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AZERBAIJAN: Six years already, nearly six months more

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

Rearrested days before a six year jail term for protesting against a ban on schoolgirls wearing headscarves ended, Telman Shiraliyev was sentenced to an additional nearly six month term. "The trial was short and took place without a lawyer as his family is too poor to afford one," human rights defender Elshan Hasanov told Forum 18.

A court in the capital Baku has today (20 December) handed an extra jail term of nearly six months to Telman Shiraliyev, a 37-year-old Shia Muslim prisoner of conscience and father of two. He has already spent six years in prison for participating in a 2012 street protest against a ban on schoolgirls wearing a hijab (headscarf) which was attacked by police.

In late September, one week before his scheduled release at the end of his six-year term, prosecutors accused Shiraliyev of hiding a knife under his pillow. Prisoners are forbidden from having knives. Human rights defenders reject this accusation.

"The trial was short and took place without a lawyer as his family is too poor to afford one," Elshan Hasanov, Coordinator of the Union for the Freedom of Political Prisoners of Azerbaijan, told Forum 18 from Baku after the hearing. "The witnesses were the prison warders."

Hasanov – who was denied entry to the small courtroom because there was no space – insists that Shiraliyev is "absolutely innocent". He said that in testimony to the court, the warders denied that they had found a knife in Shiraliyev's possession (see below).

Fellow human rights defender Oqtay Gulaliyev also insists that Shiraliyev is innocent. "I think the criminal case launched against him is a violation of the law and groundless," he told Forum 18. "We think that his term of punishment was extended because he did not sign the amnesty application offered by government officials in May" (see below).

Two Jehovah's Witness conscientious objectors from western Azerbaijan have failed in their appeals to Ganca Appeal Court to overturn their one-year suspended prison terms for refusing compulsory military service on grounds of conscience. Both must report regularly and are under travel restrictions. Emil Mehdiyev has appealed to the Supreme Court in Baku, while Vahid Abilov is preparing his Supreme Court appeal (see below).

Forum 18 asked the Human Rights Ombudsperson's Office in Baku what action (if any) it had taken to defend the rights of Mehdiyev and Abilov. It also asked what action (if any) it had taken to push for the adoption of a law to allow for those who have conscientious objections to military service to perform a civilian alternative service, which Azerbaijan committed to introduce by 2003. The Ombudsperson's Office has not responded (see below).

Two female Jehovah's Witness former prisoners of conscience, Irina Zakharchenko and Valida Jabrayilova, finally received financial compensation for their wrongful one-year detention in 2015 for offering a religious booklet to a neighbour and subsequent conviction by the same judge who convicted Shiraliyev. Payment of the compensation followed a long battle through local courts (see below).

Legal amendments imminent?

Azerbaijan imposes tight restrictions on all exercise of the right to freedom of religion or belief.
(http://www.forum18.org/archive.php?article_id=2429)

The State Committee for Work with Religious Organisations has prepared amendments to the Religion Law which are now with the Presidential Administration for approval. They are expected to reach Parliament, the Milli Mejlis, in early 2019 and are likely to be considered at its spring session in February, one parliamentary deputy told Forum 18.

No release after six years in jail, nearly six months extra term

Telman Shirali oglu Shiraliyev (born 13 February 1981) was among a large group of Muslim men jailed for protesting on the streets of Baku in October 2012 against a 2010 Education Ministry ban on girls wearing a headscarf (hijab) in schools. His six-year jail term was due to end on 5 October 2018.

However, prosecutors brought new criminal charges against Shiraliyev in late September, claiming he had kept illegal items in prison, the head of the Azerbaijan Without Political Prisoners group Oqtay Gulaliyev told Caucasian Knot news agency on 22 October.

On 29 September, a week before his sentence expired, a Baku District Court ordered that Shiraliyev be held in pre-trial detention for two months. That same day Shiraliyev was transferred from prison to Kurdakhani Investigation Prison in Sabunchu District in north-eastern Baku.

Prosecutors brought a case against Shiraliyev under Criminal Code Article 317-2.1. This punishes "Preparation, storage, transportation or use of objects prohibited by a person detained in prisons or in detention facilities" with imprisonment of up to six months.

"Telman Shiraliyev is being charged with having kept a knife under his pillow, but that is not true at all," human rights defender Gulaliyev told Forum 18. "He is innocent. I think the criminal case launched against him is a violation of the law and groundless. We think that his term of punishment was extended because he did not sign the amnesty application offered by government officials in May."

On 20 November, the criminal case against Shiraliyev was handed to Baku's Khazar District Court, where it was assigned to Judge Akram Qahramanov, court officials told Forum 18 on 19 December.

At the end of the short trial on the afternoon of 20 December, Judge Qahramanov sentenced Shiraliyev to five months and 18 days imprisonment, Elshan Hasanov, Coordinator of the Union for the Freedom of Political Prisoners of Azerbaijan, told Forum 18 after the hearing.

"Officially the trial was open, but the courtroom was so small that they didn't let anyone else in, just three or four close relatives," Hasanov said. "I was one of those not allowed in."

Hasanov said in testimony in court, prison warders denied that they had found a knife in Shiraliyev's possession.

The Judge's phone went unanswered the same afternoon.

The same Judge Qahramanov convicted two Jehovah's Witnesses Irina Zakharchenko and Valida Jabrayilova in January 2016 to punish them for offering one religious booklet without the compulsory state permission needed in Azerbaijan to distribute religious literature. The Supreme Court subsequently overturned these convictions (see below).

Originally jailed for anti-hijab ban protest

The October 2012 anti-hijab ban protest outside the Education Ministry in Baku - the largest of three such street protests - ended in violence. Independent observers insisted that the violence did not come from the protestors, but from provocateurs among the crowd possibly controlled by the police or other security agencies.

An August 2014 report on political prisoners, compiled by a Working Group of human rights defenders led by Leyla Yunus and Rasul Jafarov, concurs. (Both human rights defenders were themselves subsequently jailed as prisoners of conscience.)

"Observation of the protest and analysis of photos and videos from the protest show that the action was peaceful and protesters refrained from confronting the police and employees of other law-enforcement agencies," it notes. "But after the use of force by police, some of the protesters attempted to defend themselves. The photos and videos clearly showed that provocateurs were used." (http://www.forum18.org/archive.php?article_id=2016)

Shiraliyev was among the 32 convicted Muslim men to receive one of the longest jail terms. Baku's Narimanov District Court sentenced him in April 2013 to six years' imprisonment. Baku Appeal Court upheld the sentence in December 2013.

The court convicted Shiraliyev under Criminal Code Article 233 ("Organisation of actions promoting infringement of a social order or active participation in such actions") and Article 315.2 ("Resistance or use of force against a representative of authority with the use of violence dangerous for life and health"). Shiraliyev served most of his sentence in Prison No. 16 in the village of Ramana near Baku.

Eleven others of the group of men were freed in 2014, three of them under a presidential amnesty. (http://www.forum18.org/archive.php?article_id=2037)

First Jehovah's Witness conscientious objector's case in Supreme Court

Jehovah's Witness conscientious objector Emil Vilayat oglu Mehdiyev (born 12 December 1999) lodged an appeal against his criminal conviction to the Supreme Court in Baku on 10 December. The case has been assigned to Judge Tahir Kazimov of the Court's criminal division, according to court records. No date has yet been set for the appeal to be heard.

After his call-up for military service in December 2017, Mehdiyev repeatedly told the Conscription Office he could not perform military service on grounds of conscience and was willing to perform an alternative civilian service.

However, prosecutors brought a case against Mehdiyev under Criminal Code Article 321.1. This states: "Evasion without lawful grounds of call-up to military service or of mobilisation, with the purpose of evading serving in the military, is punishable by imprisonment for up to two years [in peacetime]".

On 6 July 2018, Barda District Court convicted Mehdiyev and handed down a one-year suspended prison term, and required that he live under probation for one year. (http://www.forum18.org/archive.php?article_id=2408)

Mehdiyev appealed against his conviction, but Judge Alizamin Abdullayev of Ganca Appeal Court rejected his appeal on 8 October, the court chancellery told Forum 18 from Ganca on 17 December.

Second Jehovah's Witness conscientious objector to appeal to Supreme Court

Jehovah's Witness conscientious objector Vahid Gunduz oglu Abilov (born 2 May 1999) has failed to overturn his one-year suspended prison term to punish him for refusing to perform compulsory military service. On 31 October, Judge Elchin Hasmammadov of Ganca Appeal Court rejected his appeal against his conviction, the court chancellery told Forum 18 from Ganca on 17 December.

Abilov refused to serve in the army after his call-up in May 2017. "My Bible-trained conscience prevents me from taking up military service," he told Agdam District Conscription Office in writing. "I do not evade, or even think of evading, the fulfilment of my civic duty. I just kindly ask you to provide me with alternative civilian service instead of military service."

Prosecutors brought a criminal case against Abilov on 9 July 2018 under Criminal Code Article 321.1.

On 6 September 2018, Agdam District Court found Abilov guilty and sentenced him to a one-year suspended prison term. During this time, Abilov must report to the authorities each week and remains under travel restrictions. (http://www.forum18.org/archive.php?article_id=2415)

"The terms of the restrictions Vahid Abilov must live under during the year remain very vague," Jehovah's Witnesses complained to Forum 18 on 17 December. They said he is preparing an appeal against his conviction to the Supreme Court in Baku.

Will Ombudsperson's Office help conscientious objectors?

Ahead of its accession to the Council of Europe in January 2001, Azerbaijan promised "to adopt, within two years of accession, a law on alternative service in compliance with European standards and, in the meantime, to pardon all conscientious objectors presently serving prison terms or serving in disciplinary battalions, allowing them instead to choose (when the law on alternative service has come into force) to perform non-armed military service or alternative Civilian service".

Azerbaijan has never done this, and conscientious objectors to military service have been repeatedly prosecuted and even jailed under Criminal Code Article 321.1.

Four conscientious objectors jailed earlier as prisoners of conscience and another who received a suspended prison term are awaiting decisions from the European Court of Human Rights in Strasbourg. (http://www.forum18.org/archive.php?article_id=2408)

Forum 18 asked the Human Rights Ombudsperson's Office in Baku in writing on 17 December what action (if any) it had taken to defend the rights of Mehdiyev and Abilov. It also asked what action (if any) it had taken to push for the adoption of a law to allow for those who have conscientious objections to military service to perform a civilian alternative service, which Azerbaijan committed to introduce by 2003. Forum 18 had received no reply from the Ombudsperson's Office by the end of the working day in Baku on 20 December.

Compensation finally paid for wrongful 2015 jailings

Two female Jehovah's Witness former prisoners of conscience, Irina Zakharchenko and Valida Jabrayilova, finally received financial compensation following a long battle through local courts, including the Supreme Court. The courts awarded Jabrayilova

8,200 Manats in compensation for the long pre-trial detention. Zakharchenko was awarded 9,744 Manats, including compensation for other costs. "The two ladies received the money directly into their bank accounts in the week beginning 8 October," Jehovah's Witnesses told Forum 18. This was six months after the Supreme Court finally ruled in their favour.

Zakharchenko and Jabrayilova were arrested in February 2015 for offering one religious book publicly without the compulsory state permission. The then National Security Ministry (NSM) secret police held them in pre-trial detention from February until late 2015, when Zakharchenko was finally transferred to hospital. She and Jabrayilova were then transferred to the Investigation Prison in Kurdakhani. (http://www.forum18.org/archive.php?article_id=2041)

The women were held at the then NSM prison in a "confinement room, a 'cage', rather than a cell, in that there was no privacy and everything was exposed to the sight of others", Jehovah's Witnesses told Forum 18. "The smell of sewage in this 'cage' was suffocating." (http://www.forum18.org/archive.php?article_id=2140)

Prison officials constantly demanded money. Prisoners who shared the cell stated that they had been asked to pay bribes of 30,000 Manats (then about 166,430 Norwegian Kroner, 17,230 Euros, or 18,800 US Dollars) to get out.

The Jehovah's Witness women were not allowed a Bible or other religious literature during this time, just as Muslim prisoners of conscience have been denied Korans.

Judge Qahramanov (who convicted Telman Shiraliyev in December 2018 – see above) finally convicted Zakharchenko and Jabrayilova in January 2016. He handed down a heavy fine on each, but cancelled the fines because the two women had been in prison since February 2015. (http://www.forum18.org/archive.php?article_id=2144)

The Supreme Court exonerated the two women in February 2017, but left the issue of compensation to the lower courts. A Baku court ordered in August 2017 that they be compensated. However, the Finance Ministry challenged the compensation awards. The women finally overcame these challenges in the Supreme Court on 16 April 2018. It remains unclear why it took six months for the payments to be made. (END)

Full reports on freedom of thought, conscience and belief in Azerbaijan
(<http://www.forum18.org/archive.php?query=&religion=all&country=23>)

For more background, see Forum 18's Azerbaijan religious freedom survey (http://www.forum18.org/archive.php?article_id=2429)

Forum 18's compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments (http://www.forum18.org/archive.php?article_id=1351)

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