HUMAN RIGHTS WATCH

TIGHTENING THE SCREWS

Azerbaijan's Crackdown on Civil Society and Dissent

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Printed in the United States of America
ISBN: 978-1-62313-0473
Cover design by Rafael Jimenez

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SEPTEMBER 2013

978-1-62313-0473

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Summary

Azerbaijan's record on freedom of expression, assembly, and association has been on a steady decline for some years, but it has seen a dramatic deterioration since mid-2012. Since then the government has been engaged in a concerted effort to curtail opposition political activity, punish public allegations of corruption and other criticism of government practices, and exercise greater control over nongovernmental organizations (NGOs). It has done so by arresting and imprisoning dozens of political activists on bogus charges, adopting restrictive legislative amendments, consistently breaking up public demonstrations in the capital, and failing in its duty to investigate and punish those responsible for violent attacks and smear campaigns against critical journalists.

The crackdown started in response to youth groups' attempts to organize protests in Baku soon after the uprisings broke out in the Middle East and North Africa in early 2011. It intensified in mid-2012, apparently in anticipation of the October 2013 presidential elections.

This report, based on more than 100 interviews, documents the cases of 39 individuals detained, charged, convicted, and/or harassed in the 18 months from February 2012 to August 2013. The government of Azerbaijan has for many years used bogus charges to imprison some of its critics and has a long record of dispersing – often violently – peaceful public protests and arresting protesters. However, the sheer number of arrests, the adoption of harsher laws, and extensive government efforts to stop and prevent peaceful public protests indicate a new concerted government effort to curtail political and civic activism in the country.

Arrest and Imprisonment

Individuals arrested and imprisoned have included several high-ranking members of opposition political parties, government critics who frequently blog or have large followings on social media, and people who have been consistently involved in political protests in Azerbaijan, which have increased since the 2011 uprisings in the Middle East and North Africa.

Activists in youth wings of political parties and the youth opposition movement NIDA have been particular targets. NIDA, which means "exclamation mark" in Azeri, was founded in 2010 and campaigns for democratic reforms and the rule of law in Azerbaijan. From March 7 to April 1, 2013, police arrested seven NIDA members, claiming they were involved in an alleged plan to instigate violence at a peaceful protest. Another NIDA board member and two other youth activists were arrested on misdemeanor charges and had their heads forcefully shaven while they served their brief jail terms. All are active Facebook and Twitter users who frequently posted criticism about alleged government corruption and human rights abuses.

Others who have been arrested or imprisoned include at least six journalists, two human rights defenders who had worked on getting assistance to flood victims, one defender who documented abuse in police custody, and a lawyer who tried to secure adequate compensation for people forcibly evicted from their homes.

Bogus Charges and Other Due Process Irregularities

The authorities have used a range of misdemeanor and trumped-up criminal charges against these activists, including narcotics and weapons possession charges, hooliganism, incitement, and even treason. In many of the cases described in this report, Human Rights Watch documented numerous irregularities as well as due process and other violations that have marred the investigations and legal proceedings against the victims. Authorities have in many cases denied defendants' access to lawyers of their own choosing whilst in detention. Courts have ordered defendants to be held on remand despite the absence of any evidence justifying the need for pretrial detention. In 17 cases documented here, the authorities did not adequately – if at all – investigate credible allegations of beatings, threats, and other abuses.

In a vivid example of this, two days after the arrests of the first three NIDA members, nearly all Azerbaijani television channels, including the state channel and the public broadcaster, broadcast a police video of two of them allegedly confessing to a plan to use Molotov cocktails at a street protest. The televised statements had been made while the activists were in custody without access to their lawyers, and the statements gave the impression of being coached, raising fears that the activists were coerced or threatened in order to give

false confessions. Yet the police did not effectively investigate allegations by several of the detained NIDA activists that they were beaten or otherwise ill-treated in custody.

The Azerbaijani government also has a longstanding practice of pressing bogus drugs charges against its critics, and it has used this method in the current crackdown. From May 2012 to May 2013 at least six government critics were arrested on charges of possession of narcotics. In these cases, the defendants' lawyers were not present during the searches and could not access their clients for several days following their arrest. Furthermore, during interrogations several of the men were questioned primarily about their political activities rather than the allegations of possession of narcotics, further highlighting the political nature of their prosecution.

Targeting of Journalists and Attacks on Freedom of Expression

State antagonism toward independent and opposition media has been a serious problem in Azerbaijan for many years. In the past six years dozens of journalists have been prosecuted and imprisoned or fined on defamation and other charges. Police and sometimes unidentified assailants physically attacked journalists with impunity. In 2012 the authorities released several journalists who had been wrongfully imprisoned, and there has been a sharp decline in criminal defamation suits pursued by the authorities. However, since January 2013 at least six more journalists have been handed prison sentences on spurious charges in apparent retaliation for doing their job of engaging in critical and investigative journalism. We documented four cases taking place in February, March, and April 2013 alone in which threats, smear campaigns, and violent attacks clearly sought to silence critical journalists and a writer.

Since at least 2011 the Azerbaijani government has committed to decriminalize libel, a promise for which it has received not insignificant praise. However, in May 2013 the parliament of Azerbaijan expanded the definition of criminal slander and insult to specifically include content "publicly expressed in internet resources."

Targeting of NGOs

The crackdown has also affected NGOs. Azerbaijan has a large and vibrant community of NGOs devoted to such public policy issues as human rights, corruption, democracy promotion, revenue transparency, rule of law, ethnic minorities, and religious freedom.

Legislative amendments adopted in February 2013, however, make it impossible for unregistered groups to legally receive grants and donations. In recent years the authorities' refusal to register several human rights groups and their closure and harassment of several others demonstrates the government's determination to interfere with NGOs in order to restrict controversial work or criticism of the government.

The amendments also increased by fivefold fines for NGOs that receive funding from a donor without concluding a grant agreement and registering it with the Ministry of Justice. The amendments give the government greater latitude to exercise control over registered groups while at the same time significantly restricting the ability of unregistered groups to receive donations and grants. Human Rights Watch is concerned that the cumulative effect of these factors will be to marginalize the activities of organizations that are outspoken, challenge government policies, and/or work on controversial issues.

Restrictions on Freedom of Assembly

Another manifestation of the government's crackdown has been severe limitations on freedom of assembly. The Baku municipal authorities have implemented a blanket ban on all opposition demonstrations in the city center since early 2006. The authorities have broken up unsanctioned ones – often with violence – and have arrested and imprisoned peaceful protestors, organizers, and participants. Our research shows that the misdemeanor trials of those charged for involvement in unsanctioned protests are perfunctory. In an effort to further limit the right to assembly, in November 2012 and May 2013 parliament adopted amendments to laws increasing by more than hundredfold the fines for participating in and organizing unauthorized protests. Other amendments increased the maximum jail sentence for minor public order offenses often used to incarcerate protesters from 15 to 60 days.

What Should be Done?

The government of Azerbaijan should take immediate steps to ensure the release of political activists, journalists, human rights defenders, and other civil society activists held on politically motivated charges and end the use of trumped-up or spurious charges to prosecute government critics.

The authorities should conduct prompt, thorough, impartial, and effective investigations to end impunity for violence and threats of violence against journalists. The investigations should be capable of leading to prosecutions of the assailants, as required under Azerbaijan's international obligations.

The government should also abolish criminal defamation laws, allow peaceful assemblies, and repeal legislative changes establishing harsher penalties for the participants and organizers of unsanctioned, peaceful protests.

The government should also take immediate steps to end any undue interference with the freedom of the Azerbaijani people to form associations and revise the NGO law in line with the recommendations made by the Council of Europe's Venice Commission, particularly ensuring that overly complicated registration requirements do not create undue obstacles to freedom of association.

Under international law, and as a state party to both the European Convention on Human Rights and the International Covenant on Civil and Political Rights, the Azerbaijani government has specific legal obligations to protect the rights to freedom of expression, assembly, and association. International human rights law recognizes those freedoms as fundamental human rights, essential for both the effective functioning of a democratic society and the protection of individual dignity. Any limitations to those rights must be narrowly defined to serve a legitimate purpose and must be demonstrably necessary in a democratic society. Furthermore, the European Court of Human Rights has consistently made clear, including through four rulings against the government of Azerbaijan, that the right "to form a legal entity in order to act collectively in a field of mutual interest is one of the most important aspects of the right to freedom of association, without which that right would be deprived of any meaning."

For many years, and particularly since Azerbaijan became a member of the Council of Europe in 2001, it has been receiving international assistance from multilateral and bilateral donors, including the Council of Europe, the European Union, the Organization for Security and Co-operation in Europe, and the United States, to meet its commitments on freedom of expression, association, and assembly. While Azerbaijan's international partners have been critical of Baku's serious shortcomings in meeting its commitments, the criticism appears to have had little impact on these actors' relationships with the

government, perhaps because most actors prioritize the country's geostrategic importance and hydrocarbon resources in their relations with it. Azerbaijan's international partners should set clear benchmarks for improvements on human rights if the international community is to succeed in persuading Baku to respect its commitments under freedom of expression, association, and assembly and should be prepared to impose concrete policy consequences should those expectations not be met.

Methodology

For this report, on the ground, in-depth interviews were conducted in Azerbaijan during research trips in May and November 2012 and April 2013. Researchers conducted follow-up telephone interviews and desk research through August 2013. Human Rights Watch interviewed over 100 individuals, including relatives, lawyers, and others close to the cases of imprisoned journalists and activists, staff of nongovernmental organizations (NGOs), print and radio journalists, lawyers, and youth groups and political party activists.

Human Rights Watch identified the victims and witnesses of abuses with the assistance of Azerbaijani NGOs, as well as through extensive Human Rights Watch staff contacts.

Interviews were conducted in English and Russian by a Human Rights Watch researcher who is fluent in both languages. Many interviews were conducted in Azeri by a Human Rights Watch consultant who is a native speaker of Azeri. In a few instances the names of interviewees have been withheld at their request and out of concern for their security.

Some of the research presented in this report was published in Human Rights Watch news releases and other public documents in 2012 and 2013.The analysis of Azerbaijan's legal obligations in the area of freedom of expression has been reprinted from Human Rights Watch's 2010 comprehensive report on deteriorating media freedoms, *Beaten, Blacklisted, and Behind Bars: The Vanishing Space for Freedom of Expression in Azerbaijan*.

In 2012 and 2013, as the human rights situation deteriorated in Azerbaijan, Human Rights Watch issued numerous news releases urging the Azerbaijani authorities to investigate violence against journalists and human rights activists, calling for fair trial and release of those in prison on spurious criminal charges, and asking the authorities to uphold Azerbaijan's international commitments and ensure freedom of expression and assembly.[1]

[1] To read Human Rights Watch letters, press releases, and other reporting on Azerbaijan, please visit http://www.hrw.org/en/europecentral-asia/azerbaijan.

Human Rights Watch reviewed media interviews with government officials and official statements regarding many of the cases described in this report and has reflected them in this report. We also sent letters to the Azerbaijani prosecutor general and the Ministry of Justice seeking clarification regarding the issues raised in this report. Human Rights Watch received a reply from the Ministry of Justice as this report went to press; we have not yet received a reply from the prosecutor's office.

I. Background

Azerbaijan's Political Landscape

Azerbaijan is a hydrocarbon-rich country located in the South Caucasus with a population of 9.3 million.[2] Since gaining independence from the Soviet Union in 1991, Azerbaijan has had a poor human rights record and an increasingly authoritarian political elite. Many hoped that the October 2003 election of President Ilham Aliyev would mark a new era of democracy and respect for human rights.[3] However, vote fraud, police violence, and intimidation of opposition supporters and others marred national polls in 2003 and 2005.[4] Aliyev was re-elected in October 2008, the outcome of elections that the opposition boycotted and that failed to comply with Azerbaijan's international commitments.[5]

In March 2009 a popular referendum initiated by the president amended the country's constitution to remove the two-term limit on the presidency, enabling Ilham Aliyev to stand again in October 2013.[6] In November 2010 international observers again found that the country's parliamentary elections were marred by media restrictions, the misuse of administrative resources, and an inequitable candidate registration process.[7]

There are numerous opposition parties and groups – including the Popular Front Party (PFP), Musavat, the Azerbaijan Democratic Party (ADP), and Republican Alternative (REAL) – although they are barely represented in the parliament. In May 2013 the Azerbaijani political opposition united under a National Council of Democratic Forces and later announced that screenwriter Rustam Ibrahimbeyov, 74, would be its candidate in the October 2013

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[2] The State Statistical Committee of the Republic of Azerbaijan, http://www.stat.gov.az/source/demoqraphy/indexen.php (accessed July 29, 2013).

[3] Ilham Aliyev succeeded his father, Heydar, who had held the office since 1993 and died in December 2003. Human Rights Watch, *Azerbaijan: Presidential Elections 2003*, October 13, 2003, http://www.hrw.org/reports/2003/10/13/azerbaijan-presidential-elections-2003; *Azerbaijan Elections and After*, November 18, 2005, http://www.hrw.org/reports/2005/11/18/azerbaijan-elections-and-after.

[4] Ibid.

[5] Organization for Security and Co-operation in Europe (OSCE), *Statement of Preliminary Findings and Conclusions: Republic of Azerbaijan – Presidential Election*, October 15, 2008, http://www.osce.org/documents/odihr/2008/10/34414_en.pdf, (accessed 16 October 2010), p. 1.

[6] Human Rights Watch, *World Report 2010* (New York: Human Rights Watch, 2010), Azerbaijan chapter, http://www.hrw.org/en/node/87607.

[7] "Parliamentary Elections," November 7, 2010," OSCE, http://www.osce.org/odihr/elections/azerbaijan/74789 (accessed October 29, 2011).

presidential election.[8] Fearing that Ibrahimbeyov will not be registered by the Central Election Commission as a dual citizenship holder, in August the opposition coalition selected a public figure and history professor, Jamil Hasanli, 61, as a new joint candidate.[9]

No Checks and Balances

Neither the judiciary nor the parliament provides an effective check on executive power. Azerbaijan's judiciary depends heavily on the executive and does not provide effective recourse against violations of basic rights.[10] In a 2008 report based on its extensive trial monitoring, the Organization for Security and Co-operation in Europe (OSCE) found that trials regularly violate "the right to effective legal representation, the right to an impartial and independent tribunal, the right to a fair hearing, the right to assistance by an interpreter, and the right to a reasoned judgment."[11] In a 2011 report based on the monitoring of 520 trials, the OSCE flagged shortcomings including in relation to the rights to a fair trial and adequate legal representation.[12] According to Transparency International's Global Corruption Barometer released in July 2013, 42 percent of households surveyed by the organization believed the judiciary was "corrupt or extremely corrupt," naming it one of the most corrupt institutions in the country.[13]

The ruling Yeni Azerbaijan Party (YAP) dominates the parliament (Milli Mejlis), which does not provide a check on executive power and largely serves to rubber stamp legislation proposed by the government. Azerbaijan's political opposition is marginalized and holds only a few of the parliament's 125 seats, due in part to many years of restrictions on assembly, harassment of political figures, ruling party incumbents' abuse of government resources, and other violations during election campaigns.

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[8] The Council includes the Musavat Party, the Azerbaijan Popular Front Party, the El Movement, the Civil Solidarity Party, the Open Society Party of former parliament speaker Rasul Guliyev, and around 15 others. Arifa Kazimova, "Azerbaijan's Opposition Gears Up to Give Aliyev Serious Challenge," *RFE/RL*, June 22, 2013, http://www.rferl.org/content/azerbaijan-opposition-unites-challenge/25024957.html (accessed July 9, 2013).

[9] Zulfugar Agayev, "Azerbaijan's Opposition Names New Candidate to Challenge Aliyev," Bloomberg, August 23, 2013, http://www.bloomberg.com/news/2013-08-23/azerbaijan-s-opposition-names-new-candidate-to-challenge-aliyev.html (accessed August 23, 2013).

[10] Freedom House, "Azerbaijan," *Nations in Transit 2010*, http://www.freedomhouse.org/report/nations-transit/2010/azerbaijan (accessed August 18, 2010).

[11] OSCE Office in Baku, *Trial Monitoring in Azerbaijan: 2006-07*, 2008, http://www.osce.org/baku/32355 (accessed December 2, 2011).

[12] OSCE Office in Baku, "Trial Monitoring Report Azerbaijan 2011," http://www.osce.org/baku/100593 (accessed July 15, 2013).

[13] Transparency International, "National Results: Azerbaijan," *Global Corruption Barometer 2013*, http://www.transparency.org/gcb2013/country/?country=azerbaijan (accessed July 13, 2013).

Impact of Arab Spring, Eurovision Protests, and Social Media

Prodemocracy mass protests in the Middle East and North Africa inspired youth activists and opposition leaders in Azerbaijan to mobilize public campaigns against government corruption and human rights abuses in the country. Youth groups used Facebook and other social media to call for mass protests in March and April 2011 and again in May 2012 when Azerbaijan hosted the Eurovision Song Contest. The Azerbaijani government responded heavy handedly by dispersing the unsanctioned, peaceful rallies, at times using excessive and disproportionate force, detaining hundreds, and prosecuting dozens on misdemeanor or criminal charges.[14]

After the 2011 popular uprisings in Egypt and Tunisia, the Azerbaijani government became wary of the potential of social media to mobilize the public, particularly since social media use in Azerbaijan had grown rapidly since 2010.[15] The authorities arrested several high-profile bloggers[16] and made statements linking social media with mental illness and other problems with maintaining real-life relationships.[17] Nevertheless, the number of social media users in Azerbaijan has grown rapidly from 105,000 Facebook users in 2010 to 604,160 by December 2011, or 7 percent of the population.[18] Although Azerbaijan does little direct filtering of Internet content, the authorities have made a number of statements on the need to regulate it.[19]

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[14] See "Azerbaijan: Government Cracks Down to Prevent Protests," Human Rights Watch news release, March 12, 2011, http://www.hrw.org/news/2011/03/12/azerbaijan-government-cracks-down-prevent-protests; "Azerbaijan: Dozens of Peaceful Protesters Convicted," March 14, 2011, http://www.hrw.org/news/2011/03/14/azerbaijan-dozens-peaceful-protesters-convicted; "Azerbaijan: Activists Jailed Ahead of Planned Protests," April 1, 2011, updated April 2, 2013, http://www.hrw.org/news/2011/04/01/azerbaijan-updated-activists-jailed-ahead-planned-protest.

[15] Katy E. Pearce and Sarah Kendzior, "Networked Authoritarianism and Social Media in Azerbaijan," *Journal of Communication*, ISSN 0021-9916 (2012), http://academia.edu/1495626/Networked_Authoritarianism_and_Social_Media_in_Azerbaijan (accessed July 9, 2013).

[16] "Azerbaijan: Government Stifling Critics," Human Rights Watch news release, May 4, 2011, http://www.hrw.org/news/2011/05/04/azerbaijan-government-stifling-critics; "Azerbaijan: Government Cracks Down to Prevent Protests," March 12, 2011, http://www.hrw.org/news/2011/03/12/azerbaijan-government-cracks-down-prevent-protests.

[17] In May 2011 Azerbaijan's Chief Psychiatrist said that social media users avoid real-life communication and experience psychological problems in maintaining human relationships. In May 2011 the parliament discussed the Internet's negative influence on Azerbaijan's population and started to propose laws to curtail it. Mainstream television often highlight "family tragedies" and "criminal incidents" after young people join Facebook and Twitter. Pearce and Kendzior, "Networked Authoritarianism."

[18] According to Azerbaijani authorities, 65 percent of the country's population has access to the Internet, whereas 50 percent of them enjoy broadband connection. "Comments of the Azerbaijani Authorities with regard to the Report of the Commissioner of Human Rights of the Council of Europe," https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2326240&SecMode=1&DocId=2037562&Usage=2 (accessed August 16, 2013).

[19] "Ali Hasanov: The position of the Azerbaijani authorities is to prevent actions that will restrict freedom of speech and expression," *APA news*, May 22, 2013, http://en.apa.az/news/193331. "Internet's Azerbaijan meaning: Stray cat, chaos, strong state," *Azadliq Radio*, May 22, 2013, http://www.azadliq.org/content/article/24993419.html (accessed July 12, 2013).

Hydrocarbon Wealth and Lack of Accountability

Azerbaijan has experienced tremendous economic growth fueled by oil and gas exports. According to the World Bank, Azerbaijan's gross domestic product (GDP) increased more than 10-fold in a decade, growing from US$5.7 billion in 2001 to $63.4 billion in 2011.[20] The rate of annual growth has slowed considerably in more recent years, from 34.5 percent at its peak in 2006 to 2.2 percent in 2012.[21]

Azerbaijan is the 22nd largest oil-producing country in the world and the 3rd largest oil producer in Eurasia, after Russia and Kazakhstan.[22] Azerbaijan is also the 31st largest producer of natural gas in the world.[23] So critical is the energy sector to Azerbaijan's economy that, according to a 2011 International Monetary Fund (IMF) report, non-oil and gas exports at that time accounted for only 5 percent of total exports.[24]

The IMF also has raised concerns over the manner in which the government of Azerbaijan spends the country's oil and gas earnings. In particular it has criticized the high levels of public investment on construction and other projects and highlighted "concerns over resource waste" given "insufficient assurances of efficiency."[25] Others, including the United States Department of State, have indicated that Azerbaijan's economy is dominated by "politically connected monopolistic and oligopolistic interests" that frequently are awarded government contracts, benefit from privatization deals, and otherwise enjoy privileged access to lucrative business opportunities.[26] According to

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[20] World Bank, "Azerbaijan: Country Data," *World DataBank*, http://databank.worldbank.org/data/home.aspx (accessed May 30, 2013). See also, for the 2003 to 2013 period, World Bank, "Azerbaijan," 2013, http://www.worldbank.org/en/country/azerbaijan (accessed May 30, 2013).

[21] The International Monetary Fund (IMF) estimated the 2011 rate of growth of GDP to be nil (0.1 percent) in 2011, when there was a marked drop in oil production, but growth recovered somewhat in 2012. The IMF projects a growth rate of 4.5 percent in 2013. "IMF Executive Board Concludes 2013 Article IV Consultation with the Republic of Azerbaijan," IMF, May 21, 2013, http://www.imf.org/external/np/sec/pn/2013/pn1357.htm (accessed May 30, 2013).

[22] In 2012 Eurasia produced about 13.4 million barrels per day (BPD), with Russia producing 10.6 million BPD, followed by Kazakhstan with 1.6 million BPD. Azerbaijan accounted for about 6.9 percent of the region's 2012 oil production. United States Energy Information Administration (USEIA), International Energy Statistics, http://www.eia.gov/cfapps/ipdbproject/IEDIndex3.cfm?tid=5&pid=53&aid=1 (accessed May 30, 2013).

[23] Ibid. Natural gas production increased from 202 billion cubic feet (BCF) in 2001 to 630.7 BCF in 2011. Ibid, "Azerbaijan."

[24] IMF, "Republic of Azerbaijan: 2011 Article IV Report," *IMF Country Report No. 12/5*, January 18, 2012, http://www.imf.org/external/pubs/ft/scr/2012/cr1205.pdf (accessed May 30, 2013).

[25] "Republic of Azerbaijan – Concluding Statement of the 2013 Article IV Consultation Mission," IMF, March 12, 2013, http://www.imf.org/external/np/ms/2013/031213.htm (accessed May 20, 2013).

[26] "[C]orruption and predatory behavior by politically connected monopolistic and oligopolistic interests continue to hinder investment outside of the energy sector. Investment disputes can arise when a foreign investor or trader's success threatens well connected or favored local interests…. Major private businesses are run by senior government officials or other politically connected

investigative reporting, government spending on construction and other public contracts has served as a means to funnel money to well-connected companies that in many cases are alleged to be owned by senior officials or persons close to them.[27]

In apparent response to the publication of a series of articles that exposed the private business interests of President Aliyev's family, the Azerbaijani parliament adopted legislation in June 2012 that allowed Azerbaijani companies to withhold information pertaining to their registration, ownership structure, and shareholders. Parliament also granted the president and first lady lifetime immunity from criminal prosecution for acts committed during office.[28]

At the same time, the government of Azerbaijan has made numerous prominent public commitments to the principles of transparency and good governance. For example, Azerbaijan in September 2011 joined the Open Government Partnership (OGP), a global initiative designed to promote civic engagement and participation in government, in part by improving public access to information on government finances and other matters.[29] Azerbaijan's government provided its OGP national action plan in September 2012.[30]

In addition, Azerbaijan is a founding member of the Extractive Industries Transparency Initiative (EITI), an international effort established in 2003 to improve transparency and governance in oil, gas, and mining. The central requirement of the initiative is that members – governments and the extractive industries in their countries – publish company payments and government revenues.[31] In 2009 Azerbaijan met a variety of criteria regarding revenue

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individuals who wield inordinate influence on the market economy." US Department of State, "Azerbaijan," *Investment Climate Statements 2012*, June 2012, http://www.state.gov/e/eb/rls/othr/ics/2012/191103.htm (accessed May 20, 2013).

[27] For example, an investigation by the International Consortium of Investigative Journalists (ICIJ) focused attention on allegations that "a corporate mogul whose business empire has won building contracts worth billions of dollars amid Azerbaijani President Ilham Aliyev's massive construction spree is tied to the president's family through secretive offshore companies." Stefan Candea, "Offshore Companies Link Corporate Mogul, Azerbaijan's President," *ICIJ*, April 4, 2013, http://www.icij.org/offshore/offshore-companies-provide-link-between-corporate-mogul-and-azerbaijans-president (accessed May 20, 2013). See also reporting on alleged conflicts of interest by Radio Free Europe/Radio Liberty (RFE/RL) in cooperation with by the Organized Crime and Corruption Reporting Project. According to one investigation, a company secretly owned by the president's family helped build two high-priced projects for the government. Khadija Ismayilova, "Azerbaijani President's Family Benefits from Eurovision Hall Construction," RFE/RL, May 9, 2012, http://www.rferl.org/content/azerbaijan_first_family_build_eurovision_arena/24575761.html (accessed May 20, 2013).

[28] "Azerbaijan: Parliament Throws Veil of Secrecy over Business Sector," *Eurasianet,* June 13, 2012, http://www.eurasianet.org/node/65534 (accessed July 12, 2013).

[29] "About," Open Government Partnership (OGP), http://www.opengovpartnership.org/about (accessed May 31, 2013).

[30] Government of Azerbaijan, "Open Government Initiative National Action Plan 2012-2015," available for download at http://www.opengovpartnership.org/countries/azerbaijan (accessed May 31, 2013).

[31] "What is the EITI?" EITI, 2013, http://eiti.org/eiti (accessed May 31, 2013). Today the initiative is governed by a biannual global conference; a 20-member board representing government, industry, and civil society; an independent secretariat

disclosure and in so doing was the first country to be declared "EITI compliant."[32] Although Azerbaijan has filed regular and frequent reports to EITI, domestic civil society representatives have repeatedly expressed concern that implementation of EITI has stagnated.[33]

EITI membership, moreover, relates only to the transparency of government income from extractive industries, not how the funds are spent; opacity regarding government expenditures fuels many allegations of corruption.[34]

Corruption

Corruption is endemic in government institutions and public interactions with the government.[35] For example, a 2009 survey by the International Finance Corporation and the World Bank revealed that 52.2 percent of firms operating in Azerbaijan expected to give "gifts" to public officials to "get things done," more than double the regional average. Seventy-one percent of firms expected to give gifts to get a construction permit, nearly three times the regional average.[36] Azerbaijan scored 27 out of 100 points on Transparency International's 2012 Corruption Perceptions Index, with zero meaning highly corrupt and 100 meaning very clean; the world average was 43. Azerbaijan ranked 139 out of 176 countries on the organization's corruption scale.[37]

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based in Oslo; and the EITI Multi-Donor Trust Fund, which is managed by the World Bank. "Governance Structure," EITI, 2013, http://eiti.org/about/governance (accessed May 31, 2013).

[32] To become compliant with the EITI, states must publish a national report disclosing company payments and government revenues from the extractives sector and complete an external review of their compliance with the initiative's other basic standards, a process known as "validation." "Country Implementation," EITI, 2013, http://eiti.org/eiti/implementation (accessed May 31, 2013).

[33] See, for example, "Statement of the Coalition of NGOs for 'Improving Transparency in Extracting Industries,'" *EITI*, June 6, 2011, http://eiti.org/files/Statement%20of%20EITI%20NGO%20Coalition%20in%20Azerbaijan_June%2008_2011.pdf (accessed January 20, 2012). In February 2013 the coalition stated that there as a need for "changes in the quality of the process." EITI, "The NGO Coalition for Improving Transparency in Extractive Industry: The 2013-2015 Strategy Paper," February 22, 2013, at http://eiti-ngo-azerbaijan.org/the-ngo-coalition-for-improving-transparency-in-extractive-industry-the-2013-2015-strategy-paper/ (accessed May 31, 2013).

[34] EITI does not require that governments be transparent to their citizens about budgets and expenditures, so it cannot be used on its own to monitor corruption or assess whether the funds from extractive industries are used to benefit the public. See Human Rights Watch, *A New Accountability Agenda: Human Rights and the Extractive Industries Transparency Initiative*, May 21, 2013, http://www.hrw.org/news/2013/05/21/extractive-industries-new-accountability-agenda.

[35] In 2011 Transparency International's Corruption Perceptions Index, which uses expert assessments and public opinion surveys to quantify countries' perceived levels of corruption, ranked Azerbaijan 143 out of 183 countries. Transparency International, "Corruption Perceptions Index: 2011 Results," http://cpi.transparency.org/cpi2011/results/ (accessed December 2, 2011).

[36] International Finance Corporation and the World Bank, *Enterprise Surveys: Azerbaijan (2009)*, 2009, http://www.enterprisesurveys.org/Data/ExploreEconomies/2009/azerbaijan (accessed November 6, 2011).

[37] "Corruption Perception Index 2012," Transparency International, Azerbaijan chapter, http://transparency.az/eng/corruption-perception-index-2012/#more-173 (accessed July 10, 2013)

II. Imprisonment and Harassment of Political Activists

Since mid-2012 the Azerbaijani authorities have used a range of spurious criminal and misdemeanor charges to imprison political activists critical of the government. These include several high-ranking members of opposition political parties, such as Musavat and the Popular Front Party of Azerbaijan, and other party activists. They also include government critics who frequently blog or have large followings on social media and who have been involved in political protests that followed the Arab uprisings in 2011. A particular target has been a youth opposition movement founded in 2010.

Ilgar Mammadov and Tofig Yagublu

Ilgar Mammadov, a political analyst and chair of the opposition group REAL (Republican Alternative), is a prominent anticorruption activist who serves on the advisory board of the Revenue Watch Institute.[38] In February 2013, prior to his arrest, REAL had planned to announce that Mammadov would be the movement's candidate in the 2013 presidential election. Tofig Yagublu is deputy chair of the opposition political party Musavat and a columnist with the opposition daily newspaper *Yeni Musavat.*

The Azerbaijani authorities arrested both men on February 4, 2013, and at this writing they are in custody awaiting trial. The prosecutor's office has charged them with organizing mass violence (article 220.1 of the Azerbaijani Criminal Code) and violence against an official (315.2); if convicted, Mammadov and Yagublu could face up to 12 years in prison.

The charges stem from the prosecutor's accusations that both men allegedly instigated violence and protests on January 23-24, 2013 in Ismayilli, a regional center about 200 kilometers northwest of Baku.[39] Antigovernment riots broke out in Ismayilli on January 23, and the next day several clashes took place between law enforcement and protesters calling for the governor's resignation.[40]

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[38] The Revenue Watch Institute is a nonprofit organization promoting effective, transparent, and accountable management of oil, gas, and mineral resources for the public good; see http://www.revenuewatch.org/about (accessed July 2, 2013). REAL is a new political movement that, according to its platform, promotes liberal-democratic values and seeks to be the voice of Azerbaijan's emerging middle class.

[39] Charge sheet on file with Human Rights Watch.

[40] The riots were triggered on January 23, when a hotel owner, who according to media reports, is related to the local governor, drove his car into an electricity pole and started to fight with a taxi driver parked nearby. According to media

Mammadov and Yagublu both traveled to Ismayilli to find out what had happened there. Yagublu visited the town several hours after the riot started on January 23, and Mammadov went there the following afternoon, on January 24. According to media reports, each man spent under an hour in Ismayilli.[41] *Yeni Musavat's* editor-in-chief told the media that Yagublu went to Ismayilli on a reporting assignment for the paper. Police detained him shortly after his arrival and several hours later forced him to leave.[42] According to Fuad Agayev, a lawyer for Mammadov, his client arrived to the town long after the initial violence and spoke only to journalists and few residents.[43]

In a January 29 joint statement, the Azerbaijani Ministry of Interior and prosecutor general's office claimed that Mammadov and Yagublu went to Ismayilli on January 24 and "urged residents to resist police, [and] block the traffic in order to violate socio-economic stability."[44]

The prosecutor's office questioned Mammadov twice – on January 29 and February 4 – as a witness to the Ismayilli unrest but re-designated him as a suspect after questioning other witnesses.[45] Because Mammadov was questioned as a witness, he had no lawyer during the procedure. After his February 4 interrogation, the prosecutor's office charged him with offences under Criminal Code articles 233 (organization of or participation in actions inciting social unrest) and 315.2 (violence against an official), the first of which was later dropped and replaced with the more serious offenses described above.[46]

The prosecutor's order designating Mammadov as a suspect states that he and Yagublu

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reports, dozens of other people joined the brawl to support the taxi driver, and an angry mob torched the hotel and two cars parked in the backyard. The mob then set fire to a car and two motorcycles parked at the home of the regional governor's son. The police said that the rioting lasted for about four hours and that they struggled to contain the mayhem. Street protests took place the next day. See "Azerbaijan: Ensure Rights for Ismayilli Protesters," Human Rights Watch press release, January 30, 2013, http://www.hrw.org/news/2013/01/29/azerbaijan-ensure-rights-ismayilli-protesters.

[41] Shahla Sultanova, "Top Opposition Leaders Arrested in Azerbaijan," *IWPR*, February 5, 2013, http://iwpr.net/report-news/two-opposition-leaders-arrested-azerbaijan (accessed July 3, 2013).

[42] "Azerbaijan: Government Detains Outspoken Critics," Human Rights Watch news release, February 6, 2013, http://www.hrw.org/news/2013/02/06/azerbaijan-government-detains-outspoken-critics.

[43] Human Rights Watch telephone interview with Fuad Agayev, lawyer, February 6, 2013.

[44] Hafiz Heydarov, "Azerbaijani Prosecutor General's Office and Interior Ministry issue joint statement on Ismayilli incidents," *APA news*, January 29, 2013, http://en.apa.az/news/186837 (accessed July 29, 2013).

[45] Human Rights Watch telephone interview with Fuad Agayev, February 6, 2013.

[46] "Azerbaijan: Government Detains Outspoken Critics," Human Rights Watch news release, February 6, 2013, http://www.hrw.org/news/2013/02/06/azerbaijan-government-detains-outspoken-critics. "Azerbaijan government brings more serious charges against Mammadov and Yagublu," *Azeri Report*, May 1, 2013, http://azerireport.com/index.php?option=com_content&task=view&id=3962 (accessed July 9, 2013).

persuaded two Ismayilli residents, Elshen Ismayilli and Mirkazim Abdullayev, and others to assemble "many people" in front of the local municipality and "convinced Abdullayev and Ismayilli to throw stones at law enforcement agents."[47]

The order does not describe any evidence substantiating the accusations against Mammadov. Both men reject the allegations as groundless.[48]

The prosecutor's office requested that the court remand both men to pretrial custody, claiming they were flight risks and would interfere with the investigation. According to Fuad Agayev, Mammadov's lawyer, the prosecutor's office did not produce any information to substantiate these assertions.[49]

Yadigar Sadigov

On June 27, 2013, Yadigar Sadigov, a former history professor and advisor to Musavat's party chair, was arrested on false hooliganism charges for allegedly beating up a Nagorno-Karabakh war veteran.[50] Two days earlier Sadigov and two of his colleagues, Shahin Agayev and Fikret Ahmadov, were in a teahouse in Lenkaran, a city in southeast Azerbaijan, when a man came up to them, introduced himself, sat down at the table, and claimed that he had paid money to an opposition party member to make him a member but that the latter had broken his promise to do so. Agayev explained to Human Rights Watch how the man tried to provoke Sadigov, who immediately understood what was happening and left the teahouse:

> He started to use very bad language against opposition members and leaders. Yadigar told him that no one would give a penny to be an opposition member in this country, so his claims are nonsense.... The man screamed even more and started to curse Yadigar personally and his family.
>
> We realized that this is a clear provocation.... We immediately left the teahouse. But the man followed us screaming and yelling at us and even

[47] The charge sheet issued by the prosecutor general's Grave Crimes Investigation Department, on file with Human Rights Watch.

[48] Human Rights Watch telephone interview with Fuad Agayev, lawyer, February 6, 2013.

[49] Ibid.

[50] After fifteen years of teaching history at Lenkeran State University, Sadigov was fired in 2010 allegedly for his affiliation with the political opposition and his political activity. He has also published criticism of government policies in Musavat's daily newspaper as well as on Facebook.

> ran behind us, as we were walking very quickly. When he approached us, he grabbed Yadigar's clothes and dragged him and hit him on the back. But Yadigar, understanding the provocation, did not react, and we managed to separate the man from Yadigar. We left the scene quickly.[51]

Two police officers, who sat near Agayev and Sadigov in the café, did not intervene.
The next day, on June 26, the government news agency *Azertag* reported that Sadigov insulted and beat Rashid Karimov in front of a group of people and cited Karimov claiming,

> Though I told them that I was a disabled Karabakh war veteran and was innocent, they started to knock me down and beat me brutally.... Where is the respect for a disabled Karabakh war veteran? Let the very aggressive Yadigar Sadigov get the punishment he deserves![52]

The next day *Azertag* published a letter allegedly signed by 84 Karabakh war veterans praising the country's socio-economic developments and demanding that Yadigar Sadigov be punished.[53]

Sadigov's case bears striking similarity to that of the so-called "donkey bloggers," Emin Milli and Adnan Hajizade, who were imprisoned in 2009 for two-and-a-half and two years, respectively, having been convicted of hooliganism charges following an incident in which several men who later claimed to be the victims attacked them.[54] Milli and Hajizade were freed in November 2010.
Hours before his arrest on June 27 Yadigar Sadigov said in a radio interview that he had not touched or beaten anyone and that his house had been under police surveillance since the teahouse incident.[55]

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[51] Human Rights Watch telephone interview with Shahin Agayev, July 1, 2013.

[52] "Advisor of Musavat chairman cruelly beat Karabakh war invalid in Lenkaran [in Azeri]," *Azertag* news agency, June 26, 2013, http://azertag.com/node/1109416 (accessed July 12, 2013)

[53] "Karabakh War Veterans Made a Statement Urging Serious Punishment of Yadigar Sadigov and His Proponents [in Azeri]," *Azertag* news agency, June 27, 2013, http://azertag.com/node/1109862 (accessed July 12, 2013).

[54] "Azerbaijan: Young Bloggers Jailed," Human Rights Watch news release, November 12, 2009, http://www.hrw.org/news/2009/11/12/azerbaijan-young-bloggers-jailed.

[55] Nushabe Fatulayeva and Shahnaz Beylergizi, "Yadigar Sadigov arrested for 2 months [in Azeri]," interview, *Azadlig Radio*, June 29, 2013, http://www.azadliq.org/content/article/25029625.html, (accessed July 29, 2013).

At his 30-minute remand hearing held on June 29, when the defense asked what evidence justified the charges against Sadigov, the presiding judge accused the lawyer, Nemat Karimli, of causing trouble at the hearing.[56]

The article of the Criminal Code under which Sadigov has been charged is "hooliganism with the use of a weapon." Karimli told Human Rights Watch:

> When I asked about which alleged weapons he used, the investigator said Sadigov had used his mobile phone as a weapon while beating the alleged victim.[57]

As of this writing, Sadigov remained in pretrial detention. If convicted, he faces a maximum seven-year prison sentence.

NIDA Youth Activists

NIDA, which means "exclamation mark" in Azeri, is a youth opposition movement highly critical of the government and active on social media. The movement was founded in 2010 and describes itself as a nonviolent organization campaigning for democratic reforms, the rule of law, a free civil society, and social and economic reforms.[58]

From March 7 to April 1, police arrested seven NIDA members, claiming they were involved in an alleged plan to instigate violence at a protest held on March 10. The protest did take place, but as soon as protesters arrived at the planned location for the protest, police dispersed them using water cannons and tear gas, notwithstanding the peaceful nature of the protestors.[59]

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[56] Human Rights Watch telephone interview with Nemat Karimli, July 1, 2013. The judge has sent a letter of complaint against Karimli to the Azerbaijan Bar Association asking it to review his actions.

[57] Human Rights Watch telephone interview with Nemat Karimli, July 1, 2013. Article 221.3 of the Criminal Code is for hooliganism with the use of a weapon or an object used as a weapon.

[58] NIDA website, http://www.nidavh.org (accessed August 6, 2013).

[59] For more information on the March 10 protest, see "Azerbaijan: Unnecessary Police Force at Peaceful Protests," Human Rights Watch news release, March 12, 2013, http://www.hrw.org/news/2013/03/12/azerbaijan-unnecessary-police-force-peaceful-protests. "Police, Demonstrators Clash in Baku," *RFE/RL*, March 10, 2013, http://www.rferl.org/content/azerbaijan-protests/24924443.html (accessed July 11, 2013).

The seven NIDA members are:

Bakhtiyar Guliyev, 20, arrested March 7
Shahin Novruzlu, 18, arrested March 7
Mahammad Azizov, 21, arrested March 7
Rashad Hasanov, 28, arrested March 14
Uzeyir Mammadli, 25, arrested March 30
Rashadat Akhundov, 28, arrested March 30
Zaur Gurbanli, 26, arrested April 1

All of the NIDA detainees are active Facebook and Twitter users who frequently posted criticism about alleged government corruption and human rights abuses. Two of the detained activists also administered a Facebook page, "The Heydar Aliyev Page," named for President Ilham Aliyev's father, who was his predecessor. The page is a platform for caricature, satire, and criticism of the government.

Hasanov, Akhundov, and Mammadli are NIDA board members.

Guliyev, Novruzlu, and Azizov were among those who publicized the March 10 protest on social media. Guliyev and Novruzlu have been charged with illegal possession of narcotics and weapons, which prosecutors allege they planned to use at the demonstration; Azizov is charged with narcotics possession.[60] Police arrested all three after they claimed to have found Molotov cocktails and drugs in the men's homes. The men's parents insist that the improvised weapons and drugs were planted.

Hasanov, Mammadli, Akhundov, and Gurbanli have been charged with illegal weapons possession by an organized group.[61] If convicted, they face up to eight years in prison.

The investigations and legal processes in the cases against the men have been characterized by numerous irregularities, violations of due process, and allegations of serious human rights abuses.

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[60] Criminal Code articles 234.1 (illegal purchase or storage of narcotics without intent to sell, in an amount exceeding what is necessary for personal consumption) and 228.1 (illegal purchase, transfer, selling, possession, transporting of firearms, firearms accessories, supplies, and explosives).

[61] Criminal Code article 228.3.

For example, in the initial days following their arrests, family and lawyers did not know the whereabouts of Azizov, Guliyev, and Novruzlu because the authorities, while acknowledging their detention, refused to give the families or lawyers information about where they were being held. For ten days the three were denied access to a lawyer of their choosing. Two days after their arrest, on March 9, nearly all Azerbaijani television channels, including the state channel and the public broadcaster, showed a police video of Guliyev and Azizov allegedly confessing to a plan to use Molotov cocktails during the protest to challenge police and destabilize the situation.

The televised statements, given in custody at a time when the men were being detained without access to a lawyer of their choosing, appeared to be coached and immediately raised fears that the activists were coerced or threatened into making a false confession.[62]

During initial police questioning following his arrest, Azizov implicated Hasanov in the alleged plan to incite violence. Later, when Azizov was questioned together with Hasanov on March 14, he retracted this testimony, saying that it was made under duress.[63]

Azizov told his lawyer that after he retracted his confession, officers at the Ministry of National Security, where Azizov was held at the time, punched him and beat him with clubs on his head and legs.[64] Azizov's lawyer said that as a result of the beating Azizov could not walk for four days and lost the hearing in his left ear.[65]

Following a search of his home during which the police claim to have discovered 174 grams of marijuana, the authorities charged Azizov with narcotics possession. During the initial interrogation, however, police questioned Azizov only about his political activities and preparation for the protests.[66] Azizov denied the marijuana was his, and medical tests the authorities ordered in April had not yet been made public as of this writing.[67]

Following the arrest of Mammadli, Akhundov, and Gurbanli, the prosecution claimed that

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[62] ANS TV primetime news report, March 9, 2013, video clip, YouTube, http://www.youtube.com/watch?v=Zqa16jFlwnY (accessed July 28, 2013).

[63] Human Rights Watch interview with Asabali Mustafayev, Hasanov's lawyer, Baku, April 18, 2013.

[64] Human Rights Watch interview with Fariz Namazli, Azizov's lawyer, Baku, April 18, 2013.

[65] Ibid.

[66] Ibid.

[67] Ibid.

the men were part of a criminal group that illegally possessed weapons, but presented no evidence to substantiate the allegation. On March 30 and April 1, when the Nasimi District Court ordered the three men be sent to pretrial custody, it did so without requesting the prosecution produce any evidence to justify their detention.[68]

These and other irregularities reinforce concerns that the charges are trumped up. In particular, the court's failure to take basic steps to establish whether the grounds for detaining the men were reasonable is a violation of the standards required by the European Convention on Human Rights (ECHR), to which Azerbaijan is a party.

The convention requires courts to give sufficient and concrete reasons for ordering pretrial detention. The European Court of Human Rights (ECtHR) has said that, in line with the "special diligence" required, courts have a duty to establish convincing reasons for ordering detention, and that to rely on the prosecutor's formalistic submissions to the court is insufficient for this purpose.[69]

The Azerbaijani authorities should promptly and effectively investigate the circumstances in which the alleged confessions that were televised were made. This should include in particular why Azizov, Guliyev, Novruzlu, and Hasanov were denied access to a lawyer of their choosing. The ECtHR has emphasized on multiple occasions that "access to a lawyer should be provided as from the first interrogation of a suspect by the police, unless it is demonstrated in the light of the particular circumstances of each case that there are compelling reasons to restrict this right."[70] Furthermore, the court notes that "the right of the defense will in principle be irretrievably prejudiced when incriminating statements made during police interrogation without access to a lawyer are used for a conviction."[71]

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[68] Human Rights Watch telephone interview with Fakhraddin Mehdiyev, Namig Hajiyev, and Khalid Baghirov, lawyers for Mammadli, Akhundov, and Gurbanli, respectively, April 1, 2013.

[69] For example, see European Court of Human Rights (ECtHR), *Scott v. Spain*, judgment of December 18, 1996, no. 21335/93, ECHR 1996-VI, available at http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-58010.

[70] ECtHR, *Salduz v. Turkey*, judgment of November 27, 2008, no. 36391/02, available at http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-89893, para. 55.

[71] Ibid.

Detention and Administrative Imprisonment of Turgut Gambar, Abulfaz Gurbanli, and Ilkin Rustemzade

On April 30, 2013, police detained Turgut Gambar, Abulfaz Gurbanli, and Ilkin Rustemzade when they, together with other activists, attempted to hold a gathering in front of the Oil Academy of Azerbaijan to commemorate the victims of a shooting that took place there in 2009.[72] Gambar is one of the founders of NIDA; Gurbanli is head of the youth wing of the opposition Popular Front Party; and Rustemzade is member of the youth group Azad Genchlik (Free Youth), a youth movement. Prosecuted on administrative charges of participating in an unsanctioned gathering, a court sentenced Gambar to 10 days' administrative detention, Gurbanli to 10 days, and Rustemzade to 15 days.

Although authorities commonly arrest or detain people for involvement in unsanctioned demonstrations, the treatment of Gambar, Gurbanli, and Rustemzade suggested they were singled out on account of their political activism.

While in the Binagadi detention facility, which is under the Ministry of Interior, police forcibly shaved Gambar, Gurbanli, and Rustemzade's heads. Gambar, whose father, Isa Gambar, is the leader of Musavat, described the forced shaving:

> On May 6 Gurbanli, Rustemzade and I were [taken] to the prison warden's room. Three men presented themselves as the employees of the Baku Main Police Station and told us that our heads will be shaven. When we said that the shaving is against the law, they said there is no law on that – it is just an order from top and must be executed at any cost. They openly said that it is an instruction from high officials. When we objected, around six or seven people, including prison officials grabbed our hands and mouths and forcibly shaved our heads. We later realized that only three of us were shaved in that entire prison.[73]

Also, on May 8 photos depicting Gambar, Gurbanli, and Rustemzade cleaning their cells and also working in the garden of the detention center were posted on the Internet. Gambar does not know exactly how or when the photos were taken but assumes that since

[72] Police stopped the commemoration by moving in as people gathered.

[73] Human Rights Watch telephone interview with Turgut Gambar, May 19, 2013.

he was being held in a closed institution at the time, that they were taken via CCTV cameras or other forms of covert surveillance and disseminated by prison officials to the media in order to humiliate them.[74]

Criminal Hooliganism Prosecution of Ilkin Rustemzade

On May 17, 2013, two days after he was released from administrative detention for organizing and participating in an unsanctioned gathering, police arrested Ilkin Rustemzade for his alleged participation in the filming of a "Harlem Shake" video.

An active social media user, Rustemzade often posted on Facebook critical comments about corruption in government and in higher education, including at the university where he studied. Rustemzade is friends with most of the arrested NIDA activists, and his posts accused the government of "hunting" them.

According to Nemat Karimli, Rustemzade's lawyer, on May 15 – the very day Rustemzade was released – an investigator of the Grave Crimes Investigation Department of the prosecutor general's office asked Rustemzade to come to the department in order to testify as a witness in the investigation of the NIDA activists.[75] On May 17 Karimli accompanied Rustemzade to the interrogation.

Once at the station, police started accusing Rustemzade of filming, editing, and placing on YouTube a satirical "Harlem Shake" video filmed in a pedestrian area in central Baku.[76]

The minute-long video was posted in February 2013 and shows several young men performing a comedy sketch, several seconds of it sexually suggestive, accompanied by a short excerpt from the song "Harlem Shake."[77] While Rustemzade is not featured in the video, according to his lawyer, he acknowledges that he was at the scene and watched his friends make the video. He denied involvement in making and posting the sketch.[78]

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[74] Ibid.

[75] Human Rights Watch telephone interview with lawyer Nemat Karimli, May 18, 2013.

[76] Ibid.

[77] The sketch can be viewed at http://www.youtube.com/watch?v=SFb7DJAv138 (accessed July 14, 2013).

[78] Human Rights Watch telephone interview with Nemat Karimli, lawyer, May 18, 2013.

The authorities charged Rustemzade with "hooliganism committed by a group of persons" and "hooliganism committed with resisting an official." If convicted, Rustemzade could face up to five years in prison.[79]

As of this writing Rustemzade was in pretrial custody.

Administrative Detention of Fuad Hajiyev

On July 4, 2013, a Baku district court convicted Fuad Hajiyev, another NIDA activist, and sentenced him to 10 days' administrative detention for disobeying a police order. Hajiyev, 26, used social media to take on a government campaign of expropriations, evictions, and demolitions of houses in his neighborhood in Baku. He questioned the fairness of the government compensation packages and the legality of the demolitions underway and urged local residents to seek fair compensation and challenge what he considered illegal actions by the authorities.

Hajiyev's mother told Human Rights Watch that on July 4 around 11:30 a.m., a neighborhood policeman came to their house and requested that her son go to the station for a "friendly word."[80]

Zaur Akbar, Hajiyev's friend, told Human Rights Watch that shortly after 12 p.m. on July 4, he got a call from Hajiyev saying that he needed a lawyer urgently as he was being taken to court. Although a lawyer retained by Hajiyev's friends, Anar Gasimli, went to the court, he was not able to represent Hajiyev as he did not have enough time to collect all the documents needed to legally represent a client before the court. Therefore, although present in court, Gasimli could not make any motions or exercise an effective defense. Gasimli explained:

> The trial lasted about 15 minutes. A policeman whom Hajiyev never met before alleged that Hajiyev did not obey his orders [and that] he was attempting to organize a protest action together with 10 other people near the demolition site. The judge refused to hear other eyewitnesses who would

[79] Criminal Code articles 221.2.1 and 221.2.3, respectively.

[80] Human Rights Watch telephone interview with Rakhshanda Hajiyeva, Hajiyev's mother, July 5, 2013.

have said that the allegations were groundless, [that] there was never a demonstration, and that they have never seen that policeman before.[81]

Fuad Hajiyev was released on July 14, 2013.

On July 26 Hajiyev sent a letter to the Baku municipality requesting permission to hold a protest on August 4 against illegal expropriations and demolitions in his neighborhood. Although he received no response, on August 2 neighborhood policemen came to his house looking for him. Hajiyev was not home and did not come home, fearing detention. The next morning the policemen returned and made Hajiyev's parents sign two documents, one warning about liability if Hajiyev were to organize a rally, and the other about his refusal to appear at the police station.[82]

Misuse of Narcotics Charges

The Azerbaijani government has a longstanding practice of pressing bogus drugs charges against its critics, and it has used this method in the current crackdown.[83] From May 2012 to May 2013 at least six government critics were arrested on narcotics possession charges. In two cases documented in section III of this report, journalists were arrested on drug charges and subsequently targeted with additional charges, as was NIDA member Mahammad Azizov (see above). Presented below are three further cases in which the prosecutor's office brought questionable drug possession charges against activists who used social media and their youth networks to criticize government authorities. At this writing, as described below, two of the three – Rashad Ramazanov (Rashad Hagigat Agaaddin) and Taleh Bagirov – are in pretrial detention, and the third, Dashgin Malikov is serving a sentence of two years and six months.

The three cases, and that of Azizov, share similar features. In each, drug possession charges were based on narcotics allegedly discovered by the police following the arrest. The police said they found the drugs in detainees' pockets or wallets during a search at the

[81] Human Rights Watch telephone interview with Anar Gasimli, lawyer, July 5, 2013.

[82] Human Rights Watch telephone interview with Fuad Hajiyev, August 4, 2013.

[83] "Azerbaijan: Concerns Regarding Freedom of the Media and Freedom of Expression," Human Rights Watch extended news release, November 2, 2012, http://www.hrw.org/news/2012/11/02/azerbaijan-concerns-regarding-freedom-media-and-freedom-expression.

police station. The defendants' lawyers were not present during the searches and had no access to their clients for several days following their arrest.

During the respective interrogations, Azizov and Bagirov were questioned primarily about their political activities rather than the narcotics. Additionally, Bagirov was questioned about his public statements and asked who ordered and paid for his recent "sermons," his lawyer told Human Rights Watch.[84]

According to their lawyers, none of the accused is a drug user. In the three cases in which authorities carried out drug tests, the results were negative. In another case, drug test results are pending.

Lawyers for three of the detainees told Human Rights Watch that when they finally managed to visit their clients in detention, all three complained of beatings sustained in custody. The lawyers observed bruises and wounds on each of their clients' faces.

The Azerbaijani authorities should immediately fulfill their obligation to conduct independent and effective inquiries into the ill-treatment allegations with a view to prosecuting those responsible for any wrongdoing. The authorities should also secure the release of the activists from pretrial detention.

Rashad Ramazanov

Rashad Ramazanov, 31, is a well-known blogger who actively criticized the Azerbaijani government on Facebook and other social media under the pseudonym "Rashad Hagigat Agaaddin."

Police arrested Ramazanov on May 9, 2013 near a Baku metro station. Ramazanov's lawyer, Rovshan Shiraliyev, told Human Rights Watch that following his client's arrest, police took him to the Organized Crime Department, where during a search the investigators claim to have discovered 9.05 grams of heroin in his trouser pocket. For several days following Ramazanov's arrest, Shiraliyev was not allowed to see him and, according to his lawyer, Ramazanov's wife had no information about his whereabouts.[85]

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[84] Human Rights Watch interview with Anar Gasimli, lawyer, Baku, April 18, 2013.

[85] Human Rights Watch telephone interview with Rovshan Shiraliyev, lawyer, May 21, 2013.

On May 10 a court remanded Ramazanov to three months' pretrial custody on charges under Criminal Code article 234.4.3 (illegal purchase, possession, and sale of a large amount of narcotics). Police held Ramazanov in police custody until May 20,[86] in violation of the requirement under the Azerbaijani Code of Criminal Procedure that the accused be transferred to a detention facility within 24 hours of a remand court order.[87]

Shiraliyev told Human Rights Watch that he believed the police physically abused his client while he was in their custody. Despite numerous efforts, he was not able to meet with Ramazanov until May 17, when Ramazanov told him, in the presence of an investigator, that he had been beaten in the police car on the day of his arrest and during the first three days of questioning. Shiraliyev described what he saw:

> There was a wound about three centimetres long on his forehead. Rashad said it was the result of a beating. There were also bruises on his neck and face and reddened spots on his hands, which could be the result of the tight handcuffs. Rashad told me briefly about the beatings and said there were bruises all over his body.[88]

The lawyer did not himself see the bruises on Ramazanov's body and did not ask him to undress. After Shiraliyev spoke publicly about his client's abuse in custody, a Ministry of Interior spokesman denied the allegations in a media interview, stating that the Organized Crime Department is under direct control of the ministry and calling the information about Ramazanov's ill-treatment a "total lie."[89]

As of this writing, Ramazanov remained in pre-trial custody.

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[86] Ibid.

[87] The Azerbaijani Code of Criminal Procedure article 157.3 states, "A person arrested on the grounds of a court decision may not be held in a temporary detention facility for longer than 24 hours, and before the expiry of this period, he shall be transferred to the investigating authority's remand facility."

[88] Human Rights Watch telephone interview with Rovshan Shiraliyev, March 21, 2013.

[89] "Arrested blogger faced torture [in Azeri],", *Bizim Yol* newspaper, May 17, 2013, http://bizimyolinfo.com/?sehife=1&xeber=11211 (accessed July 6, 2013).

Taleh Bagirov

On March 31, 2013, police in Baku arrested Taleh Bagirov, a religious scholar and activist, one week after he made a Friday sermon in a mosque sharply criticizing the government and calling on people to unite and stand against repression.[90]

The police brought Bagirov to the Sabunchu district police station in Baku, where during a search they claimed to have discovered one gram of heroin in his jacket pocket.[91]

Investigators prevented Bagirov's lawyer, Anar Gasimli, from seeing his client during the first week after the arrest, using a variety of pretexts. Gasimli told Human Rights Watch that Bagirov alleged that the police abused and beat him in custody. He explained,

> When we met, I saw bruises on his face, under the eyes, and on his hands. He said he could not move three of his fingers. We immediately requested a medical examination, but the investigator did not respond to the request, and the judge was on vacation, so we never got a response.[92]

Bagirov was charged with illegal purchase or possession of narcotics without intent to sell (article 234.1 of the Criminal Code). However, during interrogations, Bagirov was questioned mainly about his public statements and asked who ordered and paid for his last sermon. The medical tests ordered by the investigation and made public in June showed that Bagirov has not been a drug user, and the search of his house produced no incriminating evidence.[93]

As of this writing, Bagirov was in pretrial detention.

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[90] In his speech Bagirov accused the government of corruption, and said that he did not fear arrest, and that the government had no business "ruling inside the mosque." Sermon by Taleh Bagirov, March 31, 2013, YouTube, http://www.youtube.com/watch?v=KUmEb7O43-A (accessed July 7, 2013). Bagirov was imprisoned for one-and-a-half years in May 2011 on charges of hooliganism and organization of actions promoting infringement of social order or active participation in such actions.

[91] Human Rights Watch interview with Anar Gasimli, Baku, April 18, 2013.

[92] Ibid.

[93] "New charges being prepared against Taleh Bagirzade [in Azeri]," *Azadlig*, June 27, 2013, http://www.azadliq.info/xeberler/358-xeber/32370-taleh-bagirov.html (accessed July 6, 2013).

Dashgin Malikov

On March 26, 2013, plainclothes policemen in Sumgait arrested Dashgin Malikov, a 22-year-old activist with the Azerbaijan opposition Popular Front Party. The arrest followed several posts on Facebook and other social media in which Malikov criticized the government.

The police took Malikov to a police station, where they searched him. Malikov's lawyer, Asabali Mustafayev, who was not present during the search but later spoke to his client, told Human Rights Watch that during the search one of the policemen took out Malikov's wallet, and while another was distracting Malikov, appeared to pull out of it 1.5 grams of heroin.[94]

Mustafayev said that the police pressured Malikov to sign a confession, which he later retracted. The day after his arrest, the Sumgait District Court remanded him to pretrial detention for two months on charges of illegal purchase or possession of drugs.

Mustafayev said police convinced Malikov that if he confessed, the charges would be light, but if he refused, the charges would involve his political activities and would be more serious.

Days before Malikov's arrest, local police came to his house twice to ask for his party membership certificate and to talk with Malikov's family about how his political activities would affect his future. Mustafayev believes it would be unlikely for anyone who knew the police were pursuing him to carry drugs around in his wallet. According to Mustafayev, a medical condition required Malikov to undergo biannual medical checks, none of which indicated previous drug use, and the medical examination ordered by the police showed no evidence of current drug use.[95]

On July 3 the Sumgait District Court convicted Malikov and sentenced him to two years and six months in prison.

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[94] Human Rights Watch interview with Asabali Musafayev, lawyer, Baku, April 18, 2013.

[95] Ibid.

Harassment and Intimidation

Human Rights Watch documented two cases when security officials detained, blindfolded, handcuffed, and ill-treated high-profile individuals critical of the authorities.

The first case is that of Ibrahim Ibrahimli, a leader of the opposition alliance Public Chamber and a regular contributor to opposition newspapers *Azadlig* and *Yeni Musavat*, in which he openly criticizes the authorities and the ruling party.

Ibrahimli is originally from the Nakhchivan Autonomous Republic and visited the region on April 6, 2013 for his nephew's funeral. He told Human Rights Watch that on April 7 security officials in civilian clothes surrounded the house he was in and requested him to leave the region altogether. As he was driving away from the house, a BMW car drove up beside him and requested him to stop. Four men in civilian clothes took him out of the car he was driving and blindfolded, handcuffed, and forced him into the BMW. Ibrahimli told Human Rights Watch:

> I asked them who they were. They just kept cursing at me and asking me why I had come to Nakhchivan: "Did you want to stir something up? We know you well. Leave now and do not come back or we'll kill you." They put a small sack on my head. I could not see anything but could breathe in it. There were four of them: the driver and another guy sat in front, while two of them sat on each side of me in the back.[96]

The unidentified assailants drove Ibrahimli around in the car for over an hour, beating him. They then took him to a secluded area, beat him again, and dumped him there. Ibrahimli told Human Rights Watch:

> They kicked me in the stomach and the Adam's apple area. They were young and appeared well-trained. I fell down and they kept beating me, telling me to go home and never come back. They took off the handcuffs and the sack they put on my head and dropped me there. It took me over an hour to get to a main road and I hitchhiked to a nearby village.[97]

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[96] Human Rights Watch interview with Ibrahim Ibrahimli, Baku, April 17, 2013.

[97] Ibid.

Ibrahimli left Nakhchivan next morning. He did not file a complaint with local police although the incident was publicized in the local media.

National airline officials refused to allow Ibrahimli to check in for a flight to Nakhchivan several weeks later when he wanted to attend the 40th day mourning ceremony for his nephew.

The second case is that of Rahim Gaziyev, who served as minister of defense during the Popular Front government's brief rule from 1992 to 1993 and was imprisoned from 1996 to 2005 on trumped-up treason charges.[98] On March 16, 2013, Gaziyev sent an open letter to President Aliyev regarding noncombat deaths in the military. The letter was published by newspapers *Nota Bene* and *Azadlig*.[99] The letter urged the president take action to end noncombat deaths in the military and rampant corruption in the country, to ask people's forgiveness, and called on him to stop repressing political critics.[100]

On March 19 *Radio Azadlig*, the Azeri-language service of the United States government-funded Radio Free Europe/Radio Liberty (RFE/RL), invited Gaziyev to participate in a live talk show at 5 p.m. Gaziyev told Human Rights Watch that as he left his house to go to the studio, he was detained. He explained,

> As I left my house, several men approached and grabbed me from behind, handcuffed me and put a sack on my head. They stuffed me into a minivan and drove somewhere. When they took the sack off we were inside a building. There were four people, all in civilian clothing. They did not explain who they were or where I was. They accused me of resisting the police and preventing a special police operation. I asked for a lawyer, but they told me that it was after 8 p.m. and I could not be provided with one and that I should sign a statement instead refusing the service of a lawyer. I refused to sign it. They put me in a detention cell. I later found out that I was at the Ministry of Interior.[101]

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[98] Gaziyev was pardoned and released at the insistence of the Parliamentary Assembly of the Council of Europe (PACE). "Political Prisoners Pardoned in Azerbaijan," *BBC Russian*, March 21, 2005, http://news.bbc.co.uk/hi/russian/news/newsid_4367000/4367101.stm (accessed July 4, 2013).

[99] "Shocking letter from Rahim Gaziyev to President Aliyev [in Azeri]," *Azadlig*, March 17, 2013, http://www.azadliq.info/musahibe/337-muesahb2/28473-rehim-qaziyevden-ilham-eliyeve-mektub.html (accessed July 11, 2013)

[100] Ibid.

[101] Human Rights Watch interview with Rahim Gaziyev, Baku, April 17, 2013.

Several hours later, police questioned Gaziyev, this time asking questions about his letter to the president. "[The policeman] was very polite, asking me why I did this [write a letter]. He explained that I could go home or go to [prison] for 5, 10, or 15 years. That the choice was mine to make," Gaziyev told Human Rights Watch.[102] Police released Gaziyev shortly before midnight. In a media interview with *Radio Azadlig* the next day, Gaziyev described the incident.

On April 9, 2013, an investigator from the Sabail district police invited Gaziyev to the station. His lawyer accompanied him. The chief investigator told Gaziyev that a complaint had been filed against him for allegedly physically abusing someone during a television debate that took place a year earlier.[103] Three days later the investigator again asked him to come to the station for questioning regarding the debate, but instead of asking questions about the alleged incident, according to Gaziyev, police kept asking him questions about his letter to the president. Gaziyev fears that he might be charged with hooliganism and could face up to three years in prison if convicted.[104]

[102] Ibid.

[103] Parts of the debate can be seen in Azeri at http://www.youtube.com/watch?v=moFVGmtG2po (accessed July 14, 2013). The clip shows a heated argument between the two men but no physical force.

[104] Ibid.

III. Crackdown on the Media

State antagonism toward independent and opposition media has been a serious problem in Azerbaijan for many years. Senior government officials have used criminal and civil defamation and a range of other charges against journalists and human rights defenders criticizing the authorities.[105] In the past six years dozens of journalists have been prosecuted and imprisoned or fined. Police and sometimes unidentified assailants physically attacked journalists with impunity, deliberately interfering with their efforts to investigate human rights abuses and other issues of public interest or in retaliation for their work.

In a 2010 report, Human Rights Watch documented these violations, described the chilling impact they had on journalists, and detailed the lack of media pluralism.[106]

Our research since mid-2012 shows that the atmosphere for journalists and other critics in Azerbaijan remains extremely hostile. In 2012 the authorities released several journalists who had been wrongfully imprisoned, but since January 2013 at least six more have been subject to prison sentences on spurious charges in apparent retaliation for their critical or investigative journalism. We documented four cases, taking place in February, March, and April 2013, in which threats, smear campaigns, and violent attacks clearly sought to silence critical journalists and a writer. Furthermore, in May 2013, the Azerbaijani parliament expanded the definition of slander and insult to specifically include content published on the Internet.

Defamation

Defamation and libel remain criminal offenses even though the government's 2012 national action plan for human rights included a commitment to decriminalize defamation. In recent years, Azerbaijani public officials have used criminal and civil defamation charges to stifle critical journalists, although the number of such suits has decreased by about half since 2010. According to the Media Rights Institute, in the first six months of

[105] Human Rights Watch, *Azerbaijan—Beaten Blacklisted, and Behind Bars: The Vanishing Space for Freedom of Expression in Azerbaijan*, October 2010, http://www.hrw.org/reports/2010/10/26/beaten-blacklisted-and-behind-bars.
[106] Ibid.

2013, 36 defamation suits were brought against media outlets or journalists, four of which were criminal defamation suits. Courts have rejected all four criminal defamation suits.[107]

However in civil defamation cases courts have ordered media outlets and journalists to pay hefty fines. For example, in June 2012 a court ordered *Azadlig* to pay 30,000 manat (approximately US$36,000) to the head of the Baku Metro Service, a position appointed by the government and considered to be equivalent to a public official. The lawsuit related to an article published in *Azadlig's* April 8, 2012 issue about an increase in metro fares.[108]

In May 2012 a court fined Ramin Deko of *Azadlig* 3,000 manat ($3,800) for defaming Novruzali Aslanov, a pro-government member of parliament. Deko's article cited local residents' negative views of Aslanov's work and drew an unfavorable parallel between Aslanov and a character from an Azerbaijani novel.[109]

Criminalization of Online Defamation

On May 14, 2013, Azerbaijan's parliament, the Milli Majlis, adopted a set of amendments to the Criminal Code expanding the definition of slander and insult set out in articles 147 and 148 to specifically include content "publicly expressed in Internet resources."[110] The sanction for slander and insult can be up to 480 hours of public service, after another set of amendments in April 2013 doubled the maximum number of hours for such offenses. The maximum prison sentence for slander, the more serious offense, is three years.

The May amendments are incompatible with Azerbaijan's international legal obligations. As noted above, Azerbaijan's human rights National Action Plan, approved by president Aliyev in 2011, envisaged the decriminalization of libel, and in 2012 the presidential administration wrote to the Council of Europe's Venice Commission requesting assistance in drafting relevant new defamation provisions. A January 2013 resolution adopted by the Council of Europe's Parliamentary Assembly urged the Azerbaijani government to

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[107] Media Rights Institute, "Legal Situation of the Media – Azerbaijan 2013," July 19, 2013, http://www.mediarights.az/index.php?lngs=aze&id=494 (accessed July 27, 2013).

[108] Seymur Kazimov, "Libel Actions Squeeze Azerbaijan's Opposition Press," *IWPR*, March 8, 2013, http://iwpr.net/report-news/libel-actions-squeeze-azerbaijans-opposition-press (accessed July 29, 2013).

[109] Human Rights Watch communication with journalist Ramin Deko, July 2013.

[110] President of Azerbaijan Ilham Aliyev, "Amendments to the Criminal Code of the Republic of Azerbaijan," June 4, 2013, http://www.president.az/articles/8357 (accessed July 29, 2013).

"elaborate a new law on defamation in co-operation with the Venice Commission," the Council of Europe's advisory panel on constitutional matters.[111]

The amendments' specific inclusion of insult and slander in online materials also seem designed to intimidate Azerbaijan's growing online activism because they were not necessitated by any gap in the law. The existing defamation provisions made no reference to and did not differentiate between the types of media for which insult and slander may be penalized, and the 2001 Law on Mass Media defined mass media as including the Internet. Indeed, at least one journalist in the past six years was convicted of criminal slander under the previous definition for an online statement attributed to him.[112]
With television dominated by pro-government stations and independent print media plagued by new regulations on distribution as well as other economic woes, online activism is the last remaining haven for independent free expression.[113]

Prosecution of Journalists

Avaz Zeynalli

On March 12, 2013, the Grave Crimes Court of Baku sentenced Avaz Zeynalli, the editor-in-chief of the opposition newspaper *Khural*, to nine years of imprisonment on what he says were false charges of extortion brought in retaliation for *Khural's* critical reporting.[114]

Zeynalli was arrested in October 2011. The charges against him were pressed by a member of parliament from the ruling party who later, in October 2012, resigned her seat after being implicated in a corruption scandal.[115] The parliamentarian claimed that Zeynalli had

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[111] Parliamentary Assembly of the Council of Europe (PACE) "The Honouring of Obligations and Commitments by Azerbaijan," Resolution 1917 (2013), http://assembly.coe.int/ASP/XRef/X2H-DW-XSL.asp?fileid=19451&lang=EN (accessed May 25, 2013).

[112] "Azerbaijan: Opposition Editor Sentenced to Prison," Human Rights Watch news release, April 26, 2007, http://www.hrw.org/news/2007/04/25/azerbaijan-opposition-editor-sentenced-prison.

[113] "Azerbaijan: International Organizations Condemn Deteriorating Freedom of Expression Situation," Freedom House, September 7, 2012, http://www.freedomhouse.org/article/azerbaijan-international-organizations-condemn-deteriorating-freedom-expression-situation (accessed July 29, 2013).

[114] Charges against Zeynalli included Criminal Code article 311.3.3 (taking a large bribe), article 311.3.4 (extortion), and article 306 (contempt of court). *Khural's* property was seized by court bailiffs in October 2011 after it failed to pay a total of 19,000 manat (US$24,300) in court-issued fines in defamation cases brought by the head of the presidential administration and the director of the Mass Media State Support Fund. See "Azerbaijan: Concerns Regarding Freedom of Media and Freedom of Expression," Human Rights Watch extended news release, November 2, 2012, http://www.hrw.org/news/2012/11/02/azerbaijan-concerns-regarding-freedom-media-and-freedom-expression.

[115] Two videos were posted on YouTube appearing to show then Member of Parliament (MP) Gular Ahmadova negotiating the price for a parliamentary seat. See "Second Parliament Bribery Video Implicates President Aliyev and His Wife," *Azeri Report,* October 8, 2012, http://azerireport.com/index.php?option=com_content&task=view&id=3731&Itemid=42 (accessed May 27, 2013).

demanded money to suppress an article on corruption accusations against her. Zeynalli denied the charges, claiming that they were fabricated in retaliation for his critical articles about the government.[116]

In March 2012 the prosecutor's office brought additional tax evasion charges against Zeynalli for which the court fined him 4,076 manat ($5,250) and banned him from engaging in commercial activity for one year following his release.[117]

In May and November 2012, Human Rights Watch monitored several of Zeynalli's trial hearings. The court refused to allow the defense to cross-examine the parliamentarian and also dismissed all the defense's motions to call an expert to testify as to whether there was evidence that the text messages allegedly containing blackmail threats from the journalist to the parliamentarian had been tampered with.[118]

Vugar Gonagov and Zaur Guliyev

On March 15, 2013, a court in northern Azerbaijan convicted Vugar Gonagov and Zaur Guliyev, executive director and editor-in-chief of *Khayal TV* in Guba, respectively, of organizing and participating in social unrest and abuse of authority, sentenced them to three years of probation, and released them from the courtroom.

Gonagov and Guliyev spent over a year in pretrial custody from the time they were arrested in March 2012 and brought to trial. The charges were apparently linked to their posting on YouTube of a speech by the governor of Guba, which many believe was the catalyst for mass protests in Guba on March 1, 2012.[119]

For 18 days after his March 13 arrest, Guliyev was not allowed a visit from his lawyer. Gonagov was allowed two visits from his lawyer, but on the second visit, he told his lawyer

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[116] Human Rights Watch interview with Elchin Sadigov, Zeynalli's lawyer, May 17, 2012.

[117] Ibid.

[118] Giorgi Gogia (Human Rights Watch), "Azerbaijan: Eurovision – The View from a Courtroom," commentary, *Wall Street Journal*, May 24, 2012, http://www.hrw.org/news/2012/05/24/azerbaijan-eurovision-view-courtroom.

[119] Guba residents took to the streets in outrage apparently over the speech. In it the head of the Guba executive authority, Rauf Habibov, reportedly said, "Guba residents sell their own people, motherland and family for 30 or 40 Azeri manat (US$38 to 50)." According to media reports, numerous confrontations between protesters and the police erupted that day and unknown people set Habibov's house on fire. Habibov was subsequently dismissed from his post. "Background of the Events in Guba Region," *Contact*, April 30, 2012, http://contact.az/docs/2012/Analytics/062200003266en.htm#.UZ33OxVfpdg (accessed May 23, 2013).

that he no longer wanted his services.[120] His lawyer believes that the statement was made as a result of pressure put on him by the police.

In an open letter to the media dated October 16, 2012, Gonagov wrote that his health deteriorated significantly in prison, that prison management denied him medication when he was ill, and that Interior Ministry officials threatened him with sexual abuse and other consequences if he did not confess.[121] The prosecutor's office issued a public statement saying that Gonagov's claims of abuse were false and were aimed at diverting public attention and hindering the investigation.[122]

Sardar Alibeyli

On July 31, 2013, police detained Sardar Alibeyli, a journalist and editor of the pro-opposition newspaper *Nota Bene* and of *PS Nota* news portal, on charges of hooliganism. Police allege that a victim accused Alibeyli of physically assaulting him on July 29 following a verbal altercation and that he sustained bruises when the journalist allegedly hit him in the face with a stone.

According to Alibeyli's lawyer, Elchin Sadigov, the journalist has never met the man who claims to be the victim in the case and believes that the incident is a set-up intended to intimidate him and ultimately silence his critical journalism.[123] Alibeyli has written extensively about the president and his family's businesses and has made claims regarding embezzlement of the state budget. He has posted critical statements on Facebook, and his newspaper also published the open letter to the president by former defense minister Rahim Gaziyev (see above). In 2007 and 2009 Alibeyli was convicted of criminal defamation based on claims brought by the minister of internal affairs and a pro-government organization, respectively, for articles he had published.[124]

The prosecutor's office has charged Alibeyli with hooliganism committed with use of a weapon or an object used as a weapon; if convicted he faces up to seven years in prison.

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[120] Human Rights Watch telephone interview with Elchin Sadigov, lawyer, March 30, 2012.

[121] Esmira Cavadova, "'I was threatened that I will be dressed in red skirt and then will be sent to prison [in Azeri]," *Azadliq Radio*, October 17, 2012, http://www.azadliq.org/content/article/24742615.html (accessed July 27, 2013)

[122] "Prosecutor General's office refutes claims [In Azeri]," Official Statement by the Prosecutor General's Office of Azerbaijan Republic, October 17, 2012, http://genprosecutor.gov.az/?/az/news/view/430 (accessed 19 August 2013).

[123] Human Rights Watch telephone interview with Elchin Sadigov, August 5, 2013.

[124] Human Rights Watch, Beaten, Blacklisted, and Behind Bars, pp. 17-18.

On August 2 the Khatai District Court ordered Alibeyli to be held for two months in pretrial detention.

Hilal Mammadov

On June 21, 2012, Baku police arrested Hilal Mammadov, editor-in-chief of the newspaper *Tolishi Sado* and the deputy head of the Talysh Cultural Center, on charges of drug possession. *Tolishi Sado* is a biweekly publication of Azerbaijan's ethnic Talysh minority, and Mammadov is influential among the Talysh community.

Police allegedly found drugs in Mammadov's shirt pocket when they searched him at the station and also during a search later of his home.[125] The following day, the Nizami District Court remanded him to pretrial detention for three months. On July 4, 2012, the prosecutor's office pressed additional charges of treason and inciting hatred, hostility, and ethnic discrimination. Mammadov's pretrial detention was extended on several occasions and at the time of writing he was awaiting trial.

Mammadov filed a complaint that he was beaten when he was arrested and on the way to the police station. The prosecutor's office conducted an inquiry but concluded that he was not ill-treated and claimed that he fell while getting into the police vehicle, causing his bruises.[126]

The previous editor of *Tolishi Sado*, Novruzali Mammadov, died in suspicious circumstances in prison in 2009 while serving a 10-year sentence after he was prosecuted and convicted on politically motivated charges of high treason.[127]

Mammadov was arrested several weeks after a satirical political rap song, sung in traditional Azeri style with several other people, went viral on YouTube and became the subject of extensive media coverage in Russia.[128] A week before his arrest, NTV, a pro-

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[125] Human Rights Watch interview with Ramiz Mammadov, lawyer, April 2013.

[126] "Azerbaijan: Concerns Regarding Freedom of the Media and Freedom of Expression," Human Rights Watch extended news release, November 2, 2012, http://www.hrw.org/news/2012/11/02/azerbaijan-concerns-regarding-freedom-media-and-freedom-expression.

[127] Letter from Human Rights Watch to Zakir Garalov, prosecutor general of Azerbaijan, "Letter to the Azerbaijani Authorities Regarding the Death of a Journalist in Custody," August 21, 2009, http://www.hrw.org/news/2009/09/01/letter-azerbaijani-authorities-regarding-death-journalist-custody (accessed July 29, 2013).

[128] The video can be viewed at http://www.youtube.com/watch?v=UFUtDdgEYwk (accessed July 14, 2013). Hilal Mammadov wrote lyrics for the song.

Kremlin station, broadcast an interview with Mammadov in which he said that the video clip did more to promote Azerbaijan than the government's public relations efforts.

Faramaz Novruzoglu

Faramaz Novruzoglu is a freelance journalist who has faced years of reprisals for his coverage of alleged government corruption. He was arrested in April 2012 and sentenced on August 27, 2012 to four and a half years' imprisonment on bogus charges of illegal border crossing and inciting mass disorder. The incitement charges stem from March 2011 Facebook postings, attributed to Novruzoglu, urging people to create mass disorders during the March 2011 protests. Novruzoglu denied making the postings.[129] Human rights activists in Azerbaijan believe the charges are in retaliation for critical articles he wrote for *Nota Bene* and *Milletim* alleging high-level corruption in the export of Azerbaijani crude oil and the import of Russian timber. He remains in prison at this writing.

Nijat Aliyev

On May 20, 2012, police detained Nijat Aliyev, editor-in-chief of *Azadxeber.az*, an Islamist-oriented website, while he was distributing CDs with materials on house demolitions, the Nagorno-Karabakh conflict, and other controversial issues. He was charged with illegal drug possession (Criminal Code article 234.1). Many believe that Aliyev was targeted initially for criticizing the authorities in the lead-up to the Eurovision Song Contest held in Baku in May 2012.[130] He had published articles criticizing the government's high expenditures for the contest and speaking against a proposed gay pride parade in Azerbaijan.[131]

On January 26, 2013, the prosecutor's office pressed additional criminal charges against Aliyev, including for the import and distribution of religious literature without appropriate authorization (Criminal Code article 167.2.2.1), calling for violent overthrow of the authorities (article 281.2), and incitement of national, racial, or religious hatred (article 283.2.3). If convicted, Aliyev could face up to eight years in prison.[132]

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[129] "Azerbaijani Journalist Convicted for Inciting Mass Disorders," *Caucasian Knot*, August 23, 2012, http://www.kavkaz-uzel.ru/articles/211610/ (accessed July 14, 2013).

[130] Institute for Reporters' Freedoms and Safety (IRFS), "Azerbaijan's Free Expression Crackdown Continues: 2013 First Quarterly Report on Freedom of Expression in Azerbaijan," 2013, http://www.irfs.org/wp-content/uploads/2013/05/2013-Q1-FoE-Report.pdf (accessed May 23, 2013).

[131] "Azerbaijan: Concerns Regarding Freedom of the Media and Freedom of Expression," Human Rights Watch extended news release, November 2, 2012, http://www.hrw.org/news/2012/11/02/azerbaijan-concerns-regarding-freedom-media-and-freedom-expression.

[132] Human Rights Watch group interview Anar Gasimli and Abil Bayramov, lawyers, November 2012 and July 2013.

Araz Guliyev

Araz Guliyev is an editor for *Xeber44.com,* an Islamist news website that regularly criticizes the authorities for alleged rights violations against devout Muslim communities. On April 5, 2013, the Lankaran City Court sentenced Guliyev to eight years in prison on charges of possession of illegal weapons, organizing and participating in public disturbances, inciting national and religious hatred, resisting police, and insulting the national flag and emblem.[133]

Police arrested Guliyev on September 8, 2012 when together with a group of devout Muslims he participated in a protest against the inclusion in a local folklore festival of dancing women, whom the protesters said were "half-naked." Police dispersed the unsanctioned protest and detained Guliyev, charging him with attacking and wounding a policeman and two civilians, and breaking a car window.

According to Guliyev's lawyer, Fariz Namazli, the authorities did not allow Guliyev to retain a lawyer of his choosing until December, and he refused a state appointed one, leaving him without an effective defense throughout the investigation.[134] In a trial closed to the public, the Lankaran Grave Crimes Court convicted Guliyev on all five charges. A hearing date for his appeal had not yet been set as of this writing.

Mehman Huseynov

Mehman Huseynov, a blogger and photographer at the Institute for Reporters' Freedoms and Safety (IRFS), a nongovernmental media rights monitoring group in Azerbaijan, faces charges launched in May 2012 of hooliganism "committed with resistance to a representative of the authorities" (article 221.2.2 of the Criminal Code). The authorities have accused Huseynov of physically abusing police officers during a peaceful protest rally held during the 2012 Eurovision Song Contest.

Huseynov was covering the rally, which was held on May 21, 2012, taking photos and filming as police dispersed it, at times violently.[135] On June 12 police interrogated Huseynov and released him the next day on his own recognizance after charging him.

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[133] Human Rights Watch telephone interview with Fariz Namazli, lawyer, May 29, 2013.

[134] Ibid.

[135] "Azerbaijan: Authorities Violently Disperse Peaceful Rallies," Human Rights Watch news release, May 22, 2012, http://www.hrw.org/news/2012/05/22/azerbaijan-authorities-violently-disperse-peaceful-rallies.

Huseynov told Human Rights Watch that at the rally he had a verbal confrontation with a policeman who deliberately smashed Huseynov's camera and damaged its hard disk. He said the exchange of words lasted only a few seconds and that there was no physical contact.[136] Under Azerbaijani law, the criminal offense of hooliganism involves the use of violence. Video footage widely available online does not show Huseynov involved in any violence.

Huseynov's lawyer, Elchin Sadigov, told Human Rights Watch that the criminal case was initiated pursuant to a complaint filed by five police officers. They allege that Huseynov verbally and physically abused them at the May 21 rally.[137]

Huseynov was very active in Sing for Democracy, a civil society campaign that sought to expose and seek improvements to Azerbaijan's human rights record in the lead-up to Eurovision.[138]

Although no investigative steps have been taken since June 2012, the charges against Huseynov remain and he is not permitted to leave the country prior to trial.[139] If convicted, he could face up to five years in prison.

Assault and Harassment of Journalists

In numerous instances in recent years, independent and pro-opposition journalists and media workers in Azerbaijan have been subjected to harassment, intimidation, threats of violence, and violence. Most of these cases remain unsolved, leading to a culture of impunity. Only prompt, thorough, and impartial investigations capable of leading to identification and prosecution of the assailants, in line with its international commitments, can break this cycle of impunity.

In its 2010 report Human Rights Watch documented at least 10 cases in which law enforcement officers used violence to prevent journalists from gathering information or documenting human rights violations. In some cases the attacks resulted in serious

[136] Human Rights Watch telephone interview with Mehman Huseynov, June 14, 2012.

[137] Human Rights Watch telephone interview with Elchin Sadigov, lawyer, June 13, 2012.

[138] "Azerbaijan: Retribution against Photographer," Human Rights Watch news release, June 14, 2012, http://www.hrw.org/news/2012/06/14/azerbaijan-retribution-against-photographer.

[139] On June 17, 2013, Huseynov was turned back at the Baku airport while trying to travel to Oslo to receive a journalism award. Human Rights Watch telephone interview with Mehman Huseynov, July 4, 2013.

injuries for journalists. Several recent cases documented by Human Rights Watch show that violence and harassment of journalists persists. According to the IRFS, from January to March 2013 there were 16 violent attacks against journalists, fifteen of which took place as the journalists were on assignment.[140] Three cases documented by Human Rights Watch between April 2012 and June 2013 are presented below.

Beating of Idrak Abbasov

On April 18, 2012, some 20 policemen and security guards wearing jackets bearing the insignia of the State Oil Company of Azerbaijan (SOCAR) severely beat Idrak Abbasov, a correspondent for the IRFS and independent newspapers *Ayna* and *Zerkalo*. The attack took place while Abbasov was filming SOCAR's demolition of dozens of houses in his community on the Sulutepe settlement on the outskirts of capital, Baku. Approximately 20 policemen and SOCAR security guards attacked Abbasov, punching and kicking him until he lost consciousness temporarily. Abbasov was hospitalized with multiple bruises.[141]

Abbasov, who lives on the Sulutepe settlement, had been filming a confrontation between the residents and the SOCAR guards. He was wearing a vest with the word "Press" on the back.

Gunay Musayeva, a journalist from the newspaper *Yeni Musavat* who witnessed the attack close up, told Human Rights Watch:

> Bulldozers were demolishing the houses without allowing the residents to remove their belongings. The bulldozers continued working as SOCAR security guards dragged people out. Idrak was filming this. I saw that about 20 policemen and SOCAR guards, who wore military uniforms, were beating Idrak. He was on the ground and they continued to kick him. I saw his nose and eye bleeding as well as foam on his mouth, but they continued to kick him.[142]

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[140] Institute for Reporters' Freedoms and Safety (IRFS), "Azerbaijan's Free Expression Crackdown Continues: 2013 First Quarterly Report on Freedom of Expression in Azerbaijan," 2013, http://www.irfs.org/wp-content/uploads/2013/05/2013-Q1-FoE-Report.pdf (accessed May 23, 2013), p. 13.

[141] "Azerbaijan: Journalist Viciously Attacked by Police," Human Rights Watch news release, April 19, 2012, http://www.hrw.org/news/2012/04/19/azerbaijan-journalist-viciously-attacked-police.

[142] Human Rights Watch telephone interview with Gunay Musayeva, April 18, 2012.

Abbasov's two brothers, who also live in the area, came to his aid and eventually managed to stop the attack, though when they intervened the guards and police also beat them.[143]

SOCAR guards assaulted several other journalists at the demolition.

Although SOCAR later blamed Abbasov for instigating the attack, Baku's Binagadi district police launched a criminal case on hooliganism charges regarding the attack.[144] Although Abbasov identified nine of his assailants in November 2012, as of this writing there is no information about whether they have been charged. In a media interview, SOCAR's president claimed the company had sacked the assailants.[145]

Blackmail and Smear Campaign against Khadija Ismayilova

Khadija Ismayilova is an investigative reporter and talk show host with *Radio Azadlig*, the Azeri language service of the United States government-funded Radio Free Europe/Radio Liberty (RFE/RL) whose reporting has covered the business holdings of the president's family and close associates.

The smear campaign started in March 2012 when Ismayilova received an envelope from an anonymous sender containing explicit photos of her and her boyfriend with a note warning her, "Whore, behave. Or you will be disgraced." Ismayilova published the threat letter and continued her investigative work.[146]

On March 14, 2012, a secretly recorded video of Ismayilova having sex with her boyfriend was posted on the Internet. The day before, a pro-government newspaper ran a long article attacking her and criticizing her personal life.

According to Ismayilova, on March 16, 2012, the prosecutor's office initiated a criminal case on invasion of privacy but refused to start an investigation into the threats against her. Ismayilova has sent at least four letters to the prosecutor's office requesting updates on

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[143] Human Rights Watch telephone interview with Idrak Abbasov's brother, April 18, 2012.

[144] "Cavalry Assaulted Us [in Azeri]," *Publika.az* news portal, May 23, 2013, http://www.publika.az/index.php?action=static_detail&static_id=5311 (accessed July 14, 2013).

[145] *BBC Azeri Service* interview with Rovnag Abdullayev, [in Azeri], November 27, 2012, http://www.bbc.co.uk/azeri/multimedia/2012/11/121127_rovnag_abdullayev_intv_part2.shtml (accessed July 29, 2013).

[146] Human Rights Watch interview with Khadija Ismayilova, Tbilisi, June 5, 2013.

the investigation. According to Ismayilova, in its replies, the prosecutor's office has merely stated that the investigation is ongoing, without giving any details.[147]

Through her own investigation, Ismayilova identified the telephone company employee who brought additional wires to her apartment on an order from an unknown government official on July 2, 2011, only a few days after RFE/RL published her story on the president's family businesses. She also established that the blackmail note was sent to her from a Moscow post office. She shared this information with the prosecutor's office, which has not replied to Ismayilova's request to pursue these leads.[148]

Meanwhile, in April 2013 a pro-government website posted a video with explicit sexual content involving a woman resembling Ismayilova, claiming it was her. Ismayilova claimed the videos were fabricated and a continuation of the smear campaign against her.[149]

Throughout 2013, newspapers officially affiliated with the ruling party continued the smear campaign, including references to the intimate video, publishing links to the websites where these videos were posted, as well as lies about her and her family members.[150]

On July 26 another website posted more videos of an intimate nature apparently covertly filmed in her apartment, clearly intended to further intimidate and discredit her.[151]

Harassment and Threats against Yafez Hasanov (Akramoglu)

Yafez Hasanov (Akramoglu), is a *Radio Azadlig* reporter who covers mostly stories from the Azerbaijani exclave of Nakhchivan. He was based in Nakhchivan, but in August 2011, after he reported on the suspicious death in custody of a man accused of spying for Iran, unidentified men forced him to leave the exclave, warning him to never come back.[152]

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[147] Ibid. Human Rights Watch has not seen the replies by the prosecutor's office.

[148] Ibid.

[149] "RFE/RL Reports Threats against Azerbaijan Journalists Ismayilova and Hasanov," RFE/RL, April 26, 2013, http://www.rferl.org/content/release-azerbaijan-ismayilova-hasanov-threats/24969867.html (accessed July 8, 2013).

[150] Joint letter from Human Rights Watch to President Ilham Aliyev and Prosecutor General Zakir Garalov, August 12, 2013, http://www.hrw.org/news/2013/08/20/joint-letter-azerbaijan-government-concerning-harassment-and-intimidation-investigat.

[151] "Threats Escalate against RFE/RL's Azeri Reporter Ismayilova," Press Release, *RFE/RL*, August 1, 2013, http://www.rferl.org/content/release-threats-escalatae-against-azeri-reporter-ismayilova/25063832.html (accessed August 14, 2013).

[152] "RFE/RL Azerbaijani Reporter Deported from Exclave via Iran," RFE/RL, September 2, 2011, http://www.rferl.org/content/rferl_azerbaijan_iran_naxcivan_deported/24316096.html (accessed June 4, 2013).

Threats against Hasanov intensified as he continued to investigate the man's death in custody. In November 2011 he received repeated telephone calls and text messages from unidentified men threatening reprisals against him and his family if he did not stop reporting on the case. *Radio Azadlig* reported that in one text message he was warned, "[Y]ou'll end up like Zeynalov … [I]f you do not stop … you'll be shocked by what you see."[153]

On April 4, 2013, Hasanov received a package containing documents and an audio CD suggesting that he was having affairs with several women.[154] Soon after, a man who identified himself as an agent of the Nakhchivani Ministry of National Security called Hasanov, threatening that if he continued to report on Nakhchivan, he would be "exposed" and his life and the lives of his family members would be in danger.[155] When Hasanov told the caller he was not intimidated by the poorly-made audio, the caller threatened it would be edited "in a way that many will believe that it is you."[156]

Azadlig Radio filed a complaint with the Ministry of Interior, the prosecutor general's office, and the Ministry of National Security regarding the incident. On April 8, 2013, the Ministry of Interior invited Hasanov to take a statement from him.[157] Hasanov gave the ministry the phone numbers from which the text messages were sent, which he said were "identifiable numbers," and recordings of the threats. However, the ministry declined to open a criminal investigation, refused to provide his family with additional security, and as of this writing, has not contacted him. "My family and I do not feel safe," he told Human Rights Watch.[158]

On April 19, after Hasanov went public about the blackmail attempts, the pro-government Internet television station *Ses* aired recorded telephone conversations between Hasanov and several residents of Nakhchivan.[159] In those phone conversations, Hasanov is heard

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[153] The reference is to Turac Zeynalov, the man who died in custody of the Nakhchivani Ministry of National Security. "Azeri Correspondent Receives Threats Tied to Reporting," *RFE/RL*, November 13, 2012 http://www.rferl.org/content/journalists-in-trouble-azeri-correspondent-receives-death-threats/24769806.html (accessed June 4, 2013).

[154] "RFE/RL Reports Threats against Azerbaijan Journalists Ismayilova and Hasanov," *RFE/*RL, April 26, 2013, http://www.rferl.org/content/release-azerbaijan-ismayilova-hasanov-threats/24969867.html (accessed June 4, 2013).

[155] Ibid.

[156] Human Rights Watch email correspondence with Yafez Hasanov, June 2-3, 2013.

[157] Ibid.

[158] Ibid.

[159] "RFE/RL Reports Threats against Azerbaijan Journalists Ismayilova and Hasanov," *RFE/*RL, April 26, 2013, http://www.rferl.org/content/release-azerbaijan-ismayilova-hasanov-threats/24969867.html (accessed June 4, 2013).

asking the respondents questions about corruption in the enclave. According to Hasanov, all the interviewees later refuted their corruption allegations in video statements they recorded and posted on YouTube.[160]

In May 2013 *Radio Azadlig* sent Hasanov to Istanbul for a story on migrant workers who allegedly left Nakhchivan because of economic hardship and repression in the enclave and are very critical of the Nakhchivani authorities. According to Hasanov, five men from Azerbaijan showed up in Istanbul and threatened to kill him if he did not stop the investigation. Hasanov told Human Rights Watch that the five men – one of whom said he was from the Nakhchivani security ministry – forced their way into the house where he was staying in Istanbul, demanded that Hasanov hand over his Istanbul materials, and threatened to kill him if he refused.[161] The assailants left only after Hasanov's friend called the police. Hasanov left Istanbul without finishing the investigation.[162] Hasanov did not file a complaint with the Turkish authorities regarding this incident.

Smear Campaign against Writer Akram Aylisli

Akram Aylisli, a member of the Union of Writers of Azerbaijan since the Soviet era, became a target of a smear campaign after the publication of a novel he wrote that contained a critical analysis of Azerbaijan's modern history and angered high-level government officials. The novel, *Stone Dreams,* included a description of violence by ethnic Azeris against Armenians during the 1920s and at the end of the Soviet era when the two countries engaged in armed conflict.[163]

Azerbaijan and Armenia fought a seven-year war over Nagorno-Karabakh, a primarily ethnic Armenian-populated autonomous enclave in Azerbaijan. Despite a 1994 ceasefire, the conflict has not yet reached a political solution. Against the background of the unresolved nature of the conflict, Aylisli's sympathetic portrayal of Armenians and condemnation of violence against them caused uproar in Azerbaijan. Hateful rhetoric and threats against Aylisli started at the end of January 2013, culminating in a February 11

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[160] Human Rights Watch email correspondence with Yafez Hasanov, June 2-3, 2013. The interviewees said in their video recorded statements that they made the recordings themselves. For example, see http://www.youtube.com/watch?v=7gpO1MeEEko (accessed July 27, 2013).

[161] Ibid.

[162] "Has there been an attempt to kill reporter of Azadlig Radio? [in Azeri]," *Voice of America*, May 14, 2013, http://www.amerikaninsesi.org/content/yafez_turkey/1660518.html (accessed June 4, 2013).

[163] Human Rights Watch telephone interview with Akram Aylisli, February 11, 2013.

public statement by the head of a pro-government political party promising 10,000 manat (US$12,700) for Aylisli's ear.[164]

On January 29 officials from Azerbaijan's ruling party publicly called on Aylisli to withdraw the novel and ask for the nation's forgiveness. Aylisli told Human Rights Watch that two days later, about 70 people gathered in front of his home, shouting "Akram, leave the country now" and, "Shame on you," and burned effigies of the author.[165] Witnesses told Human Rights Watch that police were present but made no effort to disperse the crowd.[166] No damage was done to Aylisli's home.

In a speech critical of Aylisli's book, a high-level official said, "We, as the Azerbaijani people, must express public hatred toward these [Armenian] people."[167]

During a February 1 session, some members of Azerbaijan's parliament denounced Aylisli, called for him to be stripped of his honorary "People's Writer" title and medals, and demanded that he take a DNA test to prove his ethnicity. On February 7 President Ilham Aliyev signed a decree stripping Aylisli of the title and cutting off his presidential monthly pension of 1000 manat ($1,270).[168]

Aylisli's wife and son were fired from their jobs. On February 4 a senior officer at Azerbaijan's customs agency forced Najaf Naibov-Aylisli, Aylisli's son, to sign a statement that he was "voluntarily" resigning from his job as department chief. Aylisli told Human Rights Watch his son had received no reprimands during his 12 years on the job.[169]

On February 5 Aylisli's wife, Galina Alexandrovna, was forced to sign a "voluntary" statement resigning from her job at a public library.[170]

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[164] "Azerbaijan: Stop Harassing Writer," Human Rights Watch news release, February 12, 2013, http://www.hrw.org/news/2013/02/12/azerbaijan-stop-harassing-writer.

[165] Human Rights Watch telephone interview with Akram Aylisli, February 11, 2013.

[166] Human Rights Watch telephone interview with Maarif Chingizoglu, *Azadliq* radio journalist, February 11, 2013.

[167] "Should Ali Hasanov's call for public hatred be considered as crime?" *BBC Azeri*, February 8, 2013, http://www.bbc.co.uk/azeri/azerbaijan/2013/02/130207_hasanov_eylisli.shtml (accessed July 13, 2013).

[168] "Azerbaijan: Stop Harassing Writer," Human Rights Watch news release, February 12, 2013.

[169] Human Rights Watch telephone interview with Akram Aylisli, February 11, 2013.

[170] Ibid.

Public book burnings of Aylisli's works, some organized by the ruling party, have taken place in several cities in Azerbaijan.

This government-orchestrated smear campaign goes against Azerbaijan's international commitments. The European Court of Human Rights has issued numerous rulings upholding the principle that freedom of speech also protects ideas that might be shocking or disturbing to society. In a judgment handed down against Azerbaijan, in a case that dealt specifically with speech related to the Nagorno-Karabakh conflict, the court said, "[F]reedom of information applie[s] not only to information or ideas that are favorably received, but also to those that offend, shock or disturb."[171]

Azerbaijan's Legal Obligations on Freedom of Expression

International human rights law recognizes freedom of expression as a fundamental human right, essential both to the effective functioning of a democratic society and to individual human dignity. Article 19 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Azerbaijan in 1992, provides, "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art or through any other media of his choice."[172]

The ICCPR permits states to restrict freedom of expression for the purpose of protecting the reputations of others, but there are strict conditions for such limitations. According to article 19(3), restrictions "shall only be such as are provided by law and are necessary: (a) For respect of the rights or reputations of others; (b) For the protection of national security or of public order (ordre public), or of public health or morals."[173]

As the United Nations Human Rights Committee has noted, restrictions on the right to freedom of expression "may not put in jeopardy the right itself" and must satisfy three conditions: they must be clearly provided by law; designed to pursue one of the legitimate

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[171] ECtHR, *Fatullayev v. Azerbaijan*, judgment of October 4, 2010, no. 40984/07, available at http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-98401.

[172] International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, ratified by Azerbaijan on August 13, 1992, art. 19(2).

[173] Ibid. art. 19(3).

aims articulated in article 19(3); and be both proportional to the accomplishment of that objective and necessary for its accomplishment.[174]

In language similar to article 19, article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR)[175] provides that "[e]veryone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers."

The second part of article 10 establishes that the exercise of those freedoms can only be subject to restrictions that "are prescribed by law and are necessary in a democratic society" in order to protect specific public and private interests, such as "the reputation or rights of others." The court has determined that any exceptions to article 10 must be "narrowly interpreted" [176] and that restrictions are permissible only if warranted by a "pressing social need" and if proven to be proportionate to the legitimate aim pursued.[177]

Criminal defamation laws and, in particular, the sanction of imprisonment as a punishment for defamation, are increasingly seen as inconsistent with the conditions set forth in international human rights law. Even where they are inspired by legislators' genuine desire to encourage people to responsibly exercise their freedom of expression, criminal defamation laws pose a particularly significant risk of chilling legitimate free speech and of violating the principles of legality, proportionality, and necessity.[178]

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[174] UN Human Rights Committee, General Comment No. 10, Freedom of Expression (Art. 19), Nineteenth session (1983), U.N. Doc. HRI/GEN/Rev.1 at 11 (1994). See also UN Commission on Human Rights, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Ambeyi Ligabo, Visit to Azerbaijan, A/HRC/7/14, February 28, 2008, http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/112/10/PDF/G0811210.pdf?OpenElement (accessed August 7, 2013), para. 41.

[175] European Convention for the Protection of Human Rights and Fundamental Freedoms, 213 U.N.T.S. 222, entered into force September 3, 1953, as amended by Protocols Nos. 3, 5, 8, and 11 which entered into force on September 21, 1970, December 20, 1971, January 1, 1990, and November 1, 1998, respectively, ratified by Azerbaijan in 2002.

[176] This is a long-established requirement. See, for example, ECtHR, *The Sunday Times v. the United Kingdom*, judgment of April 26, 1979, Series A no. 30, available at http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-57584, para. 65. The court has determined that the evaluation of such restrictions presents the court "not with a choice between two conflicting principles but with a principle of freedom of expression that is subject to a number of exceptions which must be narrowly interpreted (see, *mutatis mutandis*, *Klass and others v. Germany*, judgment of September 6, 1978, Series A no. 28, available at http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-57510, p. 21, para. 42.

[177] This is a long-established requirement. See, for example, *Handyside v. the United Kingdom*, judgment of December 7, 1976, Series A no. 24, available at http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-57499, paras. 48-50.

[178] For a detailed analysis of international legal standards and ECtHR case law regarding criminal defamation, see Human Rights Watch, *Beaten, Blacklisted, and Behind Bars*, pp. 28-35.

IV. Imprisonment and Harassment of Human Rights Defenders and Lawyers

Human rights defenders and lawyers are among the government critics who have been arrested on bogus or highly questionable charges or otherwise harassed in retaliation for their activism. In five cases documented below, authorities targeted human rights defenders and lawyers who had worked on getting assistance to flood victims, securing adequate compensation for people forcibly evicted from their homes, or exposing abuse in police custody.

Bakhtiyar Mammadov

On February 27, 2013, an Azerbaijani court sentenced Bakhtiyar Mammadov, a lawyer, to eight years in prison on the basis of a prosecution and conviction that appear politically motivated.[179] In 2011 Mammadov represented three families who were forcibly evicted from their homes in Baku that were demolished in early 2012 as part of preparations for the 2012 Eurovision Song Contest.[180] The families challenged as inadequate the 10,000 manat (US$12,700) compensation the government offered in exchange for their homes. In addition to representing the families in court, Mammadov filed complaints on their behalf with the prosecutor's office and the government's Anti-Corruption Committee, alleging, among other concerns, misappropriation of funds earmarked as compensation for the evicted residents.[181]

Mammadov's clients were among the 29 families evicted from the area, which was under the jurisdiction of the Azerbaijani Navy. The area was adjacent to the construction site for the Baku Crystal Hall, the venue for the Eurovision Song Contest.[182]

Mammadov alleged that, as a result of misappropriation of state budget funds to compensate

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[179] At the time of his arrest, Mammadov had been subject to a seven-and-a-half year suspended sentence on an unrelated fraud conviction handed down in 2010. Under the terms of the suspended sentence, any new criminal charges could mean the original prison term would be imposed.

[180] To read more on illegal expropriations, evictions, and demolitions in the run-up to the Eurovision song contest in Baku, see, Human Rights Watch, *They Took Everything from Me*.

[181] "Azerbaijan: Rights Lawyer Imprisoned," Human Rights Watch news release, March 4, 2013, http://www.hrw.org/news/2013/03/04/azerbaijan-rights-lawyer-imprisoned.

[182] For more Human Rights Watch report on the Eurovision Song Contest, see http://www.hrw.org/azerbaijan-eurovision.

evicted residents, affected families were being paid less than a fair rate of compensation. His allegations were published in newspapers affiliated with the political opposition.[183]

Mammadov was arrested on December 30, 2011 and has been in detention ever since. He was charged with large-scale extortion (article 182.3.2 of Azerbaijan's Criminal Code) based on an allegation that he threatened to expose documents implicating a naval officer in the misappropriation unless he paid Mammadov 18,000 manat ($23,000). Mammadov strongly denied the allegation.[184]

Mammadov's lawyer told Human Rights Watch that the trial was delayed in part because of the naval officer's failure to respond to court summonses. The lawyer also said that the complaint was filed by third parties and that the naval officer stated in court that he has never met Mammadov.[185]

Mammadov's wife and colleagues told Human Rights Watch that military personnel had warned Mammadov in the summer and autumn of 2011 to stop making the corruption allegations.[186] One of Mammadov's relatives was warned repeatedly that she could lose her government job unless Mammadov stopped making the corruption allegations. The relative was not fired but was demoted without explanation.[187]

Oktay Gulaliyev and Ilham Amiraslanov

Azerbaijani authorities arrested Oktay Gulaliyev and Ilham Amiraslanov, human rights defenders associated with the nongovernmental group Kur Civil Union, in April and June 2012 respectively, apparently in retribution for their investigation into alleged misappropriation of government funds intended to compensate victims of a 2010 flood in southern Azerbaijan.

Police detained Gulaliyev in the Sabirabad region, 170 kilometers west of Baku, on April 8, 2012, when he was meeting local residents and monitoring the distribution of government flood relief assistance. The next day a court sentenced him to 12 days' administrative detention for petty hooliganism.

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[183] Human Rights Watch telephone interview with Anar Gasimli, Mammadov's lawyer, March 3, 2013.

[184] Ibid.

[185] Ibid.

[186] Human Rights Watch telephone interview with Mehriban Mammadova, Mammadov's wife, March 2, 2013.

[187] Human Rights Watch telephone interview with Mammadov's relative, name withheld for security considerations, March 3, 2013.

Gulaliyev claimed that several police officers beat him when they were arresting him. His lawyer filed a complaint with the prosecutor's office about the beating, but he received no response.[188] The authorities failed to investigate the allegations. Instead, on April 19, 2012, the prosecutor's office pressed additional criminal charges against Gulaliyev for resisting an order by an authorized official and incitement of violence and mass riots.

The Sabirabad Regional Court remanded him to pretrial custody, but the Appeals Court released Gulaliyev pending trial.[189] The investigation is presumably ongoing, although for the past year Gulaliyev has not been involved in any investigative activities. Meanwhile, he must report weekly to the police.[190] If convicted, Gulaliyev could face up to three years in prison.

According to the members of the Kur Civil Union, police arrested Amiraslanov in June 2012, four days after he and several local farmers met with the minister for emergency situations and executive chairmen of the Sabirabad district when he criticized the local handling of flood victims' compensation.[191] In September 2012 the Sabirabad Regional Court convicted Amiraslanov on spurious weapons possession charges and sentenced him to two years in prison.

Amiraslanov sent a letter to the prosecutor general and the media shortly after his detention alleging that police planted a gun on him during his arrest and that he had been beaten, choked, and threatened with rape to compel him to sign a confession. As a result of the beating, Amiraslanov sustained a ruptured eardrum.[192] On July 31, 2012, the prosecutor's office published a statement saying it would not open a criminal investigation into the allegations of physical abuse because the state forensic examination of Amiraslanov found no signs of beating; Amiraslanov's ruptured eardrum, it said, was related to a childhood illness.[193]

Taleh Khasmammadov

Blogger and human rights defender Taleh Khasmammadov was sentenced to four years' imprisonment on April 20, 2012, on charges of hooliganism and physically assaulting a

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188 Human Rights Watch telephone interview with Oktay Gulaliyev, July 9, 2013.

189 Ibid.

190 Ibid.

191 Human Rights Watch telephone interview with the members of the Kur Civil Union, July 9, 2013.

192 For the full text of the letter, see "Azerbaijani Civic Activist's Account of Arrest and Torture," *Azeri Report*, June 19 2012, http://azerireport.com/index.php?option=com_content&task=view&id=3644&Itemid=42 (accessed July 12, 2013).

193 "Prosecutor general's office refutes the claims about torture [in Azeri]," *Milli.az* news portal, July 31, 2012, http://www.milli.az/news/society/130141.html (accessed July 13, 2013).

public official. Khasmammadov had published allegations that law enforcement officials were involved in human trafficking and narcotics sales. He published articles in pro-opposition newspapers such as *Azadlig* and *Gundem Xeber*. Police arrested Khasmammadov in November 2011 when he went to the station to present his allegations of police abuses. Five policemen claimed that Khasmammadov assaulted and beat them. In December 2012 he was released after receiving a presidential pardon.[194]

Aslan Ismayilov

Aslan Ismayilov is a lawyer who has worked on many human rights and politically sensitive cases. In May 2013 police detained, slapped, and threatened him after he had publicly claimed that Rashad Ramazanov (see above), an acquaintance, had been beaten in custody.

On May 17 Ismayilov organized a press conference to publicize concern about Ramazanov's treatment in custody. Several hours after the press conference, together with several journalists, Ismayilov went to the Ministry of Interior's Organized Crime Unit to find out more about Ramazanov's situation. In front of the Organized Crime Unit, several policemen approached him on the street and asked him to come to the station. Police drove him to the Narimanov district police station where the district police chief politely warned him to be more careful, told him that he was too vocal and too "involved with things that are not your business," and released him.[195]

In the following days Ismayilov continued to publicize his concerns about Ramazanov.

On May 30 an investigator with the Organized Crime Unit phoned Ismayilov several times, asking him to come to the station. When Ismayilov arrived, he was taken to the basement, where the investigator threatened Ismayilov that he would be imprisoned if he did not "behave," and slapped him on the ear. Before releasing Ismayilov at the end of their 30-minute conversation, the investigator warned him, "[I]f you value your life, you'll be quiet."[196]

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[194] Objective TV, "Taleh Khasmammadov Pardoned by President," December 27, 2012, video report, http://obyektiv.tv/index.php?view=video&id=3910%3A-taleh-xasmmmdov-fvl-azadlia-cixdi-&option=com_jomtube&Itemid=14&lang=en (accessed July 8, 2013).

[195] Human Rights Watch telephone interview with Aslan Ismayilov, May 31, 2013.

[196] Human Rights Watch telephone interview with Aslan Ismayilov, May 31, 2013.

Ismayilov immediately filed a complaint with the district prosecutor's office hotline. A first deputy interior minister received Ismayilov on May 31 and apologized for the incident. However, in a media interview an Interior Ministry official denied the investigator used any violence against Ismayilov.[197]

International Standards on the Protection of Human Rights Defenders

The international community has recognized the importance of protecting human rights defenders and established a set of standards for doing so. The United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms explicitly recognizes the rights of human rights defenders to associate, disseminate information, and seek the realization of human rights through criticizing governments and advocating for change.[198] Moreover, the declaration requires states to protect human rights defenders from retaliation and violence related to their work and to promote human rights through enacting legislation. A UN special rapporteur has a mandate to ensure state implementation of the declaration and investigate alleged violations by governments and non-state actors.[199]

The Council of Europe has also emphasized its commitment to protecting the work of human rights defenders by issuing a 2008 declaration calling for the commissioner for human rights to intervene when necessary to protect human rights defenders and calling on such institutions as the European Court of Human Rights to pay close attention to their plight.[200]

Taken together, these standards express the strong interest of regional and international bodies in ensuring that human rights defenders are able to carry out their work safely and without interference, which is not the case in Azerbaijan.

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[197] Ibid. "Interior Ministry denies beating Ismailov, but the deputy minister apologizes," *Contact*, May 31, 2013, http://www.contact.az/docs/2013/Politics/053100038291en.htm#.UgJ9YNK1GSo (accessed August 7, 2013).

[198] UN General Assembly, Resolution 53/144, A/RES/53/144, March 8, 1999, http://olddoc.ishr.ch/hrdo/documents/DeclarationHRD.pdf (accessed July 13, 2013).

[199] Human Rights First, "Special Rapporteur on Human Rights Defenders," http://www.humanrightsfirst.org/our-work/human-rights-defenders/special-rapporteur-on-human-rights-defenders/ (accessed July 13, 2013).

[200] Council of Europe, Steering Committee for Human Rights (CDDH), 1017 Meeting, CM(2008)/5, February 6, 2008, http://wcd.coe.int/ViewDoc.jsp?Ref=CM%282008%295&Language=lanEnglish&Ver=add&Site=CM&BackColorInternet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75 (accessed July 13, 2013).

V. Pressure on Nongovernmental Organizations

Azerbaijan has a large and vibrant community of nongovernmental organizations (NGOs) devoted to such public policy issues as human rights, corruption, democracy promotion, revenue transparency, the rule of law, ethnic minorities, internally displaced persons, religious freedom, and the like. Under Azerbaijani legislation, NGOs are not legally obligated to be registered to operate, although recent legislative amendments significantly limit the space for non-registered groups to receive grants and donations. In recent years the government authorities' refusal to register several human rights groups and their closure and harassment of several others underscore their willingness to interfere with NGOs in order to restrict controversial work.

In February 2013 the government took a significant step toward further limiting such work by introducing legislative amendments stiffening sanctions for NGOs that receive funding from a donor without concluding a grant agreement registered with the Ministry of Justice. The highly punitive nature of the fines could potentially serve as a pretext for government harassment of NGOs. The amendments also make it essentially impossible for unregistered groups to fund their work through donations and grants.[201] There are grounds for concern that the cumulative effect of these factors will be to push organizations that are outspoken, challenge government policies, or work on controversial issues to the margins of the law.

According to one NGO activist, the Azerbaijani government engages with some NGOs but is particularly hostile towards those working on human rights, election monitoring, good governance, or anticorruption and those that are openly critical of the authorities. The activist said,

> The status of NGOs depends on if they are hostile, friendly, or neutral. Things are better [than before] for neutral NGOs. The government listens now to our recommendations.… Who are the hostile NGOs? If you criticize

[201] In the words of the Institute for Reporters Freedom and Safety (IRFS), a leading local NGO, "[T]he new legislation would allow the government to easily close down unwelcome NGOs in the matter of a few days." See "Azerbaijan: Draft Bill Could Restrict NGO Activity in Azerbaijan," *IFEX*, February 8, 2013, http://www.ifex.org/azerbaijan/2013/02/07/statement_mood_darkens/ (accessed June 2, 2013).

> the government without commending its efforts, then you are seen as hostile. The government is very sensitive about its international image. They don't want to do much to improve it but are very hostile if featured as inept, incompetent, stupid, lazy, etc. It is better to appease the government and appeal to the vanity of government. The approach we take is to dress criticism as recommendations.[202]

In 2007 the Azerbaijani government established the Council on State Support to Nongovernmental Organizations (NGO Support Council) under the president of Azerbaijan with an aim to provide grants and informational support to Azerbaijani and foreign NGOs and "facilitate NGO-government cooperation."[203] Since then, the NGO Support Council disbursed over US$15 million in grants to over two thousand projects.[204] One NGO representative told Human Rights Watch that the NGO Support Council provided a positive contribution to the development of the nongovernmental sector in the country, but several others felt that the council limited NGOs' substantive autonomy.[205] Some experts fear that the council's dependence on Azerbaijan's state budget makes it vulnerable to political pressure.[206]

Hostile Rhetoric

In recent months the Azerbaijani government publicly accused some foreign NGOs of having a hidden, destructive agenda, asserting that they were interfering in internal matters and claiming that they were financing political opposition groups actively trying to destabilize the country and provoke conflict.

For example, Ramiz Mehdiyev, the influential head of the Presidential Administration of Azerbaijan, stated that several foreign NGOs' activities lacked transparency, violated laws, undermined stability, and should be forced to leave the country. Mehdiyev further noted

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[202] Human Rights Watch interview with an NGO leader, name withheld, Baku, April 15, 2013.

[203] See the official website of the NGO Support Council at http://www.cssn.gov.az/en/xeberler/20130125094854160.html (accessed July 13, 2013).

[204] "The Reason for Allocating Funds to Foreign NGOs… [in Azeri]," *Azadlig Radio*, May 23, 2013, http://www.azadliq.org/articleprintview/24995332.html (accessed July 13, 2013).

[205] Human Rights Watch email correspondence with an NGO representative, July 15, 2013.

[206] Mahammad Guluzade and Natalia Bourjaily, "Azerbaijani NGO Support Council: Overview of Three Years of Activity, *International Journal of Not-for-Profit Law* 14 (April 2012), http://www.icnl.org/research/journal/vol14iss1/art_2.html (accessed July 13, 2013). The article assesses the NGO Support Council as independent and its decision-making process as impartial and also highlights the danger of dependency on a single source.

that the Ministry of Justice already issued warnings to some international NGOs that will result in more serious measures if not heeded.[207]

Focusing on the work of the National Democratic Institute (NDI) in Azerbaijan, a United States NGO devoted to democracy-building, Mehdiyev alleged that the organization's country director provided financial support for demonstrations and the so-called "Facebook revolution." Mehdiyev went on to say that the country would stop its cooperation with NDI if the allegations are confirmed.[208] The NDI has flatly denied the allegation.[209]

Ali Hasanov, chief of the public policy department of the Presidential Administration of Azerbaijan, made similar statements and accused international NGOs of double standards: highlighting violations in Azerbaijan while ignoring them in the US and Europe.[210]

New Requirements on NGO Funding

On February 15, 2013, the Azerbaijani parliament adopted a set of amendments to the Law on Grants, the Law on Nongovernmental Organizations, and the Code of Administrative Offenses.[211] The amendments introduced stiffer administrative sanctions for NGOs that accept financial or other material assistance without a formal grant agreement with the donor.

Under a regulation adopted in 2009, within 30 days from the time an NGO concludes a grant agreement, it must submit the agreement to the Ministry of Justice, which then has up to seven days to register it. Only registered NGOs may conclude grant agreements, and an NGO legally cannot implement the grant until it receives notification that the ministry has registered the agreement. One NGO told Human Rights Watch that, although no operations can be undertaken on unregistered grants, in practice NGOs have access to the grants even prior to the Ministry of Justice letter formally registering the grant agreement.[212]

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[207] "International NGOs Should Respect Local Rules and Stick to Their Commitments [in Azeri]," *Azer-Tac*, March 18, 2013, http://www.ikisahil.com/index.php/siyas%C9%99t/item/2493-beyn%C9%99lxalq-qht-l%C9%99r-yerli-qanunlara-riay%C9%99t-etm%C9%99li-v%C9%99 (accessed May 30, 2013).

[208] Ibid.

[209] Arzu Geybullayeva, "More complications for NGOs in Azerbaijan," *Osservatorio Balcani e Caucaso*, April 8, 2013, http://www.balcanicaucaso.org/eng/Regions-and-countries/Azerbaijan/More-complications-for-NGOs-in-Azerbaijan-133415 (accessed May 30, 2013).

[210] "Azerbaijan will not make its state and national interests fall victim to the interests of different INGOs and states [in Azeri]," *Milli.az* news portal, April 22, 2013, http://www.milli.az/news/politics/183385.html (accessed May 30, 2013).

[211] President Aliyev signed amendments to all three laws on March 11, 2013.

[212] Human Rights Watch email correspondence with an NGO representative, July 15, 2013.

Human Rights Watch is not aware of any instances in which the ministry refused to register NGO grant agreements. In a letter to Human Rights Watch, the Ministry of Justice said that "during the whole period of application of the law there has been no rejection of registration [of a grant agreement]. In addition, the law itself does not provide grounds for this kind of refusal" (see appendix). However, many NGO leaders see the requirement as yet another bureaucratic burden that could serve as a pretext for undue government interference in their work.

The new legislative amendments significantly increased fines for failure to file a proper grant agreement with the Ministry of Justice, which can also lead to confiscation of property.

The following amendments were introduced in the Code of Administrative Offences:

- Failure to submit copies of grant agreements to the Ministry of Justice within 30 days of the signing of the agreement could lead to the NGO being fined between 5,000 and 7,000 manat ($6,400 and $9,000); the amendments also introduced fines for the NGO manager, who can be personally liable for fines of 1,000 to 2,500 manat ($1,275 to $3,185).[213]
- Implementing a project without a grant agreement can now result in confiscation of assets from the recipient NGO; the NGO will be subject to penalties in an amount between 8,000 to 15,000 manat ($10,200 to $19,100), and the NGO manager will also be liable for fines between 2,500 to 5,000 manat ($3,185 to $6,370).
- Failure to include required information in financial reports submitted to relevant government agencies on donations received by an NGO or information on persons donating the funds can now lead to a fine ranging from 5,000 to 8,000 manat ($6,370 to $10,200) for NGOs, while NGO managers could be liable for fines of 1,500 to 3,000 manat ($1,900 to $3,800).[214]
- Donors who make gifts by cash rather than by bank transfer face fines ranging from 250 to 500 manat ($320 to $640) if a donor is a private person; 750 to

[213] The penalty for failure to register a grant agreement used to apply only to a legal entity and could have been from 1,000 to 2,500 manat ($1,275 to 3,185).

[214] The adopted amendments define "donation" as "aid in the form of financial assets and/or in other material form given to an NGO in accordance with this law without any contingency."

1,500 manat ($955 to $1,910) if a donor is a manager of a legal entity, and 3,500 to 7,000 manat ($4,460 to $8,920) if a donor is a legal entity.

- Accepting a cash donation higher than 200 manat ($250) would lead to a 7,000 to 10,000 manat ($8,920 to $12,740) fine for an NGO manager, while the NGO itself would be liable for a fine ranging from 1,000 to 2,500 manat ($1,275 to $3,185).

The government justified the amendments by referring to the need to ensure greater transparency and accountability for NGO activities. However, this argument appears insufficient at best, since registered NGOs already have to report extensively to the authorities. In addition to tax reports to various agencies, they must file reports to various government bodies, including the Ministry of Justice, the Ministry of Finance, the State Statistics committee, and the State Social Protection Fund, on the sources of their income, including grants and how funding is used.[215]

In another regressive step in January 2012, the parliament approved amendments to the Code of Administrative Offenses, establishing a penalty of 4,000 manat ($5,100) for providing false information during the registration process; the code does not define the term "false information."[216]

Impact of the Amendments

The amendments will have a particularly negative impact on unregistered or "informal" groups. Previously, individuals affiliated with unregistered groups could sign grant agreements and, without threat of sanction, use the funds to support activities of the unregistered organization. Alternatively, some unregistered groups would conclude such agreements and use the accounts of registered NGOs to transfer the grant funds.[217]

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[215] Eastern Partnership Civil Society Forum, "Statement on Draft Amendments to the Legislation Regulating the Activities of NGOs and Civil Society Organizations in Azerbaijan," February 12, 2013, http://www.eap-csf.eu/assets/files/News/Azerbaijan%20CSOs-Statement-%20Februaru_12_2013.pdf (accessed June 2, 2013).

[216] International Center for Not-For-Profit Law (ICNL), "NGO Law Monitor: Azerbaijan," December 20, 2012, http://www.icnl.org/research/monitor/azerbaijan.html (accessed June 3, 2013).

[217] Human Rights Watch interview with Mirali Huseynov, director, Democracy Learning, Baku, April 18, 2013; Human Rights Watch interview with Hafiz Hasanov, director, Law and Development, Baku, April 18, 2013.

However, the new amendments make these arrangements illegal and require NGOs to conclude agreements in their own name only.[218]

It is not unreasonable to require NGOs to conclude agreements in their own name only. Yet some NGOs face significant difficulties securing registration in Azerbaijan. Indeed, in 2011 the Venice Commission, the advisory body to the Council of Europe on constitutional matters, analyzed Azerbaijan's NGO regulations' compliance with international standards and found that registration in Azerbaijan is an overly centralized, "lengthy and complicated" procedure whose outcomes are difficult to predict. [219] It also noted,

> It is important to underline that only registered NGOs can be recipients of grants under the 1998 Law on Grants, and only they can enjoy tax preferences under the 2000 Tax Code. Since grants are the main source of revenues for many NGOs, the act of registration is far from being a mere formality devoid of any practical importance.[220]

Difficulties of Registration: Case of Human Rights Club

The two-and-a-half-year registration saga of the Human Rights Club is an example of how the authorities can use the registration process to block the work of human rights groups.

On December 10, 2010, several human rights defenders decided to establish a new NGO dedicated to protecting human rights and freedoms in Azerbaijan.[221] Three founding members of the club submitted all the required documents to the Ministry of Justice. Since that time, the Ministry of Justice returned the documents three times, each time claiming new errors, and the case has been through four court hearings. The club remains unregistered. Rasul Jafarov, the club's director, described the process:

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[218] Ibid.

[219] Council of Europe Venice Commission, Opinion no. 636/2011, CDL-AD(2011)035, October 19, 2011, http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2011)035-e (accessed May 31, 2013), para. 57. See also Opinion no. 633/2011, CDL-AD(2011)036, October 18, 2011, http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2011)036-e (accessed May 31, 2013), paras. 76-77; Opinion no 535/2009, CDL-AD(2010)005, March 15, 2009, http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2010)005-e (accessed May 31, 2013).

[220] Ibid.

[221] Human Rights Watch interview with Rasul Jafarov, director, Human Rights Club, Baku, April 19, 2013.

> We filed registration documents in January 2011. Two months later the Ministry of Justice returned the documents, saying copies of our passports were missing. We resubmitted the documents with the passport copies. Two more months later, [the ministry said] that not all three founders signed the decision on founding the NGO. We resubmitted with the relevant signatures. After yet another two months [they said] we did not enumerate the rights and duties of the organization's legal representative. But we had no legal representative as we were submitting the documents ourselves. So we decided to file a complaint in court…. Two months later the Administrative-Economic Court decided on inadmissibility of the complaint, as the letter by the Ministry of Justice was sent only to me and not to the other two founders, and refused to consider the complaint.[222]

In March 2012 the Appeals Court overturned the trial court ruling and returned it for reconsideration to the Administrative-Economic Court. In July 2012 the Administrative-Economic Court ruled against the complainants, allegedly because they failed to appear to the hearings. However, Jafarov told Human Rights Watch that neither he nor the other founders ever received the notification about the hearing.[223] The judge overruled the previous decision and scheduled a new hearing in November 2012. After several postponements, on February 19, 2013, the court decided to not satisfy Human Rights Club's complaint, a decision that Jafarov and others appealed in April 2013.

In May the Appeals Court upheld the decision of the Administrative-Economic Court. As of this writing the Supreme Court hearing was pending.

Suspension of Registration: Case of the Azerbaijan Human Rights House

The suspension of another human rights group is an example of arbitrary government action against a critical NGO. In March 2011 the Ministry of Justice suspended the work of the Azerbaijan Human Rights House (AHRH), a member of the International Human Rights House Network and a registered organization that served as a training and resource center and conference venue for local groups. The Ministry of Justice ordered the organization to cease all work, claiming it was in breach of a law introduced in June 2009 that requires all

[222] Ibid.

[223] Ibid.

international groups or their local affiliates in Azerbaijan to sign separate agreements with the government allowing them to operate.[224] The group had been registered and operating since 2007, and the amended law does not state whether the requirement applies retroactively to groups already registered, nor does it define the nature of such an agreement or what provisions it should contain.

The ministry had not issued any prior warnings that the group was violating the law, nor did it provide a grace period to rectify the problem.

The shutdown came shortly after the group had arranged and participated in a January 2011 trip to Strasbourg for several Azerbaijani human rights defenders to bring the country's worsening human rights situation to the attention of the Council of Europe's Parliamentary Assembly. Several weeks after the trip, high-level government officials criticized the group for "harming" Azerbaijan's international image, and a member of parliament urged authorities to "take steps" against such groups. [225]

The group has been unsuccessfully trying to reverse the suspension to its work ever since.

The October 2011 Venice Commission opinion, described above, found the requirement for international NGOs to create branches and representatives and have them registered problematic. It states,

> [T]he requirement for the bilateral agreement between a foreign NGO and the national authorities is in itself questionable and the conditions set are rather problematic and unclear. The decree does not specify how the general terms "national and moral values" and "political and religious propaganda" are to be defined and what an NGO should do to "respect the people of Azerbaijan." … [I]t is clear that a rejection of a registration based

[224] Amendments to the Law on Nongovernmental Organizations, adopted in 2009, article 12.3. Decree No. 43 issued by the Azerbaijan Cabinet of Ministers on March 16, 2011 further specified rules for the registration of foreign NGOs. According to the decree, foreign NGOs must: comply with the Constitution of the Republic of Azerbaijan and other relevant laws and regulations; respect national moral values; have no activities in territories occupied because of the Nagorno-Karabakh conflict and no contact with the separatist regime of Nagorno-Karabakh; not be involved in political and religious propaganda; provide information required by state registry within the timeframe established by the law. Foreign NGOs can operate in Azerbaijan only on the basis of a bilateral agreement between them and the authorities. Council of Europe Venice Commission, Opinion no. 636/2011, paras. 69-73.

[225] "There is truth in What Ogtay Asadov said [in Azeri]," *Sharg*, February 2, 2011, http://www.sherg.az/pre.php?id=34480, (accessed July 14, 2013).

> on one of these conditions could hardly be found compatible with Article 11 of the ECHR.[226]

As for the liability and dissolution of AHRH, the Commission noted,

> [T]here must be convincing and compelling reasons justifying the dissolution and/or temporary forfeiture of the right to freedom of association. Such interference must meet a pressing social need and be proportionate to the aims pursued. A decision not to reach an agreement with a foreign NGO must not only be prescribed by law but furthermore such a decision must also pursue a legitimate aim and be necessary in a democratic society. To condition the views, activities and conduct of an NGO before allowing it to obtain the legal personality necessary for its operation, goes against the core of the values underlying the protection of civil and political rights.[227]

Hostile Climate for NGOs

Several NGO representatives told Human Rights Watch that, because of the recent upswing in attacks, harassment, arrests, and smear campaigns in the state media against some groups, as well as trumped-up charges against activists in 2013, they fear they could be targeted next.

Adding to the restrictive climate, local governments have begun blocking planned activities, such as trainings, of several groups outside the capital region. One NGO leader explained that for years NGOs have needed to obtain official permission in order to hold trainings and other events but that what used to be a mere formality turned into an extralegal obligation:

> If you want to hold a public event, you write a letter to the public agency asking for their kind technical assistance. It's an advance warning, basically. You warn them that you're conducting an event. If you don't, they'll be hysterical that you're opposition and will [stir up] the population.

[226] Council of Europe Venice Commission, Opinion no. 636/2011, para. 93.

[227] Ibid, para. 108.

> This isn't new but now you need to do it in writing. In the past we could call or visit the office and that would suffice.[228]

Another NGO leader confirmed this practice and told Human Rights Watch that in March 2013 his NGO was denied permission for the first time to hold a series of training seminars in four cities. In response to his letters, officials in each city refused the request without explanation. Hotels in these cities refused to provide a venue for the seminars without the letter of approval from the authorities. "We never had problems with organizing trainings in the past," the leader told Human Rights Watch. "Now we do." The NGO did hold the training in Baku, but the training had to be held in another NGO's office after a hotel refused to provide a venue.[229] One NGO leader attributed this to the government's concern that independent NGO activity could be a potential trigger for protests or instability following the January 2013 protests in Ismayilli.[230]

Also in March, a human rights photography exhibition was closed 30 minutes after it opened. The director of the arts center where the exhibition was being held told the exhibition organizer that permission had been given "in error." [231]

Some NGO leaders commented that unpredictability of the government's actions and lack of rule of law made their work even harder:

> The climate for NGO operations depends on the rule of law in the country. Even if the laws are strict, we know we can work within them and will be treated equitably [if the rule of law is respected]. We can find pockets, space in which to work even though the law imposes constraints. For 10 years we've been adapting to a fluid situation. The problem is when the government is not observing its own laws. We're in an unclear position. If they come tomorrow and seal our doors, there's nothing we can do. Who do we complain to? They can do a search tomorrow and "find" drugs. Anything is possible.[232]

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[228] Human Rights Watch interview with NGO leader B, name withheld, Baku, April 15, 2013.

[229] Human Rights Watch interview with NGO leader C, name withheld, Baku, April 15, 2013.

[230] Human Rights Watch interview with NGO leader A, name withheld, April 15, 2013.

[231] "Authorities Closed Photography Exhibition of Human Rights Defenders," *Contact*, March 18, 2013, http://contact.az/docs/2013/Politics/031800031890en.htm#.Udod3pzaxbU (accessed July 13, 2013).

[232] Human Rights Watch interview with NGO leader C, April 15, 2013.

Azerbaijan's Legal Obligations on Freedom of Association

As a member of the Council of Europe since 2001 and a party to the European Convention on Human Rights (ECHR) since 2002, Azerbaijan has strict and clear obligations to respect freedom of association and expression, obligations that it seems to be selectively disregarding in its current strategy towards human rights NGOs and social activists.

Article 11 of the ECHR states that everyone has the right to freedom of association. The only permissible restrictions to this right are those that are "prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others."[233]

The European Court of Human Rights has consistently made clear that the right "to form a legal entity in order to act collectively in a field of mutual interest is one of the most important aspects of the right to freedom of association, without which that right would be deprived of any meaning."[234] While a state has a right to regulate an association's aims and activities, it must do so in a manner compatible with its obligations under the convention.[235] The protection of opinions and freedom of expression under article 10 of the ECHR is also one of the objectives of freedom of association.

Under the convention governments have a duty not to interfere with freedom of association and have positive obligations to secure the effective enjoyment of this freedom. These include an obligation to recognize the legal status of associations and not to impose unnecessary delays or administrative burdens on any registration procedure in a way that would interfere with the right of association.[236]

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[233] European Convention for the Protection of Human Rights and Fundamental Freedoms, 213 U.N.T.S. 222, entered into force September 3, 1953, as amended by Protocols Nos. 3, 5, 8, and 11 which entered into force on September 21, 1970, December 20, 1971, January 1, 1990, and November 1, 1998, respectively, art. 11. Russia became a party to the ECHR on May 5, 1998. Article 22 of the International Covenant on Civil and Political Rights (ICCPR) also sets out that the only restrictions permissible on freedom of association are those "which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others." Russia ratified the ICCPR on October 16, 1973.

[234] See for example, *Sidiropoulos and Others v. Greece*, judgment 10 July 10, 1998, Reports of Judgments and Decisions 1998-IV, para. 40; *Gorzelik and Others v. Poland [GC]*, judgment of February 17, 2004; and most recently *Ramazanova and Others v. Azerbaijan*, judgment of February 1, 2007, para. 54, *Zhechev v. Bulgaria*, judgment of June 21, 2007, para. 34, and *Ismayilov v. Azerbaijan*, judgment of January 17, 2008.

[235] Ibid.

[236] For example, *Tsonev v. Bulgaria*, judgment of April 13, 2006, para. 55.

Azerbaijan has already been found to have violated the right to freedom of association in five cases since its ratification of the ECHR in 2002.[237] In its 2007 judgment *Ramazanova v. Azerbaijan*, the European Court concluded that "the significant delays in its state registration, which resulted in its prolonged inability to acquire the status of a legal entity, amounted to an interference by the authorities with the applicant's exercise of their right to freedom of association."[238] The court also noted that even if the association had a theoretical right to exist without state registration, the domestic legal regulation, which prevented the association from receiving any "grants" or financial donations, effectively prevented the association from performing its work, thus interfering with the right to association.[239]

Furthermore, the court also stressed that "significant delays in the registration procedure, if attributable to the Ministry of Justice, amounted to an interference with the right of the association's founders to freedom of association."[240] The above findings by the court were reiterated in all other judgments it issued against Azerbaijan, finding it in violation of article 11 of the convention.

It is also worth noting that the Venice Commission, which, as noted above, issued an opinion on Azerbaijan's compliance with European standards regarding NGO governance, stressed that "such a legal requirement [registration] may not be an essential condition for existence of an association, as that might enable the domestic authorities to control the essence of the exercise of the freedom of association."[241]

Finally, in its most recent judgment regarding Azerbaijan's failure to respect freedom of association, *Tebieti Mühafize Cemiyyeti and Israfilov v. Azerbaijan*, the European Court found in 2009 that the Ministry of Justice's authority to apply to a court requesting

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[237] *Tebieti Muhafize Cemiyyeti and Israfilov v. Azerbaijan*, judgment of October 8, 2009; *Aliyev and others v. Azerbaijan*, judgment of December 18, 2008; *Ismailov v. Azerbaijan*, judgment of January 17, 2008; *Nasibova v. Azerbaijan*, judgment of October 18, 2007; *Ramazanova and Others v. Azerbaijan*, judgment of February 1, 2007.

[238] *Ramazanova and Others v. Azerbaijan*, judgment of February 1, 2007, para. 59. At issue in *Ramazanova* was the effort by four Azerbaijani residents to register a group they had founded in April 2001, called "Assistance to the Human Rights Protection of the Homeless and Vulnerable Residents of Baku," a nonprofit group aimed at providing aid to homeless and defending their interests. Between April 2001 and July 2002 the founders submitted four unsuccessful applications to the Ministry of Justice. The ministry returned the application documents four times without registering the group, each time claiming the group's charter did not comply with the requirements of domestic law.

[239] Ibid.

[240] Ibid, paras 54-60.

[241] Council of Europe Venice Commission, Opinion no. 636/2011, para. 57. See also Opinion no. 633/2011, paras. 76-77; Opinion no 535/2009, CDL-AD(2010)005.

dissolution of the NGO *Tebieti Mühafize Cemiyyeti*, a Baku-based environmental group, after it has been warned twice within a given year, constitutes arbitrary interference with the right to freedom of association.[242]

Therefore, the punitive and invasive elements of the existing NGO law in Azerbaijan, as well as the recent amendments adopted by the parliament, are contradictory to Azerbaijan's obligations under international and regional law to respect freedom of expression and association and have a choking effect on the exercise of those rights.

[242] *Tebieti Mühafize Cemiyyeti and Israfilov v. Azerbaijan*, judgment of October 8, 2009.

VI. Public Assemblies

Azerbaijani law protects freedom of assembly, and the government regularly asserts that there are no undue barriers to its exercise.[243] However, freedom of assembly is severely limited in Azerbaijan, particularly in Baku's center, where authorities have refused to sanction peaceful opposition protests; broken up unsanctioned ones, often with violence; and arrested and imprisoned peaceful protestors, organizers, and participants. Misdemeanor trials of those charged for involvement in unsanctioned protests are perfunctory.

In November 2012 and May 2013 parliament adopted amendments to laws increasing the fines for participating and organizing unauthorized protests by more than hundredfold and also increasing the maximum jail sentence for minor public order offenses often used to incarcerate protesters from 15 to 60 days.

Freedom of Assembly Prior to the New Amendments

While the constitution of Azerbaijan stipulates that groups may peacefully assemble after simply notifying the relevant government body in advance, in practice authorities require that gatherings obtain a permit issued by local municipalities.[244]

Azerbaijan is a party to a number of human rights treaties – including the European Convention on Human Rights and the International Covenant on Civil and Political Rights – that impose obligations on the government to respect the right to free peaceful assembly.[245] Any requirement to obtain authorization for a peaceful protest cannot be used

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[243] "President Ilham Aliyev: All freedoms are guaranteed in Azerbaijan," *APA* news agency, May 28, 2013, http://en.apa.az/xeber__fbih_president_returns_to_office_after__193656.html (accessed July 6, 2013). "Ilham Aliyev and European Commission President Jose Manuel Barroso held a joint press conference," President of Azerbaijan press conference, http://en.president.az/articles/8503 (accessed July 6, 2013).

[244] Article 49 of the Constitution of Republic of Azerbaijan adopted on November 12, 1995 stipulates that everybody has the right to freedom of assembly with others. Pursuant to article 49, no permission is required from the authorities to conduct peaceful assemblies, meetings, demonstrations, etc. Article 49 states, "Everyone has the right, having notified respective governmental bodies in advance, peacefully and without arms, to meet with other people, organize meetings, demonstrations, processions, place pickets." Article 5 of the Law on Assemblies regulates the notification procedure, which has to be done five days in advance of the demonstration in written form. Baku municipal authorities designated special areas in the capital where demonstrations could be held, many of which are in the city outskirts, not easily reachable by public transportation links. For more, see OSCE/ODIHR, "Guidelines on the Implementation of the Law on Freedom of Assembly of the Republic of Azerbaijan," September 4, 2008, http://www.osce.org/odihr/34311 (accessed July 14, 2013).

[245] Articles 11 and 21, respectively.

to infringe upon the substance of freedom of assembly that is of central importance to a democratic society.

Municipal authorities have effectively banned all forms of peaceful protest from the center of Baku and instead force all demonstrations into designated zones on the outskirts of the city. Such a blanket ban on freedom of assembly in the central areas of Baku violates Azerbaijan's international obligations to respect freedom of assembly and expression.[246]

As noted in the "Background" section of this report, for several years police have dispersed, at times violently, peaceful protests in Baku's center. In the days before and during the Eurovision Song Contest held in Baku in May 2012, police broke up several protests in the city's center and briefly detained dozens of peaceful demonstrators.[247] In 2011 when activists, inspired by the uprisings in the Middle East and North Africa, launched protests in Azerbaijan, the government responded by arresting hundreds of protesters, activists, and journalists.[248] Several were convicted of public order offences and imprisoned for up to three years.[249]

New Penalties for Offenses Related to Public Assemblies

The Azerbaijani authorities regularly use administrative, or misdemeanor, charges to lock up people for organizing or participating in unsanctioned rallies, then prosecuting and convicting them in perfunctory trials.[250] The charges are usually petty hooliganism,

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[246] As the European Court of Human Rights has warned, "Sweeping measures of preventive nature to suppress freedom of assembly and expression … do a disservice to democracy and often endanger it. In a democratic society based on the rule of law, political ideas which challenge the existing order and whose realisation is advocated by peaceful means must be afforded a proper opportunity of expression through the exercise of the right of assembly as well as by other lawful means. *Stankov and the United Macedonian Organisation Ilinden v. Bulgaria*, judgment of October 2, 2001, paras. 86 and 97.

[247] See "Azerbaijan: Authorities Violently Disperse Peaceful Rallies," Human Rights Watch news release, May 22, 2012, http://www.hrw.org/news/2012/05/22/azerbaijan-authorities-violently-disperse-peaceful-rallies; "Azerbaijan: Eurovision No Party for Peaceful Protesters," May 24, 2012, http://www.hrw.org/news/2012/05/24/azerbaijan-eurovision-no-party-peaceful-protesters; "Azerbaijan: Peaceful Protests Crushed Ahead of Eurovision Final," May 29, 2012, http://www.hrw.org/news/2012/05/29/azerbaijan-peaceful-protest-crushed-ahead-eurovision-final.

[248] Haley Sweetland Edwards, "Azerbaijan: More than 200 anti-government protesters arrested," *Los Angeles Times*, April 2, 2011, http://latimesblogs.latimes.com/babylonbeyond/2011/04/azerbaijan-more-than-200-anti-government-protesters-are-arrested.html (accessed October 29, 2011). "Azerbaijani Activists Jailed Over Protest," *RFE/RL*, May 23, 2011, http://www.rferl.org/content/activists_detained_in_azerbaijan/24183827.html (accessed October 29, 2011).

[249] "Six Azerbaijani Oppositionists Jailed over April Protest," *RFE/RL*, August 25, 2011, http://www.rferl.org/content/six_azerbaijani_oppositionists_jailed_over_april_protest/24308081.html (accessed October 29, 2011).

[250] In Azerbaijan's justice system, administrative offenses are minor public order breaches that do not accrue a criminal record.

disobeying police orders, or organizing or participating in unsanctioned protests, for which penalties can be either fines or deprivation of liberty.

On May 14, 2013, Azerbaijan's parliament amended the Code of Administrative Offenses to sharply increase jail terms for a number of offenses commonly used to punish people for involvement in peaceful, albeit unsanctioned, public protests:

- The maximum jail sentence for violating rules for organizing, holding, and attending unauthorized assemblies (article 298 of the Code of Administrative Offenses) increased from 15 to 60 days.
- The maximum sanction for disobeying a police order (article 310 of the Code of Administrative Offenses), increased from 15 to 30 days.
- Failure to carry out court-ordered public service (article 313-2.3 of the Code of Administrative Offenses) increased from 15 days to a maximum jail term of three months.[251]

In November 2012 parliament amended the Law on Freedom of Peaceful Assembly, the Criminal Code, and the Code of Administrative Offenses to increase penalties for participants and organizers of unsanctioned protests. Following the changes, the maximum fine for participation in an unauthorized protest rose more than hundredfold, from US$8 to $15, to $630 to $1,260. The maximum penalty for organizing an unsanctioned rally was increased to $3,800; and if the organizer is a legal entity, such as a political party or an NGO, the fine could range from $19,000 to $38,000.

These amounts are draconian given that the average monthly income in Azerbaijan is 398 manat ($507).[252]

Increased Fines and Confiscation of Property

Courts have already imposed higher fines against those who participated in unsanctioned peaceful protests in Baku. As described below, in January 2013 about 10 activists were fined from 400 to 3,000 manat ($500 to $3,800) for participating in unsanctioned protests.

[251] The amendments also increased jail terms for other administrative offenses relating to traffic rules, hooliganism, and other infractions.

[252] The State Statistical Committee of the Republic of Azerbaijan, "Average Monthly Nominal Wages and Salaries by Sectors of Economy," http://www.stat.gov.az/source/labour/indexen.php (accessed July 29, 2013).

In mid-February, after the activists refused to pay the fines as an act of civil disobedience, court bailiffs visited the homes of several activists, prepared an inventory of family property, and, in some cases, confiscated household items. [253]

For example, on February 18 court bailiffs confiscated two carpets from the home of Abulfaz Gurbanli's parents. Gurbanli, head of the opposition Popular Front Party youth wing, was fined 500 manat ($640) for attending a peaceful, unsanctioned rally on January 12, 2013. Gurbanli explained to the six bailiffs who came to his parents' home that he had not lived there for several years, but they took the carpets anyway.[254] Later, Gurbanli received a letter from the court stating that the carpets had been seized as compensation for the unpaid fine, and the case against him was closed.

In another example, Ulvi Hasanli, a leader of the youth group Azad Genchlik (Free Youth), refused to pay a court-imposed 600 manat ($760) for his participation in the same demonstration. On February 15, the due date for the payment of the fine, the Nizami District Court summoned Hasanli. Court bailiffs locked him in a room, saying that he would not be released unless he paid the fine and ultimately seized property that did not belong to Hasanli as payment of the fine. Hasanli explained,

> I had a notebook in a computer bag I was carrying and a BlackBerry…. The notebook was office property and the phone belonged to a friend. Court officials forcibly took them away from me in order to pay the penalty…. Then they let me go.[255]

Hasanli launched a formal complaint, submitting to the court documents proving that the confiscated items were not his personal property. As of this writing, the court had yet to decide on the complaint. Meanwhile, on May 17, the Nizami District Court sentenced Hasanli to 200 hours of community service in addition to the 600 manat fine as a penalty for late payment.[256]

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[253] "Civil Disobedience Campaign," post to Facebook, February 15, 2013, https://www.facebook.com/notes/khadija-ismayil/civil-disobedience-campaign-read-and-share/10151477615056535 (accessed June 5, 2013).

[254] Human Rights Watch telephone interview with Abulfaz Gurbanli, June 4, 2013.

[255] Human Rights Watch telephone interview with Ulvi Hasanli, June 3, 2013.

[256] Ibid.

Another activist who refused to pay the 600 manat fine was Tural Abbasli, leader of Musavat's youth wing. Court officials inventoried his parents' property to be seized as payment of the fine, but after Abbasli presented documents proving the inventoried property was not his, the court withdrew the seizure order. Instead, on May 3, 2013, it imposed 220 hours of community service in addition to his fine.[257] The court ordered Abbasli to perform his community service at the Nasimi District Housing and Communal Department. According to Abbasli, although he checked in with the housing department daily, he was not assigned any work. Yet on August 7 the Nasimi District Court sentenced him to 15 days of administrative detention for failure to perform his community service.[258]

Police Violence and Arrests in Relation to Unauthorized, Peaceful Protests in Baku

Police forcibly dispersed at least two unauthorized peaceful protests in Baku in 2013, arresting protesters, and in one case using tear gas and water cannons to break up the gathering.

January 26

On January 26 youth activists tried to organize a protest in Baku's center to express support for people in Ismayilli, where, several days earlier, there had been riots and mass protests calling for the local governor's resignation.[259] Starting in early morning, uniformed and plainclothes police amassed in the city center. As soon as the activists started arriving, chanting "Freedom!" or other slogans, police rounded them up and forced them into waiting buses and police cars. Numerous amateur videos, as well as Radio Free Europe/Radio Liberty live streaming from the protest, showed that the demonstration was peaceful and that the protesters did not offer any resistance or use any violence.[260]

Police rounded up more than 50 people. Some were released after being transported to the outskirts of Baku, while others were taken into police detention and faced administrative charges for participating in and organizing an unsanctioned rally. Local courts sentenced

[257] Human Rights Watch telephone interview with Tural Abbasli, June 3, 2013.
[258] Human Rights Watch email correspondence with Sakhavat Soltanli, advisor to Musavat party chairman, August 7, 2013.
[259] See footnote 39.
[260] Ibid.

five activists to administrative imprisonment ranging from 13 to 15 days.[261]

The courts also fined three activists up to 2,500 manat (about $3,200) for organizing an unsanctioned protest, while 17 protesters were fined between 400 and 600 manat (about $510 to $760) for participating in an unauthorized protest.[262]

March 10 Protest

Police in Baku used unnecessary force to disperse a peaceful protest on March 10, 2013. Hundreds of youth and opposition activists gathered in Fountain Square in the center of Baku's at about 3 p.m. to protest the noncombat death of a military conscript and alleged abuse of conscripts. On March 1 the protest organizers applied to the Baku mayor's office for a permit but received no response. On March 9 Ministry of Interior official stated publicly that the authorities would prevent any unsanctioned rally from taking place.[263]

As the protesters gathered, they shouted slogans calling for justice for the death of the conscript and for the minister of defense to resign. Almost immediately, police in riot gear rushed into the square, dispersing the crowd.

Numerous video clips available online and viewed by Human Rights Watch show police simultaneously using water cannons and teargas against the waves of protesters arriving at Fountain Square. Human Rights Watch established that, although the protesters offered no resistance, police started to round up the activists, roughing them up and taking them away.[264]

A witness told Human Rights Watch that although police used a loudspeaker to call on the demonstrators to disperse, they almost immediately started to use water cannons and teargas, catching many protesters off guard. "The sudden use of the water cannon caused panic and I heard the sounds of people running in chaos," the witness said. "Many were

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[261] Ibid.

[262] Ibid.

[263] "Ministry of Interior: Any protest action will be prevented [in Azeri]," *Azadlig Radio*, March 9, 2013, http://www.azadliq.org/archive/news/20130309/1/1.html?id=24923679 (accessed July 12, 2012).

[264] "Azerbaijan: Unnecessary Police Force at Peaceful Protests," Human Rights Watch news release, March 12, 2013, http://www.hrw.org/news/2013/03/12/azerbaijan-unnecessary-police-force-peaceful-protests.

knocked down, wet, and could not move."[265]

Another protester recalled that the crowd refused to disperse and instead sat on the ground, but police directed the water cannon at them, knocking them over. Then police started to detain them. Within about 90 minutes, the police had cleared all protesters from the square.[266]

Fuad F., who is active on social media, was at the demonstration to take pictures and tweet about it. When police found out that he was not a journalist, riot police detained him, punched him, and put him on a bus to a police station. He was held there for about six hours and was questioned before he was freed without charges in the outskirts of Baku. He told Human Rights Watch,

> At one point, I saw police pushing women with their shields and I ran to photograph them. That's when a policeman approached me and asked if I was a journalist. When I said no, he ordered the riot police to detain me. Then two of the policemen in riot gear twisted my arms behind my back and dragged me away. I told them that I could follow them and that they did not need to drag me, at which point a third policeman punched me in my stomach.... As they put me on the bus, one of the guys holding me punched me again.[267]

Police arrested dozens of other demonstrators. Like Fuad F., many were released later that day without charges. However, courts convicted over 20 people on misdemeanor charges, sentencing at least five of them to six or seven days' detention and fining at least 19 between 300 and 600 manat (approximately $380 to $760) for the same offenses.[268]

Although the protest was unauthorized, there was no need for the police to use force to disperse the peaceful gathering. The Azerbaijani police failed to act in accordance with the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, which states that "in the dispersal of assemblies that are unlawful but non-

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[265] Human Rights Watch telephone interview with a participant of the rally, name withheld, March 11, 2013.

[266] Human Rights Watch telephone interview with a participant of the rally, name withheld, March 11, 2013.

[267] Human Rights Watch interview with Fuad F., Baku, April 20, 2013.

[268] "Azerbaijan: Unnecessary Police Force at Peaceful Protests," Human Rights Watch press release, March 12, 2013.

violent, law enforcement officials shall avoid the use of force or, where that is not practicable, shall restrict such force to the minimum extent necessary."[269]

Furthermore, international standards require police only to use force as a last resort, and to apply it in an escalated manner, proportionate to the threat. Police did not meet these standards in dealing with the March 10 protest in Baku.

[269] Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted by the 8th United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, August 27-September 7, 1990, principle 13.

VII. International Responses to Azerbaijan's Deteriorating Human Rights Situation

Azerbaijan has made a number of commitments to protect human rights, including freedom of expression, assembly, and association. Azerbaijan's international legal obligations under the International Covenant on Civil and Political Rights and the European Convention on Human Rights are outlined in relevant sections of this report. Azerbaijan has also been receiving international support from multilateral and bilateral partners to further human rights protection, including from the Council of Europe (CoE), the European Union, the Organization for Security and Co-operation in Europe (OSCE), and the United States.

These actors have criticized Azerbaijan's human rights record in past years and have expressed strong concern about some of the developments described in this report. However, their criticisms have not affected their close relationships with Azerbaijan, perhaps because most actors prioritize Azerbaijan's geostrategic importance and hydrocarbon resources in their relations with the country.

Azerbaijan's international partners should continue to use bilateral and multilateral frameworks for engagement to raise human rights concerns, including those described in this report. Efforts should include urging the authorities to release journalists, political activists, and human rights defenders imprisoned on bogus charges and to bringing legislation related to freedom of expression, assembly, and association into line with international norms. Sustained pressure and clear benchmarks for remedying human rights violations are needed if the international community is to succeed in persuading the Azerbaijani government to respect fundamental rights and liberties.

Council of Europe

Europe's foremost human rights body, the Council of Europe admitted Azerbaijan as a member in 2001, imposing a number of accession commitments. [270] Those commitments obliged Azerbaijan, inter alia, to release or grant new trials to political prisoners identified by human rights organizations, guarantee freedom of expression and

[270] Founded on May 5, 1949, the Council of Europe is an intergovernmental body, with 47 member countries, based in Strasbourg, France.

independence of the media, and amend rules and regulations regarding registration and appeal procedures for associations.[271]

The monitoring committee of the Council of Europe Parliamentary Assembly (PACE), the body in charge of monitoring Azerbaijan's progress in meeting its accession commitments, has produced eight reports assessing Azerbaijan's compliance since its accession.[272] The two co-rapporteurs appointed for this purpose carry out regular visits to the country, meeting with the authorities, civil society representatives, parliamentarians, and independent experts. They have repeatedly expressed concern about many of the same human rights violations described in this report.[273]

The committee's most recent report on Azerbaijan served as a basis for a PACE resolution that was adopted in January 2013. The resolution acknowledges Azerbaijan's signature and ratification of key Council of Europe legal instruments and progress it made in "the establishment of the legislative framework in some areas crucial for the functioning of democratic institutions." However, the PACE also expressed concern that selective application of certain laws has resulted in "growing concern with regard to rule of law and respect for human rights."[274] The resolution highlighted the use of torture and ill-treatment by law enforcement agents, prosecution of journalists and others who express critical opinions, disproportionate police force against peaceful protesters, and an environment hostile to NGOs, especially those that express critical opinions.[275] It also raised concern about "the alleged use of fabricated charges against activists and journalists" and called

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[271] Parliamentary Assembly of the Council of Europe, Opinion No. 222 (2000), Azerbaijan's application for membership of the Council of Europe, adopted on June 28, 2000, http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta00/EOPI222.htm (accessed October 14, 2010).

[272] The full name of the committee is the Committee on the Honoring of Obligations and Commitments by Member States of the Council of Europe.

[273] See "Azerbaijan: PACE monitoring co-rapporteurs express concerns about freedom of assembly and freedom of expression," PACE news release, November 29, 2012, http://assembly.coe.int/ASP/NewsManager/EMB_NewsManagerView.asp?ID=8203&L=2 (accessed July 12, 2013); "PACE Monitoring Committee co-rapporteurs express deep concern at the worrying developments in Azerbaijan," PACE monitoring, February 6, 2013, http://assembly.coe.int/ASP/NewsManager/EMB_NewsManagerView.asp?ID=8397&L=2 (accessed June 6, 2013); "PACE Co-rapporteurs Stress the Need for Fair Electoral Campaign in Azerbaijan," PACE monitoring, June 13, 2013, http://assembly.coe.int/ASP/NewsManager/EMB_NewsManagerView.asp?ID=8839&L=2 (accessed July 9, 2013).

[274] Council of Europe, The honouring of obligations and commitments by Azerbaijan, Resolution 1917 (2013), adopted January 23, 2013, http://assembly.coe.int/ASP/Doc/XrefATDetails_E.asp?FileID=19451 (accessed June 6, 2013), para. 7.

[275] Ibid, paras. 18.5-18.8.

on Azerbaijan to, among other things, release those prisoners "whose detention gives rise to justified doubts and legitimate concerns."[276]

In January 2013 the PACE voted against a parallel resolution dedicated exclusively to the issue of political prisoners in Azerbaijan. The draft resolution was based on a report on political prisoners by the assembly's special rapporteur on this issue, Christoph Strässer. The authorities went to unprecedented lengths to obstruct Strässer's work, refusing him access to the country for the duration of his three-year mandate and rejecting it as unjustly singling out Azerbaijan. As a result, the rapporteur was compelled to produce a report that relied on consultations outside the country with Azerbaijani lawyers, as well as local and international human rights groups.[277] The intentional obstruction of the rapporteur's access to the country did not stop the government from criticizing him for producing a report without having visited Azerbaijan.

In July 2013 Nils Muižnieks, the Council of Europe's commissioner for human rights, published a report on his May visit to Azerbaijan, covering a range of issues, including freedom of expression, assembly, and association.[278] He expressed serious concern at "the apparent intensification of the practice of unjustified or selective criminal prosecution of journalists and others who express critical opinions." He also criticized the authorities for restrictions they imposed on freedom of assembly and the law enforcement's use of excessive force to disperse demonstrations. The report also highlighted the obstacles human rights NGOs encounter in carrying out their work. Muižnieks called on Azerbaijani authorities to, inter alia, fully decriminalize defamation, cease targeting social media users, ensure that no authorization is required for holding public demonstrations, and ease the registration requirements for NGOs to make the process less bureaucratic.[279]

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[276] Ibid, paras. 14 and 18.4.

[277] The report enumerates 89 alleged political prisoners and an additional 27 persons who appeared on lists of alleged political prisoners but were recently released from prison. Council of Europe Committee on Legal Affairs and Human Rights, The follow-up to the issue of political prisoners in Azerbaijan, draft resolution adopted June 26, 2012, http://www.assembly.coe.int/Communication/pressajdoc22_2012.pdf (accessed June 6, 2013).

[278] Another issue covered in the report was right to property. "Report by Nils Muižnieks, Council of Europe Commissioner for Human Rights, following his visit to Azerbaijan, from 22 to 24 May 2013," Strasbourg, July 9, 2013, https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2324128&SecMode=1&DocId=2037462&Usage=2 (accessed August 16, 2013).

[279] Ibid.

In the response to the commissioner's report, the Azerbaijani authorities denied that they had imposed any restrictions on freedom of expression, assembly, and association, claiming that journalists or activists have been prosecuted not for their professional activity but rather for other criminal acts they allegedly committed.[280] The authorities also justified the criminalization of online libel by the need to "provide private individuals with legal protection against libel and insult in Internet resources."[281]

In February 2013 Council of Europe Secretary General Thorbjørn Jagland expressed concern about the detention of Ilgar Mammadov and Tofig Yagublu and called on Azerbaijan to adhere to the legally binding principles of the European Convention on Human Rights.[282]

European Union

Cooperation between the EU and Azerbaijan in the energy field has flourished over the years, leading to closer economic and political ties between Baku and Brussels but not to improved governance and human rights in Azerbaijan. Although Brussels has voiced strong concern about human rights issues, the EU has not linked Azerbaijan's human rights performance to policy consequences. A more robust EU policy that incorporates human rights conditionality is needed if Brussels is to succeed in affecting positive change in the country.

Brussels wants to diversify its energy resources away from Russia. It is offering benefits such as free trade and visa liberalization and is seeking comprehensive reforms across a range of areas as a precondition for closer ties. Baku's interests are more narrowly defined and focused on making the most of its energy resources and resolving the conflict with neighboring Armenia over the Nagorno-Karabakh region. It wants a relationship based on equality, viewing its energy resources as a key factor boosting its stance vis-à-vis the EU.[283] Both sides are seeking to secure their asymmetric interests in negotiations on a new legal

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[280] "Comments of the Azerbaijani Authorities with regard to the Report of the Commissioner of Human Rights of the Council of Europe," https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2326240&SecMode=1&DocId=2037562&Usage=2 (accessed August 16, 2013).

[281] Ibid.

[282] "Thorbjørn Jagland concerned by the recent events in Azerbaijan," Council of Europe press release, DC017(2013), February 8, 2013, https://wcd.coe.int/ViewDoc.jsp?Ref=DC-PR017%282013%29&Language=lanEnglish&Ver=original&BackColorInternet=F5CA75&BackColorIntranet=F5CA75&BackColorLogged=A9BACE (accessed June 6, 2013).

[283] "The EU and Azerbaijan: Mismatched Objectives," *European Voice*, June 19, 2013.

framework for EU-Azerbaijan relations which are taking place against the background of the government's political crackdown.

The EU-Azerbaijan Partnership and Cooperation Agreement (PCA), which entered into force in 1999, set as goals, inter alia, the promotion of respect for democracy, the rule of law, and human rights.[284] Although it has formally expired, the PCA continues to serve as the legal framework for EU-Azerbaijan relations, establishing regular political dialogues at the ministerial, parliamentary, senior official, and head-of-state level.[285]

EU-Azerbaijan political relations further deepened with Azerbaijan's inclusion in the European Neighborhood Policy (ENP) in 2004. The ENP built on the PCA but offered the prospect of closer relations with the EU, including a greater degree of economic integration. In the framework of the ENP, Azerbaijan and the European Commission signed a five-year action plan spelling out priority areas for cooperation, including strengthening democracy, the protection of human rights and fundamental freedoms, and the rule of law.[286] Successive annual progress reports issued by the European Commission have highlighted the Azerbaijani government's failure to implement these commitments. In its latest progress report, released in March 2013, the EU noted that Azerbaijan "addressed only a few of key recommendations contained in the [sic.] last year's ENP progress report."[287] Yet, despite an obvious lack of progress towards better human rights protection, plans continue for deepening the relationship.

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284 European Union, "Partnership and Cooperation Agreement Between the European Communities and Their Member states, of the One Part, and the Republic of Azerbaijan, of the Other Part," Vol. 2104 (I-36574), http://ec.europa.eu/delegations/azerbaijan/documents/eu_azerbaijan/eu-az_pca_full_text.pdf (accessed October 13, 2010). The EU is also a large investor. Since 1992 the European Commission has invested €417 million in Azerbaijan. Delegation of the European Union to Azerbaijan, "Technical and financial Co-operation," 1999-2012, http://ec.europa.eu/delegations/azerbaijan/eu_azerbaijan/tech_financial_cooperation/index_en.htm (accessed October 13, 2010). The EU is also the largest trade partner of Azerbaijan, with a 43 percent share in Azerbaijan's overall external trade in 2009. Oil and gas account for 98.8 percent of Azerbaijani exports to the EU. See European Commission, "Countries and regions: South Caucasus," http://ec.europa.eu/trade/creating-opportunities/bilateral-relations/regions/south-caucasus (accessed October 13, 2010).

285 The ministerial-level Co-operation Council usually meets once a year to take stock of the implementation of the PCA. It brings together members of the government of Azerbaijan (usually headed by the foreign minister) with EU representatives of the Council of the European Union and the European Commission, headed by the high representative. The Co-operation Committee usually meets every 6 months and monitors progress in implementing the economic and trade chapters of the EU-Azerbaijan Action Plan. The Parliamentary Co-operation Committee consists of members of the Azerbaijan parliament and the European Parliament and meets twice a year, providing the forum for political dialogue between parliamentarians from the European Union and Azerbaijan.

286 EU-Azerbaijan Action Plan, http://ec.europa.eu/world/enp/pdf/action_plans/azerbaijan_enp_ap_final_en.pdf (accessed June 8, 2013), priority areas 2 and 3.

287 European Commission, "Implementation of the European Neighbourhood Policy in Azerbaijan Progress in 2012 and Recommendations for Action," SWD(2013) 88 final, March 20, 2013, http://ec.europa.eu/world/enp/docs/2013_enp_pack/2013_progress_report_azerbaijan_en.pdf (accessed June 8, 2013).

Brussels and Baku are currently engaged in negotiating an Association Agreement as part of the Eastern Partnership Initiative, launched in 2009.[288] The initiative marks an enhancement of the ENP, aimed at substantially upgrading engagement with the EU's six eastern neighbors.[289] However, Azerbaijan has been seeking a different level of relationship with the EU based on a "strategic partnership" of equal actors, which is broadly understood as eschewing human rights conditionality.[290]

The EU is well aware of the deteriorating respect for human rights in Azerbaijan and has repeatedly and publically expressed concern about it. For example, in February 2013 EU High Representative Catherine Ashton and Commissioner Štefan Füle jointly urged the authorities to "ensure speedy, fair, transparent and independent investigation of the charges" against Ilgar Mammadov and Tofig Yagublu, and called on them to "refrain from further hindering journalists and political activists who seek to exercise their fundamental rights and freedoms."[291] In June 2013, Ashton and Füle expressed disappointment regarding legislation expanding the definition of criminal libel.[292]

However, the crackdown did not figure in public statements by EU leaders during President Aliyev's June 2013 visit to Brussels. European Commission President José Manuel Barroso merely said, "Transparent and democratic reforms are necessary in order to achieve progress and I am fully confident that President Ilham Aliyev is committed to the modernization of his country."[293]

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[288] The Eastern Partnership Initiative was launched on May 7, 2009 after being signed by representatives of the EU, Armenia, Azerbaijan, Belarus, Georgia, Moldova, and Ukraine. For more, see European Union External Action, Eastern Partnership, http://eeas.europa.eu/eastern/index_en.htm (accessed October 13, 2010).

[289] The six eastern neighbors include: Belarus, Armenia, Azerbaijan, Georgia, Moldova, and Ukraine. "EU launches 'Eastern partnership,'" *BBC*, May 8, 2009, http://news.bbc.co.uk/2/hi/europe/8040037.stm (accessed October 13, 2010).

[290] Human Rights Watch interview with an EU diplomat, Brussels, June 11, 2013.

[291] European Union, "Joint Statement by the spokespersons of EU High Representative Catherine Ashton and Commissioner Štefan Füle, on recent events in Azerbaijan," A 73/13, February 9, 2013, http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/135385.pdf (accessed June 26, 2013).

[292] European Union, "Joint Statement by the spokespersons of EU High Representative Catherine Ashton and Commissioner Štefan Füle on amendments to the Criminal Code in Azerbaijan," A 300/13, June 6, 2013, http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/137396.pdf (accessed June 26, 2013).

[293] "European Commission President: 'I am fully confident that President Ilham Aliyev is committed to the modernization of his country'," *APA* news, June 21, 2013, http://en.apa.az/xeber_european_commission_president_____i_am_ful_195150.html (accessed August 20, 2013).

European Council President Herman Van Rompuy was equally evasive and spoke only of the EU's "firm ambition to achieve a long-term association with Azerbaijan, with democracy and shared values at its core, in particular human rights and fundamental freedoms."[294]

As the EU contemplates how to accommodate Azerbaijan's quest for a closer partnership based on mutual strategic interests, it should make sure that any framework for relations between Brussels and Baku has a strong human rights component. It should set out concrete benchmarks, clearly spelling out specific steps Azerbaijan needs to take to address concerns on freedom of expression, assembly, and association, as recommended by the European Parliament.[295]

United Nations

On April 30 Azerbaijan underwent the second cycle of Universal Periodic Review at the UN Human Rights Council. Many of the recommendations made by member states called on Baku to respect its commitments on freedom of expression, assembly, and association; the US delegation recommended that Azerbaijan release "individuals incarcerated for publicly expressing their opinions."[296] The government's response to recommendations by member states will be available in September 2013.

Organization for Security and Co-operation in Europe

Azerbaijan became a member of the Organizations for Security and Co-operation in Europe (OSCE) in 1992 after signing the Helsinki Final Act, which also contains provisions guaranteeing freedoms of association, assembly, and expression.[297] As an OSCE participating state, Azerbaijan is obliged to "respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion."[298]

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[294] European Council, "Remarks by President of the European Council Herman Van Rompuy after his meeting with President of Azerbaijan Ilham Aliyev," EUCO 146/13, June 21, 2013, http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/137551.pdf (accessed July 29, 2013).

[295] European Parliament, "Joint Motion for a Resolution," June 12, 2013, http://www.europarl.europa.eu/sides/getDoc.do?type=MOTION&reference=P7-RC-2013-0289&language=EN (accessed July 29, 2013).

[296] UN Human Rights Council, "Draft Report of the Working Group on the Universal Periodic Review, Azerbaijan," A/HRC/WG.6/16/L.11, May 2, 2013, http://www.upr-info.org/IMG/pdf/a_hrc_wg.6_16_l.11_azerbaijan.pdf (accessed July 9, 2013).

[297] The Conference on Security and Co-operation in Europe Final act (Helsinki Final Act) led to the establishment of the OSCE. Currently the ISCE has 56 participating States.

[298] Conference on Security and Co-operation in Europe Final Act, Helsinki, 1975.

The OSCE Special Representative on Freedom of the Media Dunja Mijatovic expressed appreciation for the Azerbaijani authorities' willingness to discuss freedom of expression, but on numerous occasions criticized their failure to respect these commitments, including the expansion of criminal libel laws and Avaz Zeynalli's nine-year prison sentence.[299]

Since 2000 the OSCE has maintained an office in Baku to monitor Azerbaijan's program of reforms aimed at bringing the country in line with OSCE commitments.[300] But in March 2013 Baku began an effort to downgrade the office's mandate. In a letter sent to the OSCE Chairmanship and the participating states that month, Azerbaijani Foreign Minister Elmar Mammadyarov argued that the office's mandate should be reduced to the status of "project coordinator," citing Azerbaijan's "significant progress since the office was first established in Baku."[301]

The EU and the US have both expressed strong support for the work of the OSCE and the original mandate of the mission.[302] In July 2013 the OSCE approved a new mandate for the project coordinator in Baku effective on January 1, 2014.[303] Atthis writing, the terms of this new mandate were not known to Human Rights Watch.

The Office for Democratic Institutions and Human Rights (ODIHR), the specialized institution of the OSCE dealing with human rights and democratization, conducts regular election monitoring in the participatory states, which includes monitoring conditions for freedom of expression, assembly, and association in the lead-up to the vote. All OSCE-monitored elections in Azerbaijan have fallen short of the organization's standards.

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299 See OSCE news releases, "OSCE media freedom representative concerned about increasing pressure on media in Azerbaijan following online defamation provisions," May 13, 2013, http://www.osce.org/fom/101513 (accessed June 21, 2013); "OSCE media freedom representative says Azerbaijan falls short on promise to decriminalize defamation," May 2, 2013, http://www.osce.org/fom/101227 (accessed June 21, 2013); "Council of Europe Commissioner for Human Rights and OSCE media freedom representative concerned at further restrictions to free expression in Azerbaijan," June 6, 2013, http://www.osce.org/fom/102413 (accessed June 21, 2013); and "OSCE media freedom representative concerned about negative developments in Azerbaijan," June 14, 2013, http://www.osce.org/fom/91281 (accessed June 21, 2013).

300 OSCE Office in Baku, http://www.osce.org/baku/43375 (accessed on June 19 2013).

301 "Stand-off in Vienna as Azerbaijan Tries to Change the Mandate of the OSCE Office in Baku," *Caucasus Elections Watch*, May 20, 2013, http://electionswatch.org/2013/05/20/stand-off-in-vienna-as-azerbaijan-tries-to-change-the-mandate-of-the-osce-office-in-baku/ (accessed June 25, 2013).

302 See European Union, "EU statement in response to the Minister for Foreign Affairs of Azerbaijan, H.E. Elmar Mammadyarov," PC.DEL/330/13, May 14, 2013, http://www.osce.org/pc/101556 (accessed June 21, 2013) and United States Mission to the OSCE, "Statement on the OSCE Office in Baku," PC.DEL/172/13, March 14, 2013, http://www.osce.org/pc/100223 (accessed on June 20 2013).

303 "OSCE Chairperson-in-Office welcomes adoption of mandate for OSCE Project Co-ordinator in Baku," OSCE press Release, July 26, 2013, http://www.osce.org/cio/103928 (accessed July 27, 2013).

The OSCE should continue to effectively monitor and report on the situation with freedoms of media, expression, association, and assembly. It should continue to engage closely with the authorities to decriminalize defamation and assist in establishing a reasonable monetary cap on civil defamation cases. The OSCE should also continue its trial-monitoring work in Azerbaijan and ensure that this includes the trials of political and civil activists, as well as those of journalists and human rights defenders.

United States

The United States considers Azerbaijan to be a strategic partner. Azerbaijan provides a transportation route for NATO operations in Afghanistan; contributed peacekeeping forces to Afghanistan, Iraq, and Kosovo; supports US efforts to combat terrorism and the proliferation of weapons of mass destruction; and is a key player for diversifying and securing global energy supply.[304] According to the Congressional Research Service, the US provided Azerbaijan with assistance totaling approximately US$20.9 million in 2012.[305] The assistance was intended, inter alia, "to develop democratic institutions and civil society, support the growth of the non-oil sectors of the economy, strengthen the interoperability of the armed forces with NATO, increase maritime border security, and bolster the country's ability to combat terrorism, corruption, narcotics trafficking, and other transnational crime."[306]

In the Azerbaijan chapter of its 2012 human rights report, the US Department of State identified the top three human rights concerns as "[r]estrictions on freedom of expression, including intimidation, arrest, and use of force against journalists and human rights and democracy activists online and offline"; "restrictions on freedom of assembly, including the ban on demonstrations in the center of Baku …, forceful dispersion of unsanctioned protests, and detainment of demonstrators"; and "[u]nfair administration of justice, including continued reports of arbitrary arrest and detention, politically motivated imprisonment, lack of due process, executive influence over the judiciary, and lengthy pretrial detention."[307]

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[304] For an overview of the US-Azerbaijan relations, see Congressional Research Service, "Azerbaijan: Recent Developments and U.S. Interests," February 22, 2013, http://www.fas.org/sgp/crs/row/97-522.pdf (accessed June 7, 2013).

[305] Ibid.

[306] Ibid.

[307] US Department of State, "Azerbaijan," *2012 Human Rights Report*, 2012, http://www.state.gov/documents/organization/204472.pdf (accessed June 10, 2013).

In March 2013 US Ambassador to Azerbaijan Richard Morningstar commented on the unnecessary use of police force and arrest of three opposition activists in connection with the March 10 protests in Baku. Morningstar stated, "I am confident that Azerbaijan can reach its great democratic and economic potential, but only if the government respects the right of peaceful protest, promotes the rule of law, and engages in a meaningful dialogue with citizens to address legitimate public concerns."[308]

In June Baku hosted a high-level US-Azerbaijan convention to mark 20 years of diplomatic relations. Several of President Obama's former advisors, Robert Gibbs, Jim Messina, and David Plouffe, as well as hundreds of delegates from the US, including legislators, participated in the event.[309] Some rights groups saw this as a missed opportunity to raise human rights concerns with President Aliyev.[310]

The US should continue to make freedom of assembly, expression, and association an integral and regular part of all bilateral engagement with Azerbaijan and urge the release of activists, human rights defenders, and journalists prosecuted on politically motivated charges. It should also insist on the decriminalization of libel and repeal of the recent legislative amendments that further limit the space for freedom of expression, assembly, and association in the country. Such an approach should ensure human rights issues are explicitly woven into all senior level meetings and are also consistently included in public statements from the embassy and officials back in Washington.

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[308] "U.S. Ambassador to Azerbaijan Richard Morningstar issues statement regarding recent events," *Azeri Press Agency*, March 12, 2013, http://en.apa.az/news_us_ambassador_to_azerbaijan_richard_mo_189349.html (accessed June 10, 2013).

[309] Juliet Eilperin and Tom Hamburger, "For Obama's Ex-aides, It's Time to Cash in on Experience," *Washington Post*, May 31, 2013, http://www.washingtonpost.com/politics/for-obamas-ex-aides-its-time-to-cash-in-on-experience/2013/05/30/a649ccde-c867-11e2-9245-773c0123c027_story.html (accessed July 9, 2013).

[310] "US-Azerbaijan Relations Must Depend on Respect for Human Rights and the Rule of Law," IRFS Statement, May 28, 2013, http://www.irfs.org/news-feed/u-s-azerbaijan-relations-must-depend-on-respect-for-human-rights-and-the-rule-of-law/ (accessed July 9, 2013).

VIII. Recommendations

To the Azerbaijani Government

On Imprisoned Political Activists, Journalists, and Human Rights Defenders

- Ensure the immediate release of political activists, journalists, human rights defenders, and other civil society activists held on politically-motivated charges. In cases where there is sufficient and credible evidence that an individual may have engaged in conduct that constitutes a legitimate offence, an independent investigation may be conducted to determine whether charges should be pursued.
- End the use of trumped-up or spurious charges to prosecute and imprison journalists, human rights defenders, and others who criticize government policies.
- Ensure that everyone detained, including journalists and political and civil society activists, enjoys full due process rights, in particular access to a lawyer of their choosing, access to their families, and other fair trial norms.
- Rigorously observe the absolute prohibition on torture and ill-treatment of detainees; conduct independent, prompt, thorough, and effective inquiries into all allegations of torture and ill-treatment; and hold perpetrators accountable.

On Freedom of Expression

- Ensure full respect for freedom of expression in line with Azerbaijan's international obligations and standards set out in international law.
- Introduce legislation to repeal constitutional and legislative amendments restricting access to information by media representatives in accordance with the Council of Europe Venice Commission recommendations.

Harassment, Intimidation, and Violence against Journalists

- Ensure that all journalists may work freely without fear of retribution for criticism or coverage of topics that the government may find sensitive.
- Publicly condemn attacks and harassment of journalists and implement a policy of zero tolerance towards such attacks.
- End widespread impunity for harassment and violence against journalists.

- Ensure prompt, thorough, and effective investigations into attacks, threats, and harassment targeted at journalists, such as Khadija Ismayilova, Idrak Abbasov, and Yafez Hasanov.

Defamation Laws and Their Application

- Introduce legislative amendments to repeal the criminal slander and libel provisions of the Criminal Code, including the amendments expanding the definition of criminal libel to include online libel and slander.
- Establish reasonable monetary caps on civil defamation awards.
- Instruct all government officials to refrain from filing defamation complaints in their capacity as public officials or on behalf of the institutions they serve.

On Freedom of Assembly

- Ensure that municipal authorities permit peaceful assemblies and end the de facto blanket ban on protests in the center of Baku.
- Ensure that the investigative authorities conduct prompt and effective investigations into all incidents of excessive use of force by law enforcement during demonstrations.
- Introduce legislative amendments to repeal changes in the Code of Administrative Offenses that established harsher penalties for the participants and organizers of unsanctioned protests.

Regarding Fair Trial Norms

- Ensure that all those charged with administrative offences connected with the exercise of their right to freedom of assembly enjoy full due process protections, including immediate access to a lawyer of their choosing and adequate time for the preparation of a defense.
- Ensure that judges take seriously any complaints made regarding ill-treatment in custody and refer the cases to the prosecutor's office for prompt, thorough, and independent inquiry.

On Freedom of Association

- Respect the right of the Azerbaijani people to form associations without undue interference by the state, in line with Azerbaijan's international legal obligations and standards provided for in international law.
- Revise the law on nongovernmental organizations (NGOs) in line with the recommendations by the Council of Europe Venice Commission, particularly ensuring that overly complicated registration requirements do not create undue obstacles on freedom of association.
- Introduce legislative amendments to:
    - repeal changes banning NGOs from accepting donations without state registration;
    - simplify overly burdensome NGO reporting procedures;
    - repeal the overly complicated requirements for registering branches and representational offices of international NGOs.
- Allow NGOs to travel freely to the regions of Azerbaijan and hold trainings or other activities there or in the capital without undue interference by the local authorities.
- Register the Human Rights Club and restore the registration of Human Rights House of Azerbaijan.

To Azerbaijan's International Partners, Particularly the European Union, the Council of Europe, the OSCE, the United Nations, and Other Concerned States

- Seize every opportunity to raise, in public and in private, serious concerns about the crackdown on civil society, violations of freedom of assembly and association in Azerbaijan, and call on the Azerbaijani government to take the steps listed above and more generally foster an environment in which political and civil society activists can express dissenting opinions freely, without fear of retribution.
- Ensure that all sponsored training programs on democracy and rule of law for police, prosecutors, judges, legislators, and relevant civil servants include instruction on freedom of expression, association, and assembly, and the importance of nonviolent criticism to the proper functioning of democracy.
- Step up public contacts with civil society in Azerbaijan on the occasion of high-level meetings with the Azerbaijani authorities.
- Continue to support the development of civil society organizations committed to monitoring freedom of expression, association, and assembly; donors should be

especially sensitive to the needs of civil society in Azerbaijan in the current hostile environment.

Specific Additional Recommendations to the European Union

- Make respect for freedom of expression, assembly, and association an integral part of EU-Azerbaijan engagement, clearly spelling out the specific steps Azerbaijan needs to take in order to address concerns in these areas, which include, but are not limited to, releasing all wrongfully imprisoned political activists, human rights defenders, and journalists.
- Make concrete, measurable improvements in the area of human rights an explicit requirement/benchmark in the context of the ongoing negotiations for a redefined EU-Azerbaijan relationship, irrespective of the form this relationship ultimately takes – be it an Association Agreement or a Strategic Modernization Partnership.
- Ensure adequate monitoring and reporting on how Azerbaijan is meeting recommendations made in the European Neighborhood Policy Progress Reports and the outstanding steps needed.

Specific Additional Recommendations to the Council of Europe

- The Parliamentary Assembly's monitoring procedure on the honoring of obligations and commitments by Azerbaijan should continue to place strong emphasis on the monitoring and reporting of violations of freedom of expression, assembly, and association.
- The Committee of Ministers should urge the Azerbaijani authorities to implement the recommendations made by the PACE in its resolution 1917 (2013).
- The Committee of Ministers should urge the Azerbaijani authorities to implement the recommendations by Commissioner for Human Rights Nils Muiznieks following his visit to Azerbaijan in May 2013;
- Assist the Azerbaijani authorities in bringing Azerbaijan's criminal and civil defamation laws, legislation governing the work of civil society organizations, and the Code of Administrative Offenses in line with Azerbaijan's international obligations.

Specific Additional Recommendations to the Organization for Security and Co-operation in Europe

- The OSCE Office in Baku should continue its trial monitoring mission in Azerbaijan to monitor and publicly report on the trials of civil and political activists, human rights defenders, and journalists and their compliance with fair trial norms.
- The OSCE representative on freedom of media should continue monitoring media freedoms in Azerbaijan and engage the Azerbaijani authorities in a structured dialogue to remedy continuing abuses, including those set out in this report.
- The OSCE/ODHIR should thoroughly investigate and publicly report on violations of freedom of expression, assembly, and association in the lead-up to and during Azerbaijan's October 2013 presidential elections.

Specific Additional Recommendations to the United Nations

- The government of Azerbaijan should act on the standing invitation it extended to special procedures of the Human Rights Council in April 2013 by swiftly agreeing on dates and facilitating the visits of the special rapporteurs on freedom of association and assembly and on the independence of judges and lawyers, and the Working Group on Arbitrary Detention.
- The UN special rapporteurs on freedom of expression and on human rights defenders should request to visit Azerbaijan to examine the situation and formulate detailed recommendations for steps to address problems identified.
- Members of the Human Rights Council should follow up on Azerbaijan's Universal Periodic Review, including by urging the government to accept and implement recommendations made by member states pertaining to, *inter alia*, freedom of expression, association, and assembly.

Acknowledgements

This report was researched by Giorgi Gogia, senior researcher in the Europe and Central Asia Division of Human Rights Watch and Vugar Gojayev, consultant to Human Rights Watch. It was written by Giorgi Gogia. Anna Neistat, associate program director for Human Rights Watch, and Lisa Misol, senior researcher with the Business and Human Rights program, also contributed research to this report. Research support was provided by Kaitlin Martin and Annkatrin Tritschoks, associates in the Europe and Central Asia Division, and Christina Lee, intern in the Europe and Central Asia Division. Kaitlin Martin also contributed to the section on international responses.

The report was edited by Rachel Denber, deputy director of the Europe and Central Asia Division. Aisling Reidy, senior legal advisor, and Tom Porteous, deputy program director, of Human Rights Watch reviewed the report; Veronika Szente-Goldston, advocacy director with the Europe and Central Asia Division, reviewed the chapter on international actors and recommendations; and Lisa Misol reviewed and drafted one of the background sections.

Production assistance was provided by Kaitlin Martin, associate in the Europe and Central Asia Division, Grace Choi, publications director, Kathy Mills, publications specialist, and Fitzroy Hepkins, mail manager. Production assistance was also provided by Shajiah Jaffri and George Kobakhidze, interns in the Europe and Central Asia Division.

Human Rights Watch expresses its sincere thanks to the journalists, human rights defenders, lawyers, and to the many civil society organizations that shared their views and stories with us and provided invaluable support for this research.

Appendix: Communication with Azerbaijani Government Officials

1. Human Rights Watch letter to Minister of Justice Fikret Mammadov, July 23, 2013

2. Response from the Minstry of Justice to Human Rights Watch, August 27, 2013

3. Human Rights Watch letter to Prosecutor General Zakir Garalov, July 23, 2013

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HUMAN RIGHTS WATCH

HRW.org

July 23, 2013

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Dear Mr. Mammadov,

Please accept my greetings on behalf of Human Rights Watch. We are grateful for the productive dialogue we have had throughout the past two decades with the government of Azerbaijan regarding human rights concerns in the country. In the spirit of that dialogue I would like to ask for your cooperation in obtaining information for a forthcoming Human Rights Watch report regarding the rights to freedom of expression, association, and assembly in Azerbaijan.

The report includes information about several issues that under the jurisdiction of the Ministry of Justice.

First is the forced shaving of three men who were serving administrative sentences in Baku Investigation Isolator No. 1, which is under the jurisdiction of the Ministry of Justice.

The three men are Turgut Gambar, Abulfaz Gurbanly, and Ilkin Rustamzade. A court sentenced Gambar and Gurbanly to 10 days of administrative detention; and Rustamzade to 15 days.

We understand that on May 6,2013, the three men were taken to the warden's room, where about six or seven people, including, apparently, several employees of the facility, forcibly shaved their heads. No explanation was given other than it was an order that had to be carried out. We would be grateful for any information regarding the reasons for this

action, whether it is routine practice to shave the heads of persons serving administrative sentences, and if not, what actions have been taken to investigate and hold accountable those responsible.

The second issue concerns regulation of nongovernmental organizations (NGOs). We understand that under legal regulations adopted in 2009, within 30 days from the time an NGO concludes a grant agreement with a donor, it must submit the agreement to the Ministry of Justice, which then has up to seven days to register it. Only registered NGOs may conclude grant agreements, and an NGO cannot legally implement the grant until it receives notification that the ministry has registered the agreement. We would be grateful for any information about the circumstances under which the Ministry of Justice in practice has rejected the registration of such grant agreements since 2009, whether it maintains statistics on the registration and rejection of grant agreements, and the names of any organizations whose grant agreements the Ministry of Justice has refused to register and the reasons for the rejection, if this is public information.

We respectfully invite you to provide a written response to this letter by August 23 so that we have adequate opportunity to incorporate your relevant responses into Human Rights Watch's forthcoming report. Please send your response by email to williaa@hrw.org or by fax to +1-212-736-1300.

Sincerely,

Hugh Williamson
Executive Director
Europe and Central Asia Division

AZƏRBAYCAN RESPUBLİKASI
ƏDLİYYƏ NAZİRLİYİ

MINISTRY OF JUSTICE
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Ref. 07/13-782

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Mr. Hugh Williamson
Executive Director
Human Rights Watch
Europe and Central Asia division

Dear Mr. Williamson,

Your letter regarding Turgut Gambar, Abulfaz Gurbanly, and Ilkin Rustamzadeh, as well as the registration of grants agreements has been considered by the Ministry of Justice.

Please be informed that that two of the three above mentioned persons - T.Gambar and A.Gurbanly have never been transferred nor held at penitentiary institustions of the Ministry of Justice. Concerning I.Rustamzadeh, he was transferred to the Baku Pre-trial Detention Center under the jurisdiction of the Ministry of Justice on May 18, 2013, not on May 6 (he was accused under Articles 221.2.1 and 221.2.2 of the Criminal Code of the Republic of Azerbaijan). At the same time, he arrived with the already existing short haircut (there is a photo in his personal file made at the time of examination during admission to the detention center). At the detention centre he had never his hair cut nor expressed such request.

On the second issue we state the following.

In accordance with the Law "On Grants" of 1998 (amended in 2002), the Ministry of Justice of the Republic of Azerbaijan is engaged in registration of grants agreements. To do this, one merely needs to submit an application with the grant agreement attached to it. Then within 7 days the agreement is registered.

As for refusal of registration, we would like to note that during the whole period of application of the law there has been no case of rejection of registration. In addition, the law itself does not provide grounds for this kind of refusals.

Moreover, grants are registered regardless of whether non-profit organization which receives a grant has state registration or not.

The work on registration of grants itself is conducted transparently and all information is published on the website of the Ministry of Justice (justice.gov.az). Furthermore, not less than once a year it is published in press.

Sincerely,

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July 23, 2013

HUMAN RIGHTS WATCH

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Dear Mr. Garalov,

Please accept my greetings on behalf of Human Rights Watch. We are grateful for the productive dialogue we have had throughout the past two decades with the government of Azerbaijan regarding human rights concerns in the country. In the spirit of that dialogue I would like to ask for your cooperation in obtaining information for a forthcoming Human Rights Watch report regarding the rights to freedom of expression, association, and assembly in Azerbaijan.

The report includes information about criminal and administrative prosecutions and relevant adherence by the Azerbaijani authorities to human rights standards in international human rights instruments to which Azerbaijan is a party. We would be grateful for information about the following cases.

1. We are aware that Bakhtiyar Guliyev and Shahin Novruzlu have been charged with illegal possession of narcotics and weapons which authorities state they allegedly planned to use at a March 10, 2013 demonstration, and that Mahammad Azizov has been charged with narcotics possession. We understand they were arrested after police allegedly found Molotov cocktails and drugs in the men's homes. Their family members have said

the items were planted. We understand that Rashad Hasanov, Uzeyir Mammadly, Rashadat Akhundov, and Zaur Gurbanly have been arrested and charged with illegal weapons possession by an organized group (article 228.3 of the Criminal Code of Azerbaijan). If convicted, they face up to eight years in prison.

We would be grateful for information regarding the following points:

- What measures were taken to ensure that Mahammad Azizov and Bakhtiyar Guliyev had access to lawyers of their own choosing from the moment they were taken into custody, and to inform their family members of their whereabouts? Has there been any investigation into concerns that the police video broadcast on national television showing Mahammad Azizov and Bakhtiyar Guliyev allegedly confessing to a plan to use Molotov cocktails during the March 10 demonstration was made under duress, during a time when the two men were being denied access to a lawyer of their own choosing?
- We are familiar with allegations that after Mahammad Azizov retracted his confession, officers at the Ministry of National Security, where Azizov was held at the time, punched him and beat him with clubs on his head and legs. We would be grateful for information about any steps taken to investigate these allegations and the result of these steps, including measures to hold accountable any perpetrators.
- Finally, we understand that at the remand hearings for Mammadly, Akhundov, and Gurbanly held on March 30 and April 1 at the Nasimi District Court, the prosecution claimed that the men were part of a criminal group that illegally possessed weapons. We would be grateful to learn what evidence the prosecution presented at the remand hearing to substantiate this allegation at that time.

2. We understand that Ilgar Mammadov and Tofig Yagublu were arrested and charged under article 220 of the Criminal Code. We understand from the prosecutor's charge sheet that the charges stem from allegations that both men persuaded two Ismayilli residents and others to assemble "many people" in front of the local municipality and allegations that the men convinced the residents to throw stones at law enforcement agents. We are aware that the prosecutor's office petitioned for Mammadov and Yagublu to be placed in pretrial custody, claiming the men were flight risks and could obstruct the investigation. We would be grateful to understand what evidence grounded those allegations at the time they were made in the charge sheet and what concrete evidence was adduced to ground the assessment that they were flight risks or could hinder the investigation.

3. Do charges of "hooliganism committed with resistance to a representative of the authority" (article 221.2.2 of the Criminal Code) remain open against Mehman Huseynov?

4. Hilal Mammadov faces charges against him, which include treason and inciting hatred, hostility, and ethnic discrimination. What are the specific actions he is alleged to have engaged in that constitute these offences?

We also wish to request information regarding the status of investigations or inquiries into the following incidents:

1. The status of the investigation into threats against Yafez Hasanov. As you may know, Hasanov had been investigating and reporting on the suspicious death of a man in custody in the Nakhchivan Ministry of National Security. In November 2011 Hasanov received repeated telephone calls and text messages from unidentified men threatening reprisals against him and his family if he did not stop reporting on the case.

On April 4, 2013, Hasanov received a package containing documents and an audio CD suggesting that he was having affairs with several women. Soon after, a man called Hasanov, threatening that if he continued to report on Nakhchivan, he would be "exposed," and his life and the lives of his family members would be in danger. When he told the caller he was not intimidated by the poorly-made CD recording, the caller threatened it would be edited "in a way that many will believe that it is you."

We are aware that Azadlig Radio filed a complaint with the Ministry of Interior, the prosecutor general's office, and the Ministry of National Security regarding the incident. On April 8, 2013, the Ministry of Interior invited Hasanov to take a statement from him. Hasanov gave the ministry the phone numbers from which the text messages were sent, which he said were "identifiable numbers," and recordings of the threats. However, the ministry declined to open a criminal investigation, refused to provide his family with additional security, and as of this writing has not contacted him.

We would be grateful for any information about whether a criminal investigation has begun into these threats, and if so by which agency and the status of the investigation.

2. The status of the investigation into the beating of Idrak Abbasov. Idrak Abbasov, a journalist, was severely beaten on April 18, 2012 by some 20 policemen and security guards wearing jackets with bearing the insignia of the State Oil Company of Azerbaijan (SOCAR). The attack took place while Abbasov was filming SOCAR's demolition of dozens of houses in his community in the Sulutepe settlement on the outskirts of Baku. Approximately 20 policemen and SOCAR security guards attacked Abbasov, punching and kicking him until he lost consciousness temporarily. Abbasov was hospitalized with multiple bruises.

We are aware that a criminal case was launched on hooliganism charges regarding the attack, and that in November 2012 Abbasov identified nine of his assailants. We would be grateful for information on whether these or any other assailants have been charged, the exact charges, if additional charges have been launched, the status of the investigation, and whether it has been handed to a court.

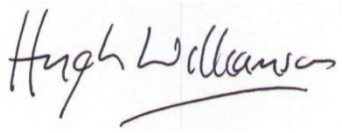
3. We would be grateful for any updates on the status of the investigation into privacy violations against Khadija Ismayilova.

4. Is there or will there be an investigation into allegations that on May 30, 2013 an investigator with the Organized Crime Department threatened lawyer Aslan Ismayilov to "be quiet if he values his life" and struck him on the side of his face?

5. We would be grateful to know whether a criminal investigation has been opened regarding allegations that security officials in Nakhchivan detained, blindfolded, handcuffed, and ill-treated Ibrahim Ibrahimli. Ibrahimli visited the region on April 6, 2013 for the funeral of his nephew. On April 7, security officials in civilian clothes surrounded the house he was in and requested him to leave the region altogether. As he was leaving the house by car, four men in civilian clothes took him out of the car and blindfolded, handcuffed, and stuffed him into their car. They drove Ibrahimli for over an hour, beating him, took him to a secluded area, beat him again, and left him there. Airline officials refused to allow Ibrahimli to check in for a flight to Nakhchivan several weeks later when he wanted to attend the fortieth day mourning ceremony for his nephew.

We respectfully invite you to provide a written response to this letter by August 23 so that we have adequate opportunity to incorporate your relevant responses into Human Rights Watch's forthcoming report. Please send your response by email to williaa@hrw.org or by fax to +1-212-736-1300.

Sincerely,



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The Azerbaijani authorities are engaged in a crackdown on freedom of expression, assembly, and association that has accelerated in the months leading up to the October 2013 presidential vote. In an effort to curtail opposition political activity, the authorities have arrested dozens of political activists on bogus charges, imprisoned critical journalists, broken up peaceful public demonstrations, and adopted legislation imposing new restrictions on fundamental freedoms. Human Rights Watch documented the arrest and imprisonment of several high-ranking members of opposition political parties, government critics with large followings on social media, and people who have frequently been involved in political protests.

Tightening the Screws is based on more than 100 interviews and documents the cases of 39 individuals who were detained, charged, convicted, threatened, or harassed from February 2012 to August 2013. The report concludes that although Azerbaijan's human rights record has been poor for many years, the number of arrests, the adoption of harsher laws, and other measures to stop and prevent peaceful public protests indicate a new concerted government effort to curtail political and civic activism in Azerbaijan.

The report calls on the Azerbaijani government to ensure the release of those held on politically motivated charges, abolish criminal defamation laws, allow peaceful assemblies, and end undue interference with freedom of association. It calls on Azerbaijan's international partners to hold Azerbaijan to its international commitments to freedoms of expression, association, and assembly under international human rights laws and instruments to which it is a party.

(above) Youth gather at an unsanctioned rally on Fountains Square in Baku on January 12, 2013 to protest the noncombat death of a military conscript.

(front cover) Police use water cannons to break up an unsanctioned peaceful rally in Baku on March 10, 2013 to protest the noncombat death of a military conscript and abuses in the army.

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