three-year ban on Tulbayev's freedom of religion or belief as "another total stupidity and total absurdity". He noted that although Kazakh law allows such a ban – in defiance of the country's international human rights obligations - "it will be interesting how they will prohibit him from going to mosque and so on" he observed to Forum 18 on 8 July.

Too busy to explain freedom of religion or belief ban

Judge Nugumanova's assistant – who would not give her name – said the Judge would not be able to comment on her verdict. Asked whether the three-year ban until December 2022 the Judge imposed will prevent Tulbayev from praying or reading the Koran, or what other manifestations of freedom of religion or belief are banned, she said the Judge was too busy to be able to give explanations.

"Absolutely fabricated"

One of prisoner of conscience Tulbayev's family friends, Askar Sattarov, insisted that the case was "absolutely fabricated". "Those who organised this spectacle committed fundamental mistakes," he told local KTK television immediately after the verdict was announced. "They have no understanding in questions of religion. For them, any person who engages in freedom of religion or belief is an extremist."

No funds for appeal

Judge Nugumanova had not yet completed the written verdict as of late on 7 July, her assistant told Forum 18 from Almaty's Bostandyk Court No. 2 at the end of the working day on 7 July. She said the 15-day period for lodging an appeal to Almaty City Court begins when Tulbayev's lawyer receives the written verdict.

Tulbayev's family told Forum 18 they have no money to fund a lawyer to appeal against the verdict. "The lawyer Zhandos Bulkhair worked for free, taking only small amounts for expenses," Feruza Tulbayeva, Tulbayev's sister, told Forum 18 on 7 July. "He defended Saken well and we're very grateful to him, but he can't carry on working for no money."

Transfer to distant labour camp?

Tulbayev's family fear that if any appeal fails and the sentence comes into legal force, Tulbayev could be transferred to serve his sentence in a labour camp far from Almaty. "At the moment the prison is only 40 minutes away by bus, but if he's transferred for example to North Kazakhstan Region, he would be so far from us," Tulbayeva told Forum 18.

No family visits, beard shaved, no Koran – and no prayer mat?

Tulbayev's family have been allowed no private meetings with him since his 1 April arrest. The only time they could see him and talk very briefly with him was at court hearings. They have been able with great difficulty to hand in parcels for him at the prison with food, glasses and clothes (see F18News 10 June 2015 http://www.forum18.org/archive.php?article_id=2072). It is unknown whether he has received all these parcels.

Following his transfer to the prison Tulbayev's relatives were twice refused permission to hand over a copy of the Koran for him and prison authorities have defended this denial to Forum 18. Also, his beard has been forcibly shaved and clothes changed (see F18News 10 June 2015 http://www.forum18.org/archive.php?article_id=2072). Tulbayev also

asked for a prayer mat. Family members told Forum 18 he remains without a Koran, but it remains unclear if he is now allowed a prayer mat or not.

Police "extremist" register

The 16 April indictment in Tulbayev's case – seen by Forum 18 – reveals that even before the criminal case was launched, he "is on the register of the Department for the Struggle with Extremism of Almaty City Police as an active member of the religious extremist organisation Tabligh Jamaat".

Tabligh Jamaat, a Muslim missionary movement, was banned as "extremist" in Kazakhstan by a court in the capital Astana in February 2013 (see F18News 12 December 2014 http://www.forum18.org/archive.php?article_id=2023).

Trials of people alleged to be part of Tabligh Jamaat have been surrounded in secrecy. Such trials in South Kazakhstan Region ended in December 2014 with a three-year prison sentence being imposed, and in Taldykorgan [Taldyqorgha] in Almaty Region five prison terms of between 18 and 20 months were imposed (see F18News 14 January 2015 http://www.forum18.org/archive.php?article_id=2027).

Forum 18 has been unable to find out what being "on the register" of the Department for the Struggle with Extremism means, or how many people are subject to such police scrutiny. The man who answered the phone there on 7 July claimed to Forum 18 it was a wrong number, but refused to say which Department Forum 18 had reached or give any other number for the Department for the Struggle with Extremism.

Secret state surveillance

Zhovtis of the Kazakhstan International Bureau for Human Rights and the Rule of Law notes that the police Department for the Struggle with Extremism compiles a list of individuals who according to its information are members or active participants in any organisation on the list of banned organisations (extremist, terrorist and radical). "The police then undertake secret surveillance of these people," he told Forum 18.

All religious or belief communities are thought to be under surveillance by the ordinary police and National Security Committee (KNB) secret police (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939). Forum 18 knows of several prominent leaders of registered Protestant churches who have discovered over the past 10 years that the police and KNB secret police have placed them on a "signal register" (signalny uchet in Russian). In cases known to Forum 18 this then prevents them from changing their officially-registered place of residence, selling a legally-owned car, or gaining state child benefit for newly-born children (see eg. F18News 6 May 2011 http://www.forum18.org/archive.php?article_id=1568). Individuals under state surveillance are also subject to close scrutiny and questioning when leaving Kazakhstan.

KNB secret police surveillance can also lead to state attempts to discredit or blackmail people.

First fined, then criminal case opened

Tulbayev, a devout Muslim, was fined in absentia on 30 December 2014 for preaching to passengers at a railway station in Oskemen and did not pay the fine. Such missionary activity without state permission is illegal, in defiance of Kazakhstan's international human rights obligations. On 10 February 2015 – unknown to Tulbayev – the criminal case against him was opened (see F18News 10 June 2015 http://www.forum18.org/archive.php?article_id=2072). Prosecutors alleged that he had given a book and two copies of an 11-page leaflet to two young men outside an

Almaty mosque after Friday prayers on 6 February. The young men are claimed to have "voluntarily" handed in the literature and were questioned by police on 10 February, according to the 16 April indictment.

"Expert analysis"

On 10 February Captain Dias Shortanbayev, Deputy Head of the Investigation Department of Almaty Police, commissioned an "expert analysis" of the book and the 11-page leaflet from Almaty's Institute of Judicial Expertise. After 10 hours of analysis, "experts" Kadyrkul Yesilbayeva and Dinara Musina presented their conclusion (seen by Forum 18) to Shortanbayev the following day.

The "experts" concluded that the mostly Russian-language book – "Fazail Amali" by Muhammad Yusuf Kandhlawi, published in Russia in 2007 – did not incite religious hatred or call for the overthrow of the constitutional order. They found that the leaflet (in both Kazakh and Russian) did incite religious hatred, though it did not call for the overthrow of the constitutional order. They concluded that both the book and the leaflet contained ideas from the banned Tabligh Jamaat movement. Testimony at the trial from an official of the state-backed Muslim Board contradicted this claim (see below).

Raid

At about 10.30 pm on the evening of 11 February, police raided the four-room flat in Almaty's Bostandyk District which Tulbayev shares with his 82-year-old mother, his wife Rumina Fakhrudinova, two of his three children, his sister Feruza Tulbayeva and her child. During their three-hour search, officers confiscated notes and booklets. On leaving the flat, they also claim to have found 43 copies of a leaflet which Tulbayeva insisted to Forum 18 had been planted (see F18News 10 June 2015 http://www.forum18.org/archive.php?article_id=2072). The raid was filmed by the police, but the recording shown in court has breaks in it – attributed by the police to battery problems (see below).

On 12 February Captain Shortanbayev sent the further texts they confiscated or claimed to have confiscated from Tulbayev for "expert analysis". The 13 March analysis from the same Institute of Judicial Expertise, which took 20 hours to compile, was conducted by the same Musina and another "expert", Bibigul Zhumasheva.

The analysis concluded that two of the texts (a Russian-language brochure "The Bloody Legacy of Wahhabism" and an 11-page leaflet calling for the creation of a caliphate) contained incitement to religious hatred. None of them contained calls for the overthrow of the constitutional order.

Tulbayev's family insisted to Forum 18 that "The Bloody Legacy of Wahhabism" is widely available in mosques and Tulbayev must have picked up a copy there. They insist the 11-page leaflet was planted by police.

No comment

Captain Shortanbayev declined absolutely to discuss the case he prepared against Tulbayev on every occasion Forum 18 called him, including on 7 July.

Musina declined to comment on her "expert analyses" or her subsequent testimony during the trial. "We don't have the right to give such commentary," she told Forum 18 from Almaty on 7 July. But she insisted that "we are independent experts who take no side in a case".

Asked about the lawyer and family's insistence that the 11-page leaflet for which prisoner

of conscience Tulbayev was prosecuted was a Wahhabi, not a Tabligh Jamaat text, she stood by what she had written in her analysis. Testimony at the trial from an official of the state-backed Muslim Board contradicted her claim (see below). She insisted that she had no knowledge of the provenance of the texts. "We analyse what we are presented with."

Charges

On 1 April Tulbayev was arrested and held at the local police station. After a court ordered he be held in pre-trial detention, he was transferred to Almaty's Investigation Prison, where he has been held ever since. Prisoner of conscience Tulbayev was charged under Criminal Code Article 174, Part 1 and Criminal Code Article 405, Part 2. Like most of the new Criminal Code, Articles 174 and 405 came into force on 1 January 2015 (see F18News 9 July 2014 http://www.forum18.org/archive.php?article_id=1976).

Article 174, Part 1 punishes "incitement of social, national, clan, racial, or religious hatred or antagonism" with imprisonment of two to seven years. This replaced the old Criminal Code's Article 164 under which both retired Presbyterian Pastor Bakhytzhan Kashkumbayev and atheist writer Aleksandr Kharlamov have been investigated (see F18News).

Article 405, Part 2 punishes "Participating in the activity of a social or religious association or other organisation after a court decision banning their activity or their liquidation in connection with extremism or terrorism they have carried out" with a fine or up to two years' imprisonment.

The case was prepared in Kazakh, a language Tulbayev's family insist he does not speak well. It was finally completed and handed over to Almaty's Bostandyk District Court No. 2 on 6 May.

Trial

The trial began at Bostandyk District Court No. 2 in Kazakh with an initial hearing on 22 May, with a further hearing on 27 May. It was only from the 28 May hearing that the language of the hearings was changed to Russian at Tulbayev's lawyer's request. The prosecution was then ordered to translate all the case materials into Russian.

Prisoner of conscience Tulbayev was brought to and taken from each hearing in handcuffs, and even remained handcuffed during some hearings.

The state-sponsored "experts", Musina and Zhumasheva, had difficulty answering defence lawyer Bulkhayr's questions in court, but insisted the 11-page leaflet was a Tabligh Jamaat text. Judge Nugumanova eventually acceded to the lawyer's request to allow a Muslim theologian to be questioned. Alai Adilbayev, a member of the state-backed Muslim Board's Council of Scholars, told the court that the leaflet was not from Tabligh Jamaat but was of Salafi Muslim content.

Like Tabligh Jamaat, Salafism is banned in Kazakhstan (see F18News 29 November 2011 http://www.forum18.org/archive.php?article_id=1640). Publications from this school of Islamic thought are banned and those who possess them prosecuted (see F18News 17 April 2015 http://www.forum18.org/archive.php?article_id=2056).

Tulbayev insisted that the 11-page leaflet contradicted his religious views and had been planted by police. The video recording of the search, which has frequent breaks and was shown in court, depicts a systematic search of the Tulbayev family flat. But suddenly at the end Captain Shortanbayev allegedly remembered they at he had forgotten to search the entrance hall, Kazis Toguzbayev of Radio Free Europe noted on 2 July. When

Shortanbayev returned to the hall, he "found" the 11-page leaflet. He also "found" 43 copies of a leaflet in Kazakh, which Tulbayev cannot read (see F18News 10 June 2015 http://www.forum18.org/archive.php?article_id=2072).

Questioned in court, investigator Captain Shortanbayev explained the frequent breaks in the video recording as due to battery problems.

Testifying on Tulbayev's behalf was Muhammad Khusein-haji Alsabekov, a Chechen imam who heads the Sharia and Fatwa Department of the Muslim Board and a long-time friend. The Muslim Board is the only public expression of Islam allowed in Kazakhstan and controls all of the community, only permitting Sunni Hanafi Islam (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

At the final presentation of the case on 29 June, prosecutor Askhat Esenov demanded a five-year prison sentence. Tulbayev denied inciting religious hatred and said that as Tabligh Jamaat is not a formal organisation he cannot be a member of it.

At the 11th and final hearing on 2 July, Judge Nugumanova found prisoner of conscience Tulbayev guilty on both charges and sentenced him to four years and eight months' imprisonment in an ordinary regime labour camp. She also banned him from exercising freedom of religion or belief for three years after his release from jail.

Observing almost all the hearings in the trial for the Kazakhstan International Bureau for Human Rights and the Rule of Law was the lawyer Gulmira Kuatbekova.

Throughout the case, and again on 7 July, colleagues at Bostandyk District Prosecutor's Office claimed to Forum 18 that prosecutor Esenov was out of the office.

Prisoner of conscience Tulbayev "not guilty"

"Saken is not guilty – the case was fabricated," human rights defender Bakhytzhan Toregozhina of Ar.Rukh.Khak – who attended three hearings of the trial – told Forum 18 from Almaty on 6 July. She noted that although Tabligh Jamaat was banned in Kazakhstan in 2013, "it is understood that believers can't stop believing".

Toregozhina said it was not proved in court that Tulbayev had spread Tabligh Jamaat ideas. "The leaflets he had allegedly distributed were not from Tabligh Jamaat but purely Wahhabi, with whom Tabligh Jamaat adherents do not agree," she told Forum 18. "Unfortunately, this is not the first time here that leaflets have been planted on religious believers. Saken is very cautious, and what he says can be trusted. He is not guilty."

Toregozhina said a case should be lodged to the United Nations Human Rights Committee under Article 18 ("Freedom of thought, conscience and religion") and Article 26 ("Equality before the law") of the International Covenant on Civil and Political Rights. "There is also reason to complain under Article 14 ('Right to a fair trial')". She said that before such a complaint, all legal defence mechanisms within the country must be gone through.

Muslim preacher the latest prisoner of conscience

Forum 18 (10.06.2015) - Kazakhstan's trial of a Muslim prisoner of conscience who exercised his freedom of religion or belief without state permission, Saken Tulbayev, is due to resume sometime after 12 June at a court in the commercial capital Almaty, Forum 18 News Service has learned. He has been a prisoner of conscience in detention

since 1 April and his trial began in mid-May, seven weeks after his arrest. He denies the state's charges of inciting religious hatred and participating in a banned "extremist" organisation, the Muslim missionary Tabligh Jamaat movement. Tulbayev faces up to seven years' imprisonment if convicted.

"They want to finish the trial quickly," his sister Feruza Tulbayeva insisted to Forum 18. "We believe this case has been fabricated as my brother is not involved in anything and presents no harm to anyone."

"The case is connected to Saken Tulbayev's religious activity," Gulmira Kuatbekova, a lawyer who is observing the trial for the Kazakhstan International Bureau for Human Rights and the Rule of Law, told Forum 18 from Almaty on 27 May. She described the conducting of the investigation and start of the trial in Kazakh – a language Tulbayev does not understand well – as a violation of his rights.

UN Special Rapporteur on the rights to Freedom of Peaceful Assembly and of Association Maina Kiai has noted "a general unwillingness to properly protect human rights in the country, and of a sense of impunity by some officials". He also noted state intimidation of those he met.

Fined for Islamic preaching

Tulbayev, who will mark his 46th birthday on 16 June, has prayed the namaz (Muslim prayers) regularly for 20 years with no problem, his sister told Forum 18. "He goes to many mosques and speaks of himself as a "real Muslim". He is well known in Islamic circles and more widely around town." She said he is recognisable by his long beard and south Asian clothes.

Tulbayeva noted that her brother tries to travel to Pakistan for religious reasons for four months each year when he has money. He supports himself and his family by undertaking irregular work.

The authorities have already handed Tulbayev's case to court bailiffs for failing to pay a fine handed down in absentia in Oskemen in East Kazakhstan Region on 30 December 2014, to punish him for "missionary activity" without state permission 10 weeks earlier. But he has not been placed on the Justice Ministry's exit blacklist barring him from leaving the country, unlike many others who have refused to pay fines imposed on them for exercising their right to freedom of religion or belief. These are for such "offences" as meeting for worship without state permission, or sharing religious literature which has not been censored by the state (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

At least 14 Baptists and Muslims are known to have in 2014 become short-term prisoners of conscience for refusing to pay fines for the "offence" of exercising their freedom of religion or belief without state permission.

Tulbayev was punished for preaching to passengers at a railway station in Oskemen. Judge Edil Kuderbayev of Oskemen Specialised Administrative Court found Tulbayev guilty under the then Code of Administrative Offences' Article 375, Part 3, according to the decision seen by Forum 18. The court decision notes that although Tulbayev was informed of the trial he did not appear and gave no reason for his absence. The Judge fined him 100 Monthly Financial Indicators, 185,200 Tenge (then about 7,320 Norwegian Kroner, 820 Euros, or 1,020 US Dollars). Tulbayev did not appeal against the decision.

The then Article 375, Part 3 punished "Carrying out missionary activity without state registration (or re-registration), as well as the use by missionaries of religious literature,

information materials with religious content or religious items without a positive assessment from a religious studies expert analysis".

Article 375, Part 3 has been incorporated into Article 490, Part 3 of the new Administrative Code, which added the new "offence" of "spreading the teachings of a religious group which is not registered in Kazakhstan" (which would technically embrace foreign religious officials at today's government-run "Congress of Leaders of World and Traditional Religions"). Article 490 and other parts of the new Administrative Code – which with the new Criminal Code have been strongly condemned by local human rights defenders – mainly came into force on 1 January 2015 (see F18News 21 July 2014 http://www.forum18.org/archive.php?article_id=1979).

Criminal case

A criminal case was opened against Tulbayev on 10 February, an unidentified security official told local agency Tengrinews on 28 May. He was charged under Criminal Code Article 174, Part 1 and Criminal Code Article 405, Part 2.

Article 174, Part 1 punishes "incitement of social, national, clan, racial, or religious hatred or antagonism" with imprisonment of two to seven years. This replaced the old Criminal Code's Article 164 under which both retired Presbyterian Pastor Bakhytzhan Kashkumbayev and atheist writer Aleksandr Kharlamov have been investigated (see below). Like most of the new Criminal Code, Article 490 came into force on 1 January 2015 (see F18News 9 July 2014 http://www.forum18.org/archive.php?article_id=1976).

Article 405, Part 2 punishes "Participating in the activity of a social or religious association or other organisation after a court decision banning their activity or their liquidation in connection with extremism or terrorism they have carried out" with a fine or up to two years' imprisonment.

Long jail terms, the shortest being 18 months, have been imposed on prisoners of conscience alleged like Tulbayev to be part of the banned Muslim missionary movement Tabligh Jamaat who exercise their freedom of religion or belief (see eg. F18News 14 January 2015 http://www.forum18.org/archive.php?article_id=2027).

The investigator on Tulbayev's case, Captain Dias Shortanbayev of Almaty City Police, refused to discuss anything with Forum 18. "I won't talk to you by phone," he kept repeating on 9 June, before putting the phone down.

Raid on family, planted evidence

At about 10.30 pm on 11 February, eight police officers raided the four-room flat in Almaty's Bostandyk District which he shares with his 82-year-old mother, his wife Rumina Fakhrudinova, two of his three children, his sister and her child. "They were looking for proof that my brother was a member of an illegal group," Tulbayeva told Forum 18.

"They found one 10-page brochure which he had picked up in a local mosque. Then as they were leaving, they claimed to have found 43 copies of a leaflet in Kazakh on top of the coat rack in the corridor – I was present in the flat and the leaflets were not there before. I would have seen them immediately had they been there."

The officers claimed to Tulbayev that he had been giving out leaflets outside a mosque at Friday prayers on 6 February. "He stated he didn't," Tulbayeva added.

The police – who filmed their three-hour search - finally left at about 1.30 am on the morning of 12 February, Tulbayeva said.

Accusations based on planted evidence

The two texts the police claimed to have found in the family's home formed the basis of the state accusations. "The first was printed on poor-quality paper, which anyone could find and read. The second, the leaflets, were in Kazakh which my brother can barely read. He couldn't have written them or even translated them."

Tulbayeva told Forum 18 that she had told the officers on film that the leaflets had been planted, and also wrote this on the record of the search that they were obliged to sign. She repeated this when police summoned her for interrogation on 21 March.

However, the police investigator sent the two texts for an "expert analysis". This concluded that they contained elements of "extremism", Tulbayev's lawyer told Kazis Toguzbayev of Radio Free Europe.

During one interrogation of Tulbayev, officers confronted him with several people who claimed to have received the leaflets from him. "This was the first time my brother had ever seen these people," Tulbayeva told Forum 18.

All the documents in the case were prepared in Kazakh, a language Tulbayev can barely understand. "We were brought up in a Russian-speaking family and, although he knows Urdu, English and Arabic in addition to Russian, his Kazakh is poor," Tulbayeva noted.

Prisoner of conscience arrested, denied family visits and Koran, beard forcibly shaved

On 1 April police summoned Tulbayev for what he thought would be a further interrogation. However, they arrested him and transferred him to Almaty's Investigation Prison, where he has been held ever since. Three days after his arrest, they took him to Bostandyk District Court No. 2, where Judge Shinar Yergaliyeva ordered he be held in pre-trial detention. Almaty City Court rejected his appeal against the detention on 15 April.

While prisoner of conscience Tulbayev is held in pre-trial detention, in line with normal procedure, Investigator Shortanbayev's permission is needed for family members to be allowed to visit him or pass on parcels. But he refused to allow any family visits and, Tulbayeva complained, "put all kinds of obstacles in the way of passing on warm clothing". Tulbayev's wife twice went to the police and waited for hours before getting a signature on the form to hand in a parcel. The family also wanted to hand in a copy of the Koran for him, but this was refused.

One of the prison's Deputy Directors, who refused to give his name, defended the denial of the Koran to prisoner of conscience Tulbayev. "The Religion Department of the Akimat [local administration] needs to give permission," he insisted to Forum 18 from the prison on 10 June. "If he gets that permission then it's not a problem."

The Deputy Director denied that this constituted censorship. "Even if it says Koran or Bible on the cover, maybe something else is written there," he claimed. "We don't have theologians here who can check." Strict censorship of religious literature, including severe limitations on where texts may be distributed, is imposed by the state (see Forum 18's [Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939](http://www.forum18.org/archive.php?article_id=1939)).

Since his 1 April detention, Tulbayev has been required to wear secular clothes rather than the South Asian clothes he favoured. Officials also forcibly shaved his long beard, Tulbayeva told Forum 18.

Inspector Shortanbayev initially investigated Tulbayev under Criminal Code Article 174, Part 1. He later added accusations under Article 405, Part 2. The case was finally completed and handed over to Almaty's Bostandyk District Court No. 2 on 6 May.

Trial

Tulbayev's trial began under Judge Arai Nugmanova with an initial hearing on 22 May, with Kazakh designated as the language of proceedings, although she appears to have known he does not speak it well.

Other trials of people alleged to be part of Tabligh Jamaat have been surrounded in secrecy. Such trials in South Kazakhstan Region ended in December 2014 with a three-year prison sentence being imposed, and in Taldykorgan [Taldyqorgha] in Almaty Region five prison terms of between 18 and 20 months were imposed (see F18News 14 January 2015 http://www.forum18.org/archive.php?article_id=2027).

In contrast, access to hearings in Tulbayev's trial was open. Unlike many other court rooms, this courtroom does not have a cage, so Tulbayev did not have to sit behind bars to participate in the trial. He was brought to court in handcuffs, which were only opened in the courtroom, Toguzbayev of Radio Free Europe told Forum 18.

At the first hearing of the trial proper on 27 May, Tulbayev's lawyer Zhandos Bulkhair lodged a suit to have the case sent back to prosecutors, as it had been conducted in Kazakh, which Tulbayev does not understand well, and to require the two texts (one of which Tulbayev denies having) to be analysed by an expert in theology. Bostandyk District Prosecutor's Office official Askhat Esenov called for this suit to be rejected, trial observer Kuatbekova told Forum 18. Tulbayev lodged a suit for the trial to be heard in Russian and to have all the case materials translated into Russian.

At the end of the 27 May court hearing, Tulbayev's wife was allowed to give him perfume for use in ritual purification before prayers, Tulbayeva told Forum 18.

When the trial resumed on the morning of 28 May, Judge Nugmanova the only one of Bulkhair's request that was accepted was that the trial continue in Russian and that the case materials be translated into Russian. Prosecutor's Office officials promised to hand translations to the defence by 8 June.

Tulbayev's lawyer Bulkhair told Toguzbayev of Radio Free Europe after the hearing that he was dissatisfied that the Judge had refused to send the case back to Bostandyk District Prosecutor's Office. Bulkhair pointed to many legal violations in the way the Prosecutor's Office had prepared the case.

Next stage in trial

Tulbayev and his lawyer Bulkhair received the translated case materials in early June. Judge Nugmanova has called a further meeting of the parties to the case on the morning of 12 June.

Despite repeated calls to Bostandyk District Prosecutor's Office between 27 May and 10 June, officials told Forum 18 each time that Esenov was out of the office.

New police target

Although Tulbayev's criminal trial is already underway, prosecutors appear to be targeting at least one other individual known to him for possible prosecution. Police have summoned Abdulaziz (last name unknown), apparently as a suspect, one source close to the case told Forum 18.

"This is really sad," the source told Forum 18. "He's a good man, has many children and little money. He's the only person who made a real effort to try to defend Saken."

"The appeals from around the world have had their effect"

The criminal case being prepared against Council of Churches Baptist Nikolai Novikov appears to be about to be closed. "The appeals from around the world have had their effect," he told Forum 18 from Oral (Uralsk) in West Kazakhstan Region on 10 June. "They told me there were so many appeals it seemed that half the world had written."

The case was opened under Criminal Code Article 430, Part 1. This punishes failure to fulfil a court decision over a period of more than six months with imprisonment or restricted rights for up to three years. Novikov had refused to pay a 2013 fine for offering uncensored religious literature on the streets. He has also refused to pay other fines he was given for exercising his freedom of religion or belief, as they are unjust (see F18News http://www.forum18.org/archive.php?article_id=2056).

Police Investigator Captain Aydin Ispolov visited Novikov on 9 June to take back the documentation on the case, Novikov told Forum 18. The Investigator said that the case was being closed and he would be informed of this in writing.

Oral Prosecutor's Office refused to discuss the case against Novikov with Forum 18 on 10 June.

Atheist's case drifts - but pastor's case closed?

Meanwhile, prosecutors have still not closed or presented to court the criminal case opened against atheist writer and campaigner Aleksandr Kharlamov in January 2013 (see F18News 18 April 2013 http://www.forum18.org/archive.php?article_id=1826). "There's no movement in the case - it's just drifting," he told Forum 18 from his home in Ridder in East Kazakhstan Region on 10 June. "They're following a policy not to convict me and not to close the case."

Kharlamov said the town Prosecutor's Office and the Regional Prosecutor's Office both denied that they are continuing the case against him, referring him to the General Prosecutor's Office.

Criminal cases are required to be completed within a certain deadline or be closed. However, cases can be suspended and then the period of suspension does not count towards the deadline on completing the case.

Yet while the criminal case drifts with no resolution, Kharlamov remains under restrictions. He must live at home in Ridder and not leave the town without written permission from the state. When he went to Almaty in early 2015 to take part in a conference organised by the Kazakhstan International Bureau for Human Rights and the Rule of Law, he had to go to the police investigation department to get written permission, he told Forum 18.

By contrast, the second criminal case against Astana-based retired Presbyterian Pastor Bakhytzhan Kashkumbayev appears to have halted. It may have been closed because the deadline for completing such cases has expired, a source close to the case told Forum 18 on 10 June.

Inconvenient pastor and atheist?

The long-running investigations of Pastor Kashkumbayev and atheist writer Kharlamov - both in their sixties - were launched apparently to punish them for exercising the right to freedom of religion or belief.

Kashkumbayev and his Grace Church in Astana were under investigation from July 2011 (see F18News 19 October 2012 http://www.forum18.org/archive.php?article_id=1756) and Kharlamov since January 2013, when the criminal case was launched against him (see F18News 18 April 2013 http://www.forum18.org/archive.php?article_id=1826).

Kashkumbayev was convicted in October 2013 in the first criminal case for allegedly harming a church member's health - which allegation the member in question strongly denies, telling Forum 18 that Kashkumbayev is "totally innocent and has not harmed my health at all". The second case - which now appears to have been closed - was separated from the first during the trial, and he faced possible further punishment for allegedly harming another church member's health (see F18News 9 July 2014 http://www.forum18.org/archive.php?article_id=1976).

Kharlamov faces possible punishment for articles he wrote in defence of atheism. They both strongly deny committing any offence and the proceedings against them were marked by a lack of due legal process and malpractice by the authorities (see eg. F18News 22 January 2014 http://www.forum18.org/archive.php?article_id=1918).

Both were detained in a psychiatric hospital for no medical reason, Kharlamov being told by a doctor that this was "because you are an inconvenient person for the authorities" (see F18News 7 October 2013 http://www.forum18.org/archive.php?article_id=1884).

Baptist facing three years jail for breaking state censorship?

Forum 18 (17.04.2015) - A Baptist in Kazakhstan, Nikolai Novikov, could face up to three years' imprisonment for refusing to pay a 2013 fine for offering uncensored religious literature on the streets, Forum 18 News Service has learned. He has refused to pay that and other fines he was given, as he states they are unjust. "We are looking at whether a crime was committed," Prosecutor Aydin Rashidov told Forum 18 from Oral (Uralsk) in West Kazakhstan Region on 16 April. "The court bailiff has prepared the materials, but it is too early to say if Novikov is guilty or not."

Prosecutor Rashidov insistently claimed that as Novikov's "crime" was only of what he described as "middling seriousness", if convicted Novikov would not be imprisoned. However, Rashidov stated that he would have to live under restrictions - such as being subject to a curfew every night at his house - for up to three years.

Novikov is due to meet police Investigator Ispolov on 20 April to hear what the next moves in the case will be. "He wants me imprisoned, for one, two or three years," Novikov told Forum 18 from Oral on 17 April. Forum 18 was unable to reach Investigator Ispolov.

Council of Churches Baptists have a policy of civil disobedience, refusing to pay the many administrative fines imposed on them. These are for such "offences" as meeting for worship without state permission, or sharing religious literature which has not been censored by the state (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

The 34-year-old Novikov – who is married with four young children - has been fined three times in two years, jailed for five days, placed on Kazakhstan's exit ban list, and has had a restraining order placed on his car and his garage (with a threat of its confiscation). "I didn't pay because I don't consider myself guilty," he explained to Forum 18 in January. "These fines were illegal" (see F18News 12 January 2015 http://www.forum18.org/archive.php?article_id=2026).

State censorship

Kazakhstan imposes strict state censorship on all religious materials, including highly restrictive controls on who may sell distribute material and where it may be sold or distributed (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

Many individuals have been punished under the Code of Administrative Offences for selling religious books or other items – or offering them to others – without the required licence from the Regional Religious Affairs Department. Such fines have been imposed in Oral and Ekibastuz in recent months (see below).

In addition to restrictions on what religious literature can be sold or given away and where, some religious books and materials have been banned by the courts as "extremist". The recently-published list of banned "extremist" works includes one work by an early Wahhabi Muslim and two Christian books (see below).

"Illegal distribution on the street"

Novikov was detained on 1 March 2013 as he "illegally distributed on the street booklets and literature of religious content belonging to the Baptists" in the village of Budarino in Akzhaik District, 90 kms (55 miles) south of Oral. The books were confiscated and sent for a "psychological/philological expert analysis", which was completed about 10 days later. Such "expert analyses" are a routine part of the state's mechanism of repression (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

On 5 May 2013 an administrative case was prepared against Novikov under the then Administrative Code's Article 375, Part 1 ("Violation of the demands established in law for the conducting of religious rites, ceremonies and/or meetings; carrying out of charitable activity; the import, production, publication and/or distribution of religious literature and other materials of religious content (designation) and objects of religious significance; and building of places of worship and changing the designation of buildings into places of worship"). This Article has now been replaced by an identical Article 490, Part 1 of the new Administrative Code (see F18News 21 July 2014 http://www.forum18.org/Archive.php?article_id=1979).

On 20 May 2013 Novikov was found guilty and fined 50 Monthly Financial Indicators (MFIs), according to the decision seen by Forum 18. This was his second fine by the same court in less than two months (see F18News 11 November 2013 http://www.forum18.org/archive.php?article_id=1895).

After Novikov refused to pay, insisting he should not be punished for exercising his right to freedom of religion or belief, bailiffs began moves to recover the money on 15 July

2013. In September 2013 he was placed on an exit blacklist banning him from leaving the country. On 18 August 2014, Oral Specialised Administrative Court found him guilty of violating Administrative Code Article 524 ("Failure to carry out court decisions") by refusing to pay the May 2013 fine. Novikov was sentenced to five days' imprisonment to start from that afternoon (see F18News 8 October 2014 http://www.forum18.org/archive.php?article_id=2004).

On 16 March 2015, bailiff Yerkebulan Andakulov sent a request to Oral Police Chief Manarbek Gabdullin calling for Novikov to face criminal prosecution. On 4 April, the Police prepared documentation to bring him to court under Criminal Code Article 430, Part 1, Baptists told Forum 18. This punishes failure to fulfil a court decision over a period of more than six months with imprisonment or restricted rights for up to three years.

Is criminal prosecution legal?

Novikov points out that Article 890, Part 1 of the new Administrative Code specifies that, apart from in tax and anti-monopoly cases, "a decision on imposing an administrative punishment is not subject to enforcement if it has not been enforced within one year from the day of its entry into legal force". Such violations of the law by the authorities have not prevented prosecutions being brought and punishments being imposed (see eg. 23 February 2015 http://www.forum18.org/archive.php?article_id=2043).

Novikov told Forum 18 that he had written a complaint to the Prosecutor's Office several days earlier, complaining that Bailiff Andakulov had been acting illegally by initiating a prosecution as the "offence" had taken place nearly two years earlier. Bailiff Andakulov refused absolutely to discuss why he is seeking to have Novikov imprisoned to punish him for refusing to pay a fine he regards as unjust. "Send your questions in writing," he told Forum 18 on 15 April. Forum 18 has received no reply to its written question sent the same day.

Commercial vendors of religious materials fined

Meanwhile, administrative prosecutions to punish individuals for commercially distributing religious materials without state approval have continued.

On 3 April, Judge Aynur Kadyrova of Oral Specialised Administrative Court in West Kazakhstan Region found Eldar Sundetkaliyev guilty under Administrative Code Article 490, Part 1, Point 3 ("Violating the requirements of the Religion Law for .. import, production, publication and/or distribution of religious literature and other religious materials, and items for religious use"). She fined him 50 MFIs, 99,100 Tenge (about 4,130 Norwegian Kroner, 490 Euros, or 530 US Dollars), according to the verdict seen by Forum 18. This is about one month's average wages.

The maximum punishment for individuals under this Article is the 50 MFIs imposed on Sundetkaliyev (see F18News 21 July 2014 http://www.forum18.org/archive.php?article_id=1979).

The 24-year-old Sundetkaliyev was punished for offering for sale on 11 February, via the slando.kz website, tablet computers for children loaded with a programme teaching them how to pray the namaz (Muslim prayer). A 17 March "expert analysis" by N. Mirzakhmetov of the government-backed Scientific Research Centre on Questions of Religion found that the programme taught a "non-traditional" (Salafi) way of praying and could therefore sow divisions in the community. The confiscated tablet computer was ordered to be kept in the case file.

Ekibastuz in the northern Pavlodar Region has been a focal point of such prosecutions, with four known cases in the past six months. In separate cases on 16 February, Judge

Aygul Kaidarova of the city's Specialised Administrative Court found Yekaterina Kriger and Rosa Amankulova guilty under Administrative Code Article 490, Part 1 of selling religious items without approval. Each was fined 50 MFIs (about one month's average wages), 99,100 Tenge, and banned from conducting commercial activity for three months, according to the verdicts seen by Forum 18.

Judge Murat Ermekov of Pavlodar Regional Court rejected Amankulova's appeal on 11 March, according to the decision seen by Forum 18. Kriger does not appear to have appealed against her punishment.

A single mother with two young children, Kriger ran a stall at the Bolashak shopping centre in Ekibastuz which was visited by police on 19 November 2014. They found her selling three amulets and 26 chains with pendants, all bearing Arabic inscriptions. A "religious expert analysis" the following month declared that the texts were religious and the Prosecutor's Office then sent the case to court as Kriger's stall was not authorised to sell religious items. The Judge ordered that the 29 items confiscated by the police should be destroyed, the verdict notes.

Amankulova's stall at the market was raided on 21 November 2014, where officers found 23 amulets and other items. A "religious studies expert analysis" similarly deemed them to be religious.

Daniyar Iskakov, the Prosecutor's Office official who handled the prosecutions, refused to discuss why individuals should be punished for selling religious items without state permission. "I can't give any explanation without approval from higher up," he told Forum 18 from Ekibastuz on 16 April.

On 13 November 2014, Judge Nurolla Esenzholov of the same court had fined two commercial vendors in separate cases under the old Administrative Code Article 375, Part 1, according to court records. Sardar Alekperov and Valentina Selivanova were each fined 100 MFIs (about two months' average wages) for selling religious materials in unapproved locations. Neither appealed against their fines.

"Sardar was simply selling Muslim items for people to put on cars," a local resident who knows Alekperov told Forum 18 from Ekibastuz on 15 April 2015. "Lots of people sell such items here, but only he was fined." The resident said Alekperov reluctantly paid the fine. "The case is now closed."

Banned texts list published

In December 2014, apparently for the first time, the General Prosecutor's Office published on its website a list of religious and other texts deemed "extremist" by various courts and whose production, import or distribution is banned. The most recent update to the list, from 14 January 2015, contains 661 items.

A growing number of religious publications and web pages by Muslim, Protestant and Jehovah's Witness authors have been banned by courts as "extremist", Forum 18 notes. Such court decisions have often not been publicised and have therefore been impossible to challenge (see [F18News 10 October 2014](http://www.forum18.org/archive.php?article_id=2005) http://www.forum18.org/archive.php?article_id=2005). It remains unclear whether challenging such decisions is now possible – or indeed if the list includes all works which have been banned as "extremist".

Among the items the General Prosecutor's Office lists as banned – not all of which relate to religions or beliefs – is a Russian translation of the work "Explanation of the Three Fundamental Principles of Islam". This is at least partly written by Salafi Muslim Mohammed ibn Abdul-Wahhab, who helped found a precursor to the present-day

kingdom of Saudi Arabia. This was banned by an Astana court in February 2014 after 54 copies were confiscated by Customs (see F18News 10 October 2014 http://www.forum18.org/archive.php?article_id=2005).

Also on the General Prosecutor's Office's list is the Russian translation of "Healing the Broken Family of Abraham" by American Protestant Don McCurry. This was banned by an Almaty court in November 2012. It found that the book contains "elements of incitement to religious hatred and discord". The ruling formed the partial basis of the attempt to prosecute Astana-based retired Presbyterian pastor Bakhytzhan Kashkumbayev on criminal charges of "extremism". (see F18News 9 October 2013 http://www.forum18.org/archive.php?article_id=1885).

Another Christian book on the list used to bring court cases is "Jesus: More than a Prophet". The book – a Russian translation of an English-language collection of essays by 15 Muslims who became Christians – was edited by Richard Wootton. At the request of Burabai Prosecutor's Office in Akmola Region, it was banned by Judge Bayan Adilbekova of Burabai District Court on 20 November 2014, according to the decision seen by Forum 18. She banned the import, production and import of the work, as well as any electronic or internet distribution of it.

The decision to ban the book came after copies were confiscated from two Council of Churches Baptists, Vyacheslav Cherkasov and Zhasulan Alzhanov, in May 2014 as they were offering Christian literature on the street near the market in Shchuchinsk in Akmola Region.

On 13 June 2014, Berik Manakhayev of the Justice Ministry's Central Institute for Judicial Expertise produced a 14-page "expert" analysis of the 44 different confiscated books, declaring that only one was illegal. He alleged that "Jesus: More than a Prophet" contains "elements inciting religious hatred and discord", according to the analysis seen by Forum 18. Manakhayev took 46 hours to complete the analysis of the 44 texts and the Central Institute charged the Burabai Police 26,394.02 Tenge for this work.

Manakhayev's colleagues at the Central Institute for Judicial Expertise told Forum 18 on 17 April 2015 that he was on leave until after 4 May.

On 24 September 2014, Burabai's Prosecutor Askhat Dzhakipbekov sent his suit to court. The court drew entirely on Manakhayev's findings when it banned the book.

In October 2014, Cherkasov and Alzhanov had each been fined 200 MFIs (about four months' average wages) and sentenced each to 10 days' imprisonment (see F18News 10 October 2014 http://www.forum18.org/archive.php?article_id=2005).

This means that their punishment for distributing the book came more than a month before a court had ruled it "extremist" and banned its distribution.

"A general unwillingness to properly protect human rights"

Forum 18 (25.02.2015) - Kazakhstan continues to jail people for exercising the right to freedom of religion or belief, Forum 18 News Service notes. Vasily Kliver, a Baptist in Aktobe Region was on 5 February given a 5-day jail term for non-payment of a 2008 fine. Judge Saule Spandiyarova ignored an Administrative Code limitation on punishments when jailing Kliver. He told Forum 18 that: "we are not afraid, and are glad to suffer for the Lord." Maina Kiai, the UN Special Rapporteur on the rights to Freedom of

Peaceful Assembly and of Association noted after visiting Kazakhstan in January "a general unwillingness to properly protect human rights in the country, and of a sense of impunity by some officials" He also noted state intimidation of those he met. Talgat Rakhimov, Head of West Kazakhstan Region Religious Affairs Department, refused to tell Forum 18 why sports fans can share their views anywhere on the street without state permission, but religious believers need state permission. And a registered Protestant church has been raided by law-enforcement officials and those present forced to write statements.

Kazakhstan continues to jail people for exercising the right to freedom of religion or belief, and harass people exercising this right in public. The state also continues to raid even those religious or belief communities which have state permission to exist under the country's highly restrictive Religion Law, Forum 18 News Service notes.

After a 19 – 27 January visit to the country, Maina Kiai, the United Nations (UN) Special Rapporteur on the rights to Freedom of Peaceful Assembly and of Association noted in his concluding statement on 27 January what he described as "a general unwillingness to properly protect human rights in the country, and of a sense of impunity by some officials (..) It was remarkable that in many of the meetings I had with Government officials, the emphasis was on the restrictions to the rights rather than the rights themselves. This is a misconstruction of human rights, where the focus must be on facilitating and enjoying the right first and foremost, before restrictions which need to be interpreted narrowly."

As happened in connection with UN Special Rapporteur on Freedom of Religion or Belief Heiner Bielefeldt's 2014 visit to the country (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939), civil society activists and others who wish to meet Kiai were intimidated by the authorities (see below).

"Why do I have to be punished for the same alleged violation time and again?"

Vasiliy Kliver, a Council of Churches Baptist in Aktobe Region was on 5 February 2015 given a 5-day jail term, being freed on 10 February. Council of Churches Baptists have a policy of not paying fines handed down to punish them for exercising the right to freedom of religion or belief. The authorities often impose short terms of imprisonment for this "offence". Kliver himself was jailed for five days in June 2009.

Long jail terms, the shortest being 18 months, have recently been imposed on alleged members of the Muslim missionary movement Tabligh Jamaat (see eg. F18News 14 January 2015 http://www.forum18.org/archive.php?article_id=2027).

Kliver's most recent jail term was for not paying two fines given to him in March 2008 and April 2010. He told Forum 18 on 21 February 2015 that police arrested him at home on the morning of 5 February. They then took him to a court where he was tried and then sent to jail.

"Why do I have to be punished for the same alleged violation time and again?", Kliver asked. "I already served a five-day jail term for the 2008 fine in 2009. It's not fair to punish me for the same thing twice". He added that "the authorities fined me in violation of my constitutional rights to begin with."

Kliver also noted that Judge Saule Spandiyarova, who presided at his February 2015 trial, ignored that fact that the Code of Administrative Offences' Article 890 states that penalties such as those imposed on Kliver in 2008 expire after one year unless the authorities cannot find or identify the violator. Kliver pointed out that – as the police

arrest proved - "they know very well who I am, where I live, and found me easily each time."

"We are not afraid, and are glad to suffer for the Lord"

Kliver told Forum 18 that he was treated "normally" while in jail and fed three times a day. Asked what he thinks of the authorities' repeated punishments of him and others for exercising the right to freedom of religion or belief, he replied: "we are not afraid, and are glad to suffer for the Lord."

"There is a distinct lack of confidence and trust in the judiciary"

Asked why Kliver was punished twice for not paying the same fine, Judge Spandiyarova on 18 February told Forum 18 that "if this citizen is not happy with my decision, let him complain to higher authorities." Spandiyarova also did not want to explain why she ignored the limitation of action under Article 890. "The Baptists are not interpreting the law properly," she claimed – but without giving reasons for her claim.

The Judge refused to say whether more arrests or other punishments will be given to Kliver in future. "I do not have time to talk to you over the phone for hours," Spandiyarova stated. She then put the phone down.

UN Special Rapporteur on the rights to Freedom of Peaceful Assembly and of Association Kiai noted: "There is a distinct lack of confidence and trust in the judiciary. Although authorities repeatedly make reference to the 'rule of law'□, the practice in Kazakhstan reflects strong adherence to 'rule by law'□, perhaps a holdover from the past Soviet era."

Criticising this, Kiai affirmed that: "Law is meant to serve people, rather than people serving the law, with the guiding spirit being one that supports the dignity of the person as the key subject of the law."

Manap Niyazbayev, who worked as a bailiff in Aktobe Bailiffs Department until late 2014, told Forum 18 on 18 February that the "authorities will go on punishing him [Kliver] and giving him more jail terms until he pays the fines." He added that "bailiffs can even open a criminal case against him for this."

"We only warned him this time"

Kenzhetai Baytinov, an ethnic Kazakh Council of Churches Baptist in Oral (Uralsk) in West Kazakhstan Region, was on 26 January stopped in a local open air market while sharing his faith with another person. Later he was taken to the Regional Administration's Religious Affairs Department, where he was warned that he will be given an administrative punishment unless he stops his street preaching. He was then released, he told Forum 18 on 25 February.

Talgat Rakhimov, Head of the Religious Affairs Department, on 23 February told Forum 18 that: "We did not open a case against him since he is a nice fellow. We only warned him this time that he must stop unauthorised missionary activity in public places." He added that "Baytinov was fined before, and if he continues he will be given a new fine".

Baytinov has been fined five times in the last two years (see eg. F18News 13 March 2014 http://www.forum18.org/archive.php?article_id=1937) and has been fired from his job as a school caretaker because of state pressure (see F18News 21 November 2013 http://www.forum18.org/archive.php?article_id=1898).

Rakhimov told Forum 18 (correctly) that "the Religion Law states that one must receive prior authorisation from the local authorities, and then carry out the missionary activity only within specially designated rooms or buildings but not on the street" (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

Asked why sports fans can share their views anywhere on the street or in a market without state permission, but religious believers cannot, Rakhimov stated that "it's our law, everyone must obey it. I do not have the right to comment on the law". He then said he did not wish to talk further with Forum 18.

UN Special Rapporteur on Freedom of Religion or Belief Bielefeldt has unequivocally underlined that: "According to international standards, freedom of religion or belief unequivocally includes the right to bear witness to one's conviction, to communicate within and across denominational boundaries and to try to persuade others non-coercively. This also covers missionary activities" (see F18News 22 April 2014 http://www.forum18.org/archive.php?article_id=1950).

Meeting by registered religious community raided

In a part of southern Kazakhstan the meeting for worship of a state registered Protestant church was raided in February. Law-enforcement officials from various agencies, including police officers in bullet-proof vests, raided the church which does not wish to be named for fear of state reprisals. A church member who did not wish to be named stated to Forum 18 that "officials behaved very rudely towards worshipers, disrupted the worship, and harassed the believers to make them write statements to explain why they attended the meeting".

A prosecutor claimed to Forum 18 that the authorities raided the worship meeting because "we acted on a complaint from the neighbours." He did not say when the investigation will end, and whether any charges were being prepared against the church.

Kazakhstan demands that groups of people can exist as a religious community and exercise freedom of religion or belief only if they have state permission. This is gained via a complex and restrictive state registration system (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939). The ban on exercising human rights without state permission violates international law, as is outlined in the Organisation for Security and Co-operation in Europe (OSCE)/Venice Commission Guidelines on the Legal Personality of Religious or Belief Communities (see http://www.legislationline.org/download/action/download/id/5719/file/VC_ODIHR_Guidelines_Legal_personality_religious_communities_2014_en.pdf). Kazakhstan is both an OSCE participating State and a Venice Commission member state.

As noted above, even communities with state registration are targeted by officials. Other examples beside the church in southern Kazakhstan include: the Full Gospel Church in Atyrau where the Anti-Terrorism Police with the Justice Department are bullying people identifying themselves as founders on registration applications, and trying to stop the Church meeting for worship without state permission; the Din-Muhammad Mosque community in Petropavl whose Mosque has been liquidated, but are still struggling against "legal" and extra-legal harassment to try to gain registration; and the registered Hare Krishna community in Kostanai who have been raided by police and their leader fined. It has appealed to the United Nations (UN) Human Rights Committee to be able to exercise freedom of religion or belief without fear of criminal or administration punishment (see F18News 19 December 2014 http://www.forum18.org/archive.php?article_id=2025).

"This incident was calculated to instil fear and intimidation"

UN Special Rapporteur on the rights to Freedom of Peaceful Assembly and of Association Kiai highlighted secret police surveillance of himself and people he met: "I am deeply disappointed by an incident that has left me very worried about the safety of individuals I met during my trip, and generally concerned about the situation of human rights in Kazakhstan.

While in Aktau city, I held a meeting with members of civil society on 23 January 2014. As we left the meeting venue, I learned that unknown persons, sitting in the back seat of a vehicle parked directly facing the entrance of the venue, were taking photographs of individuals leaving the building. They also took photographs of my driver. All this was done using equipment, and in a manner commonly associated with secret police surveillance.

I approached the men and demanded to know who they were and the purpose in taking the photographs; they then hurriedly drove off without responding."

UN Special Rapporteur Kiai reported the incident to police, who later produced a suspect, along with a written "confession". But the suspect was unequivocally not the same person who was taking photographs. Kiai commented that: "I am concerned that the handling of this incident is indicative of a general unwillingness to properly protect human rights in the country, and of a sense of impunity by some officials (..) this incident was calculated to instil fear and intimidation."

The government also used intimidation against civil society activists in relation to UN Special Rapporteur on Freedom of Religion or Belief Bielefeldt's visit. The police and National Security Committee (KNB) secret police monitor and attempt to plant spies inside religious and belief communities (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

Restrictions on linked fundamental freedoms

Commenting on the state's linked legal restrictions on the freedoms of religion or belief, peaceful assembly and of association, UN Special Rapporteur Kiai stated that: "The concern over extremism has hampered the association rights of religious groups as well. Interlocutors informed me that authorities exercise close and excessive control on the activities of religious organizations. Thus they are subjected to mandatory re-registration leading to many religious groups being denied registration. Small religious groups with membership of less than 50 individuals cannot obtain registration, and cannot engage routinely in religious observances as a result, even when held in private venues" (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

UN Special Rapporteur Kiai continued: "I urge the government to engage in a thorough review of the broad legal framework (..) with a view to bringing it into compliance with international human rights standards." (see <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15517&LangID=E>).

Former rehab centre residents "scared and tired of police pressure"

Forum 18 (02.02.2015) - The judge who in mid-January upheld one of the two administrative fines totalling three months' average wages imposed on a Protestant-run

drug and alcohol rehabilitation centre in the village of Sychevka in Pavlodar Region of north-eastern Kazakhstan has defended her action. But Judge Lyudmila Klimashina refused to explain why the authorities and the Court are punishing the charity work of the Protestants who only seek to help individuals with addiction problems. "We've given our decision, and you can read what's in there," she told Forum 18 News Service from Pavlodar Regional Court on 29 January. "I'm not going to discuss it with you over the phone."

In 2014 the Centre – a branch of a Centre in Karaganda which gained legal status in 1999 – housed 14 residents, including three children whose parents were also resident. All were there voluntarily and could leave whenever they wished to.

"Because of the authorities' actions against the Centre, eight of the 14 rehabilitants have left after the Police raided us and began questioning them at various times," Centre director Yuri Morozov complained to Forum 18 on 28 January. "They were scared and tired of the police pressure." He explained that the remaining six are staying at the Centre to protect it from theft, and answer questions and inquiries of any visiting authorities.

"We have seen only one of the eight who left us, and we understood that he was back into drinking again," Morozov lamented. "We do not know what happened to the rest."

The authorities have been trying to punish the Centre since 2010. However, after four years' investigation the police had to abandon a criminal case of inciting "religious hatred" for lack of evidence. Two administrative cases were then launched, which resulted in the December 2014 fines and the suspension of the Centre's activity for three months.

Rehabilitation centres targeted

Kazakhstan's harsh 2011 Religion Law bans almost any religious activity away from state-registered religious premises (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

Protestant-run drug and alcohol rehabilitation centres have been repeated targets of official harassment. The moves appear to be part of a behind-the-scenes official campaign against communities regarded as "non-traditional", especially those running social projects, as revealed in a September 2014 letter from East Kazakhstan's deputy regional prosecutor, seen by Forum 18 (see F18News 14 October 2014 http://www.forum18.org/archive.php?article_id=2006).

One small Orthodox-run rehabilitation centre in Almaty faces no obstruction to its work, the head of the centre Fr Anatoly Izmerov told Forum 18 on 2 February. Forum 18 could find no Muslim-run rehabilitation centres. Similarly, the Catholic Church runs no rehabilitation centres, although the church tries to help drug- or alcohol-dependent individuals who request such help, Archbishop Tomasz Peta of Astana told Forum 18 on 2 February.

Punished for religious activity

In two separate hearings on 15 December 2014, according to the decisions seen by Forum 18, Judge Amangeldy Ishchanov of Pavlodar District Court fined the Centre in Sychevka 100 Monthly Financial Indicators (MFIs) under old Administrative Code Article 374, Part 1. In a second hearing he fined director Morozov 50 MFIs under Article 374, Part 2 and ordered the suspension of the Centre's activity.

The fine of 100 MFIs or 185,200 Tenge (Norwegian Kroner, Euros or US Dollars) represents about two months' average wage.

Article 374, Part 1 of the old Administrative Code punished "violation of the law on social organisations" by conducting activity not mentioned in an organisation's statutes. The maximum penalty for organisations was 200 MFIs. Article 374, Part 2 punished illegal activity by social organisations with a maximum fine for leaders of 100 MFIs and suspension of an organisation's activities for from three to six months. The "offences" are now punished by Article 489, Parts 1 and 2 of the new Administrative Code, which came into force on 1 January 2015.

In two separate hearings at Pavlodar Regional Court on 19 January 2015, Judges Rakimberly Suleymenov and Lyudmila Klimashina respectively upheld the penalties given to the Centre and Morozov, as well as the three-month suspension of the Centre's activity, according to the decisions seen by Forum 18. However, Judge Klimashina amended the decision to remove accusations that the Centre had violated health norms, accepting that the record of an offence mentioned only violations of the Religion Law.

Forum 18 pointed out to Judge Klimashina the similar attempted prosecution of a Pentecostal-run rehabilitation centre in Aksu. There the District Court threw out the case, explaining that the presence of religious books and believers in the Centre was not enough to classify it as a religious association (see below).

Asked why the Pavlodar Courts gave a contradictory decision over the Sychevka Centre, Judge Klimashina responded: "First of all every case is different, and then it's not ethical for you to call us. You are meddling with the judiciary and state organs." She refused to talk further to Forum 18.

"Now I have to pay both fines since the Regional Court decision was final in terms of execution of the penalties," Centre director Morozov lamented to Forum 18. "But we will continue our appeals by way of cassation and through the Prosecutor General's Office, since we don't agree with the decisions and penalties."

Rehabilitation Centre "harmed the psychological and physical health"

Police – including officers from the Department for the Struggle with Extremism – raided the Sychevka Centre on 9 March 2014, seizing 18 religious books (including Bible texts) and other materials. Investigators claimed to have discovered activity which was not envisaged in its statute, including religious worship.

In the first case, Major Roman Gudin of the Regional Police's Investigation Department admitted in court that a criminal investigation had been initiated against the Centre in 2010 that it had been spreading religious materials inciting "religious hatred", but that during the March 2014 search nothing of that nature had been found. The criminal case was abandoned on 24 November 2014.

Natalya Fesenko of the Analysis and Interconfessional Relations Centre of Pavlodar Regional Religious Affairs Department described the Centre in court as "bearing a destructive character" and claimed it had "harmed the psychological and physical health" of those who had chosen to live there. She alleged that the Centre "zombified" its residents. She complained that it had really been a religious organisation and had deceived the Justice Ministry when gaining registration that it was secular.

Centre representative Igor Skurikhin insisted in court that religious activity had not taken place there since the new restrictions in the 2011 Religion Law had come into force and complained that the accusations against the Centre had been prepared "with violations".

Judge Ishchanov ruled in the first case that religious activity at the Centre had been outside the terms of its statute and therefore a violation. He ordered that the confiscated religious texts be kept in the case file.

In the second case, attention focused on whether it had been safe for the three children of resident parents also to be living at the Centre. Fesenko claimed in court it had not.

Judge Ishchanov ruled against the Centre, issuing the second fine (on Morozov personally) and banning its activity for three months. However, the second ruling also orders that during the three month suspension, the Centre must also "stop the use of religious literature which has not undergone a religious studies expert analysis". It is not explained which of the confiscated religious books (including the New Testament) had not undergone such "expert analysis" by state officials, nor why this provision was included in the punishment for having children resident in the centre with their parents.

In separate rulings – also issued on 15 December 2014 and seen by Forum 18 – Judge Ishchanov rebuked the leaderships of Pavlodar Regional Police and of the Sanitary-Epidemiological Service (and the District head of administration) for their officials' failure to take action against the Centre for so long.

Religious or health care "expert"?

Rustem Dosmatov, Expert of Pavlodar Regional Religious Affairs Department, confirmed to Forum 18 on 29 January that Fesenko is an employee of the Religious Affairs Department. Asked why Fesenko, who is not a health specialist, gave an evaluation of the impact of the Centre's work on residents' health, Dosmatov responded: "The Police asked us." When Forum 18 repeated the question, he said, "She evaluated the religious activity."

Asked whether it is right for one State organ to ask another State organ for a religious "expert analysis" of religious activity or books, Dosmatov changed his previous statement, claiming that Fesenko is an "independent" expert. Asked why he is contradicting himself, Dosmatov responded, "Why don't you call us back tomorrow?" He refused to talk further.

Administrative case fails again

Meanwhile, a police officer who brought a second administrative case against Vladimir Styopin, the church overseer of a Pentecostal-led drug and alcohol rehabilitation centre in the town of Aksu in Pavlodar Region, again failed to secure a prosecution. Rizabek Bilyalov was attempting to have Styopin punished under the old Administrative Code Article 374-1, Part 1 for leading an unregistered religious community at the centre.

The old Article 374-1, Part 1 ("Leading, participating in, or financing an unregistered, halted, or banned religious community or social organisation") carried a fine of 100 MFIs. The "offences" and punishments under Article 374-1 have been transferred unchanged into the new Administrative Code's Article 489, Parts 9, 10 and 11.

On 28 October 2014, Judge Gulnar Mukhametkaliyeva of Aksu Specialised Administrative Court again threw out the case, according to the decision seen by Forum 18. She ruled that any religious activity at the Centre "does not involve the required numbers and the necessary characteristics of a religious association which would demand its registration". Despite clearing Styopin of any wrongdoing, Judge Mukhametkaliyeva ordered that a confiscated booklet, "His Name is Love", be kept in the file and not returned to him.

Colonel Murat Alikhanov, Chief of Aksu District Police, defended the Police actions. Asked

by Forum 18 on 28 January why the Police continued action against the Rehabilitation Centre after the first failed prosecution, he responded: "The Court earlier referred the case back to the Police for further investigation, and so our job was to do namely that and present it back to the Court."

But, Colonel Alikhanov added, "after the latest Court decision we will not take further action against the Centre."

Raid against "sect"

A police "investigative operational group" had raided the centre in July 2014. They were responding to an alleged complaint by a local resident that a "sect" was operating there. Officers inspected, filmed and photographed the centre. They also seized a copy of a 48-page booklet "His Name is Love".

A judicial/psychological/philological "expert" analysis of the seized booklet from the Justice Ministry's Central Institute of Judicial Expert Analysis in Astana found that it contained "no statements of an arousing nature, calling for an incitement to religious and ethnic enmity, the superiority of one religion over another or statements of the superiority of citizens because of their attitude to religion".

Police officer Bilyalov then launched the first administrative case against Styopin, but Judge Mukhametkaliyeva sent it back on 7 October 2014, as the case had not been properly documented. Bilyalov refused to discuss his attempts to prosecute Styopin with Forum 18 in October 2014 (see F18News 14 October 2014 http://www.forum18.org/archive.php?article_id=2006).

Four 20-month prison terms, one 18-month term

Forum 18 News Service (14.01.2015) - Four alleged members of the Muslim missionary movement Tabligh Jamaat – Bakyt Nurmanbetov, Aykhan Kurmangaliyev, Sagyndyk Tatubayev and Kairat Esmukhambetov – were sentenced today (14 January) to 20-months' imprisonment each, human rights defender Aliya Akhmediyeva of the Kazakhstan International Bureau for Human Rights and the Rule of Law told Forum 18 News Service. Judge Sara Zhanbyrbayeva of Taldykorgan City Court sentenced the fifth - Ruslan Kairanov – to 18-months' imprisonment. Like a December 2014 Tabligh Jamaat-related criminal trial, this too was largely held in secret. Akhmediyeva saw transcripts of talks at religious meetings held in Nurmanbetov's home – apparently recorded by the KNB secret police. "I could find nothing inflammatory or inciting crime in these transcripts," she told Forum 18.

In the second such case in as many months, five men have been convicted today (14 January) at a criminal trial in Taldykorgan [Taldyqorgha] in Almaty Region of south eastern Kazakhstan for participation in the Muslim missionary movement Tabligh Jamaat, which is banned as "extremist". Four of the five – Bakyt Nurmanbetov, Aykhan Kurmangaliyev, Sagyndyk Tatubayev and Kairat Esmukhambetov – were sentenced to 20 months' imprisonment each in an ordinary regime labour camp. The fifth - Ruslan Kairanov – received an 18-month ordinary regime labour camp sentence, human rights defender Aliya Akhmediyeva of the Kazakhstan International Bureau for Human Rights and the Rule of Law told Forum 18 News Service on 14 January.

Neither court officials nor the individuals' lawyers were prepared to discuss the sentences with Forum 18. Despite repeated calls since December 2014, Forum 18 has been unable to reach Talgat Umakhanov of Taldykorgan Prosecutor's Office, who led the prosecution

case. Forum 18 was not immediately able to reach any of the men's relatives. Written verdicts are expected within several days.

Nurmanbetov, Tatubayev and Esmukhambetov have been under arrest since September 2014. Kurmangaliyev and Kairanov were arrested in the courtroom after the verdicts were announced, Akhmediyeva added.

As with the criminal trial in South Kazakhstan Region which ended in December 2014 in a three-year prison sentence, the Taldykorgan trial was surrounded by secrecy (see below).

Tabligh Jamaat was banned as "extremist" at an unadvertised court hearing in the capital Astana in February 2013, despite no evidence being produced that any of its members in Kazakhstan had harmed or plotted to harm anyone (see below).

All five of the Taldykorgan defendants were prosecuted under the old Criminal Code Article 337-1, Part 2. This punished "Participating in the activity of a social or religious association or other organisation after a court decision banning their activity or their liquidation in connection with extremism or terrorism they have carried out". Punishment is a fine or imprisonment of up to six years. From 1 January 2015, Article 337-1 was replaced by an almost identical Article 405 in the new Criminal Code.

Tabligh Jamaat members have also been among the frequent victims of the administrative fines handed down to those who conduct religious activity without prior state approval, such as talking to others of their faith, selling or distributing religious books or gathering for religious meetings. Others similarly punished include Protestant Christians, Hare Krishna devotees, Jehovah's Witnesses and commercial booksellers.

September 2014 arrests

Following their arrest in Taldykorgan in September 2014, Nurmanbetov, Tatubayev and Esmukhambetov were held in court-ordered pre-trial detention in Taldykorgan Investigation Prison LA-155/16. The two others not arrested, Kurmangaliyev and Kairanov, had to sign declarations that they would not leave the town, state-appointed lawyer Urukhiya Mukasheva told Forum 18 on 6 January 2015.

The criminal case was led by Umakhanov of Taldykorgan Prosecutor's Office. Only Nurmanbetov was defended by a lawyer of the family's choice, Serikzhan Dyusembekov. In addition to Mukasheva, Aidar Zhanadilov was also among the state-appointed lawyers representing the others.

Trial

The case against the five reached Taldykorgan City Court on 25 November 2014, and was assigned to Judge Sara Zhanbyrbayeva.

The first hearing was held on 9 December, with subsequent hearings on 18, 24 and 29 December and 6 January 2015, according to court records. The verdict was due to have been announced at a hearing on the morning of 8 January, but was deferred until the afternoon of 14 January.

The five defendants insisted in court that they respected the law and were not planning to overthrow or subvert the state, Akhmediyeva told Forum 18. "I believe in God and pray," she cited one of the defendants as explaining to the court.

Akhmediyeva said she had seen transcripts of talks at religious meetings held in Nurmanbetov's home – apparently recorded by National Security Committee (KNB) secret police officers or agents. "I could find nothing inflammatory or inciting crime in these transcripts," she said. Prosecutors pointed to the defendants' visits to Bangladesh as proof of the men's membership in Tabligh Jamaat, even though – according to Akhmediyeva – no other proof of such membership appears to have been presented.

During the trial, Kairanov admitted that he was guilty and mistaken, and had "set himself on the path of correction", Akhmediyeva noted. "This is perhaps why he got the shorter sentence." She added that as the individuals had attended meetings at Nurmanbetov's home, prosecutors regarded him as the organiser.

Were hearings open or closed?

Judge Zhanbyrbayeva's assistant repeatedly refused to tell Forum 18 if the trial hearings were open or closed, or give much other information on the case. All he would do was confirm dates of the hearings as they happened.

Lawyer Mukasheva insisted to Forum 18 that the hearings have been open. However, Taldykorgan-based human rights defender Akhmediyeva tried to attend two of the December 2014 hearings, only to be denied admittance as the hearings were "closed", she told Forum 18. Judge Zhanbyrbayeva then told her by phone that the trial was closed. Akhmediyeva believes the Judge closed proceedings partly to prevent the men's relatives from attending.

Akhmediyeva went to the Chair of the Court, Zhasamurat Sagymbekov, on 9 January to find out if and why the trial was closed. He insisted it was open and summoned Judge Zhanbyrbayeva to tell her to ensure open access – including by relatives – to the remainder of the trial. Relatives and Akhmediyeva were able to attend the final hearings on 14 January.

Tabligh Jamaat banned

In February 2013, without prior public announcement, Astana's Saryarka District Court granted Astana City Prosecutor's Office suit to have Tabligh Jamaat banned throughout Kazakhstan as "extremist". The prosecutor claimed – without making any evidence public – that the group's "real aim" was the seizure of territory and creation on it of a caliphate, "including in Kazakhstan", which "presumes a violent change to the constitutional order". The ban was backed in court by the KNB secret police and the Interior Ministry. The government's then Agency of Religious Affairs was happy to leave the decision to the Court.

Local resident Erbolat Omarbekov tried to challenge the court-ordered ban, regarding it as "illegal". However, on 8 April, Saryarka District Court refused to add him as a party to the case to allow him to challenge the ban. In May 2013 Astana City Court upheld this decision. The Judge argued that Omarbekov had no standing to challenge the decision as he had not been a party to the February 2013 case.

No way seems to exist for anyone or any organisation – apart from the state agencies which were party to the original case – to legally challenge the ban.

Other criminal cases

Alleged Tabligh Jamaat member Mamurzhan Turashov, a 41-year-old father of five, was given a three-year prison term on 2 December 2014 in South Kazakhstan Region. He was punished under the old Criminal Code Article 337-1, Part 1, which banned the creation or

leadership of a banned group. Neither the court, the prosecutor, the Judicial Expertise Institute which conducted "expert analyses" of religious books seized from him, nor even his defence lawyer were willing to make public the verdict or the "expert analyses". All were also unwilling to tell Forum 18 what Turashov had done wrong, apart from Tabligh Jamaat membership.

Police announced through the local media on 26 November 2014 that 20 suspected Tabligh Jamaat adherents had been detained in Almaty, Kazakhstan's commercial capital. However, no information was given about their names, whether they are still in detention, or whether any or all will face administrative or criminal prosecution.

An officer of Almaty's Police Department for the Struggle with Extremism – who did not give his name – claimed to Forum 18 on 9 January that no individuals had been arrested in the city on accusations of alleged membership of Tabligh Jamaat.

Saltanat Azyrbek, acting head of Almaty Police Press Service, totally refused to give Forum 18 any information by telephone on 11 December 2014. Forum 18 had received no response by the end of the working day in Almaty on 14 January 2015 to its written questions sent on 11 December 2014 and resent on 8 January 2015.

"Social justice" the Kazakh way

Forum 18 (12.01.2015) - Fined three times in two years, imprisoned for five days, and placed on Kazakhstan's exit ban list (and with a restraining order imposed on his car) for exercising his right to freedom of religion or belief, Council of Churches Baptist Nikolai Novikov is facing a further punishment: the confiscation of his garage. On 5 January he received a restraining order on his garage from Court bailiff Erkebulan Andakulov, as well as an order to establish its value ahead of a forced public sale to pay off at least one of the fines, Novikov told to Forum 18 News Service on 12 January.

