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AZERBAIJAN: Transfer to house arrest a prelude to trial?

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

Eldeniz Hajiyeve, Ismayil Mammadov and Revan Sabzaliyev could soon face criminal trial to punish them for attending a religious meeting in Hajiyeve's Baku home raided in April, a friend of the three Muslims told Forum 18 News Service. They face up to three years' imprisonment if tried and convicted. A Baku court ordered the men's release from Azerbaijan's National Security Ministry (NSM) secret police investigation prison on 12 September and transfer to house arrest. The permitted investigation period in the case runs out in mid-October. "I believe they will take the case to court for a full criminal trial," the friend insisted. NSM officials refused to discuss the case with Forum 18. Meanwhile, the new chair of the State Committee for Work with Religious Organisations, Mubariz Qurbanli, has rejected the right of individuals to conduct religious work, the right of mosques to choose their own leaders, the right of individuals to interpret the Koran for themselves, the right to distribute religious literature uncensored, and the right to share one's faith.

Three Baku-based Muslims could soon face criminal trial for participating in a meeting to discuss their faith which was raided by armed police and Azerbaijan's National Security Ministry (NSM) secret police, their friends told Forum 18 News Service. Eldeniz Hajiyeve, Ismayil Mammadov and Revan Sabzaliyev were transferred to house arrest on 12 September after up to five months in pre-trial detention at the NSM secret police investigation prison in Baku. Hajiyeve and Mammadov had been held since April, Sabzaliyev since May. The criminal investigation must be concluded by mid-October. They face up to three years' imprisonment if tried and convicted.

As the permitted investigation period in the case runs out in mid-October, the NSM investigation team – headed by Nadir Mustafayev – have three options, one friend of the three notes. "They could hand the case to court, close it completely, or suspend it temporarily, claiming some new piece of information is needed," the friend told Forum 18. "I believe they will take the case to court for a full criminal trial."

Asked about whether the criminal case will be brought to court, NSM investigator Mustafayev told Forum 18 on 22 September: "I am not the investigator." He then put the phone down. Asked about the case on the same day, the man who answered the phone at the NSM secret police information office told Forum 18: "We have no such information."

Steadily increasing "legal" restrictions

Meanwhile, in a series of speeches and interviews, the newly-appointed head of the State Committee for Work with Religious Organisations, Mubariz Qurbanli, has insisted that the state will continue to control all religious activity and indeed has set out proposed additional controls. He has rejected the right of individuals to conduct religious work, the right of mosques to choose their own leaders, the right of individuals to interpret the Koran for themselves, the right to distribute religious literature uncensored, and the right to share one's faith. He has also said it is the state's duty to promote the "superiority" of Islam (see below).

Qurbanli – a veteran ruling party official – was appointed to chair the State Committee on 21 July, while retaining his post as a parliamentary deputy (see F18News 11 August 2014 http://www.forum18.org/archive.php?article_id=1984). Under Article 89, Part 4 of Azerbaijan's Constitution, deputies are to lose their mandate on taking up posts in state bodies, though in Qurbanli's case this has not yet happened.

Azerbaijan has constructed a complex labyrinth of steadily increasing "legal" restrictions on and punishments for exercising freedom of religion or belief. Unregistered religious activity, publication or distribution of uncensored religious literature and unapproved religious education are all banned and punishable. The aim appears to be to help impose state control of society, including any independent civil society activity, and to make all exercise of human rights dependent on state permission (see Forum 18's Azerbaijan religious freedom survey http://www.forum18.org/archive.php?article_id=1690).

The continuing state restrictions on all religious activities in Azerbaijan – and the wider government crackdown on civil society – contradict assertions by President Ilham Aliyev. "The freedom of assembly is fully guaranteed in our country," his official Twitter account claimed in Azeri and English on 16 June. "The freedom of religion is also fully provided in our country."

Transfer to house arrest

On 12 September, Judge Elshad Shamayev of Baku's Sabail District Court ruled to transfer the three Baku-based Muslims – Hajiyeve, Mammadov and Sabzaliev - to house arrest, their friends told Forum 18. Several friends were able to greet the three men as they were freed from the NSM secret police investigation prison in Baku that day. However, as the criminal investigation against them continues, Hajiyeve, Mammadov and Sabzaliev are not allowed to leave their homes for much of the day and remain under other restrictions.

