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AZERBAIJAN: Prisoners of consciences' detention extended, criminal cases imminent

By Felix Corley, Forum 18

Two Jehovah's Witness prisoners of conscience in Azerbaijan, Valida Jabrayilova and Irina Zakharchenko, have had their NSM secret police pre-trial detention extended, Forum 18 News Service has learned. Five Sunni Muslim prisoners of conscience – Imam Mubariz Qarayev, Habibullah Omarov, Salim Qasimov, Eyvaz Mammadov and Azad Qafarov - also in NSM pre-trial detention are apparently about to face criminal trial. All seven prisoners of conscience were arrested for allegedly distributing religious literature that has not passed state censorship. The eighth prisoner of conscience in NSM pre-trial detention, Shia Muslim theologian Jeyhun Jafarov held for alleged treason, continues to be imprisoned. The trial of another group of five Sunni Muslims, who were in 2014 held in the NSM prison, continues in the capital Baku. Elsewhere, Shia Muslim prisoner of conscience Taleh Bagirov is challenging his transfer to Qobustan Prison where torture has been documented. All these prisoners of conscience are being denied visits by relatives and friends, as well as religious literature.

Azerbaijan's National Security Ministry (NSM) secret police Investigation Prison contains eight known prisoners of conscience held for exercising their freedom of religion or belief. The cases of five of the eight in the NSM headquarters in the capital Baku – all Sunni Muslims – have been handed to court, apparently for imminent trial. Two more – both female Jehovah's Witnesses who have been held since February – have had their pre-trial detention extended by two months. The remaining prisoner of conscience held for exercising his freedom of religion or belief in the NSM prison – a Shia Muslim – is half-way through his initial four-month pre-trial detention, though Forum 18 News Service notes that this too could be extended.

The trial of another group of five Sunni Muslims, who were in 2014 held in the NSM prison, continues in Baku. And a Shia Muslim who opened a prayer room in his home has been freed after completing his six-month prison term (see below).

These human rights violations are part of a continuing state crackdown on people exercising human rights Azerbaijan's government has solemn international obligations to protect. Many lawyers, journalists, human rights defenders and public figures the government dislikes, including Muslims and Jehovah's Witnesses exercising their freedom of religion or belief, have been jailed (see eg. F18News 9 April 2015 http://www.forum18.org/archive.php?article_id=2054). A Jehovah's Witness conscientious objector to military service who has been sentenced to one year in a disciplinary military unit has appealed to the Supreme Court (see below).

Eight NSM secret police prisoners of conscience

The two female Jehovah's Witness prisoners of conscience Valida Jabrayilova and Irina Zakharchenko, whose pre-trial detention was extended, are being investigated on criminal charges of being an "organised group" distributing religious literature which has not undergone the compulsory state censorship (see below).

The criminal cases against the five imprisoned Sunni Muslims – also accused of distributing religious literature which has not undergone the compulsory state censorship - were completed in late April and handed over to Baku's Narimanov District Court in early May, friends of the accused told Forum 18 from Baku. The five are likely to be tried individually, but the cases have not yet been assigned to judges and no trial dates appear to have been set. Telephones at the court went unanswered on 13 May (see below).

State censorship of religious texts is strictly applied and the Old Testament, the writings of Islamic theologian Said Nursi, and some Jehovah's Witness texts are on a police list of banned religious literature (see F18News 6 May 2014 http://www.forum18.org/archive.php?article_id=1955). These texts are routinely confiscated by police (see eg. F18News 3 June 2014 http://www.forum18.org/archive.php?article_id=1964).

In addition to the two Jehovah's Witnesses and the five Sunni Muslims, the NSM secret police Investigation Prison in Baku also holds Shia Muslim theologian and translator Jeyhun Jafarov. His lawyer is preparing to challenge his imprisonment as the criminal investigation against him continues (see below).

The officials who answered the phone at the NSM secret police Investigation Prison on 13 May refused to comment on the situation

of the eight known prisoners of conscience held in NSM detention for exercising their freedom of religion or belief. They asked Forum 18 to call back the following day. Called on 14 May, the official who answered the phone said all enquiries must be given in writing.

