

AMNESTY INTERNATIONAL

PUBLIC STATEMENT

AI Index: EUR 55/5633/2017
6 February 2017

AZERBAIJAN: TORTURE AND TRAVESTY OF JUSTICE IN NARDARAN CASE

On 25 January, the Baku Serious Crimes Court sentenced 18 men associated with the Shiite Muslim Unity Movement (MUM) in Nardaran to lengthy prison terms, following a trial that did not meet international standards and was marred by torture allegations. The leader of the MUM, Taleh Bagirzade, and deputy chairman Abbas Huseynov, were sentenced to 20 years in prison. The Court ordered that they serve the first seven years of their sentences in Gobustan high security prison. The sentences of their co-defendants, Jabbar Jabbarov, Rasim Jabrailov, Fuad Gahramanli, Ramin Yaryev, Shamil Abdulaliev, Zakir Mustafayev, Jahad Babakishizade, Agil Guliyev, Abbas Guliyev, Ibrahim Hudaverdiev, Etibar Ismayilov, Bahruz Guliyev, Ali Nuriyev, Alibala Valiyev, Farhad Abbas, Balaeva Tagiyev range from 10 to 19 years imprisonment.¹ The defendants are appealing the verdicts.

The arrest, trial and sentencing of these men has been marred by numerous human rights violations. These include persistent allegations of torture and other ill-treatment, violations to the right to a fair trial and the denial of urgent medical care. Witnesses and defence lawyers have been threatened and harassed. Others who have criticized the treatment of believers by the authorities in relation to this case have in turn been arrested and prosecuted.²

Security operation in Nardaran

The Muslim Unity Movement is an unregistered religious group formed in 2015. Its members describe themselves as “non-violent, conservative Shiites” who advocate for an increased role of Islam in the otherwise largely secular Azerbaijan. The founder of MUM, an Iran-educated Azerbaijani Shiite scholar Taleh Bagirzade, has been a vocal critic of the positions of state religious bodies, and has accused the government of authoritarian rule and corruption. He has been particularly vocal in condemning the ban on headscarves in schools.

Nardaran, a north-western suburb of Baku, Azerbaijan’s capital, is regarded as the stronghold of the MUM. The neighbourhood is home to a particularly active Shiite community that has a

¹ Shamil Abdulaliev, Zakir Mustafayev, Jahad Babakishizade, Abbas Guliyev, Ibrahim Hudaverdieva, Etibar Ismayilov, Bahruz Guliyev, Ali Nuriyev, Alibala Valiyev, Farhad Balaev and Abbas Tagiyev were sentenced to 14.5 years in prison. Fuad Gahramanli, Ramin Yaryev and Agil Guliyev were sentenced to 10 years.

² Amnesty International has not been able to observe the trial proceedings or to visit the defendants in detention due to being barred from the county. The information has been collected from lawyers, trial monitors and local activists and human rights defenders over the phone and email communications on confidential bases.

history of defying the national government in matters of religion, including violent incidents between its members and the police.

In November 2015, Taleh Bagirzade, and 16 other members of MUM, were arrested following a security operation by police and other security forces in Nardaran. According to the Ministry of the Interior, the arrests were conducted to neutralize “an armed criminal group acting under the cover of religion and planning to commit acts of terrorism”.³ Police also carried out arrests of local residents associated with MUM in Nardaran. The clashes between the police and the suspects during those operations resulting in six deaths, including the deaths of two police officers.

Fuad Garhamanli, an opposition activist who was not previously associated with MUM, was also detained in relation to the case. He was arrested on 8 December 2015 for a Facebook post in which he called on Nardaran residents not to abandon Taleh Bagirzade and encouraged them to continue their protests.

The events and details of the police operation are still heavily disputed. According to official reports, shots were fired and grenades thrown at police officers while they were conducting the arrests, and two police officers died as a result. The defendants and local residents rejected the official account. The defendants insisted that they did not possess any firearms or grenades, and were not responsible for the deaths of the police officers. According to the claims of the defendants and other local residents, police officers had opened fire at a gathering of unarmed worshippers and planted the weapons and ammunitions afterwards.

During the security operations of November 2015, and in the months that followed, dozens of persons associated with MUM and residents of Nardaran were arrested. Taleh Bagirzade and 16 other MUM members, later joined by Fuad Garhamanli, were remanded as criminal suspects on charges including murder, terrorism and attempts to seize power by violent means. Their trial started on 3 August 2015.

Unlawful and incommunicado detention, forced “confessions” and torture and other ill-treatment

During the trial, the majority of the MUM defendants testified that they had been tortured or otherwise ill-treated with beating and electric shocks during their incommunicado detention at the MOCD.

Azerbaijani authorities have failed to investigate the recurrent allegations of torture and other ill-treatment surrounding the trial of Taleh Bagirzade and other 16 men thoroughly and effectively.

The prosecution did not open the investigation into allegations of their torture and other ill-treatment until August 2015 - more than eight months after their detention - after the defendants testified about their torture publicly during the preliminary hearing of their trials. The investigation failed to take note of the initial medical examination following their detention, which recorded injuries consistent with their allegations of ill-treatment. The prosecution closed the investigation in September citing lack of evidence.

³ Radio Free Europe, Caucasus Report. Azerbaijani Theologian Said To Have Been Plotting Coup. November 27, 2015. Available at: <http://www.rferl.org/a/caucasus-report-azerbaijan-theologian-plotted-coup/27393340.html>

Prior to the start of their trials, most of the men not allowed to contact the outside world and had no access to the lawyers of their choice.

Following their arrests as criminal suspects, Taleh Bagirzade and 16 other co-defendants were taken to the Main Organized Crime Department (MOCD) in the Ministry of the Interior, where most of them were held for over a month. During this time, they were repeatedly questioned, reportedly tortured and forced to sign self-incriminating statements. They were represented by state appointed lawyers, who failed to notify the family members of the detained of their whereabouts. Several defendants later reported that their state appointed lawyers failed to act in their best interest, for instance by signing records of interviews at the MOCD, allegedly involving the use of torture, that they had not attended.

According to the Code of Criminal Procedure of Azerbaijan, criminal suspects can only be detained for up to 48 hours before having to be brought before a judge to authorise their continued detention on remand. If the court approves the detention pending trial, detainees have to be transferred from police detention facilities to penitentiary facilities within 24 hours of their remand hearing.⁴ Most of the detained members of MUM reported being held at the MOCD for over a month.

During the trial, many complained of having been forced to sign “confessions” as a result of torture and other ill-treatment. Others claimed that they had signed “confessions” that had been written for them, without reading them, to avoid being tortured.

Taleh Bagirzade provided a detailed account of how police officers tortured him, including by severe beatings, during detention at the MOCD, which he repeated during several court sessions.⁵

They handcuffed me, and forced me inside a big vehicle where they threw me on the floor. [...] There were around 20 other people inside already. When the vehicle started moving, armed men in masks started beating everyone with their fists, legs and rifle butts ... They hit me in the face, breaking my nose. I was handcuffed and shoved face down on the floor of the vehicle. Then one of the masked men put his foot on my back, and his hands on my shoulders. He pulled me backwards, trying to break my back. [...] He pushed my face into the floor, stood on me and started beating me with the butt of a rifle.

Taleh Bagirzade also alleged that he was repeatedly beaten and threatened to confess to terrorism and to testify against his fellow criminal suspects.

Every day, they would come to my cell, put a bag over my head and take me out. They were tying my hands together, throwing me on the floor, someone sat on my shoulders while they were beating me. They were beating me so badly, my legs became swollen to unrecognizable shapes.

Taleh Bagirzade’s lawyer told Amnesty International that he was denied access to his client on the day of his arrest, 26 November 2015, despite presenting his power of attorney. Taleh Bagirzade was denied the right to see his lawyer until 29 December 2015. When the lawyer

⁴ Articles 148.4 and 157.3 of the Code of Criminal Procedure of Azerbaijan provide that authorities responsible for detaining suspects may hold suspects for up to 48 hours prior to obtaining the approval of the judge for such detention and, and thereafter, if it is decided as a preventive measure to remand the suspects in custody, they are to be transferred to a remand centre within 24 hours. See: <http://www.omct.org/files/2004/03/2333/azerbaijan.pdf>

⁵ The testimony has been collected translated by Azerbaijani human rights defender in exile from defence lawyers.

finally managed to visit Taleh Bagirzade, the latter had visible bruises and a broken nose. The same day, the lawyer lodged a complaint in court demanding an investigation into Taleh Bagirzade's torture allegations.⁶

Abbas Huseynov, deputy chairman of the Muslim Unity Movement, was detained together with Taleh Bagirzade and kept incommunicado for two months. During this time, his family and relatives had no information about his fate and whereabouts, and thought he was dead.

Abbas Huseynov's lawyer confirmed to Amnesty International that his client had been taken into custody at the MOCD detention following his arrest and held there after the court had ruled on his pre-trial detention, for a period of two months. During this time, he was prevented from contacting or informing his family and the lawyer of his choice. When the lawyer was first allowed to see Abbas Hyseynov, two months after his arrest, the latter had visible bruises on his hands. The lawyer asked to examine parts of his client's body covered with clothes, expecting to see other injuries, but was not allowed to do this.

Notably, Abbas Hyseynov was examined by a state medical official a week after his arrest in November 2015. The report of this examination documented injuries, including bruises, on his body. However, the report attributed these to Abbas Hyseynov's resistance to police during his arrest. Abbas Hyseynov told his lawyer that he had been tortured and otherwise ill-treated continuously by MOCD officers, including being beaten with batons while handcuffed and near-asphyxiated with a wet towel placed over his head. He was treated in this way for over a month, until he agreed to sign a statement incriminating leaders of the Muslim Unity Movement in supplying illegal weapons to others for the purpose of overthrowing the government. He has since retracted his testimony, insisting that it had been extracted by force.

According to trial monitors and media reports, witnesses called by the prosecution who testified at the trial also alleged that they were summoned by police before the trial and were pressured and threatened to ensure that they would incriminate MUM defendants in the courtroom.

Several witnesses tried to retract statements they had given earlier claiming that they had given these under pressure or duress. According to defence lawyers, the two witnesses who retracted their statements at the court hearing held on 26 October 2016, had been brought to police stations and subjected to torture or other ill-treatment in order to extract statements incriminating the MUM defendants. Other witnesses complained of having been taken to police departments before they were summoned to testify in court and warned against retracting their initial depositions.⁷ To date no investigation has been carried out to the allegations of ill-treatment and pressure on the trial witnesses.

Denial of necessary medical care

At least three detainees have complained that the authorities denied them access to necessary medical care, including surgical procedures to remove bullets from their bodies and access to

⁶ Turan News Agency. Court to Consider Complaint of Torture from Taleh. 8 January 2016. Available at: <http://www.contact.az/docs/2016/Social/010700142715en.htm#.WHe5nFOLSQ2>

⁷ Amnesty International's telephone interview with the defence lawyer January 27, 2017; see as well Caucasian Knot *Defence claims torture of witnesses in "Nardaran case"*. 29 October 2016, available at: <http://www.eng.kavkaz-uzel.eu/articles/37363/>

medication.

Jahad Balakishiev, Shamil Abdylaliev and Bahruz Askerov received firearm wounds during the police operation that led to their arrest in November 2015. After they were placed in detention, they were denied necessary medical care and access to medicines, including painkillers. Both Shamil Abdylaliev and Bahruz Askerov have a bullet stuck in their legs, and Jihad Balakishiev has a bullet in his chest close to his heart, that have not been removed, their lawyers told Amnesty International. They are in constant pain, unable to walk unaided, and their health is constantly deteriorating. However, their lawyers' motions for their clients to obtain the necessary medical treatment and have the bullets removed, have been rejected by the court.

Other violations of fair trial guarantees

The "confessions" extracted through torture and other ill-treatment have been used by the prosecution throughout the trial. The court has admitted these as evidence in trial, despite the defendants' complaints about torture and other ill-treatment and attempts to retract earlier self-incriminating statements.

Lawyers of the 18 defendants have complained of a multitude of procedural violations. The lawyers were not provided with adequate time and evidence to prepare a defence. Furthermore, the defence was not allowed to call and cross examine in court a number of key witnesses. Numerous defence motions, including requests for further investigative activities were refused by the judge without any substantiating explanation. Similarly, when the defence requested to see the official video recording of the security operation, which they believe exists and which could have clarified numerous disputed facts and cleared some inconsistencies in the evidence presented by the prosecution witnesses (primarily law enforcement officials who took part in the security operation), their motion was refused without any explanation or reference to the video recording itself.⁸

Reports from the courtroom provided by trial monitors and the media suggest that the prosecution failed to provide compelling evidence in support of a whole array of charges. For instance, according to these sources, the prosecution failed to provide the court with credible proof of the defendants' intent to organize mass violence or acts of terrorism and only referred to religious gatherings of MUM, which it called "illegal meetings". The prosecution's claim that they had possessed firearms and were arming others, a claim strongly contested by the defendants, was based on testimonies of police officials and witnesses provided by the police; however, when the defence requested to examine the fingerprints in the firearms, the court declined the motion without substantiating its refusal.

Some of the key inconsistencies in the prosecution's evidence related to the death of the two police officers during the security operation. According to the prosecution, and as described in the indictment, they were killed by a grenade thrown at them by a Nardaran resident who was then killed at the scene. However, defence lawyers established that in the initial official report (*protocol*) filed by the MOCD officer in charge of the operation, there was no mention of an incident involving a grenade or any damage caused by an explosion. According to the lawyers, examination of the site carried out as part of the protocol on 3 December 2015, about a week after the incident where the grenade had allegedly detonated, found no shrapnel nor explosion

⁸ Amnesty International's interview with defence lawyers. 27 January 2017. See as well: IRFS. *Nardaran Trial: Court Grants Only One of Eleven Defence Motions, As Defendants Go On Hunger Strike*. December 19th, 2016. Available: <https://www.irfs.org/news-feed/nardaran-trial-court-grants-only-one-of-eleven-defence-motions-as-defendants-go-on-hunger-strike/>

crater or other evidence of the impact an explosion would have ordinarily left at the scene. At the same time, the investigation failed to find the detonator from the grenade at the scene.⁹

Harassment of lawyers and critics

Other individuals associated with the Nardaran case, including defence lawyers, relatives of the defendants and others who have been publicly critical of the security operation in Nardaran, have reported being threatened and harassed.

One of the defence lawyers interviewed by Amnesty International who chose to remain anonymous for fear of retribution, claimed that he had been told by MODC officers that if he publicly exposed his client's torture he would find himself "in the same condition". After he reported the information to the media, his relatives were approached and told by local police to warn the lawyer against defending "the terrorist". The same lawyer reported that during one of the hearings, someone approached him from behind and pressed a gun hidden under their coat against his back and told him "to be careful defending the terrorists."

Other lawyers reported that they have been threatened with disbarment, after complaining to the Azerbaijani Bar Association that they were compelled to participate in trial proceedings against the wishes of their clients. In December 2016 the judge banned 18 defendants from attending trial proceedings for a week. The defendants in turn requested their lawyers not to attend the trials for as long as they remained barred themselves. However, the request by the lawyers to be exempted from trial proceeding based on their client's request was refused by the judge. On 16 December, after lawyers appealed to the Bar Association for the resolution of situation, they were told by the deputy head of the Bar Association that if they continued to "cause trouble" and refuse to resume the trial and abandon the complaint, they would face disbarment.¹⁰

Two persons who posted information critical of the authorities in connection with Nardaran events have been detained and arrested.

Fuad Garhamanli, one of the co-defendants in the case was arrested in connection with his posts on Facebook regarding the events in Nardaran. He had written several critical posts questioning the legitimacy of the security operation in Nardaran and calling on Shia Muslims to continue supporting the arrested MUM leader, Taleh Bagirzade.

He was charged in court with inciting members of the public to overthrow the government and incitement of religious hatred, and remanded in pre-trial detention, with his Facebook posts cited as the evidence against him. On 15 March 2016, new charges of inciting mass disorders were added to his existing charges. Amnesty International considers Fuad Gahramanli a prisoner of conscience, detained solely for the peaceful exercise of his right to freedom of expression.¹¹

On 23 November 2016, the authorities arrested Fail Shahbazov, a resident of Nardaran, who had attended the hearings and published critical posts about the security operation in

⁹ibid

¹⁰ Amnesty International's telephone Interview with the defence lawyer 16 December 2016.

¹¹ Amnesty International. "*Revolving doors*": *The ongoing persecution of government critics in Azerbaijan*. 16 June 2016. EUR 55/4268/2016.

Nardaran. According to media reports, Fail Shahbazov claimed that police had increased presence in Nardaran in November 2016, around the first anniversary of the security operation, and warned relatives of the victims who were killed during the police operation not to organize mass visits to the graves of the deceased or to carry out Muslim mourning ceremonies. Fail Shahbazov had also published on Facebook photos of the destroyed tombs of those killed during the security operation in 2015.¹² A day after the publication, on 23 November 2016, he was arrested and sentenced to 30-day administrative detention for purportedly “disobeying police’s lawful demands”.

On 17 December, shortly before completing his administrative detention, Fail Shahbazov was accused of hiding a ‘sawn-off’ (half-barrel) hunting rifle in his garden and charged with possession of an illegal weapon.¹³

Torture allegations and fair trial violations must be addressed

Amnesty International urges the Azerbaijani authorities to ensure that the 18 members of MUM, convicted after gross violations of the right to a fair trial, have a right to appeal in a proceeding that meets international fair trial standards. The court should give due consideration to the multiple violations of the right to a fair trial and must ensure that any statement obtained as a result of torture is not admitted as evidence. If, after excluding such statements, remaining evidence against them is not sufficient to prove the case against them beyond reasonable doubt, the convictions should be quashed and they should be released.

The authorities must also ensure that all allegations of torture and other ill-treatment, and all concurrent alleged violations including prolonged unlawful and incommunicado detention of arrested individuals by officers of the MOCD are promptly, effectively and impartially investigated. If the allegations are confirmed, the victims should be awarded adequate reparations and those reasonably suspected of involvement should be brought to justice in fair proceedings.

As a matter of particular urgency, Jahad Balakishiev, Shamil Abdylaliev and Bahruz Askerov must be granted the necessary medical treatment they require.

Prisoner of conscience and co-defendant in this case, Fuad Garhamanli, should be released immediately and unconditionally, as he has been detained solely for the peaceful exercise of his right to freedom of expression.

/END

¹²The photos allegedly describing the destruction of the cemeteries of the Nardaran residents killed during November 2016 police raid are available on Facebook page of Fail Shahbazov: https://www.facebook.com/gece.sahbazov?hc_ref=SEARCH See as well: Turan News Agency. New Arrests in Nardaran. 2016 November 25. Available at: <http://wap.contact.az/docs/2016/Social/112500175914en.htm>

¹³ IRFS. Weapons ‘Found’ on Arrested Nardaran Witness. December 17th, 2016 see: <https://www.irfs.org/news-feed/weapons-found-on-arrested-nardaran-witness/>