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AZERBAIJAN: Conscientious objector (again) one of 20 current prisoners of conscience

By Felix Corley, Forum 18 (<https://www.forum18.org>)

Kamran Shikhaliyev, a 20-year-old conscientious objector to compulsory military service, is serving a one-year sentence in a military disciplinary unit in Salyan Region south of Azerbaijan's capital Baku. He failed to overturn his conviction – the second on the same charges – at Baku Appeal Court on 12 November, court officials told Forum 18 News Service. He is one of 20 known prisoners of conscience punished by the Azerbaijani authorities for exercising the right to freedom of religion or belief. Of these, 17 have been convicted and are serving prison terms, while three are in pre-trial secret police imprisonment. One of the three, 55-year-old disabled widow Irina Zakharchenko, was transferred to hospital on 26 October. "The many months of imprisonment have taken a serious toll on her health," Jehovah's Witnesses told Forum 18.

On 12 November, 20-year-old conscientious objector to compulsory military service Kamran Shikhaliyev failed in his appeal against his second sentence on the same charges at Baku Appeal Court, court officials told Forum 18 News Service. He has already been sent to serve his sentence of a year in a military disciplinary unit in Salyan Region south of Azerbaijan's capital Baku.

Shikhaliyev is one of 20 known prisoners of conscience punished by the Azerbaijani authorities for exercising the right to freedom of religion or belief, according to a documented list Forum 18 has compiled. A total of 17 are serving criminal sentences of up to 6 years. A further three of the current prisoners of conscience are known to be in pre-trial detention and likely to face criminal trial.

Five former prisoners of conscience have been freed since the beginning of 2015, either on completing their prison terms or through presidential pardon. One of the 20 current prisoners of conscience – Sunni Muslim Eyvaz Mammadov – is due to complete his nine-month prison term on 24 November (see below).

Amid serious health concerns, the National Security Ministry (NSM) secret police transferred to hospital one of the three pre-trial prisoners of conscience - 55-year-old disabled widow Irina Zakharchenko - in late October. The secret police have imprisoned her and another female Jehovah's Witnesses since February. Both face up to five years' imprisonment if brought to court and convicted of "illegal" religious literature distribution (see below).

Meanwhile, appeals by five Muslims imprisoned for up to 5 years, 5 months for participating in a meeting to study their faith in a Baku home raided by police are due to be heard at Baku Appeal Court on 1 December (see below).

In addition to these 20 prisoners of conscience punished through the criminal law, many others face lesser punishments under administrative law. Courts frequently hand down often large fines to punish organising or attending a religious meeting outside a state-registered place of worship by a state-registered community, while prison terms of up to one month are often handed down.

Two Shia Muslim leaders were each given one month's imprisonment in Baku on 6 November, with eight more who protested against their detention imprisoned for up to one month (see F18News 12 November 2015 http://www.forum18.org/archive.php?article_id=2120).

Punished again

Conscientious objector Shikhaliyev was tried for the second time under Criminal Code Article 335.1 ("Evasion of military service by causing harm to health or in another way") at Baku Military Court. Judge Muslum Aliyev found him guilty on 18 August, an aide to the Judge told Forum 18 on 17 November. The Judge sentenced him to one year's imprisonment (or one year and 22 days according to another official) in a military disciplinary unit.

"Shikhaliyev was already in military service when the trial took place," the Judge's assistant told Forum 18.

Shikhaliyev appealed against the decision. However, at the second appeal hearing on 12 November, Judge Sahibkhan Mirzayev rejected his appeal. "The military brought Shikhaliyev to the court and took him back there afterwards," the Judge's assistant told

Forum 18 on 17 November. "I saw him at the hearing and his health seemed to be fine."

Shikhaliyev is serving his sentence in Military Unit No. 133 in Salyan Region, south of Baku, court officials told Forum 18.

Despite telling the Conscription Office of his religious objections to serving in the armed forces, Shikhaliyev was forcibly conscripted in Baku in October 2013, just after his 18th birthday. He was then transferred to a military unit. He was maltreated following his enforced conscription. In April 2014 Jalilabad Military Court sentenced him to one year in a military disciplinary unit. His appeal was rejected three months later (see F18News 12 February 2015 http://www.forum18.org/archive.php?article_id=2037).

No alternative civilian service

Despite a commitment made before it joined the Council of Europe in 2001, Azerbaijan has no alternative civilian service, and those who cannot perform military service on grounds of conscience are punished. But rather than punish Shikhaliyev for evading military service, he was forcibly conscripted against his will and then punished.

Council of Europe bodies have repeatedly condemned Azerbaijan for its failure to honour its promise to introduce an alternative civilian service by 2004 (see F18News 12 February 2015 http://www.forum18.org/archive.php?article_id=2037).

Serious health concerns

Zakharchenko is the older of the two female Jehovah's Witnesses imprisoned by the NSM secret police in February to punish them for talking to residents near their homes in Baku about their faith in December 2014. Her lawyer wrote two letters to the NSM secret police requesting that her client be transferred to a hospital in view of her worsening health, Jehovah's Witnesses told Forum 18. On 26 October, the NSM secret police verbally agreed to the transfer and Zakharchenko was moved to a hospital the same day.

Jehovah's Witnesses express serious concern about Zakharchenko's well being. She has lost a lot of weight, is not eating and is not sleeping. "The many months of imprisonment have taken a serious toll on her health," they told Forum 18.

The other Jehovah's Witness, 38-year-old Valida Jabrayilova, who until her arrest acted as the primary caregiver for her elderly mother, remains in detention at the NSM Investigation Prison in Baku. A Baku court on 4 September extended the two women's pre-trial detention once more until 17 December, the last time such an extension is allowed (see F18News 9 September 2015 http://www.forum18.org/archive.php?article_id=2098).

NSM secret police investigator Metleb Mehtiyev is preparing a case against both Zakharchenko and Jabrayilova 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. The two prisoners of consciences' 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).

Also in secret police prison

Also held under investigation at the same NSM secret police Investigation Prison in Baku is 43-year-old Shia Muslim prisoner of conscience Jeyhun Jafarov. On 8 November, Judge Rauf Ahmadov of Baku's Sabail District Court extended Jafarov's pre-trial detention until 17 January 2016, his lawyer Javad Javadov told Forum 18. Jafarov was arrested on 10 March 2015 on treason charges for being a translator of Islamic works and making public broadcasts. If tried and convicted, he faces imprisonment of between 12 years and life (see F18News 8 October 2015 http://www.forum18.org/archive.php?article_id=2109).

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 (see F18News 14 May 2015 http://www.forum18.org/archive.php?article_id=2061). Azerbaijan has not yet allowed the UN to publish the report.

Appeals due 1 December

A group of five Sunni Muslim prisoners of conscience - Ismayil Mammadov, his brother Zakariyya, Shahin Hasanov, Eldeniz Hajiyevev and Revan Sabzaliev - are due to have their appeals heard at Baku Appeal Court on 1 December, their lawyer Asabali Mustafayev told Forum 18 from Baku on 18 November. The five are currently being held at the Investigation Prison at Kurdakhani in Baku's Sabunchu District.

The five were punished for attending an April 2014 meeting to study their faith with the aid of the works of the late Turkish Muslim theologian Said Nursi which was broken up in an armed police raid. Police detained and violently questioned all those present and confiscated religious literature, while property was apparently stolen by police. The NSM secret police beat up at least one Muslim in a bid to gain "evidence" for their case, and nine Muslims including Sabzaliyev who attended the meeting were fined the equivalent of nearly four months' average wages (see F18News 8 May 2014 http://www.forum18.org/archive.php?article_id=1956).

Three of the five - Hajiyeve, Ismayil Mammadov and Sabzaliyev - spent up to five months in detention in the NSM secret police Investigation Prison in Baku before being transferred to house arrest in September 2014 (see F18News 22 September 2014 http://www.forum18.org/archive.php?article_id=1999).

A Judge at Baku's Yasamal District Court sentenced the five on 7 October 2015 and they were arrested in the courtroom to begin their sentences. Ismayil Mammadov was jailed for 5 years, 5 months; his brother Zakariyya, with Hasanov, was jailed for 5 years; Hajiyeve was jailed for 4 years, 5 months; and Sabzaliyev was jailed for 1 year, 7 months.

The five were punished for participation in an "illegal" religious group under Criminal Code Article 168, as well as for distributing religious literature which has not undergone the state's strict pre-publication religious censorship (see F18News 8 October 2015 http://www.forum18.org/archive.php?article_id=2109).