Their arrests followed a massive armed police raid on Muslims studying the writings of the late Turkish Sunni Muslim theologian Said Nursi in Hajiyeve's private house in Baku's Yasamal District on 12 April. Officers seized all the religious literature they could find, including hundreds of books by Nursi. They also seized money and individuals' mobile phones. Almost all the 39 adults and two children present were taken to the police station for questioning. Many were held there for up to two days.

Hajiyeve and Mammadov were held by the NSM secret police. Sabzaliev was among nine other attendees who were each fined 1,500 Manats (11,400 Norwegian Kroner, 1,400 Euros or 1,900 US Dollars) at Yasamal District Court on 14 April for their attendance at the meeting. All were punished under Administrative Code Article 299.0.2 (see F18News 16 April 2014 http://www.forum18.org/archive.php?article_id=1948).

Administrative Code Article 299.0.2 punishes "violating legislation on holding religious meetings, marches, and other religious ceremonies". Punishment on individuals is a fine of between 1,500 and 2,000 Manats (see Forum 18's Azerbaijan religious freedom survey http://www.forum18.org/archive.php?article_id=1690).

Sabzaliev was arrested by the NSM secret police when they summoned him for questioning on 23 May (see F18News 9 June 2014 http://www.forum18.org/archive.php?article_id=1967).

Criminal investigation

Hajiyeve, Mammadov and Sabzaliev are being investigated under Criminal Code Article 168.2.

Article 168 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 when minors are involved are prosecuted under Article 168.2, which carries a maximum punishment of three years' imprisonment (see Forum 18's Azerbaijan religious freedom survey at http://www.forum18.org/archive.php?article_id=1690).

Anar Mamedov – appointed in early September as the State Committee's representative for Baku – refused absolutely to discuss why the three Muslims are facing criminal charges for attending a religious meeting. Reached on 22 September, he put the phone down as soon as Forum 18 introduced itself. Subsequent calls went unanswered.

Penalties under Criminal Code Article 168 (as well as under Article 167-1) are expected to be sharply increased in a proposed new amendment to the Criminal Code (see F18News 14 August 2014 http://www.forum18.org/archive.php?article_id=1985).

"No text of the proposed amendments has yet reached parliament," opposition member of the Milli Mejlis (parliament) Fazil Gazanfaroglu Mustafaev of the Great Formation Party told Forum 18 from Baku on 22 September. "I believe it will arrive soon." Forum 18 could find no one at the Milli Mejlis on 22 September able to say when the draft amendments are likely to reach parliament.

Doctrine of state control

In frequent meetings around Azerbaijan and in interviews since his appointment as chair of the State Committee in July, Qurbanli has been setting out his views that all aspects of religion must be controlled by the state.

Meeting with Muslim imams from Baku's Yasamal District on 17 September, Qurbanli rejected suggestions that those who build mosques with their own money should have the right to name imams to them. "By law established by the state, you must hand it over to the municipality," Qafqaz News Agency quoted him as declaring. He said the state and the Muslim Board have agreed that such a mosque should then be handed over to a registered community, while the Board must name the imam.

Qurbanli described attempts by local Muslim communities to run their own mosques without state registration as a "violation". "If any illegally-functioning entity exists and someone who has proclaimed themselves its religious leader wants to carry out illegal activity, we will use all legal measures against him and will counter this," he declared.

He insisted that only registered imams with permission can lead prayers. He likened those who did so without state permission to

unqualified people masquerading as doctors, or fake police officers, APA news agency noted.

While claiming that the state does not wish to close down mosques, Qurbanli insisted to the Yasamal District imams that the Ilahiyyat mosque in the District is functioning illegally. He insisted that under the agreement between the State Committee and the Muslim Board, "we envisage creating a community in this mosque. By means of this community, we will impose discipline and order in the mosque."

The State Committee has already used this tactic by removing recognition from the Sunni community of the mosque in Mushfiqabad near Baku in spring 2014 to transfer it to new, Shia control. Unnamed officials of the State Committee said in March that the old community which ran the mosque had "dissolved itself". Muslims close to the community denied this to Forum 18. The mosque is no longer specifically Sunni (see F18News 28 May 2014 http://www.forum18.org/archive.php?article_id=1962).

The claim that the state does not wish to close down mosques contradicts the many mosques which have been forcibly closed under various pretexts in recent years. Many of these mosques have been Sunni. One Sunni mosque that is resisting enforced closure is the Lezgin Mosque in Baku's Old City (see F18News 11 August 2014 http://www.forum18.org/archive.php?article_id=1984).

Qurbanli also spoke out against individuals who share their faith. "For several centuries already, Islam has been our faith," APA quoted him as telling the Yasamal District imams, "so no-one can come here with the aim of mission. Azerbaijan is not the place for this." He said those wanting to conduct missionary propaganda should go to "peoples and tribes not belonging to the traditional religions".

In remarks about those who – to his distress – wish to worship with their friends in mosques other than the one nearest to them, Qurbanli also set out his belief that the state should back one particular faith. "We can and must conduct religious educational work about the Koran, its perfectness, and the superiority of the Islamic faith. Our young people must know this."

Qurbanli also complained of people who wish to interpret ayats (verses) of the Koran for themselves. "We ask them, who gave them the right to interpret ayats as they please?"

Speaking in the northern town of Quba on 16 September, Qurbanli also raised the prospect of introducing religious education in state schools. He noted that the idea did not come from him. He later declared that any religious education in school should be informational and should be taught "not as in a madrassah [Islamic school], but that the pupil would receive a more solid, encyclopaedic knowledge of religion, the Koran, Torah and Gospels".

The State Committee has sent proposals to unnamed other state agencies for a further licensing system for the sale of religious literature, Qurbanli told the Baku-based Trend news agency on 19 September. He declared that the State Committee has been given "a range of powers to prevent the spread of religious literature by representatives of non-traditional movements which does not accord with the mentality of the Azerbaijani people," Trend summarised him as stating.

Apart from insisting that the existing censorship of religious literature and licensing of religious literature sales needed to be "centralised", Qurbanli did not explain any specific further censorship measures he has in mind.

State censorship of all religious literature and other materials produced in Azerbaijan or imported already exists. State licences are already required to sell religious literature. Texts such as the Old Testament, the writings of Islamic theologian Said Nursi, and some Jehovah's Witness texts are banned. It took the Baptist Union more than seven months to gain the required state approval to print 3,000 copies of the New Testament in Azeri (see F18News 11 August 2014 http://www.forum18.org/archive.php?article_id=1984).

In the interview with Trend, Qurbanli also complained of "minor groups" among Muslims who, he argued, were dangerous and should not be allowed. Among these he identified "Nursis", describing them and other groups as "the ideological base of terrorist groups". He did not identify any alleged terrorist activity for which Muslims who read Nursi's works have been convicted.

Qurbanli also insisted during the interview that ownership over mosque buildings must be "harshly centralised". He complained that while many mosque buildings were owned by the Muslim Board, some were still owned by individuals, municipalities or – if they were historic monuments – by the Culture Ministry.

Another state official, Oktay Samadov, executive director of the Knowledge Foundation under the President, insisted on 18 September that all mosques should have libraries. He said it was wrong that some mosques functioned only as prayer sites. "In this connection, the Knowledge Foundation will carry out the appropriate work assigned to it," he told APA.

Samadov did not explain why it is the role of his state-backed Foundation to decide whether or not mosques should have libraries and to set them up for them.

"Absolutely not meddling"

A senior official of the state-backed Muslim Board referred all questions as to why the State Committee was trying to impose its will on Muslim communities to the State Committee. "Ask them why they try to propose these measures," Muggades Paizov, head of the Board's International Relations Department, told Forum 18 from Baku on 22 September. "It is not a question whether we are for or against these measures. The State Committee enacts state policy on religion."

On Samadov's insistence that the Knowledge Foundation would set up libraries in all mosques, Paizov had no objection. "Why is it bad if mosques have libraries?" he asked. "That's absolutely not meddling in the affairs of mosques."

"It's as if we don't exist"

In the two months since his appointment as State Committee chair, Qurbanli has made no attempt to meet or contact leaders of the many religious communities whose applications for compulsory state registration have been rejected or languished unanswered since 2009. "It's as if we don't exist," the leader of one such community told Forum 18 from Baku on 22 September.

Many of these unregistered communities continue to meet for worship despite the fear that at any time they could be raided by police and subjected to punishment (see Forum 18's Azerbaijan religious freedom survey http://www.forum18.org/archive.php?article_id=1690). (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>.

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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