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AZERBAIJAN: Prisoner of conscience tortured – with impunity?

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

Shia Muslim theologian and prisoner of conscience Taleh Bagirov was subjected to "severe torture" and a broken nose while in detention at the Interior Ministry's Main Directorate for the Struggle with Organised Crime in December 2015. No official at the Main Directorate would explain why Bagirov was tortured, what punishment those responsible will face or how such torture can be prevented. "No-one here gives information," the duty officer told Forum 18 News Service. Rashid Rumzada, head of Azerbaijan's National Preventive Mechanism which is supposed to help prevent torture, told Forum 18 that confidentiality meant he could not discuss individual cases. Shia Muslim cleric Nuhbala Rahimov is in four months' pre-trial detention facing possible criminal trial. The criminal trial of two female Jehovah's Witnesses – one of whom is very ill - is due to resume in a Baku court tomorrow (28 January). And the appeal by five Sunni Muslims against long prison terms is due to resume at Baku Appeal Court on 2 February.

No official was prepared to explain to Forum 18 News Service why Shia Muslim theologian and prisoner of conscience Taleh Bagirov was tortured at the Azerbaijani Interior Ministry's Main Directorate for the Struggle with Organised Crime in December 2015. During the "severe torture" he sustained a broken nose, he later told his lawyer. Nor would any official explain what action – if any – officials will take to punish those responsible or protect Bagirov from further torture.

On 22 January a Judge in the capital Baku postponed for the third time a hearing in the complaint of Bagirov (also known as Bagirzade) because officials failed to bring the victim to court. The 31-year-old Bagirov is complaining about the torture in prison, as well as denial of access to his lawyer and contact with relatives.

A Shia Muslim cleric from the village of Nardaran near Baku – where Bagirov was arrested during an armed police assault on 26 November 2015 – is now in four months' pre-trial imprisonment in Baku's Kurdakhani Investigation Prison. Nuhbala Rahimov was originally given a term of administrative imprisonment, but a criminal case was later lodged against him (see below).

Jehovah's Witnesses' criminal trial also postponed

The second postponement of Bagirov's hearing came on 14 January, the same day that a Judge in another Baku court postponed yet again a scheduled hearing in the criminal trial of two female Jehovah's Witnesses. Irina Zakharchenko, a 55-year-old disabled widow who is in poor health, and 38-year-old Valida Jabrayilova face a fine or imprisonment of between two and five years if convicted of offering religious literature to others without state permission.

The hearing – over whether the two women should be released to house arrest because of their health conditions – was postponed because Zakharchenko was too ill to attend. The trial is due to resume at Baku's Pirallahi District Court at 12 noon on 28 January (see F18News 20 January 2016 http://www.forum18.org/archive.php?article_id=2140).

Meanwhile, the appeal hearing against long prison terms handed down by a Baku court in October 2015 to five Sunni Muslims to punish them for attending a religious meeting at a home in the city is due to resume at Baku Appeal Court on 2 February (see below).

Wide-ranging state crackdown

A wide-ranging state crackdown continues on people exercising human rights Azerbaijan's government has solemn international obligations to protect, including the arrest and jailing as prisoners of conscience of many lawyers, journalists, human rights defenders and public figures the government dislikes.

The many prisoners of conscience include Muslims and Jehovah's Witnesses exercising their freedom of religion or belief (see eg. F18News 16 December 2015 http://www.forum18.org/archive.php?article_id=2134), and a conscientious objector to military service (see eg. F18News 19 November 2015 http://www.forum18.org/archive.php?article_id=2123).

Suppressing the Muslim Unity Movement

The authorities seem determined to suppress the Muslim Unity Movement, established in January 2015, with Imam Bagirov chosen as its leader. At the time he was still serving his second prison term as a prisoner of conscience on drugs-related charges. His supporters insist these were fabricated to punish him for exercising the right to freedom of religion or belief. Imam Bagirov was freed in July 2015 after completing his sentence (see F18News 11 August 2015 http://www.forum18.org/archive.php?article_id=2088).

Bagirov was staying with a family in Nardaran when Interior Ministry forces launched the November 2015 assault. During the raid, two police officers and at least five villagers were shot dead and police then detained 14 Muslims as prisoners of conscience. More villagers were detained later (see F18News 1 December 2015 http://www.forum18.org/archive.php?article_id=2127).

Following the assault, officials closed at least four mosques in Nardaran, claiming that as they do not have state registration it is illegal for them to host prayers. Officials say some could reopen, but only after they have submitted to the state-backed Caucasian Muslim Board and gained the compulsory state registration (see F18News 26 January 2016 http://www.forum18.org/archive.php?article_id=2142).

"Subjected to severe torture and they had broken the bridge of his nose"

Following Bagirov's 26 November 2015 arrest in Nardaran, the Shia Muslim prisoner of conscience was transferred to the Interior Ministry's Main Directorate for the Struggle with Organised Crime.

On 29 December 2015, Bagirov's lawyer Javad Javadov was allowed a brief meeting with his client at the Main Directorate for the Struggle with Organised Crime. "Even though I wasn't able to talk to him confidentially, I had the chance for a short conversation," Javadov told Caucasian Knot news agency on 8 January 2016. "He had been subjected to severe torture and they had broken the bridge of his nose."

Bagirov told his lawyer that officers had demanded that he testify against others. "Despite this, he did not admit any guilt and did not give any false testimony against anyone," Javadov told Caucasian Knot.

Javadov also complained that Bagirov had been denied the weekly telephone calls he should have been allowed with relatives. He has also been denied parcels of food and clothes.

Javadov is seeking a medical examination of Bagirov to establish the extent of the torture he has undergone.

"No-one gives information" on torture

Forum 18 has been unable to find out why Bagirov was tortured at the Interior Ministry's Main Directorate for the Struggle with Organised Crime and what action – if any – the Main Directorate will take to punish those responsible. On 19 January the duty officer refused to give any information on Bagirov or refer Forum 18 to any officer prepared to give any information. "No-one here gives information," the officer told Forum 18.

Similarly, an aide to Eldar Ahmadov, head of the General Prosecutor's Office's Serious Crimes Investigation Department, which is investigating Bagirov on at least ten criminal charges, told Forum 18 the same day that Ahmadov was busy and that no-one could give information. She then put the phone down.

Rashid Rumzada, head of Azerbaijan's National Preventive Mechanism (NPM) which is supposed to help prevent torture under the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, refused to discuss the torture of Bagirov. "I protected all the Nardaran prisoners," he claimed to Forum 18 from Baku on 25 January. But he declined to discuss specific individuals, insisting that the NPM's work is confidential. He referred all enquiries to the Human Rights Ombudsperson's Office.

No one at the Ombudsperson's Office was prepared to discuss the torture of Bagirov. One official referred Forum 18 to the assistant to Ombudsperson Elmira Suleymanova. However, her telephone went unanswered on 25 January.

Torture violates United Nations "Mandela Rules"

The unequivocal international condemnation of torture is clear from the United Nations Standard Minimum Rules for the Treatment of Prisoners (as adopted unanimously by the UN General Assembly in revised form on 17 December 2015 and known as the Mandela Rules, A/C.3/70/L.3).

"No prisoner shall be subjected to, and all prisoners shall be protected from, torture and other cruel, inhuman or degrading treatment or punishment, for which no circumstances whatsoever may be invoked as a justification," Rule 1 of its Basic Principles declares.

Earlier torture

Bagirov was last previously tortured by the authorities a week before consideration of Azerbaijan's record under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) by the UN Committee Against Torture (see F18News 12 November 2015 http://www.forum18.org/archive.php?article_id=2120).

The Committee made 22 critical recommendations in its Concluding Observations, five of which were described as "a matter of urgency", including that Azerbaijan should "apply a zero-tolerance approach to the continuing problem of torture, and to the practice of impunity" (see CAT/C/AZE/CO/4 http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fAZE%2fCO%2f4&Lang=en).

Under the Convention against Torture, Azerbaijan is obliged to arrest any person suspected on good grounds of having committed torture and try them under criminal law which makes "these offences punishable by appropriate penalties which take into account their grave nature" (see Forum 18's Azerbaijan religious freedom survey http://www.forum18.org/archive.php?article_id=2081).

Torture complaint hearing again delayed

On 22 January Judge Babek Hasanov at Baku's Nasimi District Court for the third time delayed hearing Bagirov's complaint about his four-month pre-trial imprisonment, torture, denial of access to his lawyer and contact with relatives, as well as the failure of the authorities to transfer him to an Investigation Prison.

The hearing – first due on 6 January and then on 14 January - was again postponed after officials failed to present Bagirov in court on 22 January "for unknown reasons", his lawyer Javadov told Turan news agency the same day. Officials also failed to provide all the documents needed for the hearing. Javadov suspects the hearing was postponed each time to allow signs of torture to become less visible.

Judge Hasanov said he would find out why Bagirov had not been brought to court and then set a further new date for the hearing, Javadov added.

Judge Hasanov's assistant refused to put Forum 18 through to him on 25 January. She also refused to explain why the hearing had again been postponed or when it is now scheduled to take place.

Complaint to General Prosecutor

On 18 December 2015, Javadov wrote to the General Prosecutor Zakir Qaralov to complain that his client was being held by the police, not in the Investigation Prison under the control of the Justice Ministry Prison Service. Bagirov should have been transferred there within 24 hours of the court's decision to hold him for four-months' pre-trial detention.

Javadov also complained of being denied access to Bagirov, and expressed fears that his client was being subjected to torture.

Ten criminal accusations

The General Prosecutor's Office's Serious Crimes Investigation Department is leading the case against Bagirov. He is being investigated under at least ten Criminal Code Articles, including Article 120 ("Murder"), Article 214 ("Terrorism"), Article 220 ("Mass disorder"), Article 228 ("Illegal purchase, transfer, selling, storage, transportation and carrying of firearms, accessories to firearms, ammunition and explosives"), Article 233 ("Organisation of actions promoting infringement of the social order or active participation in such actions"), Article 278 ("Violent attempts to seize power"), Article 279 ("Creation of illegal armed formations or groups"), Article 281 ("Public appeals for violence directed against the state"), Article 283 ("Inciting national, racial or religious hatred"), and Article 315 ("Use of violence, resistance with the use of violence against a representative of authority in connection with performance of official duties by him, or the use of violence not dangerous to life or health concerning his close relatives, as well as threat of the use of such violence").

Prayer leader's four months' pre-trial imprisonment

The prayer leader of another Nardaran Mosque, the Rahima Hanum shrine, Nuhbala Rahimov, is in four months' pre-trial imprisonment. Forum 18 has been unable to find out which court ordered his pre-trial detention or what criminal charges he is being investigated under.

Rahimov was arrested at his Mosque on 7 December 2015 (see F18News 9 December 2015 http://www.forum18.org/archive.php?article_id=2131). The authorities then forcibly closed the Mosque for worship (see F18News 26 January 2016 http://www.forum18.org/archive.php?article_id=2142).

"Nuhbala was being held in the police temporary detention centre in Baku's Binaqadi District when he was sentenced, right in the cell, to 30 days' administrative imprisonment," human rights defender and former political prisoner Elshan Hasanov told Forum 18

from Baku on 20 January. "Then they handed down a four-month pre-trial detention order and transferred him to the Investigation Prison in Kurdakhani. We don't know what court or judge handed down the order, but he had no lawyer."

The Justice Ministry Investigation Prison in Kurdakhani, in Sabunchu District in north-eastern Baku, holds many of the prisoners of conscience imprisoned for exercising their right to freedom of religion or belief. As well as Rahimov, these include Jehovah's Witness Jabrayilova, and five Sunni Muslims whose appeal is being heard at Baku Appeal Court (see below). The address is:

AZ-1104, Baki shahari

Sabunchu rayonu

Zabrat-2 qasabasi

Baki Istintaq tacridxanasi

Azerbaijan

Another prayer leader freed

Meanwhile, the prayer leader at Nardaran's Juma (Friday) Mosque, Atamali Nur, was among 12 villagers reported freed, village elder Natiq Kerimov told Trend news agency on 5 January. All had been serving terms of administrative arrest which had expired.

Nur had been arrested in early December 2015. He was sentenced at Baku's Sabunchu District Court to 30 days' imprisonment on charges of "resisting the authorities" under Administrative Code Article 310.1, human rights defender Hasanov told Forum 18. Nur was freed on completing his sentence.

Kerimov put the total number of villagers freed in early January 2016 at 57. They had been imprisoned at the Interior Ministry detention centre in Baku's Binaqadi District. More appear to have been freed later in January, but establishing who has been freed and what sentences they served remains difficult. Relatives are often afraid to speak.

Appeal against prison terms for religious meetings to resume

The appeal by five Sunni Muslims against prison terms to punish them for attending a religious meeting in a Baku home is due to resume under Judge Qail Mammadov of Baku Appeal Court on 2 February, according to court records. The appeal proper began on 19 January, but was then adjourned.

"The Judge rejected our appeals on 19 January," the men's lawyer Asabali Mustafayev told Forum 18 from Baku on 27 January. "The five remain in detention."

Mustafayev presented statements by 21 witnesses that their testimony had been fabricated in the men's verdicts. The witnesses demanded that they be questioned again. "I asked for the court to question them and the alleged victims," Mustafayev told Forum 18. "But the judge refused." He is preparing an appeal against the Judge's decision.

At the initial appeal hearing on 1 December 2015, Judge Mammadov had sent the cases back to Yasamal District Court as the lower court judge had failed to provide written verdicts (see F18News 9 December 2015 http://www.forum18.org/archive.php?article_id=2131).

The five - Ismayil Mammadov, his brother Zakariyya, Shahin Hasanov, Eldeniz Hajiyev and Revan Sabzaliyev – had been punished in October 2015 with prison terms of between 1 year, 7 months and 5 years, 5 months for attending an April 2014 meeting to study their faith with the aid of the works of the late Turkish Muslim theologian Said Nursi. The meeting was broken up in an armed police raid (see F18News 19 November 2015 http://www.forum18.org/archive.php?article_id=2123).

All five are still being held at Kurdakhani Investigation Prison, Mustafayev told Forum 18.

Prisoner of conscience completes prison term

One of five Sunni Muslims sentenced in 2015 for selling religious books "illegally" was freed at the end of his sentence. Habibullah Omarov had been arrested on 24 February 2015. He was sentenced to one year's imprisonment at Baku's Narimanov District Court on 7 July 2015 under Criminal Code Article 167-2.1. Omarov was freed in early November 2015, his friends told Forum 18 from Baku on 19 January 2016.

The 55-year-old Omarov was punished alongside four other defendants - Eyvaz Mammadov, Mubariz Qarayev, Azad Qafarov and Salim Qasimov. Qasimov was freed at the end of his sentence in August 2015 (see F18News 9 September 2015

http://www.forum18.org/archive.php?article_id=2098). (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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