Under criminal investigation

Following a police raid on a meeting of Sunni Muslims in a Baku cafe on 22 October, the Interior Ministry identified Kamran Mustafayev, Adil Rajabov and Zaur Shabanov, as "organisers of the illegal meeting". It said the same day that criminal cases had been opened against the three men under Criminal Code Article 168.2.

This punishes "Creation of a group carrying out activity under the pretext of spreading a religious faith and carrying out religious activity and by this illegally harming social order, or harming the health of citizens or violating the rights of citizens irrespective of the form of infringement, as well as distracting citizens from performance of duties established by law, as well as leadership of such a group or participation in it". Cases such as this, when children are involved, are prosecuted under Article 168.2, which carries a maximum punishment of three years' imprisonment (see Forum 18's April 2012 Azerbaijan religious freedom survey at http://www.forum18.org/archive.php?article_id=1690).

Mustafayev was one of three participants in the meeting to serve a prison term of up to five days, while other participants were fined (see F18News 28 October 2015 http://www.forum18.org/archive.php?article_id=2114).

One Baku Muslim who knows of the case said Mustafayev, Rajabov and Shabanov are not under arrest as the criminal investigation continues. "The authorities wanted to arrest them, but have not done so," the Muslim told Forum 18 on 18 November.

20 current known prisoners of conscience

Of the 20 current known prisoners of conscience imprisoned to punish them for the exercise of the right to freedom of religion or belief, 17 are serving sentences following conviction. The sentence is deemed to run from the date of their arrest. A further three are in pre-trial detention, which has to be authorised by a court.

- Seventeen known convicted prisoners of conscience

(Name; date of birth; religious affiliation; date of arrest; Criminal Code Article; court, date of sentence; term of imprisonment; court, date appeal rejected; place of imprisonment)

1) Tarlan Faiq oglu Agadadashov; DOB unknown; Shia Muslim; arrested 5 October 2012; Articles 233, 315.2; sentenced Baku's Narimanov District Court, 22 April 2013; 5 years, 6 months; Baku Appeal Court, 19 December 2013; Prison No. 16.

2) Rovshan Huseyn oglu Allahverdiyev; DOB unknown; Shia Muslim; arrested 5 October 2012; Articles 233, 315.2; sentenced Baku's Narimanov District Court, 22 April 2013; 5 years, 6 months; Baku Appeal Court, 19 December 2013; Prison No. 16.

3) Telman Shirali oglu Shiraliyev; born 13 February 1981; Shia Muslim; arrested 5 October 2012; Articles 233, 315.2; sentenced Baku's Narimanov District Court, 22 April 2013; 6 years; Baku Appeal Court, 19 December 2013; Prison No. 16.

4) Ilham Bahman oglu Hatamov; born 5 November 1989; Shia Muslim; arrested 5 October 2012; Articles 233, 315.2; sentenced Baku's Narimanov District Court, 22 April 2013; 5 years, 6 months; Baku Appeal Court, 19 December 2013; Prison No. 14.

5) David Tarlan oglu Karimov; born 19 October 1984; Shia Muslim; arrested 5 October 2012; Articles 233, 315.2; sentenced Baku's Narimanov District Court, 22 April 2013; 6 years; Baku Appeal Court, 19 December 2013; Prison No. 16.

6) Nasimi Yusif oglu Hasanov; born 2 July 1977; Shia Muslim; arrested 6 October 2012; sentenced Barda District Court, 27 July 2013; Articles 228.1, 234.1; 4 years; no appeal; Prison No. 16.

7) Elshad Fikrat oglu Rzayev; born 1981; Shia Muslim; arrested 23 February 2013; Articles 233, 315.2; sentenced Baku's Narimanov District Court, 3 June 2013; 6 years; Baku Appeal Court, 9 December 2013; Prison No. 16.

8) Kamran Azadi oglu Shikhaliyev; born 8 October 1995; conscientious objector; forcibly conscripted 10 October 2013; sentenced (second time) Baku Military Court, 18 August 2015; Article 335.1; Baku Appeal Court, 12 November 2015; 1 year (and possibly 22 days) in punitive military battalion; Military Unit 133, Salyan Region.

9) Habibullah Abdulla oglu Omarov; born 24 July 1959; Sunni Muslim; arrested 24 February 2015; sentenced Baku's Narimanov District Court, 7 July 2015; Article 167-2.1; 1 year; no appeal; Prison No. 10.

10) Eyvaz Kh. Mammadov; DOB unknown; Sunni Muslim; arrested 24 February 2015; sentenced Baku's Narimanov District Court, late July/early August 2015; Article 167-2.1; 9 months; no appeal; prison unknown.

11) Mubariz Nusraddin oglu Qarayev; born 10 April 1974; Sunni Muslim; arrested 24 February 2015; sentenced Baku's Narimanov District Court, 10 July 2015; Article 167-2.1; 1 year; Baku Appeal Court, 11 September 2015; prison unknown.

12) Azad Agajafar oglu Qafarov; DOB unknown; Sunni Muslim; arrested 26 February 2015; sentenced Baku's Narimanov District Court, 6 July 2015; Article 167-2.1; 15 months; Baku Appeal Court, 24 August 2015; prison unknown.

13) Ismayil Isakh oglu Mammadov; born 25 November 1968; Sunni Muslim; arrested 7 October 2015; sentenced Baku's Yasamal District Court, 7 October 2015; Articles 167-2.2.1, 168.2; 5 years, 5 months; appeal due 1 December 2015; Kurdakhani Investigation Prison.

14) Zakariyya Isakh oglu Mammadov; born 4 April 1970; Sunni Muslim; arrested 7 October 2015; sentenced Baku's Yasamal District Court, 7 October 2015; Articles 167-2.2.1, 168.1; 5 years; appeal due 1 December 2015; Kurdakhani Investigation Prison.

15) Shahin Mukhtar oglu Hasanov; born 15 February 1969; Sunni Muslim; arrested 7 October 2015; sentenced Baku's Yasamal District Court, 7 October 2015; Articles 167-2.2.1, 168.1; 5 years; appeal due 1 December 2015; Kurdakhani Investigation Prison.

16) Eldeniz Balamat oglu Hajiyeve; born 4 February 1974; Sunni Muslim; arrested 7 October 2015; sentenced Baku's Yasamal District Court, 7 October 2015; Articles 167-2.2.1, 168.2; 4 years, 5 months; appeal due 1 December 2015; Kurdakhani Investigation Prison.

17) Revan Hakim oglu Sabzaliyev; born 7 July 1994; Sunni Muslim; arrested 7 October 2015; sentenced Baku's Yasamal District Court, 7 October 2015; Article 168.2; 1 year, 7 months; appeal due 1 December 2015; Kurdakhani Investigation Prison.

- Three known pre-trial prisoners of conscience

(Name; date of birth; religious affiliation; date of arrest; Criminal Code Article of investigation; place of imprisonment)

1) Irina Kuliyeveva Zakharchenko; born 11 October 1960; Jehovah's Witness; arrested 17 February 2015; Article 167-2.2.1; hospital Baku.

2) Valida Tahir qizi Jabrayilova; born 14 October 1977; Jehovah's Witness; arrested 17 February 2015; Article 167-2.2.1; NSM prison Baku.

3) Jeyhun Mammadli oglu Jafarov; born 7 June 1972; Shia Muslim; arrested 10 March 2015; Article 274; NSM prison Baku.

Five known prisoners of conscience released in 2015

(Name; date of birth; religious affiliation; Criminal Code Article; length of sentence; date of release; reason for release)

1) Anar Asgar oglu Gasimli; born 1986; Shia Muslim; Articles 233, 315.2; 5 years, 6 months; released 18 February 2015; presidential pardon.

2) Ramil Rahim oglu Valiyev; born 29 January 1986; Shia Muslim; Articles 167-2.1, 233, 315.2; 6 years, 6 months; released 18 February 2015; presidential pardon.

3) Zohrab Shikhaliyev; born 1978; Sunni Muslim; Article 228.1; 6 months; released 13 May 2015; sentence completed.

4) Taleh Kamil oglu Bagirov; born 23 June 1984; Shia Muslim; Articles 234.1, 317-2.1; 2 years, 4 months total; released 31 July 2015; sentence completed.

5) Salim Ronald oglu Qasimov; DOB unknown; Sunni Muslim; Article 167-2.1; 6 months; released 24 August 2015; sentence completed. (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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