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AZERBAIJAN: Heavy fines for selling unapproved literature

By Felix Corley, Forum 18

Samad Alikhanov and Zahir Mirzayev were fined up to five months' average wages for offering religious literature for sale without state permission. The literature was confiscated. On 18 September a Baku court resumes hearing theologian Elshad Miri's suit against the State Committee pre-publication ban on his book on Islam.

Courts continue to hand down fines of up to five months' average wages on individuals who offer such literature for sale in unapproved locations or without the stickers to show the books have undergone state censorship. Azerbaijan imposes tight prior compulsory state censorship of all religious literature published, sold or distributed in or imported into the country.

Administrative Code Articles under which three individuals were punished for offering religious literature specify that the literature is to be confiscated.

Samad Alikhanov, accused of offering religious books for sale without state approval in the northern city of Sheki, failed to overturn his large fine on appeal on 7 September. He had been fined about four months' average wages in August (see below).

Similarly, Zahir Mirzayev, who offered religious books for sale without state approval in the south-eastern city of Shirvan, failed to overturn his large fine on appeal on 27 July. He had been fined about five months' average wages in February (see below).

Meanwhile, Adil Zinkiyev, who sold religious books at a mosque in the northern Zaqatala District which had not undergone the compulsory state censorship, was fined for selling products without the compulsory stickers to show they have state approval for sale. In what appears to be a new move, he was punished under the Administrative Code not for selling uncensored religious literature, but for selling items that require state approval for sale, such as alcohol, tobacco and religious literature. Sheki Appeal Court rejected his appeal on 18 May (see below).

No official of the State Committee for Work with Religious Organisations in the capital Baku was prepared to talk to Forum 18 on 11 September. Officials put the phone down as soon as Forum 18 began to ask why individuals are punished for offering religious literature without state permission.

Baku-based Islamic theologian Elshad Miri is challenging in court the State Committee's February pre-publication ban on his book "Things Not Existing in Islam", which prevented it being published in Azerbaijan. Baku's Administrative Economic Court No. 1 is due to resume hearing Miri's suit against the State Committee decision in the afternoon of 18 September (see below).

Miri's lawyer Elmar Suleymanov broadly welcomed the generally positive assessment of his client's book by the State Committee-appointed expert. He said that the State Committee had been unable to demonstrate any harm caused by the earlier publication of parts of the book in magazines (see below).

Complete religious literature censorship

All religious literature produced in, published in (including on the internet) or imported into Azerbaijan is subject to prior compulsory censorship. When the State Committee does give permission to publish or import a work it also specifies how many copies can be produced or imported. All religious materials sold must have a sticker (each costing 0.02 Manats) noting that they have State Committee approval. State officials have repeatedly denied that this represents censorship (see F18News 1 October 2015 http://www.forum18.org/archive.php?article_id=2107).

"One of the main directions of our activity is to prevent the spread of unauthorised religious literature," a Deputy Chair of the State Committee, Siyavush Heydarov, told the local Trend news agency on 27 January 2017.

The Old Testament, the 14-volume "Risale-i Nur" (Messages of Light) collection of writings by the late Turkish theologian Said Nursi, and several Jehovah's Witness publications were included on a police list of alleged "banned" religious literature, based on

State Committee "expert analyses" (see F18News 6 May 2014 http://www.forum18.org/archive.php?article_id=1955).

Religious literature and other materials can be sold or distributed only at specialised outlets which have been approved both by the State Committee and the local administration. People who sell religious literature and materials without such permission are routinely fined, with the materials being seized (see F18News 10 May 2017 http://www.forum18.org/archive.php?article_id=2278).

In 2017 the European Court of Human Rights (ECtHR) in Strasbourg asked the Azerbaijani government to respond in several Jehovah's Witness cases where the State Committee banned the import of their publications or police and the courts detained and punished individuals for distributing religious literature "illegally" (see F18News 13 February 2018 http://www.forum18.org/archive.php?article_id=2351).

