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AZERBAIJAN: "No objection" to limited worship, but no legal right

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

After 25 years, Aliabad's Baptist community, denied legal status the longest, finally began open worship in January. The State Committee for Work with Religious Organisations wrote that it had "no objection" to meetings once a week for two hours. Shia Imam Sardar Babayev, freed after a three-year sentence for preaching in a mosque with foreign education, will not resume preaching for fear of renewed criminal prosecution.

After more than a quarter of century of waiting, Baptists in the northern village of Aliabad could finally begin meeting openly for worship in January. However, the State Committee for Work with Religious Organisations has not given the community legal status, but merely told it that it "has no objection" for the community to meet for two hours each Saturday morning.

"Thank God they allowed us to meet and we have a document that we can do so," Pastor Hamid Shabanov told Forum 18 from Aliabad (see below).

"This is God's reply to our prayers," the head of the Baptist Union, Pastor Ilya Zenchenko, commented, "though officials say it is a response to our appeals to the president." He told Forum 18 that "it is also a result of your work, as well as work from many different sides".

Forum 18 was unable to find out from the State Committee why Aliabad's Baptist community cannot meet for worship when it chooses. Telephones went unanswered because of the Novruz spring festival holiday (see below).

The Aliabad Baptist community first began seeking legal status in the mid-1990s. It is believed to hold the record for the community in Azerbaijan waiting the longest for legal recognition. However, it is too small to seek legal status in its own right (see below).

The State Committee gave Baku's Azeri-language congregation state registration only on 13 November 2015. It gave the city's Russian-language church, which is led by Pastor Zenchenko, state registration only on 11 July 2019, nearly a decade after it applied for the compulsory re-registration.

The State Committee arbitrarily denies registration to many other religious communities, including mosques not affiliated to the Caucasian Muslim Board, as well as other religious communities, particularly away from the capital Baku. The Jehovah's Witness community in the second city Ganca has been seeking registration in vain since 2010 (see below).

State Committee officials have been telling non-Muslim communities, especially outside Baku, that they should affiliate with a registered community and become a branch of them, using the registered community as an "umbrella". Officials say this would then allow them to meet. However, officials have generally avoided putting such a commitment in writing, leaving such religious communities in a state of insecurity (see below).

Like other religious communities across Azerbaijan, the Baptist church in Aliabad had to halt public worship meetings in March because of the coronavirus outbreak (see below).

In early 2020, officials finally gave a birth certificate to an Aliabad family who had named their new son Daniel. "The parents chose the name for religious reasons," an individual close to the family told Forum 18. "But officials refused and insisted that they choose an Azeri name." Daniel was one year old when officials finally issued the certificate (see below).

Meanwhile, the only Muslim cleric known to have been jailed for leading Muslim worship after having gained Islamic education outside Azerbaijan has been freed at the end of his three-year jail sentence. Shia Imam Sardar Babayev was freed on 22 February, just three weeks before his 46th birthday. But police prevented about 80 men from gathering with him in a Baku cafe to celebrate his return. Babayev returned to the southern town of Masalli the following day (see below).

The government has given no indication of any plans to remove the Criminal Code Article under which Imam Babayev was jailed, which specifically targets Muslims leading prayers in mosques who have gained their Islamic education abroad. Imam Babayev

appears to have been the only person prosecuted under this Article (see below).

Babayev's lawyer Javad Javadov told Forum 18 that the Imam will not be resuming leading prayers and preaching in the mosque for fear of renewed criminal prosecution. Javadov noted that Imams who had such foreign education withdrew from leading prayers or preaching in mosques after the Article was adopted in 2015 for fear of criminal prosecution (see below).

25 years of legal status denials

The Baptist church in the town of Aliabad in the northern Zaqatala District, which is led by Pastor Hamid Shabanov, has been seeking registration – in vain – since 1994 (http://www.forum18.org/archive.php?article_id=2429). Forum 18 believes it to be the community which held the record for the community denied registration for the longest period.

