

**Persecution of Muslims and Muslim Organizations
Charged With Terrorism and Extremism**

September 2010

As a follow-up to the report "*Russian Society Under Control: Abuses in the fight against extremism and terrorism*" published in July 2009, the International Federation for Human Rights (FIDH) and Human Rights Institute present a briefing note on the cases presented in the report.¹

General context

During the year since the publication of the above mentioned report, the campaign of fabricating criminal cases regarding so-called "Islamic terrorism" and "Islamic extremism" has not ceased, quite the opposite: it has received an impetus for its future development. This has been manifested primarily in the increased number of persecuted organizations and movements, both within Russia and within its state allies in the Shanghai Cooperation Organisation (SCO)².

Thus, on 7 May, 2009 the Supreme Court of the Russian Federation rendered a decision deeming the Muslim missionary organisation Tablighi Jamaat,³ which radical Islamists criticise for its political apathy,⁴ to be an extremist organization. It is worth noting that not long before the decision to ban Tablighi Jamaat was made, statements regarding its inclusion in the corresponding list of the Collective Security Treaty Organisation (CSTO)⁵ had appeared in the press.⁶

It is interesting in this regard that an entire religious movement, *Salafiyya*, was banned⁷ in Tajikistan⁸, one of the member countries of SCO, which is therefore bound by regional obligations under the SCO Declaration. Experts recognize that the Salafi include not only a radical wing but moderate ones as

¹ The full report can be downloaded in English at <http://fidh.org/Russian-society-under-control-Abuses-in-the-fight>, in French at <http://fidh.org/Une-societe-sous-contrôle-du-détournement-de-la> and in Russian at <http://fidh.org/Rossijskoe-obschestvo-pod-kontrolem>

well,⁹ nevertheless, the security services consider them all a threat to social and state security, regardless of whether these believers belong to radical groups or simply perform religious rites in accordance with their own - albeit completely fundamentalist - convictions. Revealingly, the mass media interpreted the inclusion of the organization Al-Qaeda in the Islamic Maghreb¹⁰ (previously known as the Salafist Group for Preaching and Combat) in the CSTO's list of terrorist and extremist organizations as a ban on the entire Salafiyya movement in CSTO member states. It will be no surprise if this alleged journalistic inaccuracy becomes a practical reality in the foreseeable future as a consequence of the SCO's principle (mentioned in the report) of mutually recognizing everything considered to be terrorism and extremism by the SCO member states, almost all of which (except China) are also members of the CSTO.

As was previously the case, the full text of decisions banning organizations in connection with their activity being deemed extremist or terrorist was not officially published, and access to them remained extremely difficult, which sharply narrowed the opportunity to appeal them in the manner established by law. Additionally, the absence of official publications turned out to be not the only such limitation.

Thus, the story of the attempts to appeal the decision banning Tablighi Jamaat is revealing. First it was appealed in cassation proceedings, but the court

² The SCO is a standing interstate organization, one of whose key objectives is to provide mutual security. It was created on 15 June, 2001 by the Russian Federation, Kazakhstan, Tajikistan, Kyrgyzstan, Uzbekistan and the People's Republic of China, when "the Shanghai Five", a five-country structure set up in 1996, was joined by Uzbekistan.

³ <http://www.rian.ru/society/20090731/179329940.html>

⁴ <http://i-r-p.ru/page/stream-library/index-624.html>

⁵ The CSTO is a military alliance founded in Tashkent by the presidents of Armenia, Belarus, Kazakhstan, Kyrgyzstan, Russia and Tajikistan on October 7, 2002 and joined by Uzbekistan in 2006.

⁶ http://nvo.ng.ru/wars/2009-03-20/1_bandits.html and <http://news.nur.kz/122981.html>

⁷ In post-Soviet Central Asia, and later in Russia as well (since the 1999 invasion of Dagestan by Basayev) all Salafi began to be indiscriminately called "Wahhabites." In the opinion of Aleksei Malashenko, one of the most prominent Russian experts on Islam, Wahhabism is only one particular manifestation of the Salafi tradition.

⁸ <http://www.agentura.ru/dossier/tagik/?id=1231490640>

⁹ For example, Malashenko writes: "All the same it is more appropriate to distinguish two "factions" of Salafis, the moderate and the radical (<http://www.kursach.com/biblio/0002003/401.htm>; Mikhail Roshchin has written: "...there are moderate Salafi who do not insist on an armed path, but there are others who do." (http://rus.azattyq.org/content/salafis_salafit/1496753.html).

¹⁰ http://nvo.ng.ru/wars/2009-03-20/1_bandits.html

denied review of the appeal and returned it to the applicant. Then the Supreme Court of the Russian Federation dismissed the special appeal of that return. Rustem Valiullin, an attorney from Izhevsk (Republic of Udmurtia) made the following comment on the situation¹¹ :

“The appellant’s representative noted that the law does not provide for the return of an appeal by a court of the first instance in connection with failure to provide evidence that the appellant possesses the right of cassational appeal; moreover, this issue should be decided in conditions of open and public court proceedings. The Supreme Court of the Russian Federation confined itself to what in its opinion was the rational argument that all members of Tablighi Jamaat would consequently appeal to the Supreme Court, and therefore the first appellant’s complaint should be dismissed. In addition, despite the evidence presented by appellant’s representative that appellant belongs to Tablighi Jamaat, the court noted that since his organization lacks its own charter or state registration it is not authorized to defend its interests, and therefore appellant lacks the right to appeal. It should be noted that phrasing the issue this way renders it incomprehensible how the organization could have been banned to begin with. <...> At the present time, the decision banning the activity of Tablighi Jamaat has entered into force and all means of legal defense in the Russian Federation have been exhausted.”

It should be mentioned that in June, 2010, the European Court of Justice communicated to the Russian Federation the complaints of two applicants, Yusup Kasymakhunov¹² and Marsel Alibayev,¹³ who had previously been convicted in Russia on charges of belonging to the organization Hizb ut-Tahrir. The respondent state, among other things, was invited to answer the question of whether the 14 February 2003 decision of the Supreme Court of the Russian Federation had been officially published at the moment the appellant was convicted. If it was not

¹¹ http://muslims-org.blogspot.com/2009/08/blog-post_1880.html

¹² <http://cmiskp.echr.coe.int/tkp197/view.asp?item=2&portal=hbk&action=html&highlight=kasymakhunov&sessionid=56990276&skin=hudoc-cc-en>

¹³ <http://cmiskp.echr.coe.int/tkp197/view.asp?item=1&portal=hbk&action=html&highlight=alibayev&sessionid=56990298&skin=hudoc-cc-en>

officially published, can the law on the basis of which the applicant was convicted be considered sufficiently accessible and foreseeable, as required by Article 7 of the Convention? If in the future the European Court finds that the failure to officially publish decisions curtailing the rights and freedoms of citizens constitutes a violation of the Convention, the authorities will have to publish the decisions previously rendered and discontinue the practice in future of promulgating only their operative parts.

Law Enforcement Practices

The Case of Hizb ut-Tahrir

On 28 October, 2009 the Supreme Court of Tatarstan imposed sentence in a case of “preparing an anti-Constitutional coup” against individuals charged with belonging to Hizb ut-Tahrir (the report devoted much attention to this case: see Section III.2.2). All the defendants were found guilty of preparing acts directed towards the violent seizure of power and of involving others in the commission of this crime. In addition, the majority of the defendants were found guilty of organizing the activity of the banned party Hizb ut-Tahrir, and 2 of them of involving minors in it as well. As a result, 7 defendants were sentenced to deprivation of liberty for terms of between 4 and 8 years, 4 received suspended sentences, and 1, found previously to be insane, was consigned to forcible treatment. On 25 May 2010, the Supreme Court of the Russian Federation dismissed the cassational appeal of the sentence, after which the sentence entered into legal force.

In the period between the sentencing and the review of the case in cassational proceedings, the Constitutional Court of the Russian Federation reviewed the appeals of a number of individuals, including Faizulin and Hasanov, who were sentenced in the above case, regarding the changes made to the Criminal Procedural Code of the Russian Federation. The changes had removed cases brought under Articles 205 (terrorist act), 278 (violent seizure of power or violent removal from power), and 279 (armed revolt) of the Criminal Code of the

Russian Federation from consideration by a jury. The Court deemed these changes not to violate the Constitution. Thus the Constitutional Court of the Russian Federation affirmed the lawfulness of depriving individuals charged with terrorism of the right to appear before a jury.

Returning to the description of the trial contained in the Report, and in particular to that stage where a case was removed from consideration by a jury, we note yet again that this legal norm significantly broadened the opportunity for investigative agencies to fabricate charges and falsify evidence.

This case may have serious consequences, since for the first time, at least in Russia,¹⁴ a court “established the fact”¹⁵ that Hizb ut-Tahrir members were involved in the preparation of violent acts. Should previous trends in law enforcement continue, future courts may rely on the sentence rendered by the Supreme Court of Tatarstan that has entered into force as evidence of the violent and even terrorist nature of this organization, without questioning the decision’s reliability.

In Chelyabinsk in June, 2010 a sentence was imposed in yet another case involving Hizb ut-Tahrir, a case also meant to set a precedent. Five individuals, in addition to participating in the activity of a banned organization, were charged with preparing a terrorist act and with the illegal acquisition, transportation, or carrying of ammunition by an organized group, the ammunition being grenades which the prisoners claim were planted on three of them during their arrest. However, neither the preparation of a terrorist act nor the acquisition of ammunition by an organized group was proven in court, and the defendants received sentences of 1.5 to 4 years deprivation of freedom at a colony settlement. Thus the Chelyabinsk case, unlike the one in Kazan, did not acquire precedential significance.

Besides the cases examined above, from mid-2009 to mid-2010 no fewer than 4 individuals were convicted of belonging to Hizb ut-Tahrir, including two young women, graduates of a Kazan institute of higher education, who received

¹⁴ According to data in the possession of the authors, for the very first time in Hizb ut-Tahrir’s existence.

¹⁵ The numerous indications of evidence falsification in this charge do not permit the use of the phrase “established the fact” without quotation marks.

suspended sentences. This was the third time in Russia that women were prosecuted on such charges and the second time a case ended in a conviction.¹⁶

And, finally, among the criminal cases regarding Hizb ut-Tahrir instituted within the period under review, it is worth highlighting the charge brought in March, 2010 against Bulat Gayanov, who was serving out an earlier sentence at a colony in Barnaul (his 7-year term of confinement expires in December, 2011).

According to the FSB investigator, Bulat Gayanov was disseminating literature of a banned organization among other prisoners at the colony. The human rights organization's request to the local administration of the FSB regarding what specific prohibited literature Gayanov was distributing, and how it could have come into the possession of an imprisoned person who only receives correspondence after it is checked by the colony administration, received no intelligible reply.

Meanwhile, according to the data from our monitoring activities,¹⁷ this is the first instance of what is known as "bootstrapping" within the context of the present campaign—that is, of charging a prisoner with a new offense analogous to the previous one whose sentence is coming to a close.

Criminal Persecution of the Followers of Said Nursi

Since the end of 2009, at least 3 criminal cases have been instituted against Muslims studying the works of Said Nursi. In the first of these, 3 individuals in Makhachkala (Republic of Dagestan), were charged criminally in December, 2009 under Article 282-2 of the Criminal Code of the Russian Federation (organizing or participating in the activities of an extremist organization). The second case was instituted in Krasnoyarsk in February, 2010 against 4 residents of the city. In both instances the defendants and the witnesses submitted statements to human rights organizations that FSB investigators had placed pressure on them and had beaten several of them in order to force them to

¹⁶ In November, 2004 Anna Drozdovskaya (then wife of Yusup Kasymakhunov, whose case has been communicated to the European Court of Human Rights) was convicted in the first such case in Russia. In 2005 a case was initiated in the city of Aznakayevo (Tatarstan) regarding the participation of another young woman in Hizb ut-Tahrir, but the criminal investigation soon ended.

¹⁷ These data are not exhaustive.

admit their membership in Nurdjular, a banned organization about whose very existence they knew nothing. In the third case, instituted in June, 2010 in Nizhny Novgorod under the same Article, a citizen of Azerbaijan was arrested and held in custody. He was charged with having placed the prohibited writings of Said Nursi on an Internet site dedicated to the theologian's works. In August, 2010 he was sentenced to one year of deprivation of liberty (suspended) under Part 1 of Article 282 of the Criminal Code of the Russian Federation (incitement of religious hatred or enmity and degradation of human dignity).¹⁸ At the time of the present survey's compiling, the investigative activities in the Krasnoyarsk case continue, and the authors do not yet have information available regarding the outcome of the case in Dagestan.

Thus, as expected, the unfounded banning of literature (see section III.3 of the report), against which both clergy and lay specialists actively objected, was followed by a criminal prosecution of the literature's readers. It is possible that, if convicted, the defendants would have the right to submit complaints to the European Court of Human Rights for violation of the rights and freedoms guaranteed by the Convention.

Repressions Against the Preachers of Tablighi Jamaat

In an analogous fashion, after the above-mentioned deeming of Tablighi Jamaat to be an extremist organization, its members became the target of a criminal investigation. In March, 2010 a criminal case was instituted in Chita under Part 1 of Article 282-2 of the Criminal Code of the Russian Federation against Nurgazy Kydyraliyev, a resident of the city. According to the investigation, Kydyraliyev *"became an adherent of a radical strain of Islam and joined Tablighi Jamaat in 2004-2005, while living in Kirgizia. After moving to Chita, with knowledge that the organization had been banned in Russia, he intentionally organized an alliance in the Trans-Baikal that also spread into Irkutsk Oblast."*¹⁹ Any sort of violent acts or participation in their preparation by the defendant, as is

¹⁸ <http://www.niann.ru/?id=376207&template=yandex>

¹⁹ http://www.gazeta.ru/news/lenta/2010/07/12/n_1519307.shtml

typical for these sorts of cases, were not even alleged. This did not, however, prevent the mass media from shaping public opinion and connecting the activities of this organization of apocalyptic preachers with terrorist groups, up to and including Al-Qaeda.²⁰ In August, 2010 Kyydraliyev was sentenced to 1.5 years deprivation of liberty, suspended, with 1.5 years probation.²¹

As is typical, the institution of the criminal case against Tablighi Jamaat in Chita was accompanied by mass illegal acts by law enforcement against members of a local mosque. The final report of the Trans-Baikal Human Rights Center,²² which was based upon the results of a social investigation of these events conducted jointly with Rustem Valiullin, the attorney from Udmurtia, enumerates many violations of believers' rights. An announcement from the Center's press service entitled "Cleansings in Chita: Artificial Destabilization of the Situation"²³ indicates that *"upon detention, approaches were applied to the members of the mosque that were designed to break their physical and moral resistance. People were subjected to abuse and harsh treatment, and their human dignity was insulted solely based on attributes of national and religious affiliation. In the words of the members, the law enforcement officers explained their actions as due to hatred of those who had come to Russia. All the detentions were conducted by masked individuals without insignia, which ruled out any subsequent identification in the event complaints were submitted to the procuracy."*

Instead of Combating Terrorism, A Continuation of the Hoax

The incessant terrorist acts in the Northern Caucasus, the November, 2009 bombing of the Neva Express, and the March, 2010 explosions in the Moscow Metro continually highlight both the extremely low level of effectiveness of the security services' work in averting acts of terrorism and the imitative nature of anti-terrorist actions.

²⁰ <http://www.chita.ru/news/23558/>

²¹ <http://www.interfax-religion.ru/?act=news&div=36973>

²² <http://www.lawfulstate.ru/index.php/zashitapprav/2010-03-28-13-26-55/zachistka-chita/the-conclusion-about-operation-in-chita.html>

²³ <http://www.lawfulstate.ru/index.php/news/270-zachistka-chita.html>

One of the most typical examples of the latter is the activity of Tatarstan's security officials, who summoned the relatives of the individuals convicted in the above-mentioned Kazan case involving Hizb ut-Tahrir after the March Metro explosions for questioning about their whereabouts before and after the terrorist acts. Bearing in mind that the relatives of those convicted have not ceased to notice they are being monitored by members by the security services over the course of 3.5 years, beginning with the initiation of the criminal case until most recently, it is clear that the law enforcement agencies must have been well informed of all their movements even without additional questioning. Thus the actual result of the questioning conducted could only have been reports on the taking of mythical "anti-terrorist" measures following an actual tragedy that took the lives of dozens of people.

FIDH and Human Rights Institute condemn without limit terrorists acts. There cannot be the slightest justification for acts of terrorism and crimes against the civilian population. Those responsible for the them should stand trial, with the strictest observance of universal human rights norms. But even though the fight against terrorism is justified and necessary, a careful analysis of regional and national mechanisms shows how much this fight can be used to infringe on the population's rights and fundamental freedoms.