The NSM secret police Investigation Prison in Baku – where all eight of these prisoners of conscience are being held – is on the upper floor of the main NSM building in Baku. The address is:

Milli Tahlukasizlik Nazirliyinin

Istintaq Tacridxanasi

Parlament Prospekti 14

Baku AZ-1006

Azerbaijan

NSM Investigation Prison conditions

No relatives, friends or fellow-believers are allowed into the NSM secret police Investigation Prison for visits to the prisoners of conscience since their arrests, friends of the two Jehovah's Witness women, the five Sunni Muslims and Shia Muslim Jafarov told Forum 18 (see eg. F18News 9 April 2015 http://www.forum18.org/archive.php?article_id=2054). Jafarov is being held in a two-person cell in the Investigation Prison. His wife and two adult children (both students) are not able to visit him. "Only his lawyer is allowed in to see him", family members told Forum 18.

Fellow Jehovah's Witnesses remain highly concerned about Jabrayilova and Zakharchenko. "We think that physically they are well, but are worried about their emotional state", Jehovah's Witnesses told Forum 18. Relatives brought a Bible for each of them, but prison officials refused to accept them. The women are allowed no Jehovah's Witness literature. Their lawyers said they were unable to help resolve this.

The eight prisoners of conscience have not been allowed literature since their arrests, apart from Jafarov being allowed an Azeri-language translation of the Koran (see eg. F18News 9 April 2015 http://www.forum18.org/archive.php?article_id=2054). Family members sent Jafarov a copy of the Koran in Arabic, but prison officials refused to give it to him. "They told us he had no need of it", family members told Forum 18. In Islam the Koran is only permitted to be recited during worship in Arabic, making the refusal to give Jafarov an Arabic-text Koran very harsh. The family also sent other religious books, but those with any hand-written annotations were rejected.

Jafarov is also not allowed to have a watch with him to be able to know when it is time for prayer, his lawyer Javad Javadov told Forum 18.

Muslim prisoners of conscience Eldeniz Hajiyev and Ismayil Mammadov, now on trial with others in Baku (see below), were not allowed access to the Koran or any other books while they were in 2014 held in the NSM prison (see F18News 8 May 2014 http://www.forum18.org/archive.php?article_id=1956).

Violence has been used by the NSM secret police and other officials against those it questions (see eg. F18News 18 November 2014 http://www.forum18.org/archive.php?article_id=2016).

The NSM Investigation Prison in Baku was one of a number of prisons the United Nations (UN) Subcommittee on Prevention of Torture (SPT) visited in late April 2015, after a failed September 2014 visit which encountered "obstructions" from the authorities. Aisha Shujune Muhammad, head of the SPT delegation, noted on 24 April at the end of the visit that Azerbaijan "has yet to guarantee all fundamental legal and procedural safeguards to persons deprived of their liberty, including access to a lawyer, a medical doctor, and to contact his or her family".

The UN said it is encouraging Azerbaijan to allow its confidential report on the April visit to be made public. The NSM Investigation Prison was also among Azerbaijan's prisons visited by a delegation from the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) in December 2012. However, the Azerbaijani government has refused to allow the Committee to publish its report of the visit (see F18News 23 February 2015 http://www.forum18.org/archive.php?article_id=2041). The previous CPT report to be published in 2009 did not include the NSM prison but noted instances of torture and intimidation of prisoners held elsewhere for speaking to the CPT (see below).

Imprisonment extended for two months

In separate hearings on 7 May 2015, Judge Elshad Shamayev of Baku's Sabail District Court extended for two months the pre-trial

detention at the NSM Investigation Prison of the two Jehovah's Witness prisoners of conscience Jabrayilova and Zakharchenko, an assistant to the judge confirmed to Forum 18 from the court on 13 May. Both were arrested on 17 February, initially for three months (see F18News 23 February 2015 http://www.forum18.org/archive.php?article_id=2041). The assistant, who would not give his name, would not discuss why their pre-trial detention was extended or any other aspect of the cases.

Judge Shamayev has been instrumental in facilitating the government's pre-trial detention in 2014 and 2015 of Muslim and Jehovah's Witness prisoners of conscience on grounds of religion or belief. He has refused to answer questions about his repeated role in such imprisonments (see F18News 9 April 2015 http://www.forum18.org/archive.php?article_id=2054).

The request to extend the two women's pre-trial imprisonment until 17 July came from NSM Chief Investigator Matlab Mehdiyev, who is leading the investigation against both, Jehovah's Witnesses told Forum 18. He summoned many other Jehovah's Witnesses for questioning in the immediate aftermath of the two women's arrest (see F18News 16 March 2015 http://www.forum18.org/archive.php?article_id=2048). Two community leaders were again summoned for questioning in early May.

