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AZERBAIJAN: Repeated fines, repeated jailings of prisoners of conscience

By Felix Corley, Forum 18

Prisoner of conscience Rashad Niftaliyev was released from prison in Azerbaijan's second city Gyanja on the evening of 14 December, after completing a 25-day sentence for not paying large fines imposed to punish him for taking part in religious meetings. "Although he thinks the fines are unjust, Rashad has been paying in small instalments according to his limited means," Jehovah's Witnesses told Forum 18 News Service. Another Jehovah's Witness short-term prisoner of conscience, 50-year-old Irada Huseynova, was freed on 3 December after being jailed for three days for taking part in a religious meeting. Both had previously been jailed as prisoners of conscience. On 5 December, 10 days after a police assault on Muslims worshipping in Nardaran, President Ilham Aliyev signed into law rushed legal changes to the Religion Law, the Criminal Code, the Administrative Code and the Citizenship Law – as well as a new "Religious Extremism" Law. They further restrict the right to freedom of religion or belief.

Prisoner of conscience Rashad Niftaliyev was released from prison in Azerbaijan's second city Gyanja [Gäncä] on the evening of 14 December, after completing a 25-day sentence for failing to pay massive fines imposed to punish him for participating in religious meetings. "Although he thinks the fines are unjust, Rashad has been paying in small instalments according to his limited means," Jehovah's Witnesses told Forum 18 News Service.

This prison term, his second in 14 months, was five days after a further police raid on a Jehovah's Witness meeting in Gyanja. After that raid Niftaliyev and 11 others were fined. Prisoner of conscience Niftaliyev turned 28 during his imprisonment.

Niftaliyev's fines now total 9,450 Manats (about 41,290 Norwegian Kroner, 4,315 Euros, or 4,730 US Dollars). The State Statistical Service estimates the average monthly wage for those in work at 462 Manats (about 3,850 Norwegian Kroner, 400 Euros, or 440 US Dollars). This means that Niftaliyev's fines total more than 20 months' average wages for those in work.

The police raid on the Jehovah's Witness meeting for worship in Gyanja was just before a massive raid on followers and suspected followers of the Muslim Unity Movement, led by Shia Muslim imam and former prisoner of conscience Taleh Bagirov (also known as Bagirzade). He and many other Muslims were arrested on 26 November in a violent raid on the village of Nardaran, north of the capital Baku. During the raid, two police officers and at least five villagers were shot dead and police then detained 14 Muslims as prisoners of conscience (see F18News 1 December 2015 http://www.forum18.org/archive.php?article_id=2127).

Since the raid, the authorities have forcibly closed mosques in Nardaran because they did not have the compulsory state registration (see F18News 18 December 2015 http://www.forum18.org/archive.php?article_id=2135). For some years the authorities have targeted many mosques outside state control – especially Sunni Muslim mosques – for closure (see Forum 18's Azerbaijan religious freedom survey http://www.forum18.org/archive.php?article_id=2081).

Post-Nardaran legal restrictions signed into law

On 5 December, 10 days after the police assault on Nardaran, President Ilham Aliyev signed into law legal amendments restricting still further the right to freedom of religion or belief. The amendments had been hurriedly drafted and rushed through parliament, the Milli Mejlis. Parliament is already considering a new Administrative Code proposed by President Aliyev which, if adopted, will come into force on 1 January 2016.

"Long discussion", compliant with international human rights standards?

Siyavush Novruzov, a ruling party deputy and head of the newly-created Milli Mejlis Public Associations and Religious Organisations Committee, insisted the legal changes were "necessary". "People, our citizens, have been wanting these changes and there has been long discussion of them," he claimed to Forum 18 from Baku on 16 December. He also claimed (falsely) that Azerbaijan sends all proposed laws to the Council of Europe for review. He did not explain why the legal amendments had been made public only one or two days before they were adopted in parliament, with no opportunity for comment either within Azerbaijan or internationally.

Novruzov also insisted the legal changes are in accordance with international human rights standards. Asked why religious communities – like Gyanja's Jehovah's Witness community and many others of a wide range of faiths – cannot meet for worship without state permission – Novruzov insisted that "each religion is allowed by law once it has registration to meet for worship". Told that international standards forbid requiring people to have state permission to meet for worship, he put the phone down. Subsequent calls went unanswered.

The Administrative Code already prescribes heavy penalties for exercising the right to freedom of religion or belief as well as other human rights (see Forum 18's Azerbaijan religious freedom survey http://www.forum18.org/archive.php?article_id=2081). These have been used to punish Niftaliyev and 11 others in Gyanja (see below).