In all, Jehovah's Witnesses have lodged four cases to the ECtHR in Strasbourg and one complaint to the United Nations Human Rights Committee over Azerbaijan's earlier censorship of their religious literature. The State Committee has not withheld permission for imports of Jehovah's Witness literature since November 2015.

Sheki: Appeal against large fine fails

Police caught Samad Alikhanov on 27 May transporting religious books to the Islamic College in the northern city of Sheki, including 3,076 copies of a book "I Study the Koran", and thousands of copies of other Islamic books which he had brought from Baku. Officers thought he was intending to sell them without state permission.

Police confiscated the books and sent them to the State Committee for an "expert analysis", which did not find that any had been banned. On 10 July Major Qudrat Rasulov, Head of Sheki City Police, drew up a record of an offence against him under Administrative Code Article 516.0.2.

Article 516.0.2 punishes "Selling religious literature (printed or on electronic devices), audio and video materials, religious merchandise and products, or other religious informational materials, which have been authorised for sale under the Religion Law, outside specialised sale outlets established with the permission of the relevant government authority distributing religious literature, religious objects and information material without State Committee permission".

Punishment under Article 516.0.2 entails confiscation of the literature, merchandise and products or other materials concerned. Additional punishments under Article 516 are: for individuals fines of between 2,000 and 2,500 Manats; for officials fines of between 8,000 and 9,000 Manats; for organisations fines of between 20,000 and 25,000 Manats; and for foreigners and stateless persons fines of between 2,000 and 2,500 Manats with deportation from Azerbaijan.

A fine of 2,000 Manats (9,850 Norwegian Kroner, 1,015 Euros or 1,175 US Dollars) represents about four months' average wages for those with a formal job. However, for those in rural areas, those without a formal job, or pensioners, such fines represent a far heavier financial burden.

On 6 August, Judge Jahid Imanov at Sheki District Court fined Alikhanov 2,000 Manats, the Judge's assistant told Forum 18 on 11 September.

Alikhanov appealed against his fine to Sheki Appeal Court. However, on 7 September Judge Rafail Aliyev rejected his appeal and left the fine unchanged, the Appeal Court chancellery told Forum 18 on 11 September.

The telephone of Taleh Abdullayev, the Sheki regional representative of the State Committee, went unanswered each time Forum 18 called on 11 September.

Shirvan: Appeal against large fine fails

In early 2018, officials found Zahir Mirzayev offering religious literature for sale without state permission in the south-eastern city of Shirvan. A case was prepared against him under Administrative Code Article 516.0.2.

On 26 February, a Judge at Shirvan City Court fined Mirzayev the maximum 2,500 Manats. This represents about five months' average wages for those with a formal job. However, for those in rural areas, those without a formal job, or pensioners, such fines represent a far heavier financial burden.

Mirzayev appealed against his fine to Shirvan Appeal Court. However, on 27 July, Judge Kamil Bashirov rejected his appeal and left the fine unchanged, the Appeal Court chancellery told Forum 18 on 5 September.

The telephone of the Shirvan regional representative of the State Committee went unanswered each time Forum 18 called on 11 September.

Punishment for selling non-approved books

The regional official of the State Committee in the northern region of Zaqatala, Ilqar Valiyev, arrived at about the time of Friday prayers on 16 February at the mosque in the village of Car, 5 kms (3 miles) north-east of Zaqatala. The village – with a population of about 5,000 – is mainly Avar-speaking and is close to Azerbaijan's northern border with Russia.

Valiyev found the 37-year-old Adil Zinkiyev offering 19 religious and historical books and 16 pamphlets for sale outside the mosque. The Islamic publications were in Avar, Russian and Arabic, many of them published in Russia. They had not undergone the compulsory state censorship and were not marked with the required State Committee sticker.

Valiyev prepared a record of an offence under Administrative Code Article 451. This punishes "Storing with the intention of sale or distribution, taking outside the place of production, or selling or distributing in any other way goods, products and informational material that should bear a control mark but do not have such a mark". Such items include alcohol, tobacco and religious literature.