Jabrayilova, who is 37, and fellow Jehovah's Witness Irina Zakharchenko, who is 54, were arrested on 17 February and ordered held in pre-trial detention for three months while the investigation continues under Criminal Code Article 167-2.2.1. This punishes: "Production, sale and distribution of religious literature, religious items and other informational materials of religious nature with the aim of import, sale and distribution without appropriate authorisation" when conducted by an "organised group". Punishment is a fine or imprisonment of two to five years. Their appeal against their pre-trial detention was rejected on 26 February (see F18News 16 March 2015 http://www.forum18.org/archive.php?article_id=2048).

On 4 April Judge Shamayev rejected a request to transfer Jabrayilova from pre-trial detention to house arrest (see F18News 9 April 2015 http://www.forum18.org/archive.php?article_id=2054).

Trials imminent?

The most prominent of the five NSM Sunni Muslim prisoners of conscience is 41-year-old Mubariz Qarayev, imam of Baku's Lezgin Mosque. The criminal case against him was completed on 27 April and handed to Narimanov District Court in early May, his friends told Forum 18 from Baku on 6 May.

The criminal cases against the other four - Habibullah Omarov, Salim Qasimov, Eyvaz Mammadov and Azad Qafarov – were completed about the same time and handed to the same Court.

All five are facing trial under Criminal Code Article 167-2.1. This punishes: "Production, sale and distribution of religious literature, religious items and other informational materials of religious nature with the aim of import, sale and distribution without appropriate authorisation". Punishments for first time offenders acting alone are a fine or up to two years' imprisonment.

The five men had run several shops selling books and other religious items in Baku's Narimanov District. They were arrested in late February. All five were ordered held in pre-trial detention for three months while the investigation was conducted (see F18News 16 March 2015 http://www.forum18.org/archive.php?article_id=2048).

The Lezgin Mosque in Baku's Old City, where Qarayev was imam until his arrest, is one of many Sunni Muslim mosques the government seeks to close (see eg. F18News 18 November 2014 http://www.forum18.org/archive.php?article_id=2016).

Officials had told the Lezgin Mosque community on 17 April that it had to close ahead of the European Games, giving them three days to leave (see F18News 21 April 2015 http://www.forum18.org/archive.php?article_id=2057).

However, community members told Forum 18 that officials have now told them the Mosque can continue to operate until the European Games finish in June. However, Old City Reserve deputy head Elchin Yusupov told them in mid-April that as soon as the Games are over the Mosque will be forcibly closed for repairs, which community members insist are unnecessary. Mosque members complain not only of the prolonged insecurity around whether the authorities will stop them using their mosque building, but that officials will not put any of their demands in writing.

Challenge to pre-trial imprisonment

Javadov, the lawyer for Shia theologian Jafarov, is preparing to challenge through the courts his continued imprisonment in the NSM secret police Investigation Prison. "There is no reason to keep Jeyhun in prison and we want him out", family members told Forum 18 from Baku on 13 May. "If he is at home as the investigation continues he can always go in when they need to question him."

Jafarov – who will be 43 on 7 June - was arrested on 10 March and was ordered by Judge Shamayev to be held in four-month detention while under investigation on treason charges. The charges carry a maximum lifetime prison term (see F18News 9 April

2015 http://www.forum18.org/archive.php?article_id=2054).

"Jeyhun didn't commit any offence", family members insisted to Forum 18. "There is no proof and he rejects the accusations. The charges have been brought because of his religious activity – there is no other explanation."

Continued detention of prisoner of conscience illegal

Meanwhile, another prisoner of conscience held for exercising his freedom of religion or belief, 30-year-old Shia preacher Imam Taleh Bagirov (also known as Bagirzade), is still trying to challenge his transfer to the harsher Qobustan [Gobustan] Prison in December 2014. A court ruled in November 2014 that he should be transferred to harsher conditions in isolation for the rest of his term.

Imam Bagirov was given a two-year strict regime prison sentence in November 2013 on drugs charges his supporters insist were fabricated to punish him for his religious and political activity. His driver Anar Melikov was also jailed for 19-months in August 2013 (see F18News 7 November 2013 http://www.forum18.org/archive.php?article_id=1894). At a further trial in August 2014, a Baku court sentenced Bagirov to an extra four months' imprisonment for allegedly having an illegal mobile phone in his cell (see F18News 14 August 2014 http://www.forum18.org/archive.php?article_id=1985).