The 34-year-old Baptist Novikov, who lives with his wife and four young children in Oral (Uralsk) in West Kazakhstan Region, refuses to pay any of the fines. These were imposed for his participation in a meeting for worship without state permission (see below). "I didn't pay because I don't consider myself guilty," he explained to Forum 18. "These fines were illegal." Other Council of Churches Baptists similarly insist they should not be punished for meeting for worship. Their churches refuse to seek the compulsory state registration Kazakhstan demands.

Kazakhstan – in defiance of its binding international legal obligations – demands that groups of people can exist as a religious community and exercise freedom of religion or belief only if they have state permission. Even communities with state registration are targeted by officials. Recent examples include: the Full Gospel Church in Atyrau where the Anti-Terrorism Police with the Justice Department are bullying people identifying themselves as founders on registration applications, and trying to stop the Church meeting for worship without state permission; the Din-Muhammad Mosque community in Petropavl whose Mosque has been liquidated, but are still struggling against "legal" and extra-legal harassment to try to gain registration; and the registered Hare Krishna community in Kostanai who have been raided by police and their leader fined. It has appealed to the United Nations (UN) Human Rights Committee to be able to exercise freedom of religion or belief without fear of criminal or administration punishment (see F18News 19 December 2014 http://www.forum18.org/archive.php?article_id=2025).

Bailiff Andakulov insisted to Forum 18 from Oral on 12 January that Novikov "has to fulfil the orders of the court". Andakulov then claimed that he had annulled the order, but refused to explain which order and when. He then put the phone down. Subsequent calls went unanswered. Despite Andakulov's claim, Novikov told Forum 18 that he has had no information that either of the orders have been annulled.

Punishments, including exit bans preventing people leaving the country, are routinely imposed on people exercising freedom of religion or belief (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

Punished for refusing to pay earlier fines

Novikov was fined 50 MFIs on 4 April 2013 by Akzhaik District Court under the old Administrative Code Article 374-1, Part 2. The same court fined him 50 MFIs on 20 May 2013, this time under old Administrative Code Article 375, Part 1. The old Article 375 banned "Violation of the Religion Law" and the old Article 374-1, Part 2 banned "Participation in the activity of an unregistered, halted, or banned religious community or social organisation".

Fifty Monthly Financial Indicators (MFIs) - 92,600 Tenge in 2014, 99,100 Tenge (about 4,200 Norwegian Kroner, 460 Euros, or 550 US Dollars) in 2015 - is equivalent to about one month's average salary.

From 1 January 2015 Article 374-1 has been replaced by the identical Article 489. The old Article 375 has been replaced by an expanded Article 490 (see F18News 21 July 2014 http://www.forum18.org/Archive.php?article_id=1979).

Novikov told Forum 18 that he thinks his garage is worth only about 150,000 Tenge (about 6,340 Norwegian Kroner, 690 Euros, or 820 US Dollars). He fears that court bailiffs could move on to seize more of his property to meet the unpaid fines.

After refusing to pay the 2013 fines, in September 2013 Novikov was placed on the Justice Ministry's exit blacklist. On 14 February 2014, court bailiffs in Oral visited Novikov's home and put a restraining order on his family car. On 18 August 2014, Oral Specialised Administrative Court imprisoned him for five days under old Administrative Code Article 524 (see F18News 8 October 2014 http://www.forum18.org/archive.php?article_id=2004).

These previous punishments were also imposed at the instigation of Bailiff Andakulov of Oral's 4th Territorial Department.

Although Andakulov issued the two new orders – which related to just one of the unpaid fines - on 9 December 2014, Novikov received them only on 5 January 2015, he told Forum 18.

Worship without state permission banned reminder

A 19 December 2014 letter from Aset Doskeyev of Almaty's Religious Affairs Department – seen by Forum 18 – warns local registered religious communities that holding meetings for worship away from state registered places of worship is punished with administrative fines of 50 or 100 MFIs for individuals and 200 MFIs for communities, with a three-month ban on their activity. It also orders communities "to bring your documents into line with the norms of the law and to agree them with the Almaty Religious Affairs Department within 15 calendar days of receiving the notice".

Doskeyev refused to explain which documents religious communities will have to amend and how. However, he insisted to Forum 18 on 12 January that all religious communities must abide by the restrictions in the Religion Law. He pointed out that religious activity by communities that do not have registration is banned, as is religious activity outside registered places of worship. He refused to discuss how such restrictions accord with freedom of religion or belief commitments in Kazakhstan's Constitution and its international human rights obligations.

The ban on exercising human rights without state permission violates binding international law, as is clearly shown in the Organisation for Security and Co-operation in Europe (OSCE) / Venice Commission Guidelines on the Legal Personality of Religious or Belief Communities (see http://www.legislationline.org/download/action/download/id/5719/file/VC_ODIHR_Guidelines_Legal_personality_religious_communities_2014_en.pdf). Kazakhstan is both an OSCE participating state and a Venice Commission member state.

The Religion Law imposes a complex and restrictive state registration system, including state checks on a community's beliefs and demands for at least 50 people willing to identify themselves in writing to the authorities as founders. Many people are afraid to do this, for fear of state reprisals (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

More official targets

Among other recent administrative fines imposed to punish people for exercising the right to freedom of religion or belief, two drug and alcohol rehabilitation centres established by religious communities have been targeted (see F18News 2 February 2015 http://www.forum18.org/archive.php?article_id=2034).

"Social justice"?

Another Council of Churches Baptist has been punished for talking to others on the street about his faith and offering religious literature without the compulsory state permission. On 19 December 2014, Judge Nurlan Nuralin of Aiyrtau District Court of North Kazakhstan Region found Maksim Volikov guilty of violating the old Administrative Code Article 375, Part 1 ("Violation of the Religion Law"), according to the decision seen by Forum 18. In line with the request by Prosecutor Almaz Fazylov, the Judge fined him 50 MFIs and imposed "a ban on his activity for three months".

Despite noting that as a mitigating factor Volikov has six young children, Judge Nuralin gave him the prescribed fine for an individual. "The Judge considers that imposing this fine will be sufficient for the restitution of social justice and the education of the offender," the decision states.

Judge Nuralin also ordered that more than 165 religious books, booklets, magazines and CDs – including Bible texts - seized from Volikov should be handed to the Regional Religious Affairs Department.

The books were seized from Volikov on 21 August 2014 as he was offering them outside a shop in the village of Novoukraiinka. The court decision notes that nowhere in the village is authorised for the distribution of religious literature.

Prosecutor Fazylov refused absolutely to discuss why he had demanded that Volikov be fined for exercising his right to freedom of religion or belief. "I can't give any information by telephone," he kept repeating to Forum 18 on 12 January.

No one at the Regional Religious Affairs Department in Petropavl was able to tell Forum 18 on 12 January whether Volikov's literature is now with them and what the Department is planning to do with it.

On 25 July 2014, North Kazakhstan Regional Court rejected Volikov's appeal against an earlier administrative fine of 100 MFIs under the old Administrative Code Article 374-1, Part 1. This was imposed for leading a church in his home without state permission (see F18News 21 July 2014 http://www.forum18.org/archive.php?article_id=1979).

Like other Council of Churches Baptists, Volikov refuses to pay fines imposed to punish him for exercising his right to freedom of religion or belief. Local Baptists told Forum 18 on 23 December 2014 that he is intending to appeal against the latest fine and is also seeking the return of the seized books.

Sharing any beliefs with others can only be done if a person is given state permission to be a "missionary" using state-approved materials within state-approved geographic limits. Books have often been confiscated during police raids (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

More punishments for sharing beliefs

Jehovah's Witnesses have been frequent targets of prosecution under the old Administrative Code Article 375, Part 3 ("Violation of the Religion Law"). Fines are 100 MFIs.

Among cases in late 2014, on 6 August 2014, North Kazakhstan Regional Court upheld the fine imposed by a lower court on 11 July on Vitaly Nikitenko. He had been fined for sharing his faith in the village of Saumalkol on 3 March 2014, according to the decision seen by Forum 18.

On 12 November 2014, Astana City Court in the capital upheld the fine imposed by a lower court on 13 October on Marat Babulov. He had been fined for sharing his faith on the streets on 2 August 2014, according to the decision seen by Forum 18.

Two Jehovah's Witnesses in Astana were fined for sharing their faith on the streets on 4 October 2014, according to the decisions seen by Forum 18. On 4 December 2014, Astana City Court upheld the fine imposed by a lower court on 10 November on Samat Musin. On 18 December 2014, Astana City Court upheld the fine imposed by a lower court on 11 November on Tatyana Kostrygina.

Punished for selling books

A commercial bookseller has been punished for selling religious books and other religious items, without having the required permission from the regional Religious Affairs Department. On 14 October 2014, Judge Nurolla Esenzholov of Ekibastuz Specialised Administrative Court in the north-eastern Pavlodar Region fined Vasilya Dzhubayeva 100 MFIs under the old Administrative Code Article 375, Part 1 ("Violation of the Religion Law"), according to court records. Dzhubayeva did not appeal against the fine.

A brief statement on the court website on 13 November 2014, which did not name Dzhubayeva, did not say what religious books and items she had been selling. Many booksellers have been prosecuted for the "offence" of selling religious material (see eg. F18News 17 June 2014 http://www.forum18.org/archive.php?article_id=1970).

Kazakhstan imposes strict state censorship on religious materials, including highly restrictive controls on who may sell distribute material and where it may be sold or

distributed (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

Criminal trial verdict expected

The activities of the Tabligh Jamaat Muslim missionary movement have some similarities with the activities of Baptists and Jehovah's Witnesses prosecuted by the state for exercising their freedom of religion or belief. The criminal trial of five alleged Tabligh Jamaat members is expected to conclude soon at Taldykorgan City Court in Almaty Region. The trial of Bakyt Nurmanbetov, Aykhan Kurmangaliyev, Sagyndyk Tatubayev, Kairat Esmukhambetov and Ruslan Kairanov began on 9 December 2014. Three of the five have been under arrest since September 2014 (see F18News 12 December 2014 http://www.forum18.org/archive.php?article_id=2023).

The final hearing was due on 8 January 2014 but was postponed to an unknown date as one of the lawyers was unable to attend, Aliya Akhmediyeva of the Kazakhstan International Bureau for Human Rights and the Rule of Law told Forum 18 from the city that day.