Even before the latest amendments, Azerbaijan already had the harshest restrictions on the right to freedom of religion or belief in the Council of Europe. Many provisions of the Religion Law, Criminal Code and Administrative Code violate the country's international human rights commitments (see Forum 18's Azerbaijan religious freedom survey http://www.forum18.org/archive.php?article_id=2081).

Secret police's new name

The ordinary police and National Security Ministry (NSM) secret police have often raided, arrested and confiscated religious items from individuals and communities, and been responsible for many violations of freedom of religion or belief. On 14 December President Aliyev signed a decree replacing the NSM secret police with a State Security Service (SSS) with an internal role, and a Foreign Intelligence Service responsible for operations outside Azerbaijan.

The NSM secret police arrested many of the prisoners of conscience imprisoned for exercising their right to freedom of religion or belief. These include two female Jehovah's Witnesses – Irina Zakharchenko and Valida Jabrayilova – whose trial began in Baku's Pirallahi District Court on 10 December after nearly 10 months' NSM imprisonment as prisoners of conscience (see F18News 9 December 2015 http://www.forum18.org/archive.php?article_id=2131). Their trial is due to resume at 2.10 pm on 17 December (see F18News 18 December 2015 http://www.forum18.org/archive.php?article_id=2135).

Among other prisoners of conscience, the then NSM secret police also arrested Shia Muslim Jeyhun Jafarov, who remains in prison awaiting trial on treason charges. On 8 November a judge extended his pre-trial imprisonment until 17 January 2016 (see F18News 19 November 2015 http://www.forum18.org/archive.php?article_id=2123).

Police raid religious meeting

In the latest police raid on Gyanja's Jehovah's Witness community, officers raided a home on 14 November, Jehovah's Witnesses told Forum 18. They stopped the meeting for worship and took 27 people (including five children) to the city's Kapaz District Police Station. Police told the local media they had received "operational information" that an illegal meeting was underway. They said the local office of the State Committee had also taken part in the raid.

The telephone of Kapaz District Police chief went unanswered each time Forum 18 called on 16 December. No one else there would comment on why officers raided a religious meeting in a home.

At the police station, officers charged 12 of the detainees - including Niftaliyev - with violating Article 299.0.2 of the Administrative Code. This punishes "violating legislation on holding religious meetings, marches, and other religious ceremonies", with fines for individuals of between 1,500 and 2,000 Manats.

In closed hearings between 18 and 25 November, Judge Yashar Hashimov of Kapaz District Court found nine individuals guilty under Article 299.0.2, Jehovah's Witnesses told Forum 18. They were each fined the maximum 2,000 Manats (about 16,660 Norwegian Kroner, 1,740 Euros, or 1,910 US Dollars), more than four months' average wages for those in work.

Jailed for not paying earlier fines in full

On 19 November, the bailiffs' office summoned Niftaliyev to question him on his slow payment of five previous fines imposed on him since 2010 for exercising the right to freedom of religion or belief. Niftaliyev explained his efforts to make payments and his circumstances - that he has a limited income and needs to support his ill mother - but the bailiff sent the matter to court.

That same day, Kapaz District Court jailed Niftaliyev under Administrative Code Article 313-1.1 ("Non-fulfillment of court officers' orders connected with the execution of court and other authorities' judgments"). The punishment for individuals is a fine or imprisonment of up to one month.

Subsequently, the court also fined Niftaliyev for participating in the 14 November religious meeting, "further increasing his debt and adding to the injustice of punishing him for his worship", Jehovah's Witnesses told Forum 18.

Another local Jehovah's Witness, 50-year-old Irada Huseynova, was given a three-day prison term, also under Administrative Code Article 313-1.1. She was freed on 3 December on completion of the term. She was able to appeal against the sentence to Gyanja Appeal Court. Judge Badal Aliyev is due to hear her appeal on the morning of 17 December.

Earlier jailings of the two prisoners of conscience

Prisoner of conscience Huseynova served a three-day prison term under the same Article in October 2014 for having paid only 40 Manats of fines totalling 1,800 Manats handed down to punish her for exercising the right to freedom of religion or belief. She was imprisoned despite telling the court that she had no money to pay as she does not work and looks after her mother (see F18News 9 April 2015 http://www.forum18.org/archive.php?article_id=2054).

Prisoner of conscience Niftaliyev was among a group of Jehovah's Witnesses punished in a late-night hearing in December 2010 after a police raid. He was fined 150 Manats (see F18News 7 January 2011 http://www.forum18.org/Archive.php?article_id=1527). In June 2011 he was again fined 1,500 Manats, following another raid. He was among six local Jehovah's Witnesses fined in November 2011 after another police raid on a religious meeting. He was fined 2,000 Manats (see F18News 14 December 2011 http://www.forum18.org/archive.php?article_id=1647). In July 2012 Niftaliyev and another of those fined in November 2011 were taken to court after being unable to pay the massive fines. Although the other Jehovah's Witness was punished with a three-day prison term, Niftaliyev was given a formal warning (see F18News 10 August 2012 http://www.forum18.org/Archive.php?article_id=1730). He was also among several Jehovah's Witnesses fined 2,000 Manats in October 2014 for meeting together. He was also, along with Huseynova, Mardan Mammadov and Asim Mammadov, jailed as a short-term prisoner of conscience at the same time (see F18News 24 February 2015 http://www.forum18.org/archive.php?article_id=2042).

On 1 March 2012, Niftaliyev lodged a case on his and his fellow Jehovah's Witnesses' behalf to the European Court of Human Rights (ECtHR) in Strasbourg over the June 2011 raid (Application No. 561/12) (see Forum 18's Azerbaijan religious freedom survey http://www.forum18.org/archive.php?article_id=2081). The Court told Forum 18 on 16 December 2015 that the case is still pending and no admissibility decision has yet been taken.

Pattern of raids on meetings for worship

The 14 November police raid on the Jehovah's Witness meeting was the eighth in Gyanja since 2010. (Police have also raided their meetings in Lenkoran, Lokbatan, Mingachevir, Shamkir and Zakatala [Zaqatala].)

Police raids follow the same general pattern, Jehovah's Witnesses note. While a small group of worshippers are meeting in a home, police enter without a search warrant or a court order and do not properly identify themselves or the reason why they have come. They stop the meeting, confiscate personal Bibles and religious literature, videotape the scene, and insult and verbally threaten those in attendance.

Police then take everyone present, including children and the elderly, to the police station. A court hearing is set for later in the day, although a court may grant individuals the opportunity to contact their own lawyers and allow a few days for them to prepare a defence. On several occasions, the local media has publicised these arrests and even shown photos or videos of Jehovah's Witnesses waiting inside the police station.

Registration required but consistently denied

Because Jehovah's Witnesses in Gyanja have been unable to obtain state registration, the authorities state that their meetings for worship are unlawful. Kapaz District Court used that reasoning in fining those who participated in the 14 November meeting, stating that "the community of Jehovah's Witnesses has not obtained official permission from the relevant authorities to operate in the city of Gyanja".

Officials rely for prosecutions on Article 12 of the Religion Law, which states: "Religious organisations may function only after state registration by a relevant state body and the state registry of religious organisations" (see Forum 18's Azerbaijan religious freedom survey http://www.forum18.org/archive.php?article_id=2081). Jehovah's Witnesses argue that Article 12 only concerns religious legal entities and note that Religion Law Article 21 states: "Worship .. religious rites and ceremonies shall be freely carried out in places of worship .. as well as in apartments and houses of citizens". They also note that Article 4 of the Law on Freedom of Assembly excludes "religious ceremonies" from regulation.

Jehovah's Witnesses had registration in Baku from December 1999. Although the State Committee has failed to process the community's re-registration application submitted in 2009, the State Committee has never gone to court to cancel the previous registration. Many communities have complained of arbitrary State Committee decisions and delays in dealing with re-registration applications required under 2009 changes to the Religion Law (see Forum 18's Azerbaijan religious freedom survey http://www.forum18.org/archive.php?article_id=2081).

Jehovah's Witnesses have filed numerous applications for registration in Gyanja since 2010. However, the State Committee has denied their application each time for alleged technical errors or has not replied at all. The Gyanja community filed its most recent application on 10 November 2015, days before the police raid. The application is still pending.

In addition to Niftaliyev's appeal to the ECtHR, Jehovah's Witnesses in Azerbaijan have 20 other applications pending with the Strasbourg Court for violations of their right to freedom of religion or belief (see Forum 18's Azerbaijan religious freedom survey http://www.forum18.org/archive.php?article_id=2081).

Other recent Article 299.0.2 fines

People of many beliefs are, like the Jehovah's Witnesses, fined under Administrative Code Article 299.0.2 ("Violating legislation on holding religious meetings, marches, and other religious ceremonies"). Appeals usually fail.

For example, between 13 and 16 October various judges at Baku Appeal Court rejected appeals by five Muslims - Zakariyya Mammadov, Samir Agayev, Sayavush Bashirov, Fakhraddin Khanlayev and Latif Rahimov – against fines of 1,500 Manats (about 11,250 Norwegian Kroner, 1,400 Euros, or 1,900 US Dollars) each under Article 299.0.2 imposed on 20 September. On 14 October, different judges at the same court similarly rejected the appeals by two visiting Turkish Muslims - Nurullah Sungur and Mikhat Senol – against Article 299.0.2 fines of 2,000 Manats and deportation under Article 300.0.4 ("The conduct of religious propaganda by foreigners or stateless persons"). The fines and deportations were imposed on 20 September (see F18News 29 September 2015 http://www.forum18.org/archive.php?article_id=2106).

The seven had been present at a meeting of Sunni Muslims to study their faith in a Baku home raided by armed police on 19 September (see F18News 29 September 2015 http://www.forum18.org/archive.php?article_id=2106).

Mammadov was separately sentenced to five years' imprisonment on 7 October, one of five Sunni Muslim prisoners of conscience jailed for attending an earlier study meeting raided by police in April 2014 (see F18News 8 October 2015 http://www.forum18.org/archive.php?article_id=2109). Their appeals were heard on 1 December, but Baku Appeal Court sent them back as the lower court judge had failed to issue written verdicts as he should have done (see F18News 9 December 2015 http://www.forum18.org/archive.php?article_id=2131).

In contrast, on 18 November Judge Qadim Babayev of Baku Appeal Court overturned the punishment under Administrative Code Article 299.0.2 on Vilayat Qimriyev and sent the case back for a new hearing. Qimriyev had been punished on 23 October at Baku's Yasamal District Court.

On 8 October police in the southern city of Lenkoran, accompanied by State Committee officials, raided local shops hunting for religious literature being sold without state permission. They found 97 religious books being sold by Rovshan Qasimov, 39 by Tarlan Maharramov and 66 by Jeyhun Jabbarov, the Interior Ministry noted on its website the same day.

Forum 18 has been unable to find out if any of the three was punished. The telephone of Qagayi Mammadov, the Lenkoran-based official of the State Committee, went unanswered each time Forum 18 called on 16 December.

Selling religious literature that the state has not censored or in an unlicensed location is punishable under Administrative Code Article 300 ("Violation of legislation on freedom of religion") or Criminal Code Article 167-2 ("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") (see Forum 18's Azerbaijan religious freedom survey http://www.forum18.org/archive.php?article_id=2081).

Post-Nardaran new legal restrictions

The latest hastily-prepared legal amendments were first mentioned by officials in interviews from late November, days after the Nardaran crackdown (see F18News 1 December 2015 http://www.forum18.org/archive.php?article_id=2127). They were presented on 2 December to a joint session of the Milli Mejlis Legal Policy Committee and the Public Associations and Religious Organisations Committee. Only after this were the draft texts made public on the Milli Mejlis website.

The amendments – to the Religion Law, the Criminal Code, the Administrative Code and the Citizenship Law – as well as a new "Religious Extremism" Law were among six legal texts adopted in one sitting by the Milli Mejlis on 4 December. They were signed into law by President Aliyev on 5 December, according to the presidential website.

The Religion Law amendments expand Article 21 to introduce restrictions not only on religious rites and rituals, but also "attributes" or "symbols" (the term officials use for flags, slogans and the like). An addition to Article 21 states that symbols such as slogans or religious signs (apart from on a person) cannot be used outside places of worship, while religious flags can only be placed inside places of worship.

Officials have long complained of Islamic wall-posters and flags on the streets of Nardaran. State employees removed these after the 26 November raid.

The Religion Law amendments also widened the existing ban in Article 21 on Azerbaijani citizens who have studied abroad from conducting Islamic rituals (see Forum 18's Azerbaijan religious freedom survey http://www.forum18.org/archive.php?article_id=2081). Now both Azerbaijani citizens who have studied abroad and non-Azerbaijani citizens are banned from conducting Islamic rituals.

The Criminal Code gained a new Article, 168-1, punishing "violation of the procedure for religious propaganda and religious ceremonies". Part 1 punishes the conducting of Islamic rites by a citizen who has received their education abroad with one year's imprisonment or a fine of between 2,000 and 5,000 Manats. Part 2 punishes "religious propaganda by foreigners and stateless persons" with imprisonment of between one and two years. Either of these "crimes" committed repeatedly or by prior agreement among a group of people is punishable by between two and five years' imprisonment.

Officials did not explain why those who conduct Islamic rituals are singled out for especially harsh punishment.

The "Religious Extremism" Law is wide-ranging, contains many unclear definitions, and allows officials broad powers when dealing with allegedly "extremist" activity. Such room for arbitrary official actions is common in legislation on exercising freedom of religion or belief (see Forum 18's Azerbaijan religious freedom survey http://www.forum18.org/archive.php?article_id=2081). Similarly, widely-framed amendments to Article 18 of the Citizenship Law would allow stripping of citizenship from participants in religious groups the authorities deemed extremist.

The Administrative Code amendments introduce punishments for parents who fail to send their children to school. Officials have alleged that villagers in Nardaran often failed to send children to state schools. (END)

For more background information see Forum 18's Azerbaijan religious freedom survey at http://www.forum18.org/archive.php?article_id=2081.

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

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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