Javadov appealed to Baku Appeal Court on Bagirov's behalf against the transfer to Qobustan Prison. However, in mid-April Judge Aflatun Qasimov suspended consideration of the appeal, according to the court website. The Judge rejected Javadov's motion to have a full court re-examination of the evidence allegedly justifying the transfer (see F18News 21 April 2015 http://www.forum18.org/archive.php?article_id=2057).

The appeal has now been transferred to the Supreme Court, Javadov told Forum 18. However, no date has yet been set for a hearing.

"All this means that the court decision to transfer Taleh to Qobustan Prison has not entered into legal force", Javadov told Forum 18. "So their continued detention of him there is illegal. He should be returned to the previous prison."

No visits, no literature, handcuffed whenever outside cell

Bagirov's wife and their two children are unable to visit him in prison. As his lawyer, Javadov is the only person allowed to visit, most recently on 12 May. "Taleh is kept in isolation. Every time he leaves his cell he is put in handcuffs", Javadov stated. "This is allowed only for extremely dangerous prisoners."

Bagirov is allowed no religious literature, not even the Koran, Javadov added. Nor is he allowed any newspapers or other literature or access to television. "He has no meetings with relatives, nor any telephone calls."

Torture and prisoner intimidation

After a 2008 visit the Council of Europe's CPT stated that prisoners in Qobustan Prison were subjected to "deliberate physical ill-treatment and excessive use of force by prison officers. The forms of ill-treatment alleged consisted mainly of punches, kicks and blows with truncheons, as well as sexual abuse using a truncheon. The ill-treatment had reportedly been inflicted in the establishment's 'club' (i.e. association room), disciplinary unit and the exercise yards adjacent to it. In addition, a number of prisoners complained that certain prison officers had subjected them to verbal abuse."

The CPT also noted that "the delegation witnessed an attempt by a prison officer to threaten a prisoner for having spoken to the delegation. It also became apparent during the visit that certain prisoners detained at Gobustan Prison had been warned against making complaints to the delegation" (see <http://www.cpt.coe.int/documents/aze/2009-28-inf-eng.htm>).

Bagirov's address in Qobustan Prison is:

Qobustan qasabasi

Qaradag rayonu

Baku AZ-1080

Azerbaijan

Prison term completed

Sunni Muslim prisoner of conscience Zohrab Shikhaliyev was freed from prison on 13 May at the end of his sentence, his friends told Forum 18 from Baku on 14 May. This was six months to the day since his arrest. Shikhaliyev had served his sentence in

Investigation Prison No. 1 at Kurdakhani in Baku's Sabunchu District.

The 36-year-old Shikhaliyev was arrested in November 2014. His friends insisted that this was to punish him for maintaining an open Sunni Muslim prayer room in his home in the town of Sumgait [Sumqayit] north of Baku. Sumgait has no other Sunni Muslim place of worship and the government consistently closes Sunni mosques (see eg. F18News 18 November 2014 http://www.forum18.org/archive.php?article_id=2016).

At the end of Shikhaliyev's trial in February 2015, he was found guilty of keeping illegal weapons and ammunition in his home under Criminal Code Article 228.1. This carries a punishment for having illegal weapons of imprisonment of up to three years. Shikhaliyev was given a six-month term of imprisonment (see F18News 23 February 2015 http://www.forum18.org/archive.php?article_id=2041).

Trial continues for former secret police prisoners

Also held for several months in 2014 in the Baku NSM secret police Investigation Prison were three of five other Sunni Muslims now on trial in Baku. Four of the five - Eldeniz Hajiyevev, Ismayil Mammadov, Zakariyya Mammadov and Shahin Hasanov – face up to five years' imprisonment if convicted. The fifth - Revan Sabzaliyev – faces up to three years' imprisonment. The trial began under Judge Akshin Afandiyev at Baku's Yasamal District Court with a preliminary hearing on 10 December 2014 and hearings have continued since then (see F18News 16 March 2015 http://www.forum18.org/archive.php?article_id=2048).

The five Muslims were with others arrested for participating in a meeting to discuss their faith which was raided by armed police and NSM secret police in April 2014. They were transferred to house arrest in September 2014 after up to five months in pre-trial detention at the NSM secret police Investigation Prison in Baku (see F18News 22 September 2014 http://www.forum18.org/archive.php?article_id=1999).

The most recent hearing in the case was held on 4 May, with the next due on 18 May, the lawyer for four of the five men Asabali Mustafayev told Forum 18 from Baku on 13 May. He expects the trial to continue into June.

As long as the trial continues, the five men are living under restrictions. This includes a ban on leaving Baku.

Conscientious objector's Supreme Court appeal

On 15 April, Jehovah's Witness conscientious objector Kamran Shikhaliyev (no relation of Zohrab Shikhaliyev) lodged an appeal with the Supreme Court in Baku against his one year sentence of detention in a military disciplinary unit, Jehovah's Witnesses told Forum 18. An official of the Supreme Court Military Collegium confirmed receipt of the appeal to Forum 18 on 13 May. She said the Supreme Court is now seeking the case file from Shirvan Appeal Court and will assign the case once the documentation arrives.

Kamran Shikhaliyev was forcibly conscripted in Baku in October 2013, just after his 18th birthday, and was then transferred to a military unit. He was maltreated following his enforced conscription. In April 2014 Jalilabad Military Court sentenced him under Criminal Code Article 335.1 ("Evasion of military service by causing harm to health or in another way") to one year in a military disciplinary unit. In July 2014 Shirvan Appeal Court rejected his appeal against the conviction. He was finally transferred to a military disciplinary unit in Salyan in December 2014, though it remains unclear if and when his one year sentence has begun (see F18News 12 February 2015 http://www.forum18.org/archive.php?article_id=2037).

Shikhaliyev has been subjected to "physical abuse, verbal humiliation, and psychological pressure". But, Jehovah's Witnesses have told Forum 18, "he has not wavered in his conscientious religious position" (see F18News 10 February 2014 http://www.forum18.org/archive.php?article_id=1926).

Earlier conscientious objector Supreme Court appeal failure

An earlier Jehovah's Witness conscientious objector, Kamran Mirzayev, failed in his appeal to the Supreme Court to have his sentence for refusing compulsory military service on grounds of conscience overturned (see F18News 12 February 2015 http://www.forum18.org/archive.php?article_id=2037). A hearing on 24 February under Presiding Judge Gulzar Rzayeva rejected his appeal, according to the Supreme Court website.

Mirzayev was convicted at Goychay District Court in March 2013 under Criminal Code Article 321.1 and sentenced to nine months' imprisonment. Sheki Appeal Court rejected his first appeal in May 2013. He was amnestied on 20 June 2013 after three months' imprisonment (see F18News 28 June 2013 http://www.forum18.org/archive.php?article_id=1852).

Determined to clear his name, Mirzayev appealed against his conviction to the Supreme Court in November 2014, arguing that Azerbaijan's Constitution upholds the right to perform an alternative to the compulsory military service. Azerbaijan has been condemned by Council of Europe bodies for its failure to honour its promise to introduce such an alternative service by 2004 (see F18News 12 February 2015 http://www.forum18.org/archive.php?article_id=2037).

Criminal Code Article 321.1 states: "Evasion without lawful grounds of call-up to military service or of mobilisation, with the purpose of evading serving in the military, is punishable by imprisonment for up to two years [in peacetime]".

European Court of Human Rights appeals

Now his Supreme Court appeal has failed, Mirzayev intends to appeal to the European Court of Human Rights (ECtHR) in Strasbourg, Jehovah's Witnesses told Forum 18. Three other Azerbaijani Jehovah's Witness conscientious objectors have already appealed to the ECtHR over their earlier imprisonment.

The three are:

Mushfiq Mammedov and Samir Huseynov v. Azerbaijan (Application No. 14604/08);

and Farid Mammedov v. Azerbaijan (Application No. 45823/11)

(see F18News 10 February 2014 http://www.forum18.org/archive.php?article_id=1926).

No admissibility decisions have been made by the ECtHR on the cases. (END)

For more background information see Forum 18's Azerbaijan religious freedom survey at http://www.forum18.org/Archive.php?article_id=1690.

More coverage of freedom of thought, conscience and belief in Azerbaijan is at <http://www.forum18.org/Archive.php?query=&religion=all&country=23>.

See also the Norwegian Helsinki Committee/Forum 18 report on freedom of religion or belief in Azerbaijan at: http://www.nhc.no/content/uploads/2018/07/Rapport2_15_Aserbajdsjan_web.pdf

A compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments can be found at http://www.forum18.org/Archive.php?article_id=1351.

For a personal commentary, by an Azeri Protestant, on how the international community can help establish religious freedom in Azerbaijan, see http://www.forum18.org/Archive.php?article_id=482.

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If you need to contact F18News, please email us at:
f18news @ editor.forum18.org

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY