

Human Rights Movement “Bir Duino-Kyrgyzstan”**DEMONSTRATION TRIAL OF RASHOD KAMALOV****THE STRUGGLE AGAINST TERRORISM-OFFICIAL DATA**

According to the official statistics of the law-enforcement agencies of Kyrgyzstan, year after year increase the number of people, who join to the extremist organizations. According to the information received from the Raim Salimov the deputy chief of the main department №10 Ministry of Internal Affairs of the Kyrgyz Republic, at the beginning of the September 1866 extremists were registered by the police. It is more than 9% than in the same period during the last year.

73% of registered are following the ideas of forbidden religious extremists party “Hizb ut-Tahrir”.

Increased the number of open criminal cases 264 in this year compared to the last year for the same period was 209 cases (during 8 months), and also the number of detainees: 231 in this year compared to the last year for the same period was 184 people, removed 7126 exemplars of extremist materials compared to the last year for the same period was 6232 exemplars . According to the Salimov, one of the reasons for public involvement in the religious-extremist organizations is the low level of education of citizens. This is especially true for the southern regions of the country. Rayim Salimov said that 74.2% from all registered extremist crimes comes from the southern regions of republic and 62.4% from the followers of extremist organizations are residents of the southern regions and cities.

(References [http://www.mvd.kg/index.php?option=com_content&view=article&id=5194%3A---2015-8-----&catid=76%3A-](http://www.mvd.kg/index.php?option=com_content&view=article&id=5194%3A---2015-8-----&catid=76%3A-2009&Itemid=46&lang=ru)

http://www.knews.kg/action/68666_za_8_mesyatsev_po_respublike_vyiy_avleno_264_fakta_proyavleniy_ekstremizma/).

In the interview for the head of the media office of the Department of Internal Affairs in Osh and Osh region, Police Lieutenant Colonel Jenishbek Ashirbayev noted, that increasing of radicalism cases in the Osh region has two reasons: the first reason is -depth involvement of citizens in the religion, the second – strengthening works of law enforcement to identify such facts. From January to September, Osh region recorded 57 cases; compared to the last year for the same period was 28 cases. The 28 of these cases, referred to the court, and the rest of it at the stage of investigation.

Law enforcement agencies regularly report about activities that were undertaken to identify the facts of extremism. In the south such high-profile cases as the case of Diler Dzhumabaev, he convicted to 6 years in the penal colony. The case of the former imam of Kara-Suu mosque Rashod Kamalov, whose case is under review in the court of second instance, the history of Abdullokh Nurmatov against whom opened a criminal case for his activism in the social network and so on. In the recent years, according to the observations of human rights defenders in the southern region, the courts did not justify anyone by the 299th article of the Criminal Code of the Kyrgyz Republic: "organization of inter-religious struggle ", "Storage and distribution of extremist materials." The only case of excuse in the 2009 in the case of human rights activist Ravshan Gapirov, who was accused of distributing leaflets. (Link <http://www.turmush.kg/ru/news:21262>).

Father and son Kamalov

One of the important processes of this year is the case of the former imam of the mosque, “As-Sarakhsi “Rashod Kamalov in the Kara-Suu district of Osh region. On the 7th of October Kara-Suu District Court found him guilty in incitement religious hatred, as well as storage and distribution of extremist materials and sentenced him to five years of imprisonment in a penal colony.

Then, the Prosecutor's office appealed to the Regional Court in order to make the prison term more severe for Rashod Kamalov, than sentenced him to ten years of imprisonment.

During an ongoing case of Rashod Kamalov it is remembering the sad story about his father, a prominent religious figure, Imam Muhammadrafik (Rafik-kori) Kamalov, he was shot in August 2006, "during the joint anti-terror raid of Uzbek and Kyrgyz special services in the Osh region."

(Link <http://www.fergananews.com/articles/8403>).

Rashod Kamalov has repeatedly stated that his case is politically motivated. Public politician Myktybek Arstanbek considers, that Kamalov's case is precedent: "This case - a precedent, it is important as an example for the future similar cases. This is obviously that it is a political order, it is possible the influence of other states."

The arrest of Rashod Kamalov set off a wave of protests among the local people. A few days citizens gathered near the house and the mosque. Kamalov is the famous theologian, who has authority with the Uzbek population. 68-years-old Kara-Suu resident Aden Nurmatov was familiar with his grandfather and Rashod's father, but he wasn't familiar with Rashid personally "I attended his Friday sermons, with interest and pleasure in listening to his sermons. He always quoted the Koran and was able to clearly explain the basics of Islam; it is very hard to explain the Koran to the people. His words pierced my heart and soul, he spoke with great feeling. Kamalov - a good looking man with suave manner. He attracts people to him."

KAMALOV'S CHARGE HISTORY

The history of Rashod Kamalov started long ago, after his speech on 23rd of December in 2014 on the general meeting of law enforcement agencies with religion leaders and activists in Osh region. At that meeting he criticized the work of law enforcement and mentioned people's complaints on extortion and intimidation of the population.

"I said that our weak point – it is leaving of young people to the Syria, but what is the reason? Some law enforcement officials are putting pressure on young people, intimidate them and extort money. I have asked the authorities to pay attention to this problem. They told that I said the right words. Then I was invited into the Council for the Affairs of Religion to Bishkek, where I presented my proposals. I do not know, maybe someone did not like my words, "- said the imam in the Court.

Imam said that he never entered into any religious-political parties and he has no relation to the "Hizb-ut-Tahrir." On the charges to the recruitment of people in Syria, he said that, on the contrary, urged young people not to go there. He suggested that the investigators put pressure on certain people to give evidence against him. But he was not officially charged with recruiting.

Later, in January of this year, a citizen Uchkunbek Chyrakov brought a disc with this sermon to the police department of Kara-Suu district in Osh region. Investigator Begali Moldoev enacted the appointment of expertise and sent the disk to the State Commission on Religious Affairs. A member of the State Commission Kanatbek Abdaimov has advised that there are statements in a sermon contrary to the Constitution of the Kyrgyz Republic. Investigator Moldoev did not open a criminal investigation, but sent the materials to the Department of Internal Affairs of Osh oblast to investigator Marat Akbotoev.

As it turned out, this video was taken during Friday prayers "Namaz" on the 4th of July, 2014. The theme of the sermon was about the Caliphate in the Uzbek language.

"It was Friday prayers, gathered about 5000 people, they asked about the Caliphate, an Islamic state, the recruitment of people in Syria. I had to answer their questions, gave them the correct

explanation. I acted as an official representative of the city's main mosque; I used official sources to explain the meaning of concepts in Islam. I quoted the Koran, hadith. Hadith (In Islam, a narrative record of the sayings or customs of Muhammad and his companions; also the collective body of traditions relating to Muhammad and his companions) There are answers to all questions relating to the family, financial, general, all aspects of life, as well as to explain the words of the prophet caliphate there. I explained that the war in Syria, the Islamic State - a distortion of the true concepts of Islam, that is the wrong way to go. I explained that this was contrary to the Constitution of Kyrgyzstan. I did not call for rallies; I did not call to the overthrow of the state system. People ask questions, so I gave an explanation, " - said Kamalov in Court.

Kanatbek Abdaimov pointed in his conclusion that the words of Kamalov are contrary to the Constitution of the Kyrgyz Republic, and the phrase "Who will say that there will not be caliphate, he will come out of religion. We must esteem those who create the Caliphate "calls for the construction of an Islamic state, but a democratic or parliamentary form of government is shown as a kafir (not exact, right).

In the beginning of February 2015, referring to the expertise of Kanatbek Abdaimov, the investigator Akbotoev initiated a criminal case under the article "Inciting religious hatred by using his official position" and "Dissemination of extremist materials in conducting public events", gets a search warrant in the home of Kamalov.

By the disk that was withdrawn from Imams house, Akbotoev appointed a second expertise, to the same person - Kanatbek Abdaimov, who made the conclusion similar to the first. A month later, in March, employees of the Main Department of Internal Affairs of Bishkek found in the Internet videos with preaching Kamalov and sent them to the investigator Akbotoev. Akbotoev appointed a third expert, again to the same person Kanatbek Abdaimov. The third conclusion is identical to the first and second.

Imam or not Imam?

Kamalov originally was charged by the three incidents and each of them had by two articles: "Inciting religious hatred by using his official position" and "Dissemination of extremist materials during public events." During the trial it was established that in the documents of muftiat- (Council for the Affairs of Religion)there is no an order appointing Kamalov, as imam of the "Al-Sarakhs" mosque, in Kara-Suu.

"I did not see this order. After the death of my father, who was an imam for many years, the employees of Kaziyat-(territorial division muftiat) asked my documents: education certificate, photo. During the attestation of employees of the mosques, they told me that my expertise is well known and I do not need in attestation, I didn't pass through attestation. Why the investigator added to me the article charges "Using his official position?", if I was not Imam." - Said Kamalov.

LONG TRIAL OF KAMALOV

Koychubek Zhobonov the chairman of the district court conducted the case. There were two prosecutors Azam Satyvaldiev and Nurlan Abdrazakov employees of the district prosecutor's office. Three Osh lawyers: Nazgul Suyunbaeva, Valerian Vakhitov and Khusanbay Saliev represented the interest of Imam. It was the longest process by time on similar charges – there were 17 hearings during the four months. Lawyers made more than 20 applications, most of which were granted. There were seven witnesses, 10 experts and specialists. The cause contains 5 volumes.

There are dozens hours of audio recordings of each meeting in the archive. On the last day of the hearing participants of the process were in the courtroom until late evening waiting for the verdict,

the judge read out over one and a half hours until he was asked to read only part of result to cut time.

Each hearing was as a separate series of a long serial called "life." The activist for the human rights called this process - "the process of the Year" by its importance, complexity and intensity. The parties tried to fulfill all the requirements of judicial proceedings, but initially it was forbidden photo and video sessions. Not everyone could get into the hall of the Court, many stood near the open doors and windows. At the first hearing, in July about fifty police officers was attended to maintain the order, then on the next hearing, there were not police officers in the hall, so there was no need for this. The meetings were held peacefully and without conflict.

There is a small room in the district Court, calculated approximately for 25-30 people, but on the process of Kamalov there were more than 50 people, mostly men.

Every time the small room in the District Court was filled with people, the residents of Kara-Suu district, who came to support their "national" imam. Sometimes the audience could not hold back their emotions and then indignant phrases flew in the room. So citizen demonstrated disagreement with the performances of some experts in the field of religion and the judge's refusal to change the measure of restraint of the Imam that will be not relating to the arrest. The judge promised to withdraw most talkative people from the audience, and once the prosecutor announced the idea of a field hearing in the detention center at the Main Directorate for Reformatory Justice №25 in Osh, but it is not supported. Once by the reason of the employment of the hall by another process, the judge invited the parties to hold a hearing in the office, where the number of places limited to the public, but the protection of the Imam did not agree and the parties waited until the room became available.

On each process Kamalov always behaved with dignity, trying to stay calm and friendliness. Only once the emotions had taken up when the officer of the State commission was questioned who made the conclusion that became the basis for opening a criminal case. During the hearing, Kamalov question witnesses and experts, constantly explained what was really his preaching, many times repeated quotations from the Koran and Hadith. The audience repeatedly convinced that compared to some experts in the field of theology, Kamalov surpasses them. On some questions of the invited experts could not answer, they admitted that they have not read the book, which he Kamalov called. At the end some experts, that was invited by the prosecution accepted the authority of Kamalov and agreed with his arguments.

The hearings were appointed in those days, when the convoy ensures the delivery of the defendant in court Tuesday, Wednesday and Thursday. The process was interrupted for holidays and days of absence of the parties for valid reasons. Repeatedly defense tried to alter the measure of restraint to house arrest, citing ill health, the availability of permanent residence, the family, but Kamalov and remained in jail throughout the process.

The maximum judgment

In passing the judgment court did not consider the arguments of the defense and numerous conclusions in favor of the Kamalov. In the verdict on 28 pages it was only mentioned that the court took into consideration all applications of the defense.

In passing sentence, the court took into account the absence of the order on the appointment of the Imam of the mosque and reclassified the article of the charge, removing aggravating circumstance "misuse of official position" on all three episodes. Prosecutors had requested 10 years of strict

regime, lawyers - excuses. The judgment is - five years in a penal colony - the maximum period for this article. Lawyer Khusanbay Saliev said: "Usually In other similar cases the courts gives suspended sentence, but Kamalov has great public interest, he is known and respected person in their community, all of this circumstances affected to the verdict with the restriction of the freedom".

Kamalov and his lawyers did not hurry with the appeal. Kamalov waited entry of judgment into legal force 10 days, to come out from the chamber of the detention facility №25 Main Directorate for Reformatory Justice, into a penal colony where conditions of detention and the movement much better. But the prosecutor's office appealed for hardening his term in detention. Kamalov remained in the investigatory isolation ward waiting for the court of appellate jurisdiction

District prosecutor's office concluded that the verdict is unlawful, unjustified and requires revision: Kamalov must be judge under the Article 299, part 2, paragraph 2 - Incitement to religious hatred a person using his official position, and the Article 299-2 part 2 of paragraph 2, 4 - Storage and distribution of extremist materials using his official position during public events.

"Characteristic evidence" cases by the article on the example of the Rashod Kamalov

The lawyer Khusanbay Saliev the coordinator of the movement for protecting human rights "Bir Duino Kyrgyzstan" said, that Kamalovs case concerned all the characteristics of similar cases relating to the concept of extremist materials of doubtful expertise, defect in process, committed by the investigation and so on the lawyer added that there are 20 similar cases on the monitoring this year, and violations repeated in each case. They are: the absence of the country's official list of forbidden extremist materials, irregularities in the appointment and making expertise, absence of approved experts on religion, disregard defense arguments and convictions by the court, the formation of negative images in society against convicted.

Saliev said: "In recent years, increased the number of women accused of article 299. If before we were asked 1-2 women, but this year we have 5-6 such cases".

Imam doesn't a member of the Hizb ut-Tahrir party

The basis of the charges for Kamalov became the phrase: "Who will say that there will not be khaliphate, he will withdraw from religion. We must esteem those who create the Khaliphate" The investigation has linked this statement to the promotion of the ideas of the forbidden religious extremist party "Hizb-ut-Tahrir." On the lawyers question about the evidence of connection the imam with this party, Akbotoev said that the imam did not openly talk about it, but it is understood from the basis of his entire speech, his activity, all this confirmed the conclusion of the State Commission.

He was not able to give examples of where, when and how Kamalov used the symbolism, attributes of the forbidden party. The lawyer Nazgul Suyunbaeva outraged: "Is it enough to to charge with a criminal offence a person of a technical rewriting the content of the article 299-2 into the notice of formal charges filed against him without cause of accusation?". There is no other evidence against Kamalov besides this conclusion of this case, and according to the norms of the Criminal Procedure Code, an expert opinion is not necessarily for the court. According to the answer of the Centre for expert testimony in court, state commission by the religion affairs doesn't an expert body, and its staff is not an expert, don't not have an appropriate certificate of experts. They didn't register in the registry of the experts.

According to material of file of the case, there is no witness who can confirm the connection of Kamalov to this party. The investigator said that was withdrawn several disks, notebook and leaflet during the search of the house. The lawyer Suyunbaeva cited the example of Bashkur

Abdukalykovs speech who is the Head of the Kara-Suu Regional Department of Internal Affairs , he has reported in mass media that there was not found anything illegal in the house of Kamalov.

She also cited the example of witness's testimony who participated in the search, confirming the absence of forbidden materials in the house of Kamalov, and added that these witnesses were interviewed during the investigation.

WHAT IS CONFLICT?

According to Article 299, "Inciting religious hatred" actions aimed to inciting national, racial, religious or interregional hatred, humiliation of national dignity, as well as propaganda of exclusivity, superiority or inferiority of citizens on the basis of their religion, nationality or race. Neither investigators nor prosecutors could not produce proofs that falling under this formulation.

The lawyer Khusanbay Saliev asked the court to pay attention to this: "Under the incitement of religious hatred animosity means the attempt to create conflict between different faiths. There is no mention in the materials of the criminal case that the preaching of Kamalov creates a conflict between different faiths,there is no mention that his words propagandize exclusivity, superiority or conversely discriminatory evaluate citizens depending on their attitude to religion."

There is no official list of extremist materials in the country

Formulation "Illegal extremist materials" causes confusion among the lawyers. For years, they work for the 299th article, paying attention of the prosecution, the court and the public at that moment, so far there is no official list of forbidden extremist materials by the court.

Lawyers presented answers to the court from the ministries and agencies, explaining the procedure of approval the list and prove its absence today. According to the standards, the local courts made decision by the prosecutor's recommendation on the recognition of a particular extremist material. Then the list is transmitted to the Ministry of Justice, which puts it on its website in the mass media. Only after all of these procedures, the material recognized as extremist and became forbidden.

The lawyer Khusanbay Saliev said: "If there is no such list, why the law enforcement agencies indict citizens in storage and distribution of forbidden extremist materials?"

Process formalities of expertise

There are more than 10 documentary expertise and conclusions of specialist in the Kamalovs case, most of them was given by the decision of the investigation. Some of the experts argued in the court in order to defend their conclusions, also public and religious leaders, teachers, activists acted as witnesses . There are number of legal aspects before the assignment of the expertise, this was mentioned by the lawyers. For the reason that there are no officially recognized experts by religion questions and the State Commission is not a body of experts, the expertise should be carried out in accordance with Article 204 the Criminal Procedure Code of Kyrgyz Republic- «expert investigation out of expert organization." Before the expertise pronouncement the investigator must identify the personality of the expert, his competence, to find out his relationship with the suspected / accused and verify whether the grounds for the challenge of expert. Then, the investigator must explain to the expert his rights and duties, to give notice of the criminal responsibility for giving knowingly false conclusion. The investigator makes a note about fulfillment all of these actions in the decision to assignment the expertise, expert signs the document.

During the judicial proceedings in the Court the investigator of the investigation department of the Internal Affairs of Osh oblast Marat Akbotoev explained the reasons of non-fulfillment requirements of the Criminal Procedure Code. The investigator said: "We address to the State Commission by the reason of the absence of other organizations that would give such conclusion. I have known Kanatbek Abdraimov for 5-6 years; he has given more than a hundred conclusions. We do not need to check his documents every time, to verify his competence. " But on the next day of hearing, he claimed that the expertise conducted in accordance with the Article 204 of the Criminal Procedure Code, "Expert investigation out of expert organization" with meeting all requirements.

THE STATE COMMISSION DOES NOT AN EXPERT BODY

The most important conclusion was the document of the State Commission of Kanatbek Abdraimov, that preaching contrary to the Constitution, but without explanation, He did not specify the contradict words, on which minute on the video and he did not specify to which articles of the Basic Law the preaching is contrary.

Abdraimov said in the court: "We are a secular state, the phrase of imam contain appeals against the Constitution of our country. He spoke about the caliphate on the territory of Kyrgyzstan. So he was referring to Kyrgyzstan. He said this from the name of the Imam of Kara-Suu mosque. In conclusion, I didn't denote, against what specific articles of the Constitution and the laws his statements. I'm not an expert of the freedom of expression. Freedom of speech should not be harmful. The sermon of the Imam was spread everywhere. People who have little understanding in religious matters, could understand different the words of Imam»

It was found that during for 5-6 years Abdraimov established similar conclusions in hundred cases in which many citizens were convict. Kamalov and his defense called this process as "cooperation" of law enforcement agencies with the State Commission and expressed doubts about the objectivity of the conclusions of Abdraimov. "You will execute any given order", - said Kamalov.

During the expertise, lawyers detected procedural offence. According to the Article of the Law #16 "On the forensic-expert activities", Court experts must go through the certification of the competence every 5 year. According to article 18 of the same law, information about the court experts registers in the State Register of forensic experts. Expert-Qualified Commission takes an exam and issue certificates. The lawyer Saliev showed a pile of papers with answers from State Agencies and said: "Answers to requests from the State Center for Forensic Expertise of the State Personnel Department showed that State Commission on the religion affairs - not a forensic expert organization, and the employees of the State Commission are not certified experts" -

Abdraimov said, according to the order of his appointment to the service of the State Commission, he is a senior specialist, and his functional duties include the providing of the expertise on religious issues. As for his knowledge of the Uzbek language, he told in the court that he is not a linguist, not a philologist, but he understands the Uzbek language. By training he is a teacher of a foreign (Arabic) language. But it provides expert opinions to the documents in the Uzbek language with references to the Constitution. Kamalov was puzzled and indignant said in court: "I do not understand how you gave the conclusion that my words are contrary to the Constitution? You had fully learn all the preaching, not just a short part of it. "

The Lawyer Valerian Vahitov added: "According to article № 62 of the Criminal Procedure Code on the experts, a person cannot be appointed or otherwise be involved in the criminal proceedings as

an expert on legal issues." The legal assessment provides specialist with appropriate education of lawyer, for example, the investigator, prosecutor or judge.

The Russian expert Vitaly Ponomarev, a member of the Human Rights Centre "Memorial", who has give an expert opinion to the videos of the Kamalov's process and to the conclusions of Kyrgyz specialists:"Their conclusions are insufficiently reasoned and justified, and the preaching of Kamalov doesn't incite religious discord."

According to the conclusion of the State Commission, the theologian, the assistant of the Bishkek public fund "Open Position" Galina Kolodzinskaya noted the absence of scientific foundation in the document, the object of study or methodology didn't note, there is no links to the canonical Islamic literature which is necessary for the analysis of the statements, there is no articles that had been violated the law by Kamalov's statements.

"The whole expertise comes down to the fact that he just made his personal opinions and personal religious view", - concluded Kolodzinskaya. She added that the Abdraimovs specialty "Orientals", does not assumed depth study of religion, and noted that the Oriental studies the culture of the people, habits, customs, and partially religion. But this knowledge is not enough for this kind of expertise.

Such an expertise could be carried out by the theologian, by the person who deeply studies Islam religion with secularly diploma, or it could be a complex expertise with the assistance of religious studies, Islamic studies, political scientists, theologians, which would give a comprehensive interpretation of the preaching. Kolodzinskaya noted:"However, comprehensive religious expertise - is an absurd, because the religious studies - this is a separate branch of knowledge." According to her words, State Commission exceeded his authority in Kamalov case.

The Protection of Kamalov asked the court of law to make private definition against the investigator Marat Akbotoev and against Kanatbek Abdraimov the employee of the State Commission, but the judge did not support the proposal. Protection indicated that Akbotoev illegally opened a criminal case and illegally arraigned Kamalov on a criminal charge. "In fact there are no arguments of Kamalov's activity in exasperation of religious enmity.

Between whom was the enmity? The second concerns the prohibited materials. By whom did they forbidden and when? Still there is no an official list of prohibited extremist materials, which are found by the court and transmitted through the Ministry of Justice, "- said the lawyer Saliev.

ADDITIONAL WRITING

There are opinions of the employees of the Sciences Academy of the Kyrgyz Republic in the case, but according to the response from the Center of judicial expertise, the Academy is not an expert body. Linguistic expertise by the expert -linguist M.Davletova showed that Kamalov's speeches "can clearly be seen the idea of the superiority of Islam, against which all others are wrong.

"Such an attitude not uncommon among representatives of all faiths," - added Davletov with caution.

He concluded that the preaching of the imam does not contain direct appeals to overthrow the government, and noted the inadmissibility of interference the Government into the religious affairs. "Constant repetition of thoughts, vagueness of the statements, conflicting judgments at first sight on the level of psycholinguistic influence and neurolinguistic programming has a certain power of suggestion to the person with certain arrangement" - concluded Davletov.

On the instructions of the investigator, commission and complex expertise was held by Botho Janybek jurist and theologian Denis Pyshkin, Shukur Shermatov and Esengeldiev Zhumakunov the employees of the State Commission of Bishkek:. In both cases, they concluded the same: preaching

of Kamalov does not contain open for exasperation of religious enmity and does not contain an open propaganda to change the constitutional order. "At the same time appealing for the caliphate establishment is contrary to the Constitution of the Kyrgyz Republic as a secular Government. The distribution of video about the caliphate in a veiled form means changing the secular forms of government into the Islamic ", - concluded Shermatov, Zhumakunov and Pysshkin.

In general, all these conclusions comes to that, there is no public applying in the preaching calling for the overthrow of the constitutional order. Also, there is no relation of Kamalov speech with the activity of "Hizb-ut-Tahrir."

Clarifications of Galina Kolodzinskaya in the court law

Kolodzinskaya, who has speaking in the court has different opinion, she said that ,during the sermon Kamalov gave canonical explanation of the concept of "Caliphate", based on the Koran (Muslim holy book) and "Hadith" (stories about the deeds and sayings of the Prophet Muhammad).

"Imam said that after the end of the world Muslims will be able to find the caliphate, by prophecy, without violence, all Muslims will gather around the Caliphate and will take it. Imam gave an explanation, that is different between the so-called "psevdohalifat" igil (so-called "Islamic State of Iraq and the Levant", IG, ISIS or IS in Eng., Daesh in Arab.) from a true understanding of the Caliphate. Imam explained three ways of peaceful arrival the caliphate on the ground. The first case is when the Prophet Muhammad came to earth, was recognized by all Muslims, and around it was established caliphate. The second case: when one caliph passes power to another Caliph - continuity. The third case when illegally inherited the title of caliph, unworthy of this honor, will be overthrown by another person, who is worthy to be the Caliph. What is considering imams' preaching, was mentioned the first case of Califate, as he repeatedly mentions the importance of compliance with the six pillars of faith. Fifth Pillar says that every Muslim must believe in the Day of Judgment "- explained Kolodzinskaya.

"There are no extremist statements in the open or in latent form in his speech. He said that about the need to create a caliphate by prayers, expectation and faith, and it is not with violent actions ", - said Kolodzinskaya.

When she referred to the allegations of the Imam in the recruitment of people to the Syria, and its commitment to the ideas to the prohibited party "Hizb ut-Tahrir" theologian said that "it is absurd. At first, "IGIL" on its territory has prohibited "Hizb ut-Tahrir", and secondly, the most of the followers of "Hizb ut-Tahrir" condemned the actions of "IGIL". It is means that, these two groups, are not compatible with each other, their goals and objectives are contradictory. "

When there was a question:" If a person talks about the Caliphate, can we consider, that he is a follower of "Hizb ut-Tahrir", the experts answered was negative.

"The Qur'an and the Hadith says about the Caliphate, it general Islamic concept. A prophet predicted that at the end of time after him there will be another Caliphate. Imam quoted hadith, "- said Kolodzinskaya. She added that the preaching of the imam was warning, he warned the people that they must not go to Syria, indicating that the caliphate "IGIL" is not true, as it appeared on earth not by any one of those three ways, which are provided in Islamic law.

What considers the prosecution of Imam in law violation of Kyrgyzstan, then, according to Kolodzinskoy, they are groundless, so as there was not the geographical link in his preaching, he did not talk about specific territory of the certain country, he did not criticize the laws of the country, the regime and political leaders.

"The terrorism and the extremism – first of all it is a political crime, and the imam did not criticize any regime. He quoted the hadith, "- added Kolodzinskaya.

"Can we consider on an example of Kamalov that the Government intervenes into the affairs of religion?" - Asked one of the lawyers of the accused.

"Here was affected the freedom of religion and freedom of speech, it turns out, the state has violated its international obligations. The words of the imam did not represent a threat to the public and national security, the moral order, morality and freedom of others. Imam didn't criticize, he warned, "- said the expert.

"Is there a similarity of Caliphate with the present political system of Kyrgyzstan?" - Asked prosecutor Azam Satybaldyev.

"Did you see that he is compared the Caliphate and Kyrgyzstan somewhere? He did not compare and contrast these two categories. In his sermon, he did not touch upon Kyrgyzstan as a Government at all. It should be understood that the caliphate - a fair state under Shariat law. He said that, if violates one of the six pillars of the faith, it is, in fact, as if he coming out of this faith. It is touching the third pillar of Islam - a faith in the prophet and prophecy. The fifth pillar - the belief in the Day of Judgment. Imam meant that before the end of world, there will be create a caliphate, the Muslims have to pray, wait a caliphate, to hope and to live a godly life, "- said Kolodzinskaya.

STATEMENTS OF OTHER ACTIVISTS IN THE COURT

The other experts: public politician Myktybek Arstanbek and the deputy of the Jogorku Kenesh Tursunbai Bakir uulu, also supported Kamalov.

"At the first time when I heard and saw video sermons of Kamalov, I realized that he was very correct and beautifully explained to people about the Caliphate, and why Muslims must believe in Caliphate. We - Muslims, we have to give explanations. In his speeches there was no call for the overthrow of the government system in Kyrgyzstan - said Arstanbek. He said that he, too, thinks that faith in the Caliphate - the duty of the Muslims, and on freedom of religion cited article 20 of the Constitution: "No restrictions shall be established by this Constitution guaranteed freedom of thought and opinion; right to freely choose and have religious and other faith. "

Tursunbai Bakir uulu also touched on this subject: "According to the Constitution, every citizen has the right to freedom of expression. The words of the imam did not violate the laws of Kyrgyzstan. In his speeches there were not elements comprising a crime. "I agree with his statements about the Caliphate, I am also of the same opinion, that the belief in the caliphate - it is the duty of a Muslim. It brings people to the Qur'an. He did a good job, those who have not understood the essence of the Caliphate, the caliphate will realized that not when we will want it, but when, will be the God willing. I always say - Kyrgyzstan - is a Muslim state, but not Islamic "- said Bakir uulu.

He mentioned, that compared to other countries of Central Asia there is freedom of the speech, freedom of belief and religion in Kyrgyzstan. "If the government will continue to fight the Muslims, pursue, detain them, soon radical activists will come on their place .Don't let to happen this."

The experts, invited by the prosecutor's office held a different position on the preaching of Kamalov. Forty years old Niyazaly aji Aripov, the former kazy of Osh region(from January 2014 to August 2015),now works as a teacher in high school, said that he didn't watch a record not enough thoroughly to assess the deeper meaning and purpose of the words of Imam Kamalov. His task was

to assess the accordance of the citation to the sources. According to the Aripov, the quote of Imam: "Who does not believe in the caliphate, he will come out of religion", didn't not confirm by the sources, didn't exact by implication. When was asked a question about the duration of these videos, Aripov answered that he didn't keep a stopwatch in his hands, and did not measure the length of the recording, that is why it lasted for 2,5 or 3 minutes, he does not know.

During the investigation 39-year-old theologian Zaynabidin (Zamir) Azhimamatov, the specialist, teacher of Osh State University, he was attracted to study video preaching of imam, and he gave evidence as a witness, not an expert in the court. According to him, he participated in such case the first time. He denied the correctness of Imams phrases about that: "Who does not believe in the caliphate, he will come out of religion". He could not remember how many minutes continued the video, which was shown by the investigator. He said that there were not words about the Caliphate, were not statements of IGIL, and the record was in the Uzbek language. He added that he doesn't an expert in the Uzbek language, but he understands what they mean. Between him and the imam arose the talk about the sources of Hadith, which is reliable. Imam concluded: "The investigator misinformed you about my preaching, by showing the short version for you, where my words were taken out of the context."

Acting deputy head of the Osh kazyyat on that time Imam Azam Boron could not clearly and understandable gave clarification to the questions of the process parties.

Speaking about the necessity of preaching, Kamalov noted that youth doesn't clearly understand the interpretation of the terms, and religious leader's doesn't provide sufficient information, so he gathered information from the Quran and Hadith and gave explanatory sermon.

"I've heard from people that the discs with records were on sale, and the sermon was distributed in the Internet. I did not have any financial interest to have benefit from this "- said the imam in court.

Neither the investigation nor the court has not established, by whom and when the video were distributed on the Internet. But it did not prevent to judge Kamalov in distributing prohibited extremist materials.

WHAT'S NEXT?

The case of Rashod Kamalov reflects the situation how occur the struggle against religious extremism and terrorism in the region. His trial - a demonstration trial with accusational manner, and complete disregard the arguments of defense during the adjudgment. The activists of the human rights say that this case has great importance for future similar cases that it will be more difficult to defend the rights of their clients in court law in the future. Activists expecting the tightening of prosecution and the measures applied in cases related to religious extremism and terrorism. In private conversations, activists point out that such repressive method of fighting only will worsen the situation and do not solve the real problems of radicalization of society. "Now there is a battle for the hearts and minds of the people. The Government could use Kamalov as the authoritative leader for a right understanding of traditional Islam, especially for youth development. But in the reality it turned into the prosecution of theologian "- complained activist Saliev.

Human Rights Movement "Bir Duino-Kyrgyzstan"

tel.: +996 312 38 33 30, fax. +996 312 38 33 30

Email: birduinokyrgyzstan@gmail.com

www.birduino.kg

