



ARTICLE 19

GLOBAL CAMPAIGN FOR FREE EXPRESSION

Living as Dissidents

Freedom of expression
in Azerbaijan

September 2010

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ARTICLE 19

GLOBAL CAMPAIGN FOR FREE EXPRESSION

ARTICLE 19
Free Word Centre
60 Farringdon Road
London EC1R 3GA
United Kingdom
Tel: +44 20 7324 2500
Fax: +44 20 7490 0566
E-mail: info@article19.org

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Executive Summary

Since the November 2005 parliamentary elections, the freedom of expression situation in Azerbaijan has significantly deteriorated. The Azerbaijani authorities have continuously limited the freedom of expression of journalists, civil society activists, youth activists, political party activists, and ordinary citizens. Over the past five years, the Azerbaijani authorities have demonstrated intolerance to any form of criticism. Journalists have been imprisoned and attacked for their work, NGOs have faced a growing number of legal restrictions, and political parties have been prevented from carrying out even routine party activities. Self-censorship has become pervasive in Azerbaijani society, with few individuals now willing to undertake the risks associated with publicly criticising the government or individual public officials. Many civil society and political activists feel that they are living again as dissidents, as they did under the Soviet system.

In this report, ARTICLE 19 examines the freedom of expression situation from the period surrounding the 2005 parliamentary elections to the present, ahead of the November 2010 parliamentary elections. ARTICLE 19 has included in this report a special focus on freedom of political expression as this is of particular concern in Azerbaijan. In doing so, ARTICLE 19 hopes to encourage the international community to broaden its perspective on freedom of expression in Azerbaijan, as the current focus is largely on media issues.

In the report, ARTICLE 19 outlines key international standards for freedom of expression to which Azerbaijan has committed, including selected statements and decisions by international bodies underscoring the need for the Azerbaijani government to comply with its international commitments to freedom of expression. ARTICLE 19 also provides an overview of the relevant domestic legal framework for freedom of expression in Azerbaijan.

ARTICLE 19 then turns to examining the trends contributing to the poor freedom of expression climate in Azerbaijan. Many of the causes of this alarming state of affairs are attributable directly to actions taken by the Azerbaijani authorities to restrict freedom of expression. These include:

- Use of criminal defamation provisions to imprison journalists;
- Restrictive use of civil defamation provisions against independent and opposition newspapers;
- Restrictive use of the Law on State Registration of Legal Entities to deny or suspend the registration of NGOs working on democracy and human rights issues;
- Misuse of criminal law for political purposes, including the imprisonment of government critics on charges such as coup-plotting, hooliganism, and drug possession;
- Violence against journalists;
- Harassment, intimidation, and persecution of government critics, including civil society and political activists;
- State control of the broadcast media;
- Pressure on the print media; and
- Barriers to access to information.

To illustrate these trends, ARTICLE 19 has provided more detailed information on selected cases which have had a particularly negative and lasting impact on freedom of expression in Azerbaijan. These include cases of torture and other physical attacks; arrests and imprisonments on a wide range of politically motivated charges; slander; and restrictions on individuals' freedom of movement. Many of these cases are ongoing and if unaddressed, will impact the freedom of expression climate during the November 2010 parliamentary elections.

As evidenced by the trends and cases examined in this report, the current state of freedom of expression in Azerbaijan is alarming. The freedom of expression situation should be considered among the most pressing human rights concerns in Azerbaijan and requires urgent and immediate attention by the Azerbaijani government and by the international community.

Recommendations

Based on the findings of this report, ARTICLE 19 has developed a number of recommendations which should be implemented to improve the freedom of expression situation in Azerbaijan.

ARTICLE 19 urges the Azerbaijani government:

- To fully comply with its international commitments to respect and protect freedom of expression and implement the recommendations made by expert bodies in relation to these commitments, including the Universal Periodic Review and the Human Rights Committee;
- To bring all legislation into compliance with international standards for freedom of expression, including through decriminalising defamation;
- To fully execute European Court of Human Rights judgments pertaining to freedom of expression violations, including in the case of *Fatullayev v. Azerbaijan*;
- To immediately release those currently imprisoned in connection with expressing critical opinions, including Ruslan Bashirli, Eynulla Fatullayev, Emin Abdullayev, and Adnan Hajizade;
- To cease the imprisonment of persons for political reasons;
- To conduct effective, independent and prompt investigations into all cases of violence and ill-treatment against journalists, prosecute those responsible, and compensate the victims, including in the unsolved 2005 murder of Elmar Huseynov;
- To conduct effective, independent and prompt investigations into all threats made against journalists and their families and provide adequate protection to ensure their safety;
- To cease its practices of harassment, intimidation, and persecution of those who express critical opinions, including journalists, civil society activists, youth activists, and political party activists;
- To cease its targeting of opposition political parties and youth movements and allow them to function in a normal manner consistent with their rights to freedom of expression, assembly, and association;
- To cease restrictions on the freedom of movement of opposition political activists;
- To ensure that legislation pertaining to the registration and activities of NGOs is implemented in a manner which promotes a vibrant and independent civil society;
- To cease its use of the registration law to limit the ability to operate of NGOs working on democracy and human rights issues, including the Election Monitoring and Democracy Studies Center;
- To enact measures to create and promote an enabling environment for free, independent and diverse media, including by establishing a fully independent National Television and Radio Council and a fully independent and objective public television station;
- To reverse its ban on foreign broadcasters from accessing national television and radio frequencies;
- To cease its targeting of independent and opposition newspapers, including by ceasing the excessive use of civil defamation lawsuits against these newspapers;
- To take immediate, concrete steps to create an environment conducive to freedom of expression ahead of the November 2010 parliamentary elections.

ARTICLE 19 urges the international community:

- To prioritise freedom of expression as a pressing issue in Azerbaijan;
- To continue monitoring and reacting to freedom of expression violations in Azerbaijan, both publically and in bilateral dialogues with the Azerbaijani government;
- To encourage increased international media coverage of the freedom of expression situation in Azerbaijan;
- To recognise cases of violations of freedom of political expression as such and to raise these cases in dialogues with the Azerbaijani government;
- To exert greater pressure on the Azerbaijani government to live up to its international commitments to freedom of expression, including by implementing the recommendations of the United Nations Universal Periodic Review and Human Rights Committee, and fully executing European Court of Human Rights judgments;
- To increase support to civil society organisations working to promote and protect freedom of expression in Azerbaijan;
- To increase support to independent media structures in Azerbaijan;
- To increase support to the development of new media technologies in Azerbaijan; and
- To include serious consideration of the long-term freedom of expression environment in assessments of the conduct of Azerbaijan's November 2010 parliamentary elections.

1. Introduction

The right to freedom of expression is a fundamental human right enshrined in international human rights law which is a necessary component of democratic society and is critical to the realisation of many other fundamental human rights. It is an empowering right which allows for the free exchange of information and opinions, open debate about political choices, and public scrutiny of government actions.

Through its membership in the United Nations, the Council of Europe, and the Organization for Security and Co-operation in Europe, and through its accession to major international and regional human rights treaties, Azerbaijan is committed to respect and protect the right to freedom of expression. However, in practice there are many obstacles preventing the full exercise of freedom of expression in Azerbaijan, which call into question the Azerbaijani government's seriousness about these commitments.

Indeed, the current state of freedom of expression in Azerbaijan is cause for alarm, and is among the most serious human rights concerns in the country at present. This situation has deteriorated sharply over the past five years, and unless a number of immediate, concrete steps are taken to address these problems, this trend seems destined to continue and perhaps worsen. ARTICLE 19's recommendations in this regard are included in the *Conclusions* section in Chapter 6 of this report.

The timing of this report is intended to draw attention to the freedom of expression situation in Azerbaijan ahead of its upcoming parliamentary elections, slated for 7 November 2010, as freedom of expression was a particular concern in the period surrounding the last parliamentary elections in November 2005. This report examines how the freedom of expression climate has changed during the five-year election-to-election period, focusing on specific trends and cases of concern, including some ongoing cases from 2005 and 2006 which have now largely been forgotten by the international community.

To date, many expert reports on freedom of expression in Azerbaijan have largely focused on the media situation in Azerbaijan. The nature of freedom of expression as defined in international law, however, is much broader. The ability of *all* persons to freely express their opinions is critical to a democratic society. In Azerbaijan, many instances of actions taken by the authorities to limit individuals' ability to exercise their right to freedom of expression have been on the basis of those persons' political opinions or affiliations. For that reason, this report dedicates a particular focus to freedom of political expression.

Many of the cases of violations of freedom of political expression which are included in this report will be familiar to those working on human rights in Azerbaijan. What is new, however, is ARTICLE 19's categorisation of these cases as freedom of expression violations. It is far too easy for those working on these issues to consider these cases as political issues and dedicate their attention instead to more obvious freedom of expression violations, such as cases of imprisonment of journalists. While such cases are also important to address - which is why they have also been included in this report - ARTICLE 19 believes that cases of violations of freedom of political expression merit international attention as such.

Discourse is an important tool in the international community's efforts to encourage governments to comply with their human rights commitments, and the labels given to certain

types of violations have enormous implications for how they are addressed. Motive is an important consideration in this regard. Cases of imprisonment of journalists in Azerbaijan for charges not immediately connected to their work, such as hooliganism, are normally widely considered by the international community to be freedom of expression violations. ARTICLE 19 believes that the same motive-based consideration should be uniformly applied to all such violations, not only those of journalists. For example, ARTICLE 19 believes that the continued refusal by the Azerbaijani government to issue a passport to the head of one of the leading opposition parties is intended to restrict his ability to freely express his political opinions, and should therefore be considered as directly linked to his right to freedom of expression.

ARTICLE 19 hopes that this report will initiate an international dialogue on the freedom of expression situation in Azerbaijan from a broader perspective, including trends and cases pertaining to freedom of political expression. These concerns are tightly interwoven with other fundamental human rights, including the rights to equality, freedom of assembly, and freedom of association. These rights, and many others, are necessarily underpinned by freedom of expression, as without freedom of expression, these rights become meaningless. ARTICLE 19 also hopes that this report will be used by the Azerbaijani authorities to improve the freedom of expression climate in the country by addressing the many trends of concern and individual cases of violations listed in the report.

Structure of the Report

The Executive Summary precedes this introduction, followed by ARTICLE 19's recommendations to the Azerbaijani government and the international community regarding steps which should be taken to improve the freedom of expression situation in Azerbaijan. Following this introduction, Chapter 2 provides an explanation of the research methodology used in the preparation of this report. Chapter 3 contains an outline of the international freedom of expression standards to which Azerbaijan has committed. It also provides an overview of the key decisions and recommendations made by international expert bodies and special mandates regarding the freedom of expression situation in Azerbaijan over the past five years. In Chapter 4, ARTICLE 19 provides an overview of the domestic legislative framework for freedom of expression in Azerbaijan. Chapter 5 contains an analysis of freedom of expression trends of concern from the past five years, including some of the most serious cases of freedom of expression violations. Chapter 6 contains ARTICLE 19's conclusions.

2. Methodology

The findings of this report are based on ARTICLE 19's experience, with support from its local partners, the Yeni Nesil Journalists' Union and the Media Rights Institute, in carrying out a project in Azerbaijan from March 2009 to September 2010 entitled "Enhancing Freedom of Expression and Media Capacity in Azerbaijan".

The legal and political analyses of Azerbaijan's freedom of expression situation for this report were conducted by ARTICLE 19's staff, with valuable input provided by ARTICLE 19's local partners. Where appropriate, the report also contains the statements and analyses of other experts on freedom of expression in Azerbaijan.

Specific research for this report included legal analysis of relevant international human rights instruments and Azerbaijan's domestic legislation, and qualitative analysis of relevant reports by local and international experts and bodies and local and international media coverage of relevant events in Azerbaijan. In addition, ARTICLE 19 undertook a one-week fact-finding mission to Baku in July 2010, during which time it conducted a series of in-depth interviews for the report. The interviewees included journalists, civil society activists, political analysts, and representatives of political parties. With the exception of one member of the Council of State Support to NGOs who did grant ARTICLE 19 an interview, relevant government officials were not available for interview during the research mission.

Interviewees did not receive any material compensation in return for participating in the research. They were informed of the purpose of the interview, its voluntary nature, and how the information would be used. To protect the privacy of interviewees and to prevent acts of retaliation against them, interviewees have been identified by name in the report only where considered necessary to support a specific claim.

3. International Human Rights Framework on Freedom of Expression

Freedom of expression is a fundamental right guaranteed in international human rights law which is a precondition for the realisation of many other fundamental human rights. Freedom of expression empowers individuals to speak their minds. It is necessary to a democratic society as it allows for the free exchange of information and opinions, open debate about political choices, and public scrutiny of government actions. It empowers individuals to speak their minds.

In this chapter, ARTICLE 19 provides an overview of the key international freedom of expression standards to which Azerbaijan has committed. ARTICLE 19 has also included some of the most significant statements and decisions of these international bodies from the past five years, which underscore serious concerns about the freedom of expression situation in Azerbaijan and illustrate the serious need for the Azerbaijani Government to comply with its international commitments to respect and protect freedom of expression.

Through the instruments outlined below, Azerbaijan is committed to protect and respect the right to freedom of expression. According to Article 151 of the Azerbaijani Constitution, in cases of discrepancy between domestic law and the international treaties which Azerbaijan has ratified, international law takes precedence.¹

United Nations

The *Universal Declaration of Human Rights* (UDHR) first set out the right to freedom of expression in Article 19, which stipulates:

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.²

While the UDHR is not a binding treaty, the right to freedom of expression as defined in Article 19 is widely recognised as a rule of customary international law, meaning it has become binding on all States.

The UDHR also provides for the right to peaceful assembly and association in Article 20. In Article 2, it states that all persons are entitled to the rights guaranteed in the UDHR without distinction of any kind, including on the basis of political opinion.

Article 19 of the *International Covenant on Civil and Political Rights* (ICCPR) elaborates upon this definition in the following terms:

1. Everyone shall have the right to hold opinions without interference.

¹ Constitution of the Republic of Azerbaijan, adopted on 12 November 1995, last amended by constitutional referendum on 18 March 2009.

² UN General Assembly Resolution 217A(III), adopted 10 December 1948.

2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others;

(b) For the protection of national security or of public order (ordre public), or of public health or morals.³

The ICCPR also elaborates on the right to peaceful assembly and association in Articles 21 and 22. Article 2 contains similar language to the UDHR guaranteeing all rights to all persons without distinction of any kind.

Azerbaijan ratified the ICCPR in 1992⁴ and is therefore bound to its provisions. In 2001, Azerbaijan ratified the first Optional Protocol to the ICCPR,⁵ which gives the UN Human Rights Committee jurisdiction to receive and hear complaints from individuals regarding violations of the ICCPR by States Parties.⁶

Over the last five years, freedom of expression has been of concern to both UN Charter and treaty-based bodies reviewing the compliance of Azerbaijan with its international obligations. Azerbaijan was subject to its first Universal Periodic Review by the UN Human Rights Council in February 2009. Out of a total of 32 recommendations issued by the Working Group on the Universal Periodic Review, four were directly related to freedom of expression. These included recommendations to the Azerbaijani government to revise criminal defamation legislation; to cease pressure against journalists; to investigate and prosecute cases of harassment and violence against journalists; to release persons imprisoned for political reasons; to allow international broadcasters to renew their television and radio broadcast licenses; and generally to enact measures to ensure full respect for freedom of expression and to encourage a diverse and independent media.⁷

In July 2009, the UN Human Rights Committee (the Committee) reviewed Azerbaijan's implementation of its ICCPR commitments.⁸ The Committee noted its strong concern regarding limitations to freedom of expression, including harassments and lawsuits against journalists and killings and beatings of journalists. The Committee included a specific recommendation on freedom of expression in its recommendations to the Azerbaijani government:

The Committee urges the State party to take the necessary measures to put an end to direct and indirect restrictions on freedom of expression. Legislation on defamation should be brought into line with article 19 by ensuring a proper balance between the protection of a person's reputation

³ UN General Assembly Resolution 2200A(XXI), adopted 16 December 1966, entered into force 23 March 1976.

⁴ Adopted by Decision No. 227 of the Azerbaijani Parliament, 21 July 1992.

⁵ Adopted by Decision No. 162-IIQ of the Azerbaijani Parliament, 29 June 2001.

⁶ *Optional Protocol to the International Covenant on Civil and Political Rights*, adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI), 16 December 1966, entered into force 23 March 1976.

⁷ United Nations document A/HRC/11/20, Universal Periodic Review: Report of the Working Group on the Universal Periodic Review: Azerbaijan, 29 May 2009.

⁸ For ARTICLE 19's assessment of Azerbaijan's implementation of its ICCPR commitments, please see ARTICLE 19, *Written Comments of ARTICLE 19: Global Campaign for Free Expression Concerning the Republic of Azerbaijan*, 2 July 2009. Retrieved 12 August 2010 from <http://www.article19.org/pdfs/press/written-comments-of-article-19-global-campaign-for-free-expression-concernin.pdf>.

and freedom of expression. In this respect, the State party is urged to consider finding a balance between information on the acts of so called "public figures", and the right of a democratic society to be informed on issues of public interest. The State party is also urged to effectively protect media workers against attempts on their integrity and life, and to pay special attention and react vigorously if such acts occur. The State party should not unreasonably restrain independent newspapers, as well as local broadcasting of radio stations. Finally, the State party should treat users of non-conventional media in strict compliance with article 19 of the Covenant.⁹

The former UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Ambeyi Ligabo, conducted a country visit to Azerbaijan in April 2007 as part of his mandate. In his report following the visit, Ligabo expressed concern regarding the use of criminal defamation laws, particularly by government officials, to silence journalists. This, he stated, showed the "extent of hostility towards the media, especially towards those linked to opposition parties". He also expressed strong concern regarding acts of violence against journalists and the failure by the authorities to adequately investigate these instances. Ligabo called upon the Azerbaijani government to address these and a number of other freedom of expression concerns, including considering the abolishment of criminal defamation provisions.¹⁰

Council of Europe

Azerbaijan has undertaken a number of important freedom of expression commitments through its membership in the Council of Europe (COE) since 25 January 2001, including its ratification of the *European Convention on Human Rights* (ECHR) in 2002.¹¹ Accordingly, Azerbaijan's domestic judicial system and practices must conform to the ECHR and are subject to the jurisdiction of the European Court of Human Rights (ECtHR), which is charged with interpreting and applying the ECHR.

Article 10 of the ECHR stipulates:

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

Article 11 of the ECHR provides for the right to freedom of peaceful assembly and freedom of association. Article 14 prohibits discrimination, stating that all rights outlined in the ECHR shall be secured without any form of discrimination, including on the basis of political opinion.

⁹ United Nations document CCPR/C/AZE/CO/3, Consideration of Reports Submitted by States Parties under Article 40 of the Covenant: Concluding observations of the Human Rights Committee: Azerbaijan, 13 August 2009.

¹⁰ United Nations document A/HRC/7/14/Add.3, Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development: Report of the Special Rapporteur on the right to freedom of opinion and expression, Ambeyi Ligabo, Addendum: Mission to Azerbaijan, 19 February 2008.

¹¹ Convention for the Protection of Human Rights and Fundamental Freedoms, adopted in Rome, Italy, 4 November 1950.

The ECHR's guarantee of freedom of expression applies to all forms of expression, not only those that reflect majority perspectives. In this regard, the ECtHR has been consistent in its interpretation. For example, in *Handyside v. United Kingdom*, the ECtHR stated:

Freedom of expression constitutes one of the essential foundations of [a democratic] society, one of the basic conditions for its progress and for the development of every man ... it is applicable not only to 'information' or 'ideas' that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the State or any sector of the population. Such are the demands of pluralism, tolerance and broadmindedness without which there is no 'democratic society'.¹²

Any restriction to the right to freedom of expression must meet a strict three-part test. This test, which has been confirmed by the UN Human Rights Committee and the ECtHR, requires that any restriction must be provided by law, for the purpose of safeguarding a legitimate interest, and necessary to secure this interest.¹³

To date there have been two ECtHR judgments on cases of violations of ECHR Article 10 in Azerbaijan, both of which were issued during the past five years. In December 2008, the ECtHR issued a judgment in the case of *Mahmudov and Agazade v. Azerbaijan*,¹⁴ finding that Mahmudov and Agazade's convictions of defamation constituted a violation of their freedom of expression. The ECtHR awarded non-pecuniary damages to the applicants. In April 2010, the ECtHR issued a judgment in the case of *Fatullayev v. Azerbaijan*,¹⁵ finding that Fatullayev's convictions of defamation, supporting terrorism, inciting hatred, and tax evasion constituted violations of his freedom of expression and right to a fair trial. In addition to awarding damages, the ECtHR ordered the Azerbaijani government to immediately release Fatullayev from prison. Fatullayev has not yet been released from prison, as he has been convicted on a new charge of drug possession, for which he received a sentence of two and a half years' imprisonment. The Azerbaijani government has applied to the ECtHR's Grand Chamber in the case of *Fatullayev v. Azerbaijan*.¹⁶

COE High Commissioner for Human Rights Thomas Hammarberg has conducted two visits to Azerbaijan in the last five years: one in September 2007¹⁷ and one in March 2010.¹⁸ In both reports following his visits to the country, Hammarberg underscored his concerns regarding the state of freedom of expression in Azerbaijan. In both reports, he noted that the decriminalisation of defamation should be considered as "a matter of urgency". In the most recent report, he called for Eynulla Fatullayev's release and stated that Adnan Hajizade and Emin Milli appear to have been targeted for expressing critical views. Hammarberg also condemned acts of violence, harassment and intimidation against journalists and human rights activists.¹⁹

¹² *Handyside v. United Kingdom*, 7 December 1976, Application No. 5493/72, 1 EHRR 737, para. 49.

¹³ For example, in *Laptevich v. Belarus*, 20 March 2000, Communication No. 780/1997 and *Goodwin v. United Kingdom*, 27 March 1996, Application No. 17488/90.

¹⁴ *Mahmudov and Agazade v. Azerbaijan*, 18 December 2008, Application no. 35877/04.

¹⁵ *Fatullayev v. Azerbaijan*, 22 April 2010, Application no. 40984/07.

¹⁶ Institute for Reporters' Freedom and Safety, 'Azerbaijan Sends Appeal to Grand Chamber of ECHR on Case of Eynulla Fatullayev', 16 July 2010. Retrieved 12 August 2010 from <http://www.irfs.az/content/view/4268/lang/en/>.

¹⁷ Council of Europe, Report by the Commissioner for Human Rights, Mr Thomas Hammarberg on His Visit to Azerbaijan 3-7 September 2007, 20 February 2008.

¹⁸ Council of Europe, Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe Following his visit to Azerbaijan from 1 to 5 March 2010, 29 June 2010.

¹⁹ Council of Europe, Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe Following his visit to Azerbaijan from 1 to 5 March 2010, 29 June 2010.

The Parliamentary Assembly of the Council of Europe (PACE) has held many sessions related to the state of human rights in Azerbaijan over the past five years, in which freedom of expression concerns were often noted. Most recently, in June 2010, PACE held a session entitled 'The functioning of democratic institutions in Azerbaijan'. In the resolution adopted during the session, PACE called on the Azerbaijani government to:

17.1 Release Eynulla Fatullayev as ordered by the European Court of Human Rights notwithstanding the appeal by the Azerbaijani authorities to the Grand Chamber of the Court, procedure which is pending;

17.2 Introduce amendments to the Criminal Code so as to decriminalise defamation, in line with the trend that can be seen at the international level and with the case law of the European Court of Human Rights and, in the meantime, refrain from bringing any new criminal prosecutions against journalists for defamation;

17.3 Create the conditions for journalists to conduct their professional work without interference by the authorities.²⁰

The related issue of political prisoners in Azerbaijan has also been the subject of much discussion within PACE over the past five years. In June 2005, PACE declared that "it [could] not consider the issue of political prisoners to have been finally resolved" and urged the Azerbaijani government to find a "speedy and permanent solution" to the problem.²¹ In March 2009, the PACE Committee on Legal Affairs and Human Rights reinstated the position of Special Rapporteur on the follow-up to the issue of political prisoners in Azerbaijan.²²

Organization for Security and Co-operation in Europe

The *Conference on Security and Co-operation in Europe Final Act* (Helsinki Final Act), which led to the establishment of the Organization for Security and Co-operation in Europe (OSCE), also contains an important provision which guarantees freedom of expression and other fundamental human rights. Azerbaijan was admitted to the OSCE and signed the Helsinki Final Act in 1992. The Helsinki Final Act stipulates that OSCE Member States commit to "promote and encourage the effective exercise of civil, political, economic, social, cultural and other rights and freedoms all of which derive from the inherent dignity of the human person and are essential for his free and full development", and to "act in conformity with the purposes and principles of the UDHR".²³

The former OSCE Special Representative for Freedom of Media, Miklos Haraszti, visited Azerbaijan on a number of occasions and made statements underscoring his concern regarding the freedom of expression situation in Azerbaijan. During his final trip to Baku in the capacity of that office in September 2009, Haraszti called upon the Azerbaijani government to release imprisoned journalists, disclose information to the public regarding the investigation into the 2005 murder of *Monitor* magazine editor-in-chief Elmar Huseynov, decriminalise defamation,

²⁰ Parliamentary Assembly of the Council of Europe, Resolution 1750 (2010), *The functioning of democratic institutions in Azerbaijan*, 24 June 2010.

²¹ Parliamentary Assembly of the Council of Europe, Resolution 1457 (2005), *Follow-up to Resolution 1359 (2004) on political prisoners in Azerbaijan*, 22 June 2005.

²² Parliamentary Assembly of the Council of Europe, Synopsis AS/Jur No 2009/02, To the Members of the Committee on Legal Affairs and Human Rights: Synopsis of the meeting held in Berlin (Germany) on 23-24 March 2009, 27 March 2009.

²³ Conference on Security and Co-operation in Europe Final Act, adopted in Helsinki, Finland,

and reconsider the ban on international broadcasters from accessing national airwaves.²⁴ In December 2009, Haraszti condemned the new charge of drug possession against *Realniy Azerbaijan* and *Gundelik Azerbaijan* editor-in-chief Eynulla Fatullayev, linking it to charges that had led to the imprisonment of other journalists, including *Azadliq* newspaper editor-in-chief Ganimat Zahid, *Azadliq* newspaper satirical journalist Mirza Sakit, and bloggers and youth activists Emin Abdullayev and Adnan Hajizade. "The Azerbaijani authorities routinely resort to provocations against independent media workers", he stated. "This latest incident shows that Azerbaijani authorities are continuing their drive against dissenting voices".²⁵

After three months in office, in a statement to the Helsinki Commission in June 2010, the current OSCE Special Representative for Freedom of the Media, Dunja Mijatovic, placed Azerbaijan in a "Hall of Shame" for failing to bring to justice those responsible for the unsolved 2005 murder of Elmar Huseynov.²⁶ She also called for the immediate release of Eynulla Fatullayev and noted concern regarding the imprisonment of Emin Abdullayev and Adnan Hajizade.²⁷

²⁴ Organization for Security and Co-operation in Europe, 'OSCE media freedom representative calls on Azerbaijan to improve media freedom, hopes detained bloggers may be released soon', 10 September 2009. Retrieved 12 August 2010 from <http://www.osce.org/item/39507.html>.

²⁵ Organization for Security and Co-operation in Europe, 'OSCE media freedom representative denounces 'new provocation' against jailed Azerbaijani journalist', 30 December 2009. Retrieved 12 August 2010 from <http://www.osce.org/item/42272.html>.

²⁶ Statement by OSCE Representative on Freedom of the Media Dunja Mijatovic, Helsinki Commission Hearing on the Threats to Free Media in the OSCE Region, 9 June 2010. Retrieved 12 August 2010 from http://www.osce.org/documents/rfm/2010/06/44433_en.pdf.

²⁷ Ibid.

4. Domestic Legal Framework on Freedom of Expression in Azerbaijan

As outlined in Chapter 3, Azerbaijan is bound by international law to ensure respect for and protection of the right to freedom of expression and related fundamental rights, including the rights to freedom of assembly and association. Flowing from these commitments, the Azerbaijani Constitution and Azerbaijani domestic law contain many provisions related to freedom of expression and other connected rights. Some of these provide for the protection of freedom of expression in line with international standards. Some provisions, however, conflict with these standards and present cause for concern. This section contains an overview of the relevant domestic legal framework in Azerbaijan, primarily those provisions directly related to freedom of expression, but also other laws which are sometimes used to stifle freedom of expression in the Azerbaijani context.

The Constitution contains several articles providing for the protection of freedom of expression.²⁸ Article 47 states:

1. Everyone has the right to freedom of thought and speech.
2. Nobody should be forced to promulgate his/her thoughts and convictions or to renounce his/her thoughts and convictions.

Article 45 stipulates that everyone has the right to use his/her mother tongue. Article 48 provides for freedom of conscience, and Article 49 guarantees freedom of assembly. Article 50 provides for the right to information, and Article 51 guarantees freedom of creative activity. Further, Article 12 stipulates that all provisions of the Constitution should be compatible with the relevant provisions of international law. Per Article 151, in cases of discrepancy between domestic and international law, international law takes precedence.

However, Articles 46, 47(3), 71, 75, and 106 of the Constitution contain restrictions on the right to freedom of expression which differ from those restrictions permitted under international law. For example, Article 46 contains references to human dignity which are unduly vague, as the provisions are intended to protect the reputation of individuals, which is more closely aligned with the concept of honour than dignity. Article 106 emphasises legal protection for the honour and dignity of the President, whereas it is well established under international law that public figures should be subject to greater criticism, not less, than private persons.²⁹

Local media rights activists have sharply criticised two constitutional amendments adopted in a March 2009 constitutional referendum as further restricting the ability of journalists to conduct

²⁸ Constitution of the Republic of Azerbaijan, adopted on 12 November 1995, last amended by constitutional referendum on 18 March 2009.

²⁹ For a more detailed analysis of these provisions, see ARTICLE 19, *Memorandum on Laws of the Republic of Azerbaijan Relating to the Protection of Reputation*, August 2004. Retrieved 12 August 2010 from <http://www.article19.org/pdfs/analysis/azerbaijan-defamation-2004.pdf>.

their work.³⁰ The amendments, to Articles 32 and 50, stipulate that no one may be videotaped, photographed, or tape recorded without his or her consent, and that everyone has the right to refute information published in the media which violates his or her rights or damages his or her reputation.

In a 2002 constitutional referendum, Azerbaijan adopted constitutional amendments which changed Azerbaijan's electoral system from a proportional to a majoritarian electoral system. This change meant that rather than each party winning a certain percentage of parliamentary seats based on the percentage of votes they received, a candidate now must win the majority of the votes in his or her district to win the seat (sometimes referred to as a 'first past the post' system). The switch to a majoritarian system has been heavily criticised by Azerbaijan's opposition political parties, which believe the majoritarian system places them at a significant disadvantage.³¹

Criminal defamation

Perhaps the most significant legal impediment to freedom of expression in Azerbaijan is the fact that defamation remains criminalised. Articles 147 and 148 of the Criminal Code prohibit the dissemination of information which damages the honour and dignity of persons.³² Article 147 relates to defamation, which is punishable by up to six months of imprisonment for distributing "obviously false" information which discredits honour and dignity, or up to one year of imprisonment if the accusation pertains to serious criminal acts. Article 148 relates to insult, defined as the "deliberate humiliation of honour and dignity of a person, expressed in the indecent form in the public statement, publicly or in mass media", also punishable for up to one year of imprisonment. Article 323 specifically prohibits the dissemination of information which damages the honour and dignity of the President, an act which is punishable by up to five years of imprisonment.

ARTICLE 19 considers these provisions, as with all other criminal defamation provisions, as both disproportionate and unnecessary. There is a significant body of international law which considers criminal defamation in itself a breach of the right to freedom of expression. ARTICLE 19 is in strong agreement with those expert bodies and officials which have called on states to abolish criminal defamation laws in favour of civil defamation laws, including the four special international mandates for promoting freedom of expression: the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative of Freedom of the Media, the Organization of American States Special Rapporteur on Freedom of Expression, and the African Commission on Human and Peoples' Rights Special Rapporteur on Freedom of Expression and Access to Information.³³

³⁰ For example, see IREX, *Media and Sustainability Index 2010: Azerbaijan*, 2010. Retrieved 12 August 2010 from http://www.irex.org/programs/MSI_EUR/2010/EE_MSI_2010_Azerbaijan.pdf.

³¹ For example, see Eurasianet.org, 'Tension Brewing in Azerbaijan Over Planned Constitutional Reform', 11 July 2002. Retrieved 12 August 2010 from <http://www.eurasianet.org/departments/rights/articles/eav071202.shtml>.

³² Criminal Code of the Republic of Azerbaijan, adopted on 30 December 1999, last amended 18 June 2010.

³³ For example, see International Mechanisms for Promoting Freedom of Expression, *Tenth Anniversary Joint Declaration: Ten Key Challenges to Freedom of Expression in the Next Decade*, 3 February 2010, retrieved 12 August 2010 from http://www.osce.org/documents/rfm/2010/02/42638_en.pdf.

Civil defamation

Article 23 of the Civil Code also contains six provisions related to the protection of honour and dignity.³⁴ Article 23(1) states that all physical persons are entitled to seek a court order for refutation of information which insults their honour, dignity, or business reputation, if the information cannot be proven by the person who disseminated it. Article 23(2) stipulates that if the information was disseminated by a mass media outlet, the refutation must appear in the same mass media outlet. Article 23(3) guarantees the right of refutation of physical persons whose rights or interests have been “humiliated” by the mass media. Article 23(4) provides for compensation for physical persons whose honour, dignity, or business reputation has been insulted. Article 23(5) stipulates that if it cannot be determined who disseminated such information, the person insulted may consider it to be false. Article 23(6) extends these rights to legal persons.

ARTICLE 19 finds a number of problems with these provisions, including the fact that they fail to distinguish between statements of fact and statements of opinion, the latter of which receive no protection under Azerbaijani law. This conflicts with the jurisprudence of the ECtHR, which has found that "While the existence of facts can be demonstrated, the truth of value judgments is not susceptible to proof. The requirement to prove the truth of a value judgment is impossible to fulfil and infringes freedom of opinion itself, which is a fundamental part of the right [to freedom of expression]."³⁵

Regulation of media

The Law on Mass Media is generally concerned with the preparation, production, and dissemination of information and provides for regulation of the activities of media outlets.³⁶ It contains a number of provisions which protect freedom of expression, for example by prohibiting censorship and providing for journalists' right to receive information. However, the law also contains provisions which limit freedom of expression, including several articles similar to the provisions related to defamation in the Civil Code and the Criminal Code. Local media rights activists have expressed particular concern over an amendment made to the law in February 2010, which prohibits journalists from taking photographs, videos, or audio recordings of individuals without their permission.³⁷

The Statute on Television and Radio Broadcasting establishes the framework for regulation of the activities of public and private broadcasters.³⁸ It created the National Television and Radio Council (NTRC), which is responsible for issuing broadcast licences, monitoring the activity of television and radio channels, and protecting the interests of the audience. The NTRC consists of nine members which are appointed by the President. This structure has contributed to the widespread criticism of the body as lacking independence.³⁹

³⁴ Civil Code of the Republic of Azerbaijan, adopted 28 December 1999, last amended 5 March 2010.

³⁵ *Dichand and Others v. Austria*, 26 February 2002, Application No. 29271/95, para. 42.

³⁶ Law on Mass Media, adopted on 7 December 1999, last amended 12 February 2010.

³⁷ International Freedom of Expression eXchange, 'Alert: Amendments to legislation restricting media activity adopted', 16 February 2010. Retrieved 12 August 2010 from http://www.ifex.org/azerbaijan/2010/02/16/amendments_passed/.

³⁸ Statute on Television and Radio Broadcasting, adopted 28 September 2004, last amended 22 June 2010.

³⁹ Media Rights Institute, *Legal Status of Media in Azerbaijan, Semi-Annual Report (2008)*, 18 July 2008. Retrieved 12 August 2010 from <http://www.mediariights.az/docs/Sr%202008.pdf>.

The Law on Public Television and Radio Broadcasting provides for the establishment of an independent public service broadcaster.⁴⁰ The law has been criticised for failing to create mechanisms which would ensure the independence of this body.⁴¹

Right to information

The Law on the Right to Obtain Information provides for the rights of citizens to access public information.⁴² It is a comprehensive and progressive law which largely meets international standards for freedom of information. Implementation of the law, however, remains problematic.⁴³

Freedom of expression and elections

The Electoral Code establishes the framework for candidates' use of the media in pre-election periods, and provides for the participation of media representatives in election commission meetings and as election observers.⁴⁴ Many civil society and political activists have been critical of June 2010 amendments to the electoral code which shortened the campaign period from 28 to 23 days, as that gives independent and opposition candidates less time to get their messages out to potential voters.⁴⁵

Freedom of assembly and association

The Law on Freedom of Assembly sets out the legal framework for the registration, organisation, and carrying out of peaceful public gatherings.⁴⁶ Although the Constitution provides for freedom of assembly with only prior notification of relevant authorities, the law requires groups to obtain permission from the relevant local authorities for a gathering to be considered lawful. Amendments to the law in May 2008 stipulated that demonstrations must be held only in a number of approved sites, all of which are far from the centre of Baku. This has drawn sharp criticism from civil society and political activists, as holding demonstrations in remote locations significantly diminishes their political impact.⁴⁷

The Law on Political Parties establishes the legislative framework and regulates the operations of political parties.⁴⁸ It has been criticised by Azerbaijan's opposition political parties for its failure to provide for state funding of political parties.⁴⁹

⁴⁰ Law on Public Television and Radio Broadcasting, adopted 5 November 2005, last amended 30 September 2009.

⁴¹ R. Hajili, 'Public Broadcasting Service: a Step Forward or a Step Back?', presentation at the OSCE South Caucasus Media Conference, Tbilisi, Georgia, 18 November 2005. Retrieved 12 August 2010 from http://www.osce.org/documents/rfm/2005/11/19496_en.pdf.

⁴² Law on the Right to Obtain Information, adopted 19 December 2005, last amended 12 February 2010.

⁴³ For a full analysis of the Law on the Right to Obtain Information, please see ARTICLE 19, *Time to Reset the Code Locks: Realising the Right to Know in Azerbaijan after the Adoption of the 2005 Law on the Right to Obtain Information*, October 2009. Retrieved 12 August 2010 from <http://www.article19.org/pdfs/publications/azerbaijan-freedom-of-information-report.pdf>.

⁴⁴ The Electoral Code of the Republic of Azerbaijan, adopted 20 June 2003, last amended 18 June 2010.

⁴⁵ Radio Free Europe/Radio Liberty, 'Azerbaijani Parliament Amends Election Law', 18 June 2010. Retrieved 12 August 2010 from http://www.rferl.org/content/Azerbaijani_Parliament_Amends_Election_Law/2076084.html.

⁴⁶ Law on Freedom of Assembly, adopted 13 November 1998, last amended 30 May 2008.

⁴⁷ OSCE/ODIHR, *Guidelines on the Implementation of the Law on Freedom of Assembly of the Republic of Azerbaijan*, 4 September 2008. Retrieved 12 August 2010 from http://www.osce.org/documents/odihr/2008/10/34146_en.pdf.

⁴⁸ Law on Political Parties, adopted 3 June 1992, last amended 5 March 2008.

⁴⁹ ARTICLE 19 interviews with Popular Front Party Chairman Ali Kerimli, Musavat Party Chairman Isa Gambar, and Azerbaijan Democratic Party Chairman Sardar Jalaloglu, Baku, 7-8 July 2010.

The Law on Non-governmental Organizations lays out the framework for the establishment, operations, and dissolution of NGOs, including public organisations and funds.⁵⁰ A controversial series of amendments to the law were passed by Azerbaijan's parliament, the *Milli Mejlis*, in June 2009. Although the most contentious of the proposed amendments did not pass, those that did pass make it more difficult for foreign NGOs to operate in Azerbaijan and for domestic NGOs to accept foreign funding. They also require NGOs to provide the Azerbaijani government with a list of all of their members, which leaves those persons and their relatives vulnerable to harassment by the authorities.⁵¹

The Law on State Registration of Legal Entities establishes the framework for state registration of all forms of legal entities in Azerbaijan.⁵² It is sometimes used to deny or suspend the registration of NGOs working on issues such as democracy and human rights.⁵³

The Law on Grants regulates the legal and economic aspects of related to the issue, receipt of, and use of grants.⁵⁴ A presidential decree issued in December 2009⁵⁵ changed how the law would be applied, requiring all grant contracts to be registered with the Ministry of Justice prior to starting activities. Although this provision has not yet been enforced, many local NGOs are worried about its future implementation, as the government now has the legal power to stop NGOs from carrying out activities by refusing registration of their grant contracts.⁵⁶

⁵⁰ Law on Non-governmental Organizations, adopted 13 June 2000, last amended 12 February 2010.

⁵¹ International Freedom of Expression eXchange, 'Parliament drops most contentious changes to NGO law, 1 July 2009. Retrieved 12 August 2010 from http://www.ifex.org/azerbaijan/2009/07/01/ngo_law/.

⁵² Law on State Registration of Legal Entities, adopted 6 February 1996, last amended 12 February 2010.

⁵³ See the case study on the Election Monitoring and Democracy Center in Chapter 5.

⁵⁴ Law on Grants, adopted 13 June 1998, last amended 30 June 2009.

⁵⁵ Presidential Decree on the Law 'On Amendments and Changes to Several Legislative Acts of Azerbaijan', 25 December 2009.

⁵⁶ ARTICLE 19 interview with Rashid Hajili, Baku, 5 July 2010. See also Institute for Reporters' Freedom and Safety, 'Ilham Aliyev Signs Decree to Restrict Work of NGOs', 29 December 2009. Retrieved 12 August 2010 from <http://www.irfs.az/content/view/3282/lang/en/>.

5. Freedom of Expression in Azerbaijan: On-Ground Realities from 2005 to Present

The freedom of expression situation in Azerbaijan has significantly deteriorated since the November 2005 parliamentary elections. Many of the most significant trends which have led to the current state of affairs are directly attributable to actions taken by the Azerbaijani authorities. Virtually all of those interviewed for this report noted their belief that the authorities' actions over the past five years indicated a shift towards authoritarianism.⁵⁷

One clear result has emerged as a cumulative effect of the trends outlined below: self-censorship has become pervasive in Azerbaijan. Years of intimidation, imprisonment, attacks, and other tactics have resulted in a climate of fear in which few journalists, civil society activists, political activists, or ordinary citizens are willing to undertake the significant risks associated with publicly criticising the government or individual public officials.

This section of the report contains ARTICLE 19's analysis of the trends of concern from a freedom of expression perspective from the November 2005 parliamentary elections to the present, including detailed information on specific cases. While it has not been possible to include in this report references to all cases of freedom of expression violations over the past five years, ARTICLE 19 has selected some of the most serious cases which demonstrate the wide range of tactics used by the authorities to restrict freedom of expression. These include the use of torture and other forms of physical attack, arrests and imprisonments on a variety of charges, slander, and limitations on freedom of movement, against individuals in connection with expressing critical opinions. These cases have had a particularly negative and lasting effect on the freedom of expression situation. Many of these cases are ongoing, and if unaddressed, will continue to have an impact on the freedom of expression climate surrounding this year's parliamentary elections.

Use of criminal defamation provisions

Legal provisions for criminal defamation remain among the greatest legal barriers to freedom of expression. While new cases of journalists being imprisoned for defamation are now less common than in some past years, such imprisonments do still occur. *Realniy Azerbaijan* and *Gundelik Azerbaijan* editor-in-chief Eynulla Fatullayev remains in prison after his initial 2007 conviction on defamation charges.⁵⁸ In 2009, *Milletim* editor-in-chief Faramaz Allahverdiyev and *Nota* editor-in-chief Sardar Alibeyli served prison sentences for defamation.⁵⁹ Although the majority of recent criminal defamation cases have not resulted in imprisonments, the existence of such charges in the Azerbaijani Criminal Code, and the fact that many of these cases are initiated by public officials, leaves journalists open to intimidation and increases their

⁵⁷ ARTICLE 19 interviews in Baku, 5-9 July 2010.

⁵⁸ U.S. Department of State, *2006 Country Report on Human Rights Practices in Azerbaijan*, 6 March 2007.

⁵⁹ ARTICLE 19, 'Azerbaijan: ARTICLE 19 Condemns Conviction of Journalists for Defamation', 23 July 2009. Retrieved 12 August 2010 from <http://www.article19.org/pdfs/press/azerbaijan-article-19-condemns-conviction-of-journalists-for-defamation.pdf>.

vulnerability to attacks. As of June 2010, the Media Rights Institute reported that public officials have filed 26 criminal defamation lawsuits against media outlets, resulting in 14 convictions.⁶⁰

Restrictive use of civil defamation provisions

The excessive use of civil defamation provisions continues to hamstring many opposition and independent media outlets. According to the Media Rights Institute, in 2009 alone, a total of 39 cases were filed under civil defamation provisions.⁶¹ The court ruled in favour of the plaintiffs in 31 of these claims, with orders for compensation totalling 20,000 AZN (about USD 25,000), an amount which the Media Rights Institute noted is significantly less than in previous years. Many of these lawsuits were filed by public officials who are not willing to tolerate any form of criticism. As of June 2010, there had been 36 civil defamation lawsuits filed against media outlets so far in 2010, 30 of which were satisfied by the court.⁶²

Many of the media outlets subjected to these civil defamation lawsuits were already facing difficult financial situations, with poor sales and subscription rates and businesses afraid to purchase advertising space in critical publications.⁶³ The added factor of heavy damages they must pay to the plaintiffs as a result of these defamation lawsuits can significantly hinder the ability of these outlets to continue to operate. In addition, the threat of excessive damages has been used as a tool to intimidate those expressing critical views. For example, a prominent human rights defender, Leyla Yunus, was threatened with a lawsuit by the Ministry of Internal Affairs at the beginning of 2009 with potential damages of over 100,000 AZN (about \$125,000), for reporting alleged human rights violations by police.⁶⁴

Restrictive use of the Law on State Registration of Legal Entities

Misuse of the Law on State Registration of Legal Entities has caused problems for many NGOs working on issues pertaining to democracy and human rights. The ability of these organisations to freely conduct their work and publicise the findings of their work is of utmost importance to freedom of expression, as they play a critical role in monitoring the actions of governmental bodies and public officials, encouraging public scrutiny of these actions, and ultimately holding the government to account.

According to the Turan News Agency, there are currently more than 2,000 unregistered NGOs in Azerbaijan, most of which focus their work on democracy and human rights issues. Many of these are reported to have been attempting to register for over 10 years.⁶⁵ An OSCE-funded

⁶⁰ Media Rights Institute, *Legal status of mass media in Azerbaijan – Half-year report: January-June 2010*, 2 August 2010. Retrieved 12 August 2010 from http://www.mediarights.az/docs/half_year_report_2010_Azerbaijan_MRI.pdf.

⁶¹ Media Rights Institute, *Legal status of the mass media in Azerbaijan - Annual report 2009*, 21 December 2009.

Retrieved 12 August 2010 from <http://www.mediarights.az/docs/MRI-Annual%20Report%20on%20Status%20of%20Mass%20Media%20Azerbaijan%20-%202009.pdf>.

⁶² Media Rights Institute, *Legal status of mass media in Azerbaijan – Half-year report: January-June 2010*, 2 August 2010. Retrieved 12 August 2010 from http://www.mediarights.az/docs/half_year_report_2010_Azerbaijan_MRI.pdf.

⁶³ IREX, *Media and Sustainability Index 2010: Azerbaijan*, 2010. Retrieved 12 August 2010 from http://www.irex.org/programs/MSI_EUR/2010/EE_MSI_2010_Azerbaijan.pdf.

⁶⁴ International Freedom of Expression eXchange, 'Ministry of Interior withdraws lawsuit against human rights defender Leyla Yunus', 5 March 2009. Retrieved 12 August 2010 from http://www.ifex.org/azerbaijan/2009/03/05/ministry_of_interior_withdraws/.

⁶⁵ Azeri Report, 'Unregistered NGOs Prohibited to Stage Protest Action', 9 August 2010. Retrieved 12 August 2010 from http://azerireport.com/index.php?option=com_content&task=view&id=2288&Itemid=43. See also Azeri Report,

report from 2005 found a number of problems with the NGO registration process, including the rejection of NGO registration applications for irrelevant reasons and the failure of Ministry of Justice officials to comply with the legal timeline requirements for processing applications.⁶⁶ These problems continue to present obstacles to NGOs attempting to register.

Case Study: the Election Monitoring Center

The Election Monitoring and Democracy Studies Center (EMDC), previously known as the Election Monitoring Center (EMC), has faced particular difficulty in attempting to register with the Ministry of Justice over the past seven years. The EMDC is the largest and most experienced election monitoring organisation in Azerbaijan.

Since 2002, the EMDC had attempted to obtain registration from the Ministry of Justice, being denied registration in each instance for minor technical issues that should not have impacted the registration decision. Following years of pressure from the international community on the Azerbaijani government, the EMDC finally succeeded in gaining registration in February 2008, as the EMC. In May 2008, however, the Ministry of Justice de-registered the EMC and ordered its dissolution, based again on technical issues with its application. The EMC became the EMDC and has since attempted to continue to operate, while again seeking registration from the Ministry of Justice. The EMDC's attempts to register have so far been unsuccessful, again for minor technical reasons.

Anar Mammadli, the EMDC's Chairman, reported that authorities have continued to interfere with the EMDC's activities and harass its election monitors, which has resulted in many pulling out of election monitoring missions in Azerbaijan.⁶⁷

Misuse of criminal law for political purposes

One particularly alarming trend over the past five years has been the politically motivated prosecutions and resulting imprisonments of persons who have been publicly critical of the government or of individual government officials. The authorities have used a variety of charges, including coup-plotting, hooliganism and drug possession, to imprison these persons. Such imprisonments have contributed significantly to the climate of fear which exists for journalists and political activists. As a result of these imprisonments, many politically interested individuals are left with criminal records which will continue to preclude them from running for public office.

Since 2005, there have been numerous instances of journalists sentenced to imprisonment in connection with their work. At one stage in 2007, a total of 10 journalists were concurrently serving prison sentences.⁶⁸ While many of these imprisonments were for convictions of criminal defamation, a trend has now emerged of imprisoning journalists for charges which appear unrelated to their professional activities. For example, charges of drug possession were used to

'NGOs Discussed Problems with the Government at a Conference in Baku', 10 December 2009. Retrieved 12 August 2010 from http://azerireport.com/index.php?option=com_content&task=view&id=1842&Itemid=43.

⁶⁶ A. Kazimov and H. Hasanov, *Report on the Registration Procedure of Non-governmental Organizations*, 5 May 2005. Retrieved 12 August 2010 from http://www.osce.org/documents/ob/2005/05/14151_en.pdf.

⁶⁷ ARTICLE 19 interview with Anar Mammadli, Baku, 8 July 2010.

⁶⁸ Committee to Protect Journalists, 'Tenth Azerbaijani Journalist Imprisoned', 6 December 2007. Retrieved 12 August 2010 from <http://cpj.org/2007/12/tenth-azerbaijani-journalist-imprisoned.php>.

imprison *Azadliq* newspaper satirical journalist Sakit Zahidov in June 2006⁶⁹ and *Realniy Azerbaijan* and *Gundelik Azerbaijan* newspaper editor-in-chief Eynulla Fatullayev in July 2010.⁷⁰ Charges of hooliganism and inflicting minor bodily harm were used to imprison *Azadliq* newspaper editor-in-chief Ganimat Zahid in November 2007⁷¹ and bloggers and youth activists Adnan Hajizade and Emin Milli in July 2009.

Case Study: Eynulla Fatullayev

Eynulla Fatullayev, editor-in-chief of the independent *Realniy Azerbaijan* and *Gundelik Azerbaijan* newspapers, was convicted in April 2007 on criminal defamation charges and sentenced to two and a half years of imprisonment.⁷² The charges were based on an article posted to an Internet site attributed to Fatullayev asserting that Azerbaijani forces were complicit in the 1992 *Khojali* massacre; Fatullayev denied that he posted the article. In October 2007, Fatullayev was convicted of supporting terrorism, inciting hatred, and tax evasion, based on an article he had published in *Realniy Azerbaijan* newspaper, criticising Azerbaijani foreign policy and listing specific sites in Azerbaijan which were potentially vulnerable to attack by Iran if the United States were to launch an attack on Iran. Fatullayev received a cumulative sentence of eight and a half years of imprisonment, in combination with his initial conviction of defamation.

In December 2009, while Fatullayev was still in prison, officials allegedly found 0.23 grams of heroin in his clothing. He was charged with drug possession and transferred to another facility where he was held in isolation while authorities investigated the charge. During that time Fatullayev reported that he feared for his life. In March 2010 Fatullayev's father, Emin, received threats of death if he did not keep quiet about his son's case. In April 2010, the ECtHR issued a judgment in Fatullayev's case, ruling that his convictions constituted a violation of his freedom of expression and right to a fair trial. In addition to awarding damages, the ECtHR ordered the Azerbaijani authorities to immediately release Fatullayev from prison.⁷³

Rather than releasing him, the Azerbaijani authorities moved forward with the charge of drug

⁶⁹ Amnesty International, 'Azerbaijan: Sakit Mirza Zahidov', 28 June 2006. Retrieved 12 August 2010 from <http://www.amnestyinternational.be/doc/article8323.html>.

⁷⁰ ARTICLE 19, 'Azerbaijan: Eynulla Fatullayev Sentenced to 2.5 Years' Imprisonment on New Political Charges', 7 July 2010. Retrieved 12 August 2010 from <http://www.article19.org/pdfs/press/azerbaijan-eynulla-fatullayev-sentenced-to-2.5-years-imprisonment-on-new-pol.pdf>.

⁷¹ International Freedom of Expression eXchange, "'Azadliq' newspaper editor-in-chief sentenced at secret hearing to four years in prison for alleged "hooliganism"", 7 March 2008. Retrieved 12 August 2010 from http://www.ifex.org/azerbaijan/2008/03/07/azadlig_newspaper_editor_in_chief/.

⁷² Details of this case have been reported by various sources and the description here provides a summary of the key aspects of the case. For more information about the case, see, for example: U.S. Department of State, *2006 Country Report on Human Rights Practices in Azerbaijan*, 6 March 2007; International PEN, 'Azerbaijan: Eynulla Fatullayev to be held in isolation for two more months', 9 March 2010. Retrieved 12 August 2010 from <http://www.internationalpen.org.uk/go/news/azerbaijan-eynulla-fatullayev-to-be-held-in-isolation-for-two-more-months>; Amnesty International, 'Urgent Action: Imprisoned Journalist's Family Threatened', 19 March 2010. Retrieved 12 August 2010 from <http://www.amnesty.org/en/library/asset/EUR55/002/2010/en/fc644417-4702-47ed-bcf0-1a63120eabdf/eur550022010en.pdf>; ARTICLE 19, 'Azerbaijan: Eynulla Fatullayev Sentenced to 2.5 Years' Imprisonment on New Political Charges', 7 July 2010. Retrieved 12 August 2010 from <http://www.article19.org/pdfs/press/azerbaijan-eynulla-fatullayev-sentenced-to-2.5-years-imprisonment-on-new-pol.pdf>; ARTICLE 19, 'Azerbaijan: European Court Orders Release of Wrongly Imprisoned Journalist Eynulla Fatullayev', 23 April 2010. Retrieved 12 August 2010 from <http://www.article19.org/pdfs/press/azerbaijan-european-court-orders-release-of-wrongly-imprisoned-journalist-ey.pdf>.

⁷³ *Fatullayev v. Azerbaijan*, 22 April 2010, Application no. 40984/07.

possession. Fatullayev was convicted of the charge in July 2010 and sentenced to two and a half years of imprisonment, which the government considers separate from the convictions related to the ECtHR ruling. The government has applied to the Grand Chamber of the ECtHR regarding the judgment in *Fatullayev v. Azerbaijan*. Fatullayev remains in prison awaiting review of his conviction of drug possession by the Azerbaijani Court of Appeals.

*Case Study: Emin Abdullayev and Adnan Hajizade*⁷⁴

Youth activists and bloggers Emin Abdullayev (also known as Emin Milli) and Adnan Hajizade were arrested in July 2009 after appealing to Baku police as victims of an assault. In addition to their video-blogging activities, Abdullayev was a co-founder of the *Alumni Network*, and Hajizade worked as a coordinator for the *OL!* youth movement. The two had been in a restaurant with a group of youth discussing the activities of their youth movement when they were attacked by two men who demanded that they stop discussing such matters. Abdullayev and Hajizade reported the assault at a local police department and requested medical assistance; they were instead detained and later charged with hooliganism. They were convicted in November 2009; Abdullayev received a prison sentence of two and a half years, and Hajizade received a prison sentence of two years. In August 2010, the Azerbaijan Supreme Court upheld the ruling in this case. Abdullayev and Hