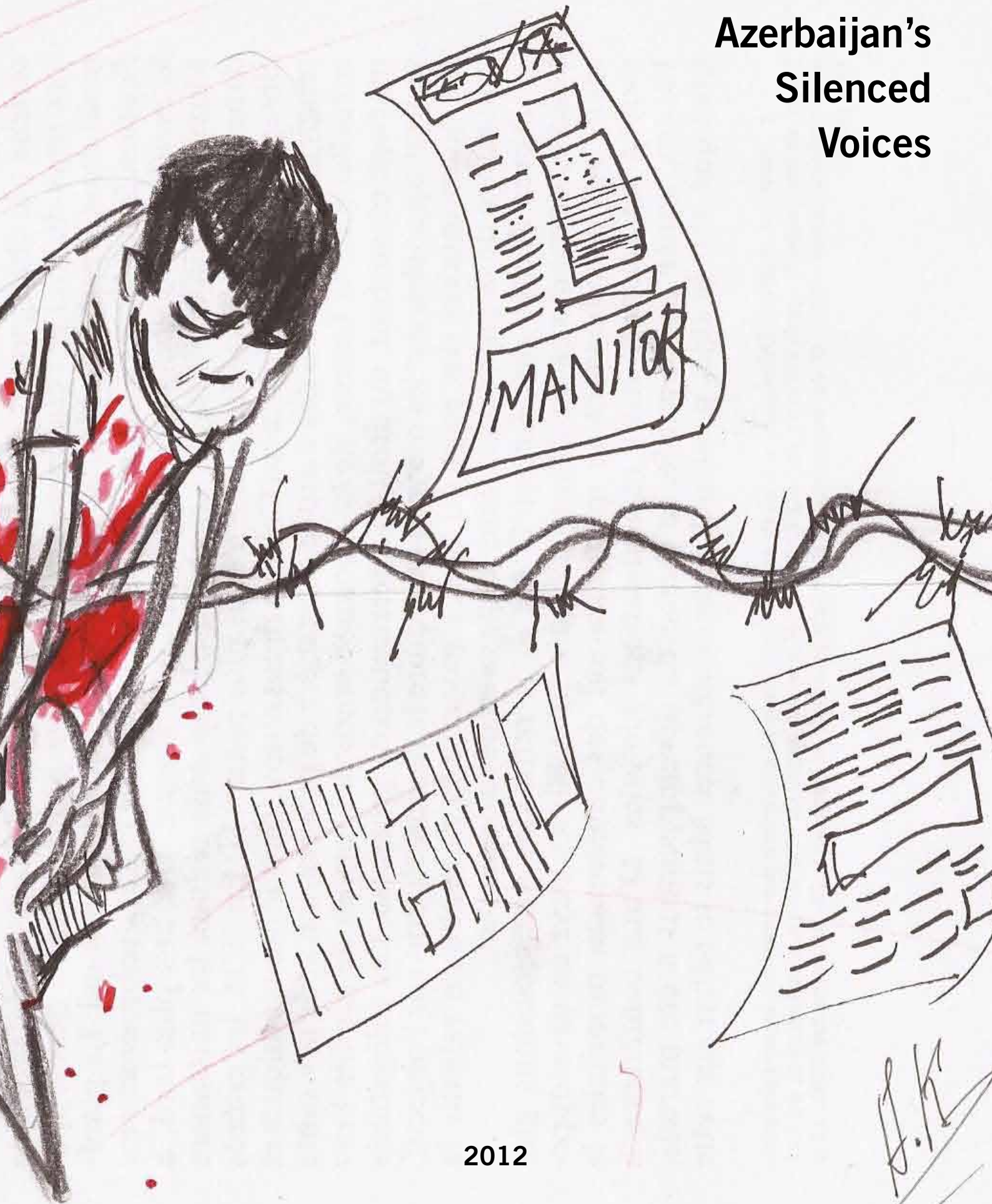


RUNNING SCARED

Azerbaijan's
Silenced
Voices



2012

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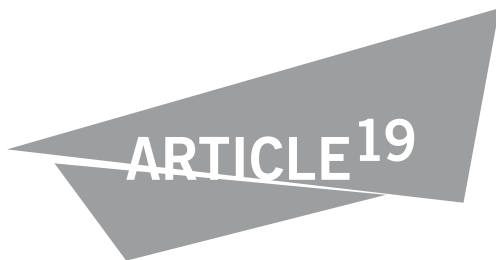
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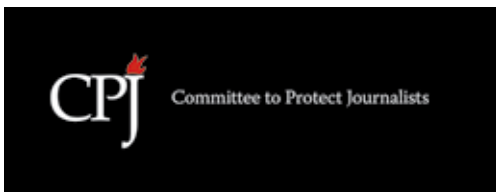


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Special thanks are also given to Frank La Rue, the United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, for providing a foreword for this report.

Executive Summary

This report is a publication of the International Partnership Group for Azerbaijan (IPGA), a coalition of international organisations working to promote and protect freedom of expression in Azerbaijan. It examines the freedom of expression situation in Azerbaijan from the time of the IPGA's joint mission to the country in September 2010 to March 2012.

The current state of freedom of expression in Azerbaijan is alarming, as the cycle of violence against journalists and impunity for their attackers continues; journalists, bloggers, human rights defenders and political and civic activists face increasing pressure, harassment and interference from the authorities; and many who express opinions critical of the authorities – whether through traditional media, online, or by taking to the streets in protest – find themselves imprisoned or otherwise targeted in retaliation.

Issues examined in this report include: impunity for violence against journalists; political use of the law to silence freedom of expression; restrictions on the right to freedom of peaceful assembly; pressure against NGOs, human rights defenders and lawyers; restrictions on the right to freedom of information; the situation of freedom of expression online; state control of the media; ethics, professionalism and self-regulation of the media; and Azerbaijan's efforts to promote a positive image abroad despite the freedom of expression problems in the country.

To address these problems and improve the freedom of expression climate in the country, the IPGA has developed a series of recommendations for the Azerbaijani authorities. These include: immediately releasing those imprisoned for exercising their right to freedom of expression; seriously investigating and prosecuting all acts of violence against journalists; and decriminalising defamation, among many other recommendations outlined in this report.

The IPGA's concerns are currently of particular international relevance as two major international events will take place in Azerbaijan this year: the Eurovision Song Contest and the Internet Governance Forum. In light of these events – particularly Eurovision – the Azerbaijani government is working hard to promote a positive international image of Azerbaijan. But at home it continues to engage in a crackdown on freedom of expression and other fundamental freedoms. This report aims to bring these concerns to the light at an opportune time for international engagement with the Azerbaijani authorities on these issues.

Engagement, however, should not stop with these events. One question that often comes up in discussions with Azerbaijani journalists, human rights defenders and political activists is: what will happen after Eurovision? Those working to tell the truth about Azerbaijan in this brief period of international media scrutiny fear reprisal when this international attention has gone. This is a valid concern as some of these individuals have already begun to be targeted by the authorities. The IPGA hopes that this report will prompt the international community to redouble its efforts to monitor the freedom of expression situation in Azerbaijan and hold the authorities accountable for their actions – both immediately and in the long-term.

Recommendations

The IPGA calls on the Azerbaijani authorities to undertake the following steps to improve the freedom of expression climate in the country:

Impunity for violence against journalists:

- Redouble efforts to identify and bring to justice those responsible for the murders of editor Elmar Huseynov and journalist and writer Rafiq Tagi;
- Seriously investigate and prosecute all cases of violence, threats of violence, and blackmail against journalists;

Political use of the law to silence critics:

- Immediately and unconditionally release all persons imprisoned for exercising their right to freedom of expression, including blogger Bakhtiyar Hajiyev, journalists Ramin Bayramov and Aydin Janiyev, and human rights defender Vidadi Iskenderov;
- Ensure that the ongoing investigations and trials in cases of those detained for exercising their right to freedom of expression meet international standards;
- Decriminalise defamation and ensure that the use of civil defamation provisions is in line with international standards;
- Fully co-operate with Parliamentary Assembly of the Council of Europe Special Rapporteur Christoph Strässer, including by immediately issuing him a visa to undertake a fact-finding mission to Azerbaijan;
- Allow foreign journalists to travel to Azerbaijan and conduct their work unfettered, including by issuing them with the visas and accreditation required by law;

Freedom of assembly:

- Immediately and unconditionally release the remaining 11 prisoners from the March and April 2011 protests;
- Cease the use of excessive force to disperse peaceful protests and seriously investigate and prosecute all past reports of the use of excessive force against protesters;
- Ease restrictions on the right to freedom of assembly, including by allowing groups to peacefully assemble in Baku city centre;

Freedom of association:

- Cease practices of pressuring and interfering with the work of NGOs, human rights defenders and lawyers, including by allowing the Azerbaijani Human Rights House to re-open and reinstating those lawyers who have been disbarred or have lost their licences in connection

with taking on human rights cases;

Freedom of information:

- Implement more effectively the Law on the Right to Obtain Information, including by requiring the State Oil Company of Azerbaijan to publicise its financial information as an information-owner under the law;

Freedom of expression online:

- Respect and protect the right to freedom of expression online, including by ceasing practices of targeting social media users involved in organising protests;
- Invest in internet infrastructure and work towards universal, affordable, high-speed internet access countrywide;

State control of the media:

- Reverse the ban prohibiting foreign entities from broadcasting on national frequencies, including the BBC, Voice of America and Radio Free Europe/Radio Liberty;
- Establish an independent broadcasting regulatory body in line with international standards and with transparent procedures for the allocation of licences;
- Promote the development of public service broadcasting that is in the interest of the public and is independent of government interests, with particular attention paid to the regions outside of Baku;
- Establish fair, equitable and transparent conditions for the allocation of state advertising; and
- Establish an independent, cross-industry working group to develop a strategy for long-term media reforms, including guidelines on editorial independence and editorial statutes, self-regulatory instruments, pluralistic and structured media ownership, and working conditions in line with international standards.

In addition, the IPGA calls on the international community to hold Azerbaijan accountable for its freedom of expression obligations at every possible opportunity, including at the regional and international level, and in the bilateral context, particularly from states with significant economic, social or political ties to Azerbaijan. The Eurovision Song Contest and the Internet Governance Forum, to be held in Baku in May and November 2012 respectively, would present excellent opportunities for such engagement.

The IPGA further notes the important role which could be played by non-state actors in this regard, in particular private persons and companies with significant business interests in Azerbaijan and singers, actors and other celebrities with large followings in the country.

1. Introduction

In September 2010, the International Partnership Group for Azerbaijan (IPGA), a coalition of international organisations working to promote and protect freedom of expression in Azerbaijan, undertook a joint freedom of expression mission to the country. The mission's findings and recommendations were published in the report, *Free Expression Under Attack: Azerbaijan's Deteriorating Media Environment*^[1]. Since the mission, the freedom of expression climate in Azerbaijan has further deteriorated. This report provides an update on the IPGA's major areas of concern from September 2010 to March 2012.

The current state of freedom of expression in Azerbaijan is alarming. Journalists, bloggers, political and civic activists and human rights defenders increasingly face pressure, harassment and interference from the authorities. Violent attacks against journalists have continued, and the murder of journalist and writer Rafiq Tagi in November 2011 provided a tragic reminder of the persisting climate of impunity for these attacks. Despite the authorities' apparent inability to properly investigate any of these cases and prosecute those responsible, they continue to use a number of legal pretexts to imprison critical journalists, bloggers and activists. So while the community of those jailed in connection with exercising their right to free expression grows, those who use violence to silence critical voices continue to walk free.

In growing frustration, over the past year hundreds of Azerbaijanis took to the streets to voice their protest against the authorities' political and social policies. In response, police used excessive force to disperse the protests and hundreds of protesters were arrested, many serving disproportionate administrative sentences. Those involved with organising the protests suffered a harsher fate, serving jail time for criminal charges related to the protests or other, seemingly unrelated – but politically motivated – charges such as evading military service or interfering with elections. NGOs, human rights defenders and lawyers working for the protection of these individuals have since become targets themselves, facing closure, disbarment and other forms of pressure in retaliation for their efforts to hold the authorities accountable for their legal obligations.

These concerns are currently of particular international significance due to two major international events scheduled to take place in Azerbaijan this year: the Eurovision Song Contest, which will be held in Baku on 22, 24 and 26 May 2012; and the Internet Governance Forum, which will be held in Baku from 6 to 9 November 2012. In light of these events – particularly Eurovision – the Azerbaijani government is working hard to promote a positive international image of Azerbaijan. But at home it continues to engage in a crackdown on freedom of expression and other fundamental freedoms. This report aims to bring these concerns to light in order to promote positive changes both in the run-up to these events, and in the long-term.

[1] <http://www.article19.org/data/files/pdfs/publications/free-expression-under-attack.pdf>

Structure of the Report

The Executive Summary and the IPGA's recommendations for steps to improve the freedom of expression climate in Azerbaijan precede this introduction. A foreword by the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue, follows the introduction. In Chapter 3, Reporters Without Borders examines the growing climate of impunity for violent attacks against journalists. In Chapter 4, ARTICLE 19 provides an update on political use of the law to silence freedom of expression. Chapter 5 contains ARTICLE 19's analysis of restrictions on the right to freedom of peaceful assembly and their impact on free expression. In Chapter 6, the Human Rights House Foundation details recent pressure on NGOs, human rights defenders and lawyers as part of the authorities' growing restrictions on the right to freedom of association. In Chapter 7, ARTICLE 19 outlines restrictions on the right to information. In Chapter 8, Index on Censorship explores the situation of freedom of expression online. Chapter 9 contains the World Association of Newspapers and News Publishers' (WAN-IFRA) analysis of the state's domination of the media. In Chapter 10, the International Federation of Journalists provides an update on the issue of professionalism in the media. In Chapter 11, Index on Censorship examines Azerbaijan's efforts to promote a good image abroad. Chapter 12 contains the IPGA's concluding observations.

2. Foreword by Frank La Rue^[1]

The right to freedom of opinion and expression is a fundamental human right which is essential to the exercise of many other rights and a key component of democratic society. Through its membership in the United Nations (UN) and its ratification of the International Covenant on Civil and Political Rights, among other international human rights instruments, Azerbaijan is obligated to respect and protect this right.

In the nearly five years since my predecessor's visit to Azerbaijan, the freedom of expression situation in the country has changed in both nuanced and dramatic ways. Although there are not currently as many journalists in prison as there were in 2007, there are now more persons overall imprisoned in connection with exercising their right to free expression. Although criminal defamation provisions are no longer as frequently used as in 2007, the misuse of other laws has now taken their place.

It is unfortunate to note that a number of the recommendations my predecessor issued to the Azerbaijani authorities following his visit have thus far gone unheeded, in particular in regards to impunity. The authorities should take steps now to ensure that the cycle of violence against journalists and impunity for their attackers goes no further.

As a country with a current seat on the UN Security Council, Azerbaijan is well-placed to set a positive example for other states by fulfilling its freedom of expression obligations. Azerbaijan is also set to undergo the second round of the Universal Periodic Review by the UN Human Rights Council in 2013, making now an opportune time to address the issues raised by the International Partnership Group for Azerbaijan in this report and to improve the freedom of expression climate in the country.

Further, as host of this year's Internet Governance Forum, Azerbaijan is in an excellent position to promote freedom of expression online. The internet has become a vital communications tool for individuals all over the world. Azerbaijan – and all other states – should ensure that information can flow freely online, and that the internet is available, accessible and affordable to all.

[1] Frank La Rue is the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. His predecessor, Ambeyi Ligabo, visited Azerbaijan in April 2007 and published a report following his mission: [available from] <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/107/08/PDF/G0810708.pdf?OpenElement>

3. Impunity for violence against journalists

by Johann Bihl, Head of Central Asia and Europe Desk, *Reporters Without Borders*

Far from declining, impunity for those who physically attack and murder journalists has increased since the IPGA's joint mission to Azerbaijan in September 2010. The unsolved murders of Elmar Huseynov and Rafiq Tagi cast a shadow over all journalists, one that reinforces their fears. As a result of the crackdown on the "Baku spring", 2011 saw a new cycle of violence against the media. The Institute for Reporters' Freedom and Safety (IRFS) reported 11 violent attacks against journalists, and another 16 cases of violence against journalists in the context of "on-the-job" intimidation, in 2011 alone^[1].

No justice for Elmar Huseynov

Seven years after the 2005 murder of the opposition weekly *Monitor's* editor, the investigation is completely paralysed. The authorities continue to blame the lack of cooperation from the Georgian authorities, which refuse to extradite the two main suspects, Teymuraz Aliyev and Tahir Khubanov. In May 2011, the opposition newspaper *Azadliq* published the names of three other suspects, also Georgians, which the judicial investigators would have preferred to keep secret.

No serious effort has been made to identify those behind the murder. Many journalists, members of the political opposition and human rights defenders regard the continuing impunity in this high-profile case as a threat that constantly hangs over them. In virtually no case of violence against a journalist since Huseynov's murder has there been a serious investigation or prosecution for an attack. The result is a climate of fear in which journalists know that should they decide to criticise the authorities, they are vulnerable to attacks which are either organised or endorsed by officials. Many choose not to take the risk, and engage instead in self-censorship, which has become pervasive in Azerbaijan.

Another murder, another incomplete investigation

A renowned journalist and writer, Rafiq Tagi was stabbed several times on his way home on the night of 19 November 2011. He was rushed to hospital and underwent a successful operation but then died four days later. The circumstances around his death remain unclear.

Many disturbing aspects of the case shocked the Azerbaijani public and the international community alike. How was it possible that Tagi suddenly died after the doctors who treated him agreed unanimously that he was out of danger and he also said he felt fine? Why was he transferred from the emergency unit to an ordinary hospital room 24 hours after a complicated operation? Why wasn't he placed under police protection while recovering, particularly as he had been the target of a murder attempt?

Tagi was a well-known critic of Islam, earning himself hostility from the Iranian government and a three-year jail term in his own country for a November 2006 article headlined "Europe and Us" that defended European humanism. He spent more than a year in prison before being pardoned in December 2007. The same article also led to a death sentence in the form of a fatwa issued by an Iranian cleric.

[1] IRFS interview with ARTICLE 19, 17 March 2012

On 10 November 2011, Tagi published an article that was very critical of the Iranian government, which later reinforced suspicions that Iranians were behind the attack, especially given the current “cold war” between Azerbaijan and Iran. But his family and some journalists pointed to the negligence and inadequacy of the investigation and said they were convinced that the Azerbaijani authorities were behind his death.

The authorities said they were doing everything possible to find those responsible for the attack, and that the investigation had been placed under Prosecutor General Zakir Garalov’s direct control. Nonetheless, a “Preventive Analytic Group” formed by civil society representatives carried out its own investigation and issued a report identifying several serious shortcomings in the official investigation. So far, no suspects have been arrested.

Crackdown on “Baku spring” brings new cycle of violence against journalists

The continuing impunity in serious cases has done much to reinforce the climate of intimidation for journalists in Azerbaijan. But this is made even more frightening by the fact there is also total impunity for the everyday violence to which journalists are increasingly exposed. When a police officer is not punished for hitting a journalist and when death threats are not even investigated, the possibility of graver forms of violence seems more real.

By failing to render justice to all the journalists who are the victims of violence, the Azerbaijani authorities have systematically violated Articles 2 and 3 of the European Convention on Human Rights and the jurisprudence established by the European Court of Human Rights.

The security forces used considerable violence to deal with a wave of protests in March and April 2011, and many people were physically attacked. Dozens of journalists and bloggers were beaten while trying to cover pro-democracy demonstrations such as the one on 2 April 2011 in Baku’s Fountain Square^[2].

Abductions of opposition journalists

Seymour Khaziyev, a journalist with the opposition newspaper *Azadliq*, was attacked by six masked men as he was returning to his home in Jeryanbatan on the outskirts of Baku on the night of 26 March 2011. Taken in a minibus to an unknown location with a sack over his head, he was then tortured for two hours. The two telephones he was carrying were confiscated and the contents of his laptop were examined. One of his attackers asked him to be as “intelligent and quiet as the others”. He was finally set free, with his hands tied, a few kilometres from where he was captured.

Another *Azadliq* reporter, Ramin Deko, suffered a similar fate a week later. Three men in civilian clothing intercepted him on the morning of 3 April 2011 in Rasulzade, the village where he lives, located 20 kilometres outside Baku, and forced him to get into their car. They then drove him to Mashtaga, another village 25 kilometres outside Baku, and subjected him to intense psychological pressure for eight hours. He was repeatedly asked why he was so active on online

[2] <http://en.rsf.org/azerbaijan-journalists-among-victims-of-05-04-2011,39953.html>

social networks and why he wrote articles criticising President Ilham Aliyev. He was told that if he did not abandon these activities, he would suffer “serious consequences”. Before releasing him in Baku at about 4 p.m., his abductors warned him to say nothing about what had happened. Deko nonetheless talked immediately to the media about his abduction. The next evening, two of his assailants were waiting for him as he left his office and beat him severely “as a reprisal”. In neither case have the assailants been identified^[3].

Violence against foreign journalists

Although such attacks are not common, foreign journalists are not exempt from acts of violence. In June 2011, American journalist Amanda Erickson and British media rights activist Celia Davies were seriously injured during an attack by four unknown assailants^[4]. Erickson and Davies were in Azerbaijan working with local journalists and civil society groups. At the time of the attack, Erickson had recently published a piece in the *New York Times* profiling formerly imprisoned blogger Emin Milli^[5], and another in the *Columbia Law Review* profiling outspoken critical journalist Khadija Ismayilova^[6]. However, unlike in the cases of the Azerbaijani journalists, Erickson and Davies’ attackers were quickly found and arrested^[7].

Outside Baku

IRFS cameraman Rashad Aliyev had to be hospitalised after he was beaten over the head by a police officer while trying to cover clashes between police and local protesters in the northern city of Guba on 1 March 2012.

Total impunity continues to reign in the Nakhchivan Autonomous Republic, which is separated from the rest of Azerbaijan by a strip of Armenian territory. There is an almost total lack of pluralism in Nakhchivan and journalists struggle to perform their work. When journalists try to file complaints about cases of violence (often the work of the local security forces), the judicial authorities usually simply deny that these events ever took place.

Among the recent incidents in Nakhchivan:

- Journalists Elman Abasov (IRFS) and Ilgar Nasibov (*Turan*) were violently attacked by police officers and the plain-clothed men accompanying them when they tried to cover a police raid on the home of fellow journalist Hakimeldostu Mehdiyev (IRFS) in Jalil on 15 July 2011.
- Ilgar Nasibov and Malahat Nasibova (*Turan*) were attacked by local officials outside a police

[3] <http://www.article19.org/resources.php/resource/1745/en/azerbaijan:-international-organisations-condemn-abduction-and-beating-of-journalist-seymur-khaziyev>

[4] <http://www.irfs.az/content/view/6831/28/lang,en/>

[5] http://www.nytimes.com/2011/06/25/world/europe/25azerbaijan.html?_r=1&ref=azerbaijan

[6] http://www.cjr.org/feature/open_mic.php?page=all

[7] http://www.rferl.org/content/azerbaijanis_arrested_assault_foreign_journalist_activist/24248405.html

station in Babek on 27 July 2011. A leading human rights activist in Nakhchivan, Nasibova was also subjected to extreme harassment, including death threats and summonses for questioning by the Ministry of National Security^[8], after she conducted an investigation at the end of August 2011 into the death of a local man, Turac Zeynalov, while in detention.

- Yafez Hasanov (Radio Free Europe/Radio Liberty - RFE/RL) was abducted by three unidentified men on 31 August 2011 while visiting Nakhchivan with the aim of investigating Turac Zeynalov's death. His abductors told him to forget the story, escorted him to the Iranian border and told him to return to Baku via Iran. If he set foot again in Nakhchivan during the next month, "it will cost you", they told him. They were wearing civilian clothes but were using the kind of car that government security officials normally drive. Making him travel through Iranian territory exposed him to considerable danger as RFE/RL has been classified as an "illegal organisation" by the Iranian authorities.

[8] <http://en.rsf.org/azerbaidjan-stepping-up-harassment-of-media-06-09-2011,40927.html>

4. Political use of the law to silence freedom of expression

by Rebecca Vincent, IPGA Coordinator, *ARTICLE 19*

Defamation

Legal provisions for defamation continue to present an obstacle to freedom of expression in Azerbaijan. Although the “National Action Programme for increasing the efficiency of human rights and freedoms in the Republic of Azerbaijan” included plans for the adoption of a new defamation law which would decriminalise defamation in 2012, at present, defamation remains a criminal offence in Azerbaijan^[1].

Although criminal defamation provisions no longer lead to prison sentences as frequently as in previous years, they are still in use. According to the Baku-based Media Rights Institute (MRI), in 2011, eight journalists were subject to criminal prosecution in defamation cases^[2]. The existence of these provisions continues to have a serious chilling effect on freedom of expression, particularly in contributing to the widespread self-censorship in the country. International experts including Council of Europe (COE) Human Rights Commissioner Thomas Hammarberg and Organisation for Security and Co-Operation in Europe (OSCE) Representative on Freedom of the Media Dunja Mijatovic have long called for the decriminalisation of defamation in Azerbaijan^[3].

Civil defamation provisions are more frequently used, and are often misused to hamstring the ability of independent and opposition media outlets to operate. According to MRI, in 2011 a total of 32 cases were filed under civil defamation provisions, resulting in more than 70 court decisions and orders for compensation totalling more than AZN 46,200, an amount higher than in previous years. MRI noted that the *Yeni Musavat* and *Khural* newspapers were the most frequent targets of these cases, the majority of which were lodged by public officials, including Head of the Presidential Administration Ramiz Mehdiyev, the president’s uncle, MP Jalal Aliyev, and Head of the State Fund for Support to Mass Media Vugar Safarli^[4].

Political use of other laws to silence critics

An even greater obstacle to freedom of expression, however, is presented by the misuse of other laws for political purposes. As noted by COE Human Rights Commissioner Thomas Hammarberg in his September 2011 *Observations* on the human rights situation in Azerbaijan, one of his recommendations to the Azerbaijani authorities following his March 2010 visit to the country “was to end practices of unjustified or selective criminal prosecution of journalists or others who may express critical opinions. However, resort to such methods has apparently not abated”. Hammarberg reiterated his call to the authorities “to release immediately all persons imprisoned because of views or opinions expressed”^[5].

Indeed, over the past several years, a trend has emerged of using charges less clearly connected

[1] <http://www.azertag.com/node/900204>

[2] <http://www.mediarights.az/index.php?lngs=aze&id=358>

[3] <https://wcd.coe.int/ViewDoc.jsp?id=1839497> and <http://www.osce.org/baku/77483>

[4] <http://www.mediarights.az/index.php?lngs=aze&id=358>

[5] <https://wcd.coe.int/ViewDoc.jsp?id=1839497>

with freedom of expression to silence critical voices. These charges have included hooliganism, drugs possession, evading military service, supporting terrorism, inciting hatred, accepting bribery and tax evasion. As a result, more than 20 persons are currently detained or imprisoned in Azerbaijan in connection with exercising their right to freedom of expression, including the 11 political activists who remain jailed following their arrest for participating in a series of pro-democracy protests in Baku in March and April 2011^[6].

Editor-in-chief of the website islamazeri.com Ramin Bayramov is serving a one and a half-year prison sentence following his arrest in August 2011 and conviction in March 2012 on charges of possessing illegal arms and drugs. Bayramov's lawyer maintains that the drugs and weapons were planted^[7]. The Ministry of National Security and the Prosecutor General's Office have stated that Bayramov and two Islamic activists arrested the same day are being held under suspicion of engaging in activities hostile towards Azerbaijan^[8].

Khural newspaper Lankaran regional correspondent Aydin Janiyev is serving a three-year prison sentence following his arrest in September 2011 and conviction in November 2011 on charges of hooliganism. The charges were based on a complaint filed by members of a local religious community who alleged that Janiyev had broken the windows of a mosque and insulted employees of the mosque^[9].

Human rights defender Vidadi Iskenderov is serving a three-year prison sentence following his arrest in April 2011 and conviction in August 2011 on charges of interfering with the November 2010 parliamentary elections. Iskenderov was charged following his arrest for participating in pro-democracy protests in April 2011 – six months after the alleged crimes took place. He had previously publicly criticised the conduct of the November 2010 parliamentary elections as fraudulent^[10].

Blogger and civic activist Bakhtiyar Hajiyev is serving a two-year prison sentence following his arrest in March 2011 and conviction in May 2011 on charges of evading military service. Hajiyev, who was an independent candidate in the November 2010 parliamentary elections, was arrested after he was listed on Facebook as one of the organisers of a pro-democracy protest. As COE Human Rights Commissioner Thomas Hammarberg noted, "The timing of his arrest and the charges against him appear to be indicative of an attempt to stop his activities, which were critical of the Government^[11]."

[6] See Chapter 5, 'Freedom of expression and freedom of peaceful assembly: mutually reinforcing, mutually limited'

[7] <http://www.irfs.az/content/view/7195/28/lang,eng/>

[8] <http://www.irfs.az/content/view/7201/28/lang,eng/>

[9] <http://www.irfs.az/content/view/7756/lang,az/>

[10] <http://www.irfs.az/content/view/7279/lang,eng/>

[11] <https://wcd.coe.int/ViewDoc.jsp?id=1839497>

Politically motivated arrests

Five journalists, a media worker and a blogger are currently in detention awaiting trial on charges connected with exercising their right to free expression. The Baku-based Institute for Reporters' Freedom and Safety (IRFS) reported that four journalists were arrested on 13 March 2012: Vugar Gonagov, Zaur Guliyev and Zaur Mustafayev, the respective executive director, editor-in-chief, and advertising editor of Xeyal TV; and Poligon Information Agency correspondent Jammil Mammadli. The arrests appeared to be connected to the 1 March 2012 protest in the city of Guba^[12].

Azerbaijani correspondent of Iranian Sahar TV Anar Bayramli remains in detention on charges of drugs possession after his arrest at his home in February 2012 by police who claimed to have found heroin on him. IRFS believes that Bayramli was targeted due to Sahar TV's criticism of the Azerbaijani authorities in its Azerbaijani-language news broadcasts^[13]. Sahar TV driver Ramil Dadashov was arrested the same day, on charges which remained unclear at the time of publication^[14].

Blogger and human rights defender Taleh Khasmammadov remains in detention on charges of hooliganism and physically assaulting a public official following his arrest in November 2011. Khasmammadov, the chairman of human rights group Law and Rights 2010, believes he was targeted for his blogging and human rights activities. He had reported on mafia activity and trafficking in persons in the Ujar region of Azerbaijan^[15].

Khural newspaper editor-in-chief Avaz Zeynalli remains in detention on charges of accepting bribery following his arrest in October 2011. The charges are based on a complaint filed by MP Gular Ahmadova. Zeynalli denies Ahmadova's allegations and maintains that the charges are politically motivated^[16]. In the months prior to Zeynalli's arrest, *Khural* newspaper had faced an increasing level of pressure and harassment, including numerous defamation lawsuits and the seizure of the newspaper's equipment. Reporters Without Borders believes that Zeynalli was targeted for his sharp criticism of President Aliyev^[17].

In recent years, those who have been jailed in connection with exercising their right to freedom of expression have often been released prior to the end of their prison sentences, as in the cases of editor Eynulla Fatullayev and bloggers and youth activists Adnan Hajizade and Emin Milli, all of whom were in prison during the IPGA's joint mission to Azerbaijan in September 2010. However, justice has not been served in any of these cases, as the terms of release have left the former prisoners with criminal records, which leave their reputations tainted and could present obstacles should they wish to travel abroad or run for public office.

[12] <http://www.irfs.az/content/view/8290/28/lang,en/>

[13] <http://www.irfs.az/content/view/8137/lang,az/>

[14] <http://en.rsf.org/azerbaijan-journalists-pay-the-price-as-azeri-21-02-2012,41916.html>

[15] <http://www.irfs.az/content/view/8224/28/lang,eng/> and <http://www.irfs.az/content/view/7711/28/lang,eng/>

[16] Preventive Response Group, Report on the Arrest of Avaz Zeynalli, 11 January 2011

[17] <http://en.rsf.org/azerbaidjan-newspaper-hounded-editor-jailed-04-11-2011,41345.html>

The issue of political prisoners in Azerbaijan has become the subject of increasing scrutiny at the COE, where Special Rapporteur Christoph Strässer has been tasked with examining the issue of political prisoners in Azerbaijan. To date, the Azerbaijani authorities have failed to cooperate with Strässer, refusing to issue him a visa to travel to the country to undertake a fact-finding visit to produce the report required by his mandate. In the absence of a visa for Strässer, the Parliamentary Assembly of the Council of Europe (PACE) Committee on Legal Affairs and Human Rights convened a hearing on the situation in Strasbourg on 26 January 2012. Strässer is looking into reports of approximately 70 alleged political prisoners in the country^[18]. There is a widespread belief that those currently in detention on politically motivated charges will not be sentenced before the Eurovision Song Contest in May 2012, as they would make the list of political prisoners longer, leading to further negative publicity for the authorities.

Travel restrictions for foreign journalists

Since the IPGA's joint mission to Azerbaijan in September 2010, the authorities have increasingly used legal provisions to restrict the ability of foreign journalists to travel to and work in the country.

In July 2011, German newspaper *Frankfurter Allgemeine Zeitung* correspondent Michael Ludwig was harassed by the local authorities upon his arrival in the Azerbaijani exclave of Nakhchivan. Although Ludwig possessed the proper press accreditation from the Ministry of Foreign Affairs, the Nakhchivani authorities initially refused to allow him to work and then let him travel only accompanied by a government official, which prevented him from freely conducting interviews and investigating his story^[19]. Also in July 2011, Russian newspaper *Izvestiya* correspondent Yuri Snegirev was banned from entering Azerbaijan on the basis of two articles he had written on the Nagorno-Karabakh conflict, in which the authorities claimed he had portrayed the Armenian perspective.

In June 2011, *Bloomberg* photo-journalist Diana Markosian was denied entry into Azerbaijan at the airport on the basis that her surname sounded Armenian. In May 2011, deputy editor of Moscow radio station Ekho Moskvy Sergei Buntman was banned from entering Azerbaijan following an interview he conducted with the leaders of the unrecognised "Nagorno-Karabakh Republic"^[20]. In April 2011, a *New York Times* correspondent notified Reporters Without Borders that he was told he would only be granted an Azerbaijani visa if he provided the authorities with all of the articles he had written about the country and explained the high amount of "negative information" about Azerbaijan in the U.S. press^[21].

In April 2011, the Azerbaijani Migration Service deported three members of a Swedish television crew who were in Baku filming a documentary on human rights and freedom of expression. My Rohwedder Street, Charlie Laprevote and Charlotta Wijkström were detained

[18] http://www.rferl.org/content/azerbaijan_continues_refuses_visa_to_council_of_europe_official/24456379.html

[19] <http://en.rsf.org/azerbaidjan-authorities-in-lawless-nakhchivan-03-08-2011,40668.html>

[20] <http://en.rsf.org/armenie-foreign-reporters-barred-from-06-07-2011,40610.html>

[21] <http://en.rsf.org/armenie-foreign-reporters-barred-from-06-07-2011,40610.html>

whilst attempting to film a pro-democracy protest. Although the journalists had valid visas, they were told they lacked the proper accreditation to work in the country. The journalists reported that the plain-clothed men who had detained them also confiscated their digital cameras and erased the footage recorded on their memory cards^[22].

[22] <http://cpj.org/2011/04/swedish-television-crew-detained-deported.php>

5. Freedom of expression and freedom of peaceful assembly: mutually reinforcing, mutually limited

by Rebecca Vincent, IPGA Coordinator, *ARTICLE 19*

Perhaps one of the most significant changes to the freedom of expression climate in Azerbaijan since the IPGA's joint mission to the country in September 2010 has been the growing number of Azerbaijanis taking to the streets in protest against the regime's political and social policies. In response, the authorities have engaged in a crackdown, taking actions to severely limit citizens' ability to exercise their right to freedom of assembly.

International framework

Freedom of expression and freedom of peaceful assembly are complimentary and mutually reinforcing freedoms which are fundamental to democratic society. Full enjoyment of the right to freedom of expression is dependent on the full protection of the right to freedom of peaceful assembly, as groups need the ability to effectively communicate amongst themselves, with the state, and with other non-state actors, in order to discuss collective actions. In the absence of freedom of expression, groups are not able to express themselves freely and cannot make their objectives, interests and demands publicly known^[1].

The ability to peacefully assemble becomes particularly critical to freedom of expression when the population has no access to the most effective means of communicating a political message, for example when the state controls the mass media – as is the case in Azerbaijan^[2]. As stated by the Organization of American States' Special Rapporteur for Freedom of Expression, “disproportionate restrictions to protest, in particular in cases of groups that have no other way to express themselves publicly, seriously jeopardize the right to freedom of expression”^[3].

As with freedom of expression, Azerbaijan is bound to respect the right to freedom of peaceful assembly through its membership in the UN, the Council of Europe (COE), the OSCE, and through its accession to international and regional human rights treaties such as the International Covenant on Civil and Political Rights and the European Convention on Human Rights^[4]. By restricting citizens' ability to exercise these rights, the Azerbaijani authorities are violating their international human rights obligations and calling into question their commitment to democratic principles.

As COE Human Rights Commissioner Thomas Hammarberg noted in his *Observations* on the human rights situation in Azerbaijan in September 2011, the European Court of Human Rights has stated that “sweeping measures of a preventive nature to suppress freedom of assembly and expression other than in cases of incitement to violence or rejection of democratic principles – however shocking and unacceptable certain views or words used may appear to the authorities, and however illegitimate the demands made may be – do a disservice to democracy and often even endanger it. In a democratic society based on the rule of law, political ideas which challenge

[1] <http://www.wiltonpark.org.uk/resources/en/pdf/22290903/2012/wp1154-report>

[2] See Chapter 9, State Control of the Media

[3] <http://www.cidh.oas.org/annualrep/2008eng/Annual%20Report%202008-%20RELE%20-%20version%20final.pdf>

[4] For example, the European Court of Human Rights has noted in several cases that “[t]he protection of opinions and the freedom to express them is one of the objectives of freedom of assembly and association enshrined in Article 11 of the ECHR. See *United Communist Party of Turkey and Others v Turkey* (1998).

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”^[5]. Hammarberg urged the Azerbaijani authorities to ensure respect for the right to freedom of assembly in accordance with this case-law^[6].

Restrictions on freedom of assembly

The Azerbaijani authorities have continued to take action to limit the right to freedom of assembly in practice. One method of doing so is via the requirement for groups to request permission before staging demonstrations. The authorities often deny requests from youth movements and opposition political parties or offer substitute venues which are deemed unacceptable as they are remote from the Baku city centre^[7]. Protests which go ahead unsanctioned are often dispersed with excessive force and lead to arrests and disproportionately harsh sentences of administrative detention or jail time.

According to the NIDA Civic Movement, restrictions are not only limited to public gatherings, as private venues, including the Hilton and Hyatt Regency hotels in Baku, have started refusing to allow youth movements to hold meetings in their establishments^[8]. NIDA activist Turgut Gambar commented “First they took us off the streets. Then they kicked us out of buildings. We need to address this problem now before they start dragging us from our homes”^[9].

On 6 March 2012, Baku police used excessive force to disperse a peaceful demonstration in the city centre. Four youth activists were beaten, including former political prisoners Jabbar Savalan and Dayanat Babayev, and a total of 14 protesters and a journalist were arrested. Protesters had gathered to call for the release of political prisoners in the wake of reports that two political prisoners – Babek Hasanov and Mahammad Majidli, who were jailed because of their participation in protests the previous year – were beaten by prison officials on 4 March 2012^[10].

On 1 March 2012, around 1,000 residents of the Azerbaijani city of Guba took to the streets in protest in response to comments by Governor Rauf Habibov calling the city’s residents “traitors” and “ungrateful” for selling their lands. The president’s office dismissed Habibov from his position the following day^[11]. Riot police used excessive force to disperse the protesters. At least two journalists were seriously injured and five others were sprayed with tear gas^[12]. In response to these reports, OSCE Representative on Freedom of the Media Dunja Mijatovic commented “This

[5] Stankov and the United Macedonian Organisation Ilinden v. Bulgaria, 2 October 2001, paras 86 and 97

[6] <https://wcd.coe.int/ViewDoc.jsp?id=1839497>

[7] <http://www.amnesty.org/en/library/asset/EUR55/011/2011/en/831dedec-1c7a-47a3-99ec-f59d1c2f3a19/eur550112011en.pdf>, pp. 20-21

[8] <https://www.facebook.com/events/209385509158058/>

[9] Turgut Gambar interview with ARTICLE 19, 5 March 2012

[10] <http://amnesty.org/en/news/azerbaijani-youth-activists-beaten-and-detained-peaceful-protest-2012-03-06>

[11] http://www.rferl.org/content/azerbaijani_governor_sacked/24502635.html

[12] <http://www.irfs.az/content/view/8206/28/lang,eng/>

incident shows once again that journalists must be better protected to perform their professional duties without fear. While maintaining public order the police must also ensure that journalists are not attacked and can safely report on all public events”^[13].

In March and April 2011, hundreds of Azerbaijanis took to the streets to stage a series of largely peaceful pro-democracy protests inspired by uprisings in the Middle East and North Africa. The protests were organised by various groups, including youth movements and opposition political parties. The authorities responded by using excessive force to disperse the protests and arresting hundreds of protesters – as well as pre-emptively detaining many political activists^[14]. In a disturbing new step which Amnesty International has called “the criminalization of peaceful protest”, the authorities criminally prosecuted 14 political activists for organising or participating in the protests^[15].

Eleven of the criminally prosecuted activists remain in prison following their arrests during the March and April 2011 protests: Tural Abbasli; Arif Alishli; Zulfugar Eyvazov; Ulvi Guliyev; Arif Hajili; Rufat Hajibeyli; Shahin Hasanli; Babek Hasanov; Sahib Kerimov; Elnur Majidli; Mahammad Majidli; and Ahad Mammadli^[16]. Two other activists who had been imprisoned following their arrests during the protests were recently released; Elshan Hasanli was granted early release from prison on 22 February 2012^[17] and Elnur Israfilov was released by presidential pardon on 15 March 2012^[18]. Human rights defender Vidadi Iskenderov was also arrested for participating in the protests, but was convicted instead on charges of interfering with the November 2010 elections^[19].

Blogger and civic activist Bakhtiyar Hajiyev remains in prison serving a two-year sentence on charges of evading military service. He appears to have been targeted for his role in organising one of the March 2011 protests via Facebook^[20]. Another of the Facebook organisers of that protest, Strasbourg-based blogger Elnur Majidli, was charged with calling for violent overthrow of the authorities, which carried a penalty of up to 12 years’ imprisonment. Although the charges were later dropped, Majidli still faces restrictions on his right to participate in public life^[21]. Political activist Jabbar Savalan also appears to have been targeted for calling for protest via Facebook, serving 11 months in prison on trumped-up charges of drugs possession before his early release by presidential pardon in December 2011^[22].

[13] <http://www.osce.org/fom/88652>

[14] <http://www.amnesty.org/en/library/asset/EUR55/011/2011/en/831dedec-1c7a-47a3-99ec-f59d1c2f3a19/eur550112011en.pdf>, pp. 17-21

[15] Ibid, pp. 27-29

[16] Ibid, pp. 26-32

[17] http://www.rferl.org/content/azerbaijani_opposition_activist_released_early_from_jail/24492862.html

[18] <http://www.contact.az/docs/2012/Politics/03153135en.htm>

[19] See Chapter 4, ‘Political use of the law to silence freedom of expression’

[20] See Chapter 4, ‘Political use of the law to silence freedom of expression’

[21] <http://www.indexoncensorship.org/2011/04/azerbaijans-facebook-dissident/>

[22] <http://www.irfs.az/content/view/7961/28/lang.eng/>

Freedom of assembly in the 2010 parliamentary elections

Election periods in Azerbaijan serve to cast an international spotlight on many ongoing human rights problems in the country, not least among them freedom of expression and freedom of assembly. Just two months after the IPGA's joint mission to Azerbaijan, in November 2010, the country held parliamentary elections which failed to meet international standards for democratic elections.

According to the OSCE/ODIHR *Election Mission Observation Final Report*, during the 2010 election period “the fundamental freedoms of peaceful assembly and expression were limited and a vibrant political discourse facilitated by free and independent media was almost impossible”^[23]. The report noted that “no large public rallies or campaign meetings were held” prior to the elections. Although local authorities had designated certain venues for candidates to hold small campaign meetings, the report stated that OSCE observers had “received reports of some instances of obstruction of candidates’ campaign activities by the police and local authorities, including at officially allocated venues”^[24].

[23] <http://www.osce.org/odihr/elections/azerbaijan/75073>, pp. 1

[24] *Ibid*, pp. 11

6. Freedom of association: pressure on NGOs, human rights defenders and lawyers

by the *Human Rights House Foundation*

The Azerbaijani authorities, again and again, have reaffirmed that the right of freedom of association is a core value to the Republic of Azerbaijan. In its candidacy for the UN Human Rights Council, which ultimately failed, Azerbaijan laid out that “rule of law, democracy and protection of human rights and fundamental freedoms are key pillars for national development”^[1]. The work of human rights defenders and their organisations is critical to the protection of these pillars.

Over the past few years, the Azerbaijani authorities have engaged in a step-by-step campaign to silence these defenders, shutting down and interfering with the work of both national and international human rights organisations.

Legislative steps against NGOs

The Azerbaijani Parliament introduced new amendments to the NGO law in 2009, followed in March 2011 by a governmental decree, which outlined new requirements for the registration of international NGOs. International NGOs were now required to reach an agreement with the Azerbaijani authorities, which would, among other aims, ensure that NGOs respected national moral values and were not involved in political or religious propaganda, in order to be granted permission to operate in the country.

Under Azerbaijani law, if an organisation receives more than two warnings within a year that it has violated these codes, it can be closed. Such a provision is applied indiscriminately irrespective of the seriousness of violations and consequences.

On 19 October 2011, the European Commission for Democracy through Law (“the Venice Commission”) criticised the regulations as vague due to the lack of a definition of “national moral values”, and “political or religious propaganda”. In addition, the Venice Commission criticised the undefined length of negotiations and referred to the new regulations as a breach of international standards^[2].

The Chairman of the Committee for State Support for NGOs, MP Azay Guliyev, recently wrote that “[he] believe[s] that the process of improvement of the legislative framework for the efficient functioning of NGOs and adoption of new and needed laws will go on in the future in order to eliminate all the problems that remain in this field”^[3]. Given the already restrictive nature of the existing legislation, this is a worrisome step indeed.

Closure and threats against NGOs

The closure of the Azerbaijan Human Rights House highlighted the difficulties faced by human rights organisations in Azerbaijan^[4].

[1] Letter of the Permanent Representative of Azerbaijan to the United Nations addressed to the President of the General Assembly, 25 March 2009 (UN Doc: A/63/800)

[2] “Venice Commission critical to Azerbaijani NGO Law”: <http://humanrightshouse.org/Articles/17215.html>

[3] Azay Guliyev, op. cit., page 97.

[4] See: <http://humanrightshouse.org/Azerbaijan>

On 10 March 2011, the Azerbaijan Human Rights House, established in 2007 as the national branch of the Human Rights House Foundation, was ordered to cease its activities without any warning until an agreement with the authorities was reached. Since 2007, the Human Rights House has regularly reported to the respective authorities, consistently adhering to national guidelines for providing required information. No provisions in the 2009 amendments to the NGO law indicated that there was any requirement for NGOs already registered and operating in Azerbaijan to enter into an agreement with the Ministry of Justice. Before the closure, no official warnings were issued nor any discontent communicated with regards to the timely and regular reporting by the Azerbaijan Human Rights House to the authorities. Despite year-long negotiations, the Azerbaijan Human Rights House has not been allowed to reopen to date^[5].

As underlined by the Venice Commission in its opinion (paragraph 85), “the freedom of expression of an association cannot be subject to the direction of public authorities, unless in accordance with permissible restrictions ascribed by law and necessary in a democratic society for narrowly and clearly defined purposes”.

The actions against the Azerbaijan Human Rights House, however, are only the tip of the iceberg, and indeed Azerbaijani NGOs are in no better situation. They are regularly subjected to interference and threats from the authorities. For example, in February 2012, the Institute for Reporters’ Freedom and Safety (IRFS) received a warning from the Ministry of Justice stating that the organisation had failed to report on the re-election of its Chairman. The letter also referred to IRFS’ report on the human rights situation in the Nakhchivan Autonomous Republic as biased and stated that it was considered false by the authorities. A similar letter was also sent to the Democracy and NGOs Development Resource Center in Nakhchivan. These two national NGOs are among the very few human rights NGOs still operating in the exclave and these warnings constitute a serious threat to their existence as registered NGOs.

On 19 April 2011, the Media Rights Institute received a warning from the Ministry of Justice about the possibility of administrative sanction, because the Media Rights Institute had not informed the Ministry about the appointment of a new Chairman. The Media Rights Institute responded that the warning did not apply, as the Chairman of the organisation had not been changed, but re-elected. According to the Media Rights Institute, the law does not state that information about re-election needs to be sent to the Ministry of Justice.

State registration as a repressive tool

The Law on State Registration and State Registry of Legal Entities, adopted in 2003, envisions a co-operative process for the registration of NGOs in Azerbaijan. One might even believe that the deadlines set out under Article 8 of the law could result in swift proceedings: 40 days for the registration process as a general rule, with an exceptional possibility of prolongation of 30 days, and

[5] HRHF statement “Human Rights House Azerbaijan closed down by Azerbaijani authorities”: <http://humanrightshouse.org/Articles/16060.html>

another continuation of 20 days if the application documents contain deficiencies^[6].

The reality, however, is quite different^[7], as another means to silence critical organisations is to not allow them to carry out their legitimate work in a legal way. Many NGOs are undeniably subject to the abusive application of the regulation resulting in delays to their registration. The procedure of NGO registration is becoming more and more complex, and lengthy delays often occur in the registration process.

The Election Monitoring and Democracy Studies Center (EMDS) applied for registration after its the previous entity, the Election Monitoring Center (EMC), was closed down during the pre-election period ahead of the October 2008 presidential election. The Ministry of Justice's decision to dissolve the EMC was based on the organisation's failure to notify the authorities of a change of address and the registration of its regional branches^[8]. Since 2008, the newly established EMDS has had three applications for registration rejected on the basis of various minor discrepancies.

The European Court of Human Rights' (ECtHR) decision in the case of Intigam Aliyev and others exemplifies this problem. In May 2003, Intigam Aliyev and 10 other lawyers founded the Azerbaijani Lawyers Forum, a non-profit organisation. Intigam Aliyev is a prominent human rights lawyer in Azerbaijan, actively engaged in legal defence of victims of human rights violations. The applicants complained about the significant delay in the state registering their association, which meant that it could not acquire legal status. The ECtHR came to the conclusion, in this case, that extensive delay to reply to a request to register association amounts de facto to a refusal to register it^[9]. The ECtHR concluded, "mere entry into force of a new act [...] absolving the Ministry of Justice from responsibility for breaches of procedural requirements [...] is arbitrary and incompatible with the interests of justice and legal certainty".

In other words, as the Venice Commission put it, the time limit set out in the registration law "could be accepted, were it meticulously respected and were the extension of the period truly reserved for 'exceptional cases'"^[10]. As early as 2002 and 2006, OSCE reports showed that some applications, especially those of human rights NGOs, were treated as "exceptional". In short: "the main deficiencies relate to the fact that the registration of NGOs is a lengthy and complicated procedure, whose outcomes are somewhat difficult to predict. Recorded practice shows that some of the NGOs which applied for registration have never got a formal decision, and those that have got it, often needed to wait for an extensive period of time"^[11].

[6] As presented by Azay Guliyev, "NGOs in Azerbaijani Legislation as Institutions", in: International Journal of Not-for-Profit Law, volume 13, number 4, December 2011, page 95

[7] For more information on this topic, see Vugar Huseynov, Current Status of the State Registration of NGOs, Democracy Learning Public Union, 2011

[8] See: <http://dazzlepod.com/cable/08BAKU454/>

[9] Aliyev and Others v. Azerbaijan, ECHR, 28736/05, 18 December 2008.

[10] Venice Commission, Opinion no. 636 / 2011, 19 October 2011, paragraph 62.

[11] Venice Commission, op. cit., paragraph 60.

Human rights defenders and lawyers: the direct victims

Unlike parliamentarians from many other European countries, Azerbaijani Members of Parliament (MPs) are not ashamed to criticise human rights defenders and do so explicitly. In response to the attendance of some human rights defenders at the January 2011 session of the Parliamentary Assembly of the Council of Europe (PACE) in Strasbourg, in February 2011 Speaker of Parliament Ogtay Asadov denounced them as never saying anything positive about Azerbaijan and creating a bad impression of the country, adding “we should take measures against these issues”^[12].

The authorities did not hesitate to take such measures; later that month, police inspections were carried out in the office of the Azerbaijan Human Rights House and IRFS. Those engaged in the Sing for Democracy campaign^[13] have also been targeted in retaliation for their reporting on human rights violations in Azerbaijan^[14]. Again and again, human rights defenders, social media users and youth activists undergo harsh police repression at demonstrations and some are arrested and detained.

The authorities evicted local organisations from their premises in the Ganja region in March 2011, and in August 2011 they demolished the building where the offices of the Institute for Peace and Democracy, Azerbaijan’s Campaign to Ban Landmines and the Women Crises Centre were located in the centre of Baku.

Lawyers are another specific focus of the authorities’ repression. Several lawyers have been openly warned not to defend the rights of those detained. In addition to harassment, concrete actions have been taken against lawyers who have dared to provide legal counsel to those targeted for criticising the government.

Two lawyers have been disbarred and one lawyer had his licence suspended:

- Elchin Namazov, a prominent lawyer who was actively engaged in defending protest participants arrested in April 2011, was disbarred from the Bar Association in September 2011 by a court ruling. The decision instructed the Prosecutor’s Office to initiate a criminal case against him for disrespecting the court. Prior to that, he had received threats and warnings for defending youth activists and opposition members.
- Khalid Bagirov, the lawyer in a number of criminal cases of public interest, was disbarred suddenly by the Bar Association for a period of one year in August 2011. His disbarment was seen as a direct consequence of his involvement as a lawyer for Vidadi Iskenderov, an imprisoned human rights defender. Because of his disbarment, the lawyer was not able to further defend his client, who was then

[12] See: <http://en.apa.az/news.php?id=139594>.

[13] See: <http://www.singfordemocracy.org>.

[14] <http://www.irfs.az/content/view/8075/lang,eng/>

convicted and sentenced to three years' imprisonment^[15].

- Osman Kazimov, a prominent lawyer who has defended many well-known opposition activists and public figures in numerous criminal cases, had his licence suspended on 4 February 2011. The Bar Association referred the matter to the court, seeking his disbarment.

Other lawyers who have been targeted include:

- Elchin Sadikhov, a lawyer working for the protection of media rights, was accused of being engaged in propaganda against the government. He was one of previously imprisoned editor Eynulla Fatullayev's defence lawyers.
- Intigam Aliyev was stripped of his Bar Association membership in November 2005, despite meeting the relevant legal criteria. After the arrest of hundreds of protesters in April 2011, the authorities refused to provide Aliyev and Yalchin Imanov, a member of the Bar Association, with a list of detainees, as they intended to provide them with legal defence. Aliyev and Imanov were subjected to physical force and insults from several police officers.
- Alaif Hasanov, the current defence counsel of imprisoned youth activists Bakhtiyar Hajiyev and Shahin Hasanli, was subjected to a smear campaign by the local authorities in March 2011.
- Another member of the Bar Association, Aslan Ismayilov, received a warning for allegedly violating the lawyers' code of ethics.

[15] See Chapter 4, 'Political use of the law to silence freedom of expression'

7. Freedom of information: a fundamental right

by Nathalie Losekoot, Senior Programme Officer for Europe, *ARTICLE 19*

The current situation of freedom of information in Azerbaijan can be summed up nicely in a quotation from Media Rights Institute Director Rashid Hajili: “We had high hopes when the law on the right to information was adopted, but six years on it has not given us what it set out to be, a tool to hold our government to account, for the media to report on matters of public interest and for individual citizens to take informed decisions”^[1].

International framework

The right to freedom of information is set out in numerous international human rights instruments including Article 19 of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights: “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art or through any media of his choice”.

A growing international consensus supporting a fundamental right^[2] to access officially held information is reflected in the growth of regional standards and in the number of laws covering this right worldwide. For example in April 2009, the European Court of Human Rights (ECtHR) explicitly stipulated that Article 10 of the European Convention on Human Rights guarantees the “freedom to receive information” held by public authorities. In the case of *TASZ v. Hungary*^[3] the ECtHR noted the important role played by the media and other independent monitors, including NGOs, in creating “forums for public debate” and emphasised that any interference with the ability of such groups to obtain information of public interest must be able to withstand the “most careful scrutiny”^[4]. The ECtHR also stressed that governments have an obligation “not to impede the flow of information” on matters of public concern^[5].

In line with its binding obligations under international law to respect freedom of information, Azerbaijan adopted a legal instrument in 2005 that sets out a specific legal framework through the Law on the Right to Obtain Information (further “the Law on RTI”)^[6]. Both international and domestic organisations welcomed the adoption of the Law on RTI at the time as an important first step towards making freedom of information a reality for everyone in Azerbaijan. However, several concerns were raised, including regarding its broad regime of exceptions, the lack of sanctions for violations of the law, the unclear relationship between this law and other legislation, as well as the absence of a comprehensive strategy and action plan.

[1] ARTICLE 19 Interview with Media Rights Institute Director Rashid Hajili, 15 March 2012

[2] Report of the Special Rapporteur on the promotion and protection of the rights to freedom of opinion and expression – Addendum, Tenth anniversary joint declaration: Ten key challenges to freedom of expression in the next decade*, 25 March 2010 http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.23.Add.2_en.pdf

[3] *Társaság a Szabadságjogokért v. Hungary*, Application no. 37374/05, decision of 14 April 2009.

[4] *Ibid.*, para 26 and 27

[5] *Ibid.*, para 36

[6] The Law on the Right to Obtain Information, approved by the Azerbaijani Parliament on 30 September 2005 and signed by the President on 19 December 2005

Implementation of the law

Since its enactment more than six years ago, ongoing concerns have been raised about the implementation of the law. In particular the absence of a dedicated “Information Ombudsperson” has not allowed for any progress in terms of policy or resolving disputes around information requests. This situation did not improve when in December 2010 the Azerbaijani parliament decided to assign this role to the existing Ombudsman for Human Rights^[7].

A culture of secrecy is still deeply entrenched in Azerbaijani society and the public authorities are adverse towards fulfilling their full obligations under the law. It has been broadly acknowledged that one of the reasons for the lack of access to information in Azerbaijan is the mindset within government institutions. In 2009, ARTICLE 19 issued a report, Time to Reset the Code Locks, which found that a culture prevails in which officials are scared to even provide insignificant information before obtaining permission^[8]. In recent months even pro-government media have reportedly complained that they are more often refused information, often by government institutions^[9].

Another comment made by Rashid Hajili, in 2006, when referring to a former mayor of Baku, still rings true today. The mayor was asked a question about the costs of renovation of streets and the construction of new roads. “The man replied in the presence of numerous journalists: ‘Dear, what have you got to do with my pocket?’, refusing to answer the question. Unfortunately, the culture of regarding the state budget as one’s own pocket and information available to one as their own home secret still prevails in many state institutions”^[10].

Based on its research of government websites, the Media Rights Institute reported in August 2011 that the majority of the sites attempted to classify the expenditure of state funds^[11]. The existence of websites is equally used by government officials to refuse to respond to information requests, who indicate that “everything is on the site”^[12]. Other refusals are motivated by the argument that the information was already broadcast by the media. For example, the State Committee for City Building and Architecture responded to a request for the Main Plan of Baku City that this would be given to information sources (press, television) periodically.

Freedom of information enables citizens to make informed choices and allows them to scrutinise the actions of their government. It is essential in creating a relationship of trust between state bodies and the general public, allowing for transparency and public participation in decision-making. Without an individual right to access information, state authorities can control the flow of information, concealing material that is damaging to the government and selectively releasing information which the government deems appropriate for public consumption only. In such a

[7] <http://contact.az/docs/2011/Social/09249774ru.htm>

[8] <http://www.article19.org/data/files/pdfs/publications/azerbaijan-freedom-of-information-report.pdf>

[9] <http://contact.az/docs/2011/Social/09249774ru.htm>

[10] <http://www.osce.org/fom/19953>

[11] <http://www.svobodainfo.org/en/node/1294>, 1 September 2011

[12] <http://www.svobodainfo.org/en/node/1256>, 18 August 2011

climate, corruption thrives and human rights violations can remain unchecked.

The recent threats against journalist Khadija Ismayilova should be viewed against this background and are directly linked to the lack of freedom of information in Azerbaijan. Her ongoing investigations into corruption include requests to the government to disclose information about businesses run by members of the presidential family and others linked to the government^[13]. Such businesses, both government-controlled and state-owned, have also been supported by court decisions allowing them to not disclose information about their activities and budgets.

For example, a 2009 court decision exempted the State Oil Company of Azerbaijan (SOCAR) from disclosing financial information based on the argument that it should not be considered an “information owner” that has to provide information about its expenditure and other financial issues. This decision, which ARTICLE 19^[14] considered a violation of the right to freedom of information and contradicted Azerbaijan’s obligation to fight corruption, has now repeatedly been used by SOCAR to reject information requests. Access to information laws across Europe and the world guarantee access to information concerning the assets, finances and management of state-owned companies. Such restrictions are not necessary in a democratic society and prevent the legitimate gathering of information on a matter of public importance.

[13] <http://www.reportingproject.net/occrp/index.php/press-box/1346-occrp-journalist-khadija-ismayilova-receives-award>

[14] <http://www.article19.org/data/files/pdfs/publications/azerbaijan-freedom-of-information-report.pdf>, p. 34

8. Freedom of expression online

by Natasha Schmidt, Assistant Editor, *Index On Censorship*

On 1 March 2012, residents of the northern Azerbaijani town of Guba gathered to protest against a local official who publicly insulted the local community. News of the alleged insult was said to have spread after a video was posted on YouTube. Following the protests, some of which led to attacks on properties owned by the governor, there were reports that some internet cafes were being searched in an attempt to identify the person who posted the video^[1].

On 7 March 2012, prominent investigative journalist Khadija Ismayilova reported that she had been the victim of an attempted blackmail campaign. According to reports, Ismayilova was threatened in the most conventional of ways - she received a collection of intimate photographs through the post, with a note warning her to “behave” or she would be “defamed”^[2]. Refusing to be silenced, Ismayilova went public with the blackmail attempt. In retaliation, on 14 March 2012, an intimate video of Ismayilova filmed by a hidden camera was posted to the internet^[3].

Ismayilova’s prominence on the internet undoubtedly contributed to the attempt to silence her. She has been hugely outspoken, reporting on corruption in the country, holding government officials to account, and not shying away from the taboo subject of the president: she has persistently embarked on investigations into President Aliyev’s conduct and business matters. In addition to her work as the host of a popular radio programme on Radio Free Europe/Radio Liberty’s Azerbaijani service, she is an active social networker, distributing her reports on Facebook regularly. Ismayilova currently has nearly 2,000 subscribers on Facebook, many of them journalists, civil society and political activists and bloggers focusing on Azerbaijan. The internet has made it possible for Ismayilova’s work to reach a wide audience; she has been a continual thorn in the side of Ilham Aliyev’s government chiefly because of the internet.

These events demonstrate the pivotal role the internet is currently playing in Azerbaijan’s civil society activism, primarily in the capital but also, to a lesser degree, in towns outside Baku. Its role has grown significantly in the last 18 months, increasingly becoming an important means of communication for activists and a vital news source, particularly given the lack of pluralism in the country’s media.

According to the OpenNet Initiative, Azerbaijan’s internet is “largely free from direct censorship”^[4]. There are ever-increasing numbers of internet users, particularly in Baku, and the government has introduced significant initiatives, including bids for investment from the international business community, to boost the telecommunications sector as part of its broader plans to grow its economy and attract business.

Roughly a third of the country - according to some reports, 27 per cent of the population - has access to the internet^[5]. According to one report^[6] there were over 36,000 internet users in

[1] <http://www.eurasianet.org/node/65092>

[2] http://www.rferl.org/content/azerbaijan_ismailova_blackmail_rferl_journalists_threats/24509372.html

[3] <http://www.article19.org/resources.php/resource/2994/en/azerbaijan:-in-solidarity-with-khadija-ismayilova>

[4] <http://opennet.net/research/profiles/Azerbaijan>

[5] http://www.freedomhouse.org/sites/default/files/inline_images/Azerbaijan_FOTN2011.pdf

[6] <http://www.internetworldstats.com/asia/az.htm>

Azerbaijan, with official figures citing over 13,000 domain names registered with the “.az” suffix^[7]. Azerbaijan’s communications minister has stated that broadband internet users comprise 30 per cent of the population. However, about 90 per cent of this access is dial-up access only.

Social networking has become popular with a population facing increasing clampdowns on the rights to freedom of peaceful assembly and freedom of association. One report put the number of Facebook users in Azerbaijan at over 500,000^[8]. The Sing for Democracy campaign’s Facebook page enjoys more than 1,500 supporters; the page, set up in 2011, aims to raise awareness about the dire situation for free expression and human rights in the country ahead of the Eurovision Song Contest, to be hosted in Baku in May 2011. YouTube and Twitter are also becoming increasingly popular in the country.

As media workers and investigative journalists continue to be at significant risk of intimidation and even violence and as independent media finds itself threatened with lawsuits and without advertising revenue, the internet has become one of the most important ways of sharing and distributing information and galvanising support for civil society campaigns and actions. For example, Objectiv.tv has become a reliable resource for news that goes unreported in mainstream media: in recent months, it has regularly reported on property demolitions taking place as part of the process of “beautifying” Baku ahead of the Eurovision Song Contest. Citizen journalism has played an important role in these reports, as footage taken by mobile phones has been used to evidence the destruction caused by the demolitions.

Acutely aware of how journalists, activists and those critical of the government use the internet to ensure their voices are heard, the Azerbaijani authorities are increasingly taking steps to control online content and clamping down on internet activists. As a result, those using the internet to disseminate pro-democracy views that do not coalesce with the official government line have been punished, receiving jail sentences and heavy fines.

Setting a precedent

In 2009, two activists, Emin Milli and Adnan Hajizade, were jailed on charges of hooliganism after posting a satirical video online. This was one in a series of events that demonstrated the government’s absolute intolerance of critical voices, but it also revealed that the authorities were becoming more aware of the internet’s role in campaigning, news distribution and for more widespread sharing of information about violations of human rights and free expression. The severity of their prison sentences - 30 and 24 months - sent a clear message to those using the internet to make their voices heard^[9].

In early 2011, in the wake of widespread protests in the Middle East and North Africa, the government clamped down on activists using social media to organise demonstrations calling for democratic reform, improved human rights and the right to exercise their right to free expression.

[7] <http://www.news.az/articles/tech/56036>

[8] <http://www.news.az/articles/tech/56094>

[9] <http://www.article19.org/data/files/pdfs/publications/free-expression-under-attack.pdf>, pp. 12-13

In addition to harassing and arresting youth involved with organising the demonstrations^[10], police questioned a number of online activists in connection with their Facebook activities. These cases signalled an alarming new strategy on the part of Azerbaijani authorities.

In addition to government pressure, some local state-run television stations also ran campaigns against social network sites, broadcasting interviews with psychologists and internet experts arguing that online activities could have a detrimental effect on Azerbaijan's image and pose a threat to the country's security^[11].

In recent years, it has become almost commonplace for Azerbaijani courts to sentence journalists and activists based on charges not directly related to their work^[12]. This has the effect of distancing journalists and civil society activists from the focus of their work and, more importantly, covering up the authorities' hostility towards critical voices. Internet activists and journalists are no exception and have also been targeted in this way.

The Internet Governance Forum

The government is proud of its work improving the country's internet infrastructure. Having secured its role as host to the seventh Annual Internet Governance Forum (IGF) in early November 2012, the Azerbaijani government undoubtedly sees itself as a prominent figure for technology innovation in the region^[13]. In addition, it also points to the existence of anti-government websites as evidence that free expression is thriving in Azerbaijan, part of what the Azerbaijani ambassador to the UK has called a "remarkably lively media"^[14].

Though supporters of the IGF being hosted in Azerbaijan argue the event could help boost democratisation and allow internet users to build a stronger network, free expression advocates point to the case of Tunisia, which hosted the World Summit on Information Society, a forerunner to the IGF, in 2005, where the situation for activists, journalists and then-opposition politicians actually deteriorated following the conference. The most persuasive argument against the event is quite simply that Azerbaijan is not a democratic country^[15]. Reporters Without Borders have labelled President Ilham Aliyev as a "predator of the internet"^[16].

It is clear that investment in internet infrastructure across the country is in great demand. As the IPGA reported in autumn 2010, the digital divide is wide between rural and urban parts of the population. Regions outside the capital are poorly connected.

[10] See Chapter 5, 'Freedom of expression and freedom of peaceful assembly: mutually reinforcing, mutually limited'

[11] http://www.rferl.org/content/azerbaijan_activist_prison/2330387.html

[12] See Chapter 4, 'Political use of the law to silence freedom of expression'

[13] <http://www.itu.int/plenipotentiary/2010/statements/azerbaijan/mammadov.html>

[14] <http://www.guardian.co.uk/world/2011/may/20/change-azerbaijan-long-before-eurovision>

[15] <http://www.freedomhouse.org/report/freedom-world/2011/azerbaijan>

[16] http://en.rsf.org/spip.php?page=predateur&id_article=37258

According to official statistics for 2010, 36 per cent out of nine million people living in Azerbaijan have access to the internet; of these, only 19 per cent have access to broadband. Most users employ dial-up technology, which often means slow and less reliable service^[17]. Mobile technology is also used, with third generation (3G) technology being introduced to Azerbaijan in 2010^[18]. Until late 2011, 3G was only offered by one provider in the country; a report by Radio Free Europe/Radio Liberty linked the company's majority shareholders to President Aliyev's family^[19]. In 2011, Azercell was issued a licence to provide 3G access.

Access to the internet outside Baku remains extremely limited. Even in Baku, where there is a solid infrastructure in place, the cost of using the internet can be prohibitive. Outside of the capital infrastructure is less reliable and many cannot afford the high subscription price^[20].

Elections and the internet

Due to the growing influence of the internet, as well as to considerably improved access to the medium on a global level, Azerbaijan's parliamentary elections in November 2010 saw the internet play a major role as a powerful campaigning tool for the first time. The ruling party used the internet as part of its campaign; however, its campaign focused primarily on television, most Azerbaijanis' primary source of news and election information, and national and local newspapers. For many opposition politicians, however, the internet was the only available medium for communicating their campaign messages, policies and strategies; the internet was essentially the only arena in which the right to free expression could be fully exercised. Social networking sites and blogs made it possible for disenfranchised sections of Azerbaijani society to engage with alternative perspectives on how society and politics is taking shape in Azerbaijan.

Blocking

There are reports of some websites being blocked for periods of time but for the most part the government has refrained from this type of direct internet censorship^[21]. In March 2010, there were reports that Facebook, Yahoo, G-mail, and the website of the Azerbaijani service of Radio Free Europe/Radio Liberty were all blocked. In addition, the website of opposition newspaper *Azadliq* was blocked during the same time, a move that was thought to be connected to the site's coverage of some of President Aliyev's business deals in Dubai^[22].

A lack of transparency in business and political life in Azerbaijan continues to be of significant concern to human rights and free expression advocates; corruption and undisclosed business policy plagues the internet as it does most aspects of society, severely jeopardising the public's right to

[17] <http://www.internetworldstats.com/asia/az.htm>

[18] <http://www.itu.int/ITU-D/ict/newslog/Azercell+Launches+3G+Services+Azerbaijan.aspx>

[19] http://www.azadliq.az/index.php?option=com_content&view=article&id=7305:azerbaijani-presidents-daughters-tied-to-fast-rising-telecoms-firm&catid=347:meqaleen&Itemid=545

[20] <http://www.easternpartnership.org/community/debate/republic-facebook-vs-republic-azerbaijan>

[21] <http://www.eng.kavkaz-uzel.ru/articles/13149/>

[22] <http://globalvoicesonline.org/2010/03/10/azerbaijan-confusion-over-internet-problems-with-azadliq-site/>

information and accountable government and depriving the country of a healthy business ethos that engenders growth and promotes best practice.

The more popular the internet becomes, the more the online media community fears restrictions might be imposed. There are signs that the government has begun filtering and blocking websites that host content that overtly challenges government policy and promotes democratic reform.

It is clear that in Azerbaijan, those pushing for real change in society - in politics and the health of free speech in the country - are increasingly using the internet to get news, images, information and campaign messages to a wider audience. For average citizens, too, the internet has become an easy way to share information about local events and changes to their communities brought in by a government eager to expand its wealth and develop its impact in the region. But with authorities increasingly aware of how powerful online tools can be, particularly in the wake of the Arab spring, there are signs that tighter restrictions on internet use and content are on the horizon. More importantly, those using the internet are increasingly at risk of imprisonment or even violence. This, as in so many areas of the Azerbaijani media environment, can often lead to a climate of fear and self-censorship.

9. State control of the media

by Dominique Thierry, Media Development Consultant, *World Association of Newspapers and News Publishers*

The control exerted by the Azerbaijani authorities over mass media has been further strengthened since the IPGA's joint mission to the country in September 2010, with less than a handful of outlets now contributing to pluralism in the media.

Harassment and self-censorship

The authorities have continued to exert direct pressure through the imprisonment of journalists and bloggers, thus contributing to an already high level of self-censorship^[1]. In marked contrast to its investigations into cases of allegations against journalists and bloggers, the state is much less swift in investigating cases of media activists and journalists being attacked. In virtually no case of violence against a journalist since the murder of editor Elmar Huseynov in 2005 has there been a serious investigation or prosecution for an attack. While journalists and bloggers remain behind bars in retaliation for their work, those who use violence to silence critical voices walk free^[2].

Such discrepancy in treatment also appears in regulatory warnings: independent ANS TV received a strong warning for broadcasting programmes that may be offensive to minors or contain "erotic and cruel content", while pro-government Lider TV did not receive warnings for broadcasting a sex tape in 2011 as part of a smear campaign against two opposition journalists, Natig Adilov and Gan Tural^[3].

State control over broadcast media

In more subtle ways, the government has strengthened its hold over broadcast media, through regulations, direct ownership or indirect economic control.

The government, especially the presidential administration, controls nearly all broadcast media outlets. Only one television channel, privately owned ANS TV, remains marginally independent. Still, on at least two occasions, ANS TV has had to tone down its independent reporting as it was suspended for 18 days in November 2006 and had to submit to a lengthy tax inspection following its coverage of the 2010 parliamentary elections^[4].

The state budget generously funds both AzTV (provided with 32 million AZN in 2011^[5]) as well as the public television channel, ITV (provided with 16.1 million AZN in 2011), while both continue to generate significant income from advertising. Neither broadcaster has published its accounts, and the introduction of subscription fees for ITV has been postponed until 2014^[6].

The position of general director of AzTV is appointed by Azerbaijan's president. AzTV maintains

[1] See Chapter 4, 'Political use of the law to silence freedom of expression'

[2] See Chapter 3, 'Impunity for violence against journalists'

[3] Institute for Reporters' Freedom and Safety, Press Freedom in Azerbaijan: Six-month report, July 2011

[4] IREX Media Sustainability Index 2011

[5] 1 AZN = 0.80 GBP, 15 March 2012

[6] http://fes.ge/images/Fes_Files/2011-Publ-AM/web_medialandscapes_eng.pdf

a list of banned guests (mostly from the political opposition), while ITV has aired rare opposition broadcasts during elections campaigns. ITV is headed by a council of nine members elected by Parliament from a list compiled by various civil society actors, and is tasked with designating the station's director general. However its powers were reduced in 2009, prompting the resignation of independent media actors from its board.

While their true ownership remains difficult to establish, private broadcasters Lider, Space, Azar and Khazar TV all offer pro-governmental news coverage. As to the 14 regional channels, all but two operate below professional standards.

Biased broadcast regulatory authority

The regulatory authority, Azerbaijan's National Television and Radio Council (NTRC), is fully funded from the state budget and all of its nine members are directly appointed by the president.

The NTRC has demonstrated a clear bias in favour of the state in its approval of broadcast licences: state AzTV won both tenders organised by the council (Idman sports channel and Medeniyyet cultural TV), in clear violation of the broadcast anti-concentration law (Article 15 of the Law on TV and Radio Broadcasting)^[7]. The NTRC is now trying to bring under its control independent web television stations Objektiv and Kanal 13.

In its 10 years of activity, the NTRC has not published once a list of available radio and television frequencies, although it is required to do so once a year. According to the digital broadcasting establishment plan adopted by the Cabinet of Ministers in early 2011, stage one of digitalisation is supposed to take place in 2012 in Baku, Ganja and Nakhchivan, but no new licensing round has been announced for the future available frequencies.

Media rights NGOs have established a watchdog organisation to shadow the NTRC's activities, the Council of Control over the National Broadcaster^[8].

Distorted advertising market

Television gets the lion's share of the advertising market, with over 75 per cent of all revenue (40 million AZN in 2011), a sign of the distortion of the advertising market where in other countries television's share is normally nearer to 55 or 60 per cent^[9].

The Azerbaijani economy is predominantly state-run and hence resources available on the market for media belong to the government. In 2008, 40 per cent of all expenses were paid by the banking sector and 25 per cent by telecom, all in the government's control^[10]. Privately-

[7] Ibid

[8] Project reports IMS – Azerbaijan Media Centre (AMC)

[9] Zenith Optimedia 2011

[10] Quote from AMC Editor's Day, September 2011

owned telecom company Azercell is an exception in placing advertisement in oppositional newspapers.

An estimated 4.3 million AZN goes to newspapers and websites. Opposition newspapers such as *Yeni Musavat* (which has the biggest print run in the country of approximately 10,000 per issue) earn virtually no advertising income. Among the top 10 selling newspapers (subscription and retail), only the state media score well in attracting advertising - a sign that media planning is politically biased.

State ownership of print media

Over 4,200 print media outlets and more than 50 news agencies are registered with the Ministry of Justice. In fact, less than 36 daily, about 100 weekly and over 80 monthly newspapers regularly publish. Eighty regional newspapers are the organs of the local executive powers, publishing a few times per month. Thirty are departmental or industrial publications supported by state agencies and enterprises funding their subscriptions. One-hundred and fifty are national publications concentrated in Baku.

Eighty per cent of newspapers belong to the state, with obligatory subscriptions from government and state institutions, including universities, hospitals, schools and other state agencies, reaching 80 per cent of the print run (3,000 to 6,000 on average).

The state thus maintains outlets with no reach or readership, in an endeavour to drown with a large number of outlets, the remaining handful of independent or oppositional newspapers. Among them is the *Yeni Musavat* oppositional paper, the voice of the Musavat party, and *Azadliq* - the Popular Front party's organ. Popular independent newspapers *Zerkalo* and Russian-language *Ekho* are facing tremendous financial difficulties. In the context of increased competition from online media and the ongoing financial crisis, the overall drop in circulation is about 30 per cent since 2009, with further pressure from an undeveloped sales network^[11].

Obstacles to print media sales

Forty-two per cent of the population has no access to press kiosks with, on average, one retail stand for 11,250 inhabitants. Over 70 per cent of the distribution has fallen under government control with two companies, Azermetbuatyayim in the regions, and Gasid in Baku and Sumgayit, distributing mostly pro-government papers^[12]. The private distributor Qaya had all of its kiosks confiscated and not returned despite a 2005 presidential decree ordering their restoration.

In Baku, the number of kiosks has been further reduced with the installation of new standardised luxurious kiosks with shorter opening hours in order to further limit citizens' access to newspapers and dominant non-media sales. Oppositional and independent newspapers have to rely on street vendors to sell their copies with ever-increasing barriers resulting in fewer sales. For example, so far in 2012, *Yeni Musavat* has reported drops of 1,500

[11] NAJAF NAJAFOV ENLIGHTENMENT AND CHARITY FOUNDATION report 2012

[12] <http://www.wan-press.org/pfreedom/articles.php?id=5168>, WAN-IFRA Press Freedom Mission to Azerbaijan, 22 to 24 September 2009

copies for each issue with a print run at 10,000.

State subsidies buying loyalty

Since 2005, state subsidies have been put in place and have contributed to distorting the market; 30 newspapers receive less than 2,000 AZN each. In 2008, 38 print media outlets received 5,000 AZN each, while in 2009, 39 newspapers received 10,000 AZN each.

In 2009, the State Fund for State Support to Mass Media was established with a budget of 1.3 million AZN and a further two million AZN in 2010. In July 2010, on the occasion of the 135th anniversary of the Azerbaijan's press, large cash awards were handed over to journalists along with medals and gifts. A presidential decree also granted the fund of five million AZN to build a residential complex for journalists, thus adding the possibility of exerting direct pressure on the private lives of journalists forced into obedience in order to keep their homes^[13].

In 2011, 2.4 million AZN was awarded to the State Fund and up to two instalments of 20,000 AZN have been paid per outlet.

The originally positive idea of financially supporting media development was distorted as the fund turned into a loyalty-buying machine. The state funds have been used to provide life support to state media rather than helping to create a fair and open market.

Self-regulation discredited

Created in March 2003 as a membership-based, self-regulatory body, the National Press Council monitors violations of the Ethical Code and published last year a blacklist of 100 media so corrupted that they are described as “racketeer journalists blackmailing citizens and companies” to extort cash. This list provides the government with an argument supporting the retention of criminal libel provisions, but at the same time, the Council, with the support of the OSCE, introduced in Parliament a draft law decriminalising libel.

In its nine years of existence, the National Press Council lost its influence as independent media grew weaker and membership decreased. In 2011, the Council tried to acquire more discretionary powers enabling it to suspend a publication in the case of a violation of the Ethical Code. But it further discredited itself as its president is also the head of the Azerbaijan Committee to Protect Journalists (no connection to the New York-based organisation). In late December 2010, the Committee designated President Aliyev as a “Friend of the Journalists”, prompting the previous winner, the leader of the opposition, to send back his award.

Restriction on internet access

The state holds a monopoly on internet-access provision and as a result, the country counts a

[13] http://fes.ge/images/Fes_Files/2011-Publ-AM/web_medialandscapes_eng.pdf

mere 2,420,000 users of a population of over nine million.

State-run Delta Telecom still maintains a monopoly on internet provision with 30 local providers. Delta is preventing larger capacity and faster speed while maintaining high subscription rates. In mid-2010, NGO action helped cut rates by half, but prices still remain much higher than in the regions and quality has dropped^[14].

The reduction in capacity and quality access is an obstacle to the development of online services, the last area of real independent freedom. The last true independent news agency, *Turan*, is online, up to 10 web TV and radio stations are online and the internet remains the only place to get the truth about events.

Furthermore, besides harassment of bloggers, several sites such as those of *Azadliq* newspaper and radio sites have been subjected to cyber-attacks initiated from within the country^[15].

[14] IREX Media Sustainability Index 2011

[15] See Chapter 8, 'Freedom of expression online'

10. Ethics, professionalism and self-regulation of the media

by Adrien Collin, Project Officer, *International Federation of Journalists*^[1]

Code of Ethics

In September 2010, an amended version of the Code of Ethics for Azerbaijani Journalists was launched by the OSCE Office in cooperation with the Azerbaijan Press Council^[2].

The new document focuses on four principles: to serve the truth, accuracy and objectivity; to approach information sources respectfully; to protect honour, dignity and personal immunity; and to protect the reputations of journalists and their organisations.

Fifteen months after its launch the main ethical problems remain in the Azerbaijani media. Despite efforts to publicise the code, its principles are unlikely to become more than guidelines, unless greater resources can be invested into monitoring, education and training.

The Press Council plays a strategic role with respect to the code. It set up a complaints commission years ago but today regrettably the commission works behind closed doors and refuses to publish its deliberations. This lack of transparency does serious damage to its credibility, further reducing public trust and confidence in the Press Council as a self-regulatory body. The political influence at play in the media and within the Press Council itself has further tarnished its image with many journalists and media organisations, who see it very much as a tool of government control.

The Press Council has also engaged in blacklisting media organisations which do not follow the new code, creating further discord between the self-regulatory body and the profession itself. The blacklisting of media organisations is seen as a way to limit freedom of expression. However, the Press Council is still considered by many to be the best means of regulating the profession, on the condition that major changes are implemented to re-establish its credibility.

Professionalism of the media

Professionalism and ethics remain a major challenge for Azerbaijani media. Significantly, despite the problems with the Press Council, most interviewees acknowledged an overall improvement in ethical standards and professional behaviour over the years, which they attributed to the numerous trainings delivered to journalists. A general public demanding a better quality of journalism was also highlighted as a major drive for future change.

Even though progress has been made, journalists still do not enjoy the necessary freedom to exercise responsibility. A high level of political and managerial interference remains a major feature of Azerbaijani journalism, further dragging down the overall quality of journalism in the country.

Journalists and editors are too close to their political sponsors, whether the government or opposition political parties. Many do not consider the fact that, regardless of the media outlet for which they work, they face similar forms of constraints in their journalistic activities. This is as true for many opposition media as it is for pro-government media.

[1] This chapter is based on information gathered by the International Federation of Journalists under its on-going project, 'Ethical Journalism Initiative Azerbaijan'

[2] <http://www.osce.org/baku/72214>

It is essential for professional journalists to be seen as independent and objective reporters of the truth, not attached to a particular political interest.

There is a lack of editorial independence and professional standards in the media which is needed to benefit public engagement in political debate. This would strengthen democratic processes and provide the public and government officials with the information necessary to conduct informed public debate on relevant policies.

Working conditions

In addition to the intense level of political interference in the daily work of journalists, the appalling conditions in which many journalists are forced to work are a root cause of poor ethical standards. Since the IPGA's mission to Azerbaijan in September 2010, little progress has been made in addressing the difficult labour conditions faced by journalists. Renewed efforts carried out by journalists' unions to pressure employers to issue proper contracts have had limited impact. While contracts may exist, journalists often are paid the official minimum wage while receiving supplements to their salaries in cash, thereby enabling the employer to avoid paying taxes.

Employers often top up their employees' salaries through brown-envelope payments. This is also widely used as a means to pressure journalists into writing about certain issues fitting political agendas. The undeclared payments are an effective way of undermining independence and ethical standards as journalists are dependent on their editors and their decisions. From the journalist's point of view, going against an editor's decision can have a direct impact on their monthly income.

Unions and employers should do more to end these practices, which create a corrupting environment for the profession. The Labour Ministry's failure to uphold the labour law means thousands of journalists will retire with very low pensions.

It is not possible to expect high professional and ethical standards to develop while journalists are required to operate with low and uncertain salaries and without employment stability. When journalists can be hired and fired at will, they are not in the position to demand respect for their professional independence.

Professionalism is closely linked with an improving financial situation for independent and opposition media. Many independent and opposition media outlets in Azerbaijan are financially unsustainable. This is primarily due to pressure by the authorities on advertisers, as well as advertisers' fear of retaliation, which has resulted in very low advertising revenues for these outlets. Other reasons for financial constraints are the small advertising market and low circulation figures for print media. No progress has been noted in these areas.

Need for reform

The journalists' community in Azerbaijan has stated that it is only through industry-driven initiatives that engage all sides of the media that the necessary reform and development of professional journalism will take place.

For this to happen, a cross-industry working group should be formed which would be charged with media reforms in the country. The working group should involve all sectors of the industry: the employers, editors, journalists, their unions, media NGOs and the Press Council. This body should set out the strategy for long-term media reform including guidelines on editorial independence and editorial statutes, self-regulatory instruments, pluralist and structured media ownership, as well as working conditions in line with international standards.

11. Azerbaijan's image problem

by Mike Harris, Head of Advocacy, *Index On Censorship*

The government of Azerbaijan and its affiliates work hard to present the country as a modern, outward looking state with investment opportunities for multinational corporations. According to internet magazine Contact, in 2011 the government's budget for promoting Azerbaijan rose to AZN 30,000,000^[1]. This is likely to be an underestimate as regime affiliates such as Kamaladdin Heydarov, one of the country's richest individuals, sponsor state-promoting organisations such as The European Azerbaijan Society ("TEAS").

The government of Azerbaijan works particularly hard to influence opinion at the Parliamentary Assembly of the Council of Europe (PACE), the political branch of the Council of Europe (COE). Considering the importance of its role as a bridge between states of the former Soviet Union and the European Union, the lack of rules governing the behaviour and ethics of its parliamentary members raises cause for concern. For instance there is no declaration of members' interests; members only need to declare an interest orally in a debate and only four of the 47 European member states have legal restrictions on lobbying. The former Chair of PACE's Political Affairs Committee, Goran Lindblad, is one such lobbyist. Formally co-rapporteur on Armenia, after losing his Swedish seat in the parliamentary elections, he was hired as a "contract lobbyist" for TEAS. The Armenians described the decision as a "disgrace". Lindblad continued to use his PACE pass to enter the building and even turned up to one political group dinner whilst paid by TEAS alongside his old colleagues. His influence is notable^[2].

Another former PACE delegate from Germany, Eduard Lintner, between 2002 and 2005 the Chair of PACE's Committee on Legal Affairs and Human Rights and a member of PACE's Committee on Honouring Obligations and Commitments by Member States, also became a lobbyist for Azerbaijani interests. His important role in COE reports on the human rights situation in Azerbaijan made him a perfect hire for the Berlin-based Society for the Promotion of German-Azerbaijani Relations, a lobbying group funded by Azerbaijan. According to Der Spiegel, Lintner stood down from the committee as members were too rigorous in denouncing human rights violations whilst he preferred to "usher [Azerbaijan] along in a supportive way"^[3]. Human rights groups and coalitions including the IPGA have faced obstacles in raising the behaviour of Azerbaijan in debates and in attempting to use PACE to hold Azerbaijan accountable for upholding its human rights obligations.

Azerbaijan's influence within the COE gives it the space to flaunt the rules. Christoph Strässer, a German PACE delegate who is the Special Rapporteur tasked with examining the situation of political prisoners in Azerbaijan, has been refused a visa to conduct a fact-finding mission to Azerbaijan^[4]. This refusal has angered German parliamentarians to the extent that the Bundestag's Committee on Human Rights and Humanitarian Aid drafted a resolution demanding Strässer be granted a visa. Such is the influence of the government of Azerbaijan in Germany (see below) that the draft resolution was leaked to the country's ambassador^[5].

[1] <http://www.contact.az/docs/2011/Social/122113200en.htm>

[2] Private Eye, 'Council of Despair', 16 August 2011

[3] <http://www.spiegel.de/international/world/0,1518,806769,00.html>

[4] See Chapter 4, 'Political use of the law to silence freedom of expression'

[5] <http://www.spiegel.de/international/world/0,1518,806769,00.html>

The European Azerbaijan Society

The London-based TEAS is one of the slickest and most well-funded lobbying operations anywhere in Europe. The President of TEAS is Taleh Heydarov, the son of Kamaladdin Heydarov, described in a US embassy cable leaked by Wikileaks as possibly 'more powerful than the president himself... Heydarov controls more visible assets and wealth within the country than the president'^[6]. The leaked cable explains how Heydarov built his power network (from his position as Chairman of the State Customs Committee, and his current position as Minister of Emergency Situations) which includes a paramilitary unit with anti-aircraft battery, a unit of building inspectors that can stop any construction project in the country they deem to be "unsafe", and a family Airbus A319 corporate jet. The Wikileaks cable goes on to outline the structure of the company: "Many of the family's operations are part of the 'Gilan', 'Qabala'... or 'United Enterprises International' family of companies", which are involved in construction, tourism, banking and have monopoly control of the juice drinks market. All of these companies are registered at the same address as TEAS, and TEAS is described as an "affiliate" of United Enterprises International.

With Azerbaijan's notoriously poor human rights record, British MPs ought to be concerned about the propriety of any organisation lobbying and taking MPs on "fact-finding missions". Yet, Mark Field MP has taken two trips from TEAS worth GBP 6,000. In May 2011, he was joined on one delegation by Bob Blackman MP, Stephen Hammond MP, and former Sports Minister, Labour's Gerry Sutcliffe MP at a cost to TEAS of GBP 3,500 per parliamentarian. Mark Field has also been "advising" TEAS on cultural, economic, diplomatic and political issues in the South Caucasus region, charging GBP 166 per hour. Field managed 122 words on his personal website about how he divided his Sky Digital package between his allowances as an MP and his personal pocket – but not a single word on his contract with TEAS, which he estimated would be worth GBP 5,000-10,000 in 2012 alone^[7].

At the end of 2011, a parliamentary Early Day Motion was tabled in the UK House of Commons congratulating Azerbaijan on the 20th anniversary of its independence from the Soviet Union^[8]. All bar one of the primary sponsors of the motion had received paid-for trips to Azerbaijan from TEAS. Taleh Heydarov enjoys a position of influence within the UK. In 2009, he was introduced to Princes William and Harry at the Beaufort Polo Club in Gloucestershire. TEAS itself employs influential staffers from the British political establishment. One of TEAS' chief lobbyists, Lionel Zetter, is the former Managing Director of Parliamentary Monitoring Services and the author of a series of profiles on every elected parliamentarian^[9].

[6] <http://www.guardian.co.uk/world/us-embassy-cables-documents/250614>

[7] <http://www.markfieldmp.com/>

[8] <http://www.parliament.uk/business/publications/business-papers/commons/early-day-motions/edm-detail1/?session=2010-12&ednumber=2204>

[9] <http://www.telegraph.co.uk/news/worldnews/wikileaks/8299344/WikiLeaks-William-Harry-and-the-Abramovich-of-Azerbaijan.html>

Germany

There is also a significant lobbying operation by Azerbaijan in Germany. The government has hired the Berlin-based Consultum Communications public relations agency^[10]. The Director of Consultum, Hans-Erich Bilges is a former editor of *Bild*, Germany's highest circulation newspaper. His firm has also advised the authoritarian governments of Belarus and Kazakhstan.

On 29 September 2011, a German gala to celebrate Azerbaijan's 20th year of independence was held at the Berlin's German Historical Museum and attended by luminaries of the political scene including the wife of the then-President of Germany Christian Wulff, former Foreign Minister Hans-Dietrich Genscher (1982-1992) and former Economics Minister Michael Glos (2005-2009). The latter, Genscher and Glos, are board members of Consultum.

"I wouldn't have gone (to the event)," said Markus Löning, the German government's human rights commissioner. German MP Marina Schuster agreed: "Azerbaijan's behaviour here borders on brazenness. This kind of lobbying work goes far beyond what is acceptable"^[11].

The government of Azerbaijan mirrors the activities of TEAS in inviting German parliamentarians to visit the country on trips described as "pseudo-academic" by Viola von Cramon, a German MP. In September 2011, a group of German politicians including Karl-Georg Wellmann and Stefan Liebich visited Azerbaijan enjoying business-class plane seats, lodging in a luxury hotel, a gala dinner and a speech delivered by President Aliyev^[12].

The propaganda campaign extends to the publication of a fashion-arts magazine, *Baku*. *Baku* is edited by Leyla Aliyeva, the eldest daughter of the President of Azerbaijan and published by Conde Nast. The magazine has an initial print run of 20,000 and is distributed in premier locations across the UK, France and the US^[13]. The magazine has been so generously funded it even has its own font^[14]. With adverts from luxury brands Tiffany & Co, Dior and Bulgari (all of which have outlets in Azerbaijan), and articles on graffiti artists and edgy culture, the magazine gives the strong impression of a pluralistic Azerbaijan comfortable with Western values.

Azerbaijan devotes considerable effort and resource to airbrush over its human rights violations. It has lobbied hard at the COE and at national government level to persuade parliamentarians that the lack of a free media or its political prisoners are not worthy of special attention – or can be justified in the context of the ongoing Nagorno-Karabakh conflict. This distortion of the truth makes the work of human rights defenders all the more difficult; but by highlighting the methods of the government and its supporters, civil society can fight back more effectively.

[10] <http://www.handelsblatt.com/politik/international/auf-investorensuche-oh-wie-schoen-ist-aserbaidshan/6125260.html>

[11] <http://www.spiegel.de/international/world/0,1518,806769,00.html>

[12] Ibid

[13] <http://www.mediaweek.co.uk/news/1077517/CondE-Nast-publish-international-edition-Baku-magazine/>

[14] <http://www.swisstypefaces.com/type-services/exclusive-typefaces/baku-international/>

12. Conclusion

As a result of the trends examined in this report, the gap between Azerbaijan's international freedom of expression obligations and the protection of this right in practice is vast. Equally massive is the gap between the slick image being promoted by the government and the on-ground reality in the country. As it becomes more and more difficult to reconcile these two pictures of very different Azerbaijan, it is no longer feasible for international actors with interests in Azerbaijan to ignore what is really happening in the country.

One question that often comes up in discussions with Azerbaijani journalists, human rights defenders and political activists is: what will happen after Eurovision? Those working to tell the truth about Azerbaijan in this brief period of international media scrutiny fear reprisal when this international attention has gone. This is a valid concern as some of these individuals have already begun to be targeted by the authorities.

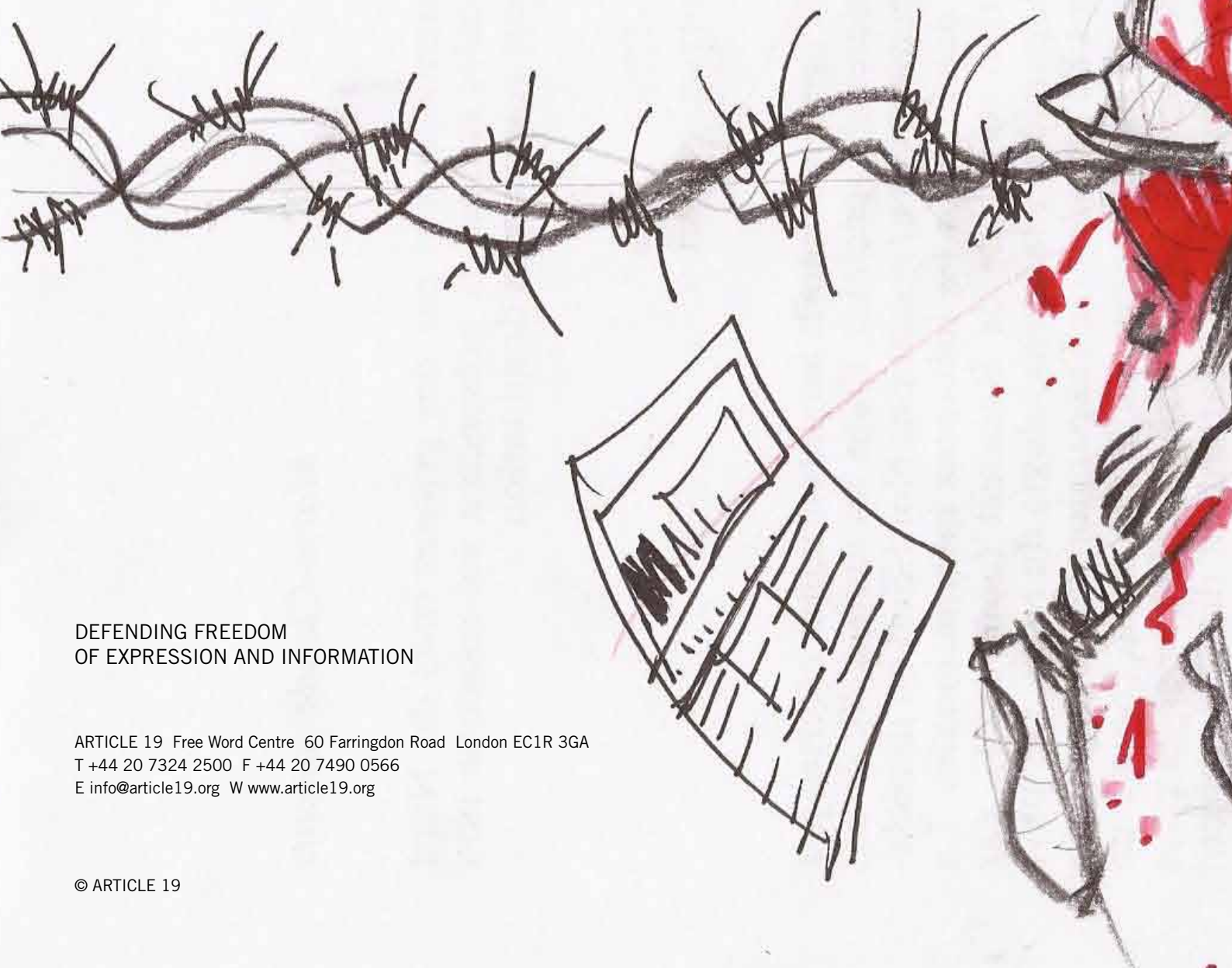
The IPGA hopes that this report will prompt the international community to redouble efforts to monitor the freedom of expression situation in Azerbaijan and hold the authorities accountable for their actions – both immediately and in the long-term. Without sustained attention to the issues raised in this report and support for independent voices in Azerbaijan, the truth will become an increasingly rare commodity indeed.

Appendix 1: list of acronyms used in this report

AZN	Azerbaijani New Manat
COE	Council of Europe
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EMC	Election Monitoring Center
EMDS	Election Monitoring and Democracy Studies Center
GBP	British Pound
ICCPR	International Covenant on Civil and Political Rights
IGF	Internet Governance Forum
IPGA	International Partnership Group for Azerbaijan
IRFS	Institute for Reporters' Freedom and Safety
MRI	Media Rights Institute

NGO	Non-governmental organisation
ODIHR	Office for Democratic Institutions and Human Rights
OSCE	Organization for Security and Co-Operation in Europe
PACE	Parliamentary Assembly of the Council of Europe
MP	Member of Parliament
RFE/RL	Radio Free Europe/Radio Liberty
RTI	Right to access information
SOCAR	State Oil Company of Azerbaijan
TEAS	The European Azerbaijan Society
UDHR	Universal Declaration of Human Rights
UN	United Nations

Mübarizə davam edir ...



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