Article 451 specifies a fine of 50 Manats per item for individuals (to a maximum of 5,000 Manats), 100 Manats per item for officials (to a maximum of 10,000 Manats), and 150 Manats per item for legal entities (to a maximum of 50,000 Manats). In addition, items without the stickers authorising sale are to be confiscated.

On 6 March, Judge Arif Ismayilov of Zaqatala District Court fined Zinkiyev 1,750 Manats. This represents more than three and a half months' average wages for those with a formal job. It appears the judge fined Zinkiyev 50 Manats for each of the 35 seized publications.

Valiyev claimed in court that Zinkiyev had violated Article 22 of the Religion Law. This Article sets out the requirement for all religious literature offered for sale to be marked with the State Committee stickers to show that it has undergone the state religious censorship. It also requires State Committee permission for religious literature to be sold in a particular location.

Zinkiyev appealed against the punishment. However, on 18 May, Judge Rafail Aliyev of Sheki Appeal Court rejected his appeal and left the fine unchanged, according to the decision seen by Forum 18.

Reached on 11 September, religious affairs official Valiyev claimed he could not hear Forum 18's questions and put the phone down. Called back immediately, his mobile phone had been switched off.

Theologian's challenge to state's book ban to resume in court

Baku-based Islamic theologian Elshad Miri lodged a suit to court, challenging the State Committee's pre-publication ban on his book "Things Not Existing in Islam". The book covers seven of what he regards as myths about what Islam teaches. Chapters include "There is no magic in Islam" and "There is no child marriage in Islam" (see F18News 14 May 2018 http://www.forum18.org/archive.php?article_id=2376).

Judge Aygun Abdullayeva of Baku's Administrative Economic Court No. 1 is due to resume hearing Miri's suit against the State Committee decision in the afternoon of 18 September, according to court records.

The case began in court on 4 April, with further hearings on 1, 10 and 15 May. At the 15 May hearing, Judge Abdullayeva ordered a religious studies "expert analysis" of Miri's book. This was assigned to Islamic scholar Anar Qafarov of Baku's Theology Institute. President Ilham Aliyev decreed the founding of the Institute on 9 February, subordinating it to the State Committee.

Qafarov completed his 15-page analysis – partially seen by Forum 18 - on 9 August. In his conclusions, Qafarov states that Miri's book does not incite religious hatred or enmity, or conflict between religions and denominations. However, it claims that some parts of the book could have a negative influence on the religious situation in the country.

Qafarov maintains that the book could be published if Miri changes its title and some of the chapter headings, and gives more sources.

Miri's lawyer Elmar Suleymanov broadly welcomed the "generally positive assessment" of his client's book by the State Committee-appointed expert. He particularly welcomed the conclusion that Miri's book does not incite religious hatred or enmity, or conflict between religions and denominations.

Suleymanov told Forum 18 that in earlier hearings, he had presented issues of magazines from 2016 which had published extracts from the book. "Presenting these magazines in court, we drew the judge's attention to the fact that, despite the passage of more than two years since these publications, what had been published in these magazines caused no harmful effect on society in any way."

Suleymanov added that despite his repeated requests, the State Committee had been unable to cite any instance of harm to society or even to one individual.

"I believe the position of the respondent [State Committee] has remained unchanged and is as shaky now as it was at the beginning the case," Suleymanov told Forum 18. "We will continue to persevere in defence of the truth in the hope that the court will reach a fair outcome."

Miri's publisher handed the text of his book on Islam to the State Committee in January, as required by law. On 2 February, the State Committee banned it in a one-page document signed by Chief Specialist Namiq Jiriyev. He questioned Miri's interpretation of Islam on theological grounds, and concluded: "The investigation found ideas in the book that could have a negative influence on religious stability in the country. The book is, therefore, deemed unsuitable for publication."

In his response, Miri told the State Committee officials "it is not correct to ban a book I wrote in a country which does not [officially] have censorship". Jiriyev refused to discuss his ban on Miri's book with Forum 18 in February (see F18News 13 February 2018 http://www.forum18.org/archive.php?article_id=2351).

Miri's book has already been published in Azeri in Kyrgyzstan and Turkey, as well as in Turkish in Turkey. (END)

For 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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