The population of Aliabad, which is not far from Azerbaijan's border with Georgia, is mainly made up of Ingilos, Georgian speakers whose ancestors were converted to Islam several centuries ago.

Police have repeatedly raided church meetings and seized religious literature. Courts have jailed church leaders on fabricated criminal charges and also fined participants under the Administrative Code.

Former prisoner of conscience Pastor Shabanov was held in pre-trial detention from June to November 2008. In February 2009 he was given a two-year suspended sentence on charges he and his fellow-Baptists insisted were fabricated. He was arrested a month after another Aliabad Pastor, Zaur Balaev, was freed after nearly a year in prison on false charges. (http://www.forum18.org/archive.php?article_id=1254)

The most recent raid was in November 2016, when police and the local State Committee official launched a raid on an "illegal" meeting for prayer in Pastor Shabanov's home. Police detained more than 30 adults and children present, after which 16 women and 10 men were questioned at the local police station until 10 pm at night. Police sent confiscated religious literature to the State Committee in Baku for alleged "expert analysis". The literature was all returned the following month.

In a 15-minute hearing in December 2016, Zaqatala District Court found both Pastor Shabanov and Mehman Agamammadov guilty and fined them each the minimum fine, 1,500 Manats (http://www.forum18.org/archive.php?article_id=2247), more than three months' average wages for those in formal work. Both Baptists were punished under Administrative Code Article 515.0.2 ("Violating legislation on holding religious meetings, marches, and other religious ceremonies").

Pastor Shabanov managed to get the written decision only in January 2017. Agamammadov never received the written decision, despite repeated attempts to get it from the court.

In May 2019, Pastor Shabanov failed to overturn the fine for the second time through the Constitutional Court in the capital Baku. (http://www.forum18.org/archive.php?article_id=2486)

In the 25 years from 1994, police officers and other officials repeatedly told church members that any meetings for worship were illegal and punishable.

"No objection" to weekly worship meetings

The granting of official permission for the Baptist community in Aliabad to meet came in a 24 January 2020 letter to Pastor Hamid Shabanov, leader of the Baptist community, from Jahandar Alifzade, Head of the Religious Organisations Department of the State Committee in Baku (and seen by Forum 18).

In response to Shabanov's letter of 9 January 2020 asking for permission to meet, Alifzade declared that the State Committee "has no objection to members of the community meeting every Saturday from 10:00 to 12:00 in the building built for this purpose in the yard of his home in Aliabad settlement".

"Thank God we can meet," Pastor Shabanov told Forum 18 from Aliabad on 25 March. "Thank God they allowed us to meet and we have a document that we can do so."

Pastor Shabanov told Forum 18 that the local representative in Zakatala of the State Committee, Ilqar Veliyev, summoned him on 24 January and gave him a copy of the letter from Alifzade in Baku. He added that he has not received the original letter by post yet from Baku.

Pastor Shabanov added that he had asked the State Committee to be able to hold services on a Saturday morning as the village holds its market on a Sunday and villagers are often working then.

Forum 18 was unable to find out from the State Committee in Baku why Aliabad's Baptist community cannot meet for worship

when it chooses. Telephones at the State Committee's Religious Organisations Department went unanswered between 24 and 26 March because of the Novruz spring festival holiday.

However, the church's public worship services soon had to stop again. Pastor Shabanov said that Veliyev, the State Committee's representative in Zakatala, had called him in early March to say that because of the coronavirus outbreak the church had to stop meeting. Veliyev told him he would call again once restrictions on public worship were lifted.

"Umbrella" status only for small groups

Since legal changes in 2011, religious communities have required 50 adult members to apply to the State Committee for state permission to exist (http://www.forum18.org/archive.php?article_id=2429). This requirement bans all small religious communities from being allowed to exist and opens up any small communities that meet for worship to punishment.

Many non-Muslim religious communities outside the capital Baku are small and thus are deprived of the right to exercise freedom of religion or belief as a community.

Although it is not enshrined in any published law, the State Committee will not allow Muslim communities not affiliated to the state-controlled Caucasian Muslim Board to exist.

State Committee officials have been telling non-Muslim communities, especially outside Baku, that they should affiliate with a registered community and become a branch of them, using the registered community as an "umbrella". Officials say this would then allow them to meet. However, officials have generally avoided putting such a commitment in writing, leaving such religious communities in a state of insecurity.

As the Aliabad Baptist church does not have the required 50 adult members, it has been ineligible to apply for state registration in its own right. Only when the Russian-language Baptist community in Baku, with which it is affiliated, finally gained state registration in July 2019 could it seek permission to meet.

State Committee officials have told Jehovah's Witnesses verbally that, provided they inform it of their meeting places outside Baku, officials will not prevent them meeting for worship. Jehovah's Witnesses told Forum 18 that officials have not interrupted meetings for worship since June 2019.

State Committee officials do not explain why small religious communities cannot gain the legal right to meet for worship in their own right, or what happens to communities that are not affiliated with another community that has legal status.

Registration obstructions, denials persist

State Committee officials continue to deny state registration to religious communities that do have the 50 adult citizens required to lodge an application. Religious communities have long complained of the State Committee's arbitrary and opaque decision-making processes. (http://www.forum18.org/archive.php?article_id=2429)

Although it is not enshrined in any published law, the State Committee will not allow Muslim communities not affiliated to the state-controlled Caucasian Muslim Board to apply for registration.

Among non-Muslim communities, the Jehovah's Witness community in Azerbaijan's second city Ganca – which has more than 50 adult citizen members - has repeatedly sought registration with the State Committee.

The first application was lodged on 1 July 2010, Jehovah's Witnesses told Forum 18. Since then the State Committee has repeatedly found fault with successive applications. In August 2016, the State Committee returned the most recent application, claiming that they could not process it because several founders had faced administrative cases. (They had been prosecuted for exercising freedom of religion or belief.)

The State Committee finally registered Baku's Jehovah's Witness community in November 2018.

Members of a variety of religious communities have complained to Forum 18 of the difficulty of getting the identities of the 50 founding members notarised. All the founders have to go to a Notary Office at the same time and the process of verifying each founder's identity can take several hours in total.

"Notary Offices are often very small and even getting all 50 founders into the building at the same time can be difficult," one lawyer told Forum 18. "Trying to arrange a date and time when all the founders are available and the Notary has enough time to process them can be very hard."

Birth certificate denial to end?

Because of the Azerbaijani government's sensitivity over ethnic minorities, and the hostility of ethnic Azeri local officials, Georgian-speaking residents in northern Azerbaijan have long faced difficulty getting birth certificates for their children if they choose Georgian first names. Baptists in Aliabad who wished to give their children Biblical names have been among those facing such difficulties.

Without a birth certificate, it is impossible in Azerbaijan for children to go to a kindergarten or school, get treatment in a hospital, or travel abroad.

When Pastor Shabanov's granddaughter Esteri was born in 2009, officials would not give her parents a birth certificate as they said they could not accept the name (http://www.forum18.org/archive.php?article_id=1414). Pastor Shabanov's son and daughter-in-law had explained to the village official that Esteri (Esther) is a Biblical name common to both Jews and Christians. However, the official showed them a typewritten booklet of recognised Azeri names and insisted they had to choose a name from the list, not a Christian first name.

In early 2020, officials finally gave a birth certificate to an Aliabad family who had named their new son Daniel. "The parents chose the name for religious reasons," an individual close to the family told Forum 18. "But officials refused and insisted that they choose an Azeri name." Daniel was more than a year old when officials finally issued a birth certificate.

Freed after three years, but afraid to resume preaching

Sardar Akif oglu Babayev (born 12 March 1974) was freed from Prison No. 17 in Bina in eastern Baku early in the morning of 22 February after serving his full three-year jail term for leading Muslim worship in a mosque after gaining his religious education abroad.

Imam Babayev was welcomed to Baku by a large group of men who had gathered at an office in the city to celebrate his return from prison, according to the local media and social media.

However, when the group tried to gather the following day in a cafe, police arrived before they could even start drinking tea together. Officers told the about 80 men present that the local authorities were going to hold an event there so they had to leave. They were polite but firm. One of them said people were waiting in the park to come in.

Imam Babayev then returned to his home in the southern town of Masalli. "Sardar won't be preaching in the mosque because of the fear of renewed criminal prosecution," his lawyer Javad Javadov told Forum 18 from Baku on 27 March.

Jailed for leading worship in mosque

Imam Babayev, who is married with three children, completed theological studies at Al Mustafa University in the Iranian city of Qom in 2000. He also studied Islam in Baku. At the invitation of the state-backed Muslim Board, he led the namaz (Friday prayers) at Masalli's Juma (Friday) Mosque from 2009.

In late 2016, the head of Masalli District administration, Rafil Huseynov, wrote a complaint about Imam Babayev. Police then investigated and launched a criminal case against the Imam under Criminal Code Article 168-1.3.1.

Article 168-1 punishes "violation of the procedure for religious propaganda and religious ceremonies", including by conducting of Islamic rites by a citizen who has received their education abroad. Article 168-1.3.1 punishes those who commit such violations "repeatedly", with a prison term of between two and five years.

Masalli District Court sentenced Imam Babayev on 3 July 2017 for leading Muslim worship in the town's Juma Mosque in November and December 2016. His three-year jail term in a general-regime prison was deemed to run from the date of his arrest, 22 February 2017. "All I have done is carry out the worship of Allah," Babayev told the court.

Shirvan Appeal Court rejected Imam Babayev's appeal in September 2017 (http://www.forum18.org/archive.php?article_id=2350). The Supreme Court in Baku rejected Imam Babayev's final appeal against his conviction in February 2018. (http://www.forum18.org/archive.php?article_id=2353)

Awaiting European Court of Human Rights judgments

Imam Sardar Babayev's lawyer Javad Javadov lodged a case to the European Court of Human Rights (ECtHR) in Strasbourg (Application No. 34015/17) on 2 May 2017 to challenge Imam Babayev's pre-trial detention. The ECtHR asked the government questions about the case on 4 September 2018. (http://www.forum18.org/archive.php?article_id=2490)

Following Imam Babayev's July 2017 sentence, Javadov lodged a second ECtHR case (Application No. 26896/18) on 19 May 2018

challenging the conviction for leading prayers.

"The government gave its comments [in the first application], they were sent to us and we in turn gave our comments," the lawyer Javadov told Forum 18 from Baku on 27 March 2020. He said they are now waiting for the European Court to give its judgment. "When we get the European Court decision, we will ask for a review of Sardar's case and of the law."

No plans to abolish punishments for leading Muslim worship

Article 168-1 was added to the Criminal Code in December 2015 as part of a hastily-prepared package of amendments to a variety of laws (http://www.forum18.org/archive.php?article_id=2134). Officials did not explain why those who conduct Islamic rituals are singled out for especially harsh punishment.

Article 168-1 was amended in 2018 to allow those with foreign religious education to conduct such rituals if they have the approval of state officials and the Caucasian Muslim Board.

Imam Babayev is the only Muslim known to have been prosecuted under Criminal Code Article 168-1. One of Imam Babayev's lawyers, Javad Javadov, told Forum 18 on 27 March 2020 that he is not aware of the Article being used to punish anyone else. However, he noted that this was because Imams who had such foreign education withdrew from leading prayers or preaching in mosques after the Article was adopted for fear of criminal prosecution.

Javadov repeated his criticism of Criminal Code Article 168-1, describing it as "state interference in people's religious activities". He argued in July 2017 after Imam Babayev's verdict was handed down that the Article is discriminatory as it violates individuals' equal human rights, including the rights to freedom of religion or belief and of expression. (http://www.forum18.org/archive.php?article_id=2343)

Because of the Novruz spring holiday, Forum 18 was unable to reach officials at the State Committee to find out whether it will seek to have parliament remove Article 168-1 from the Criminal Code. (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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If you need to contact F18News, please email us at:
f18news @ editor.forum18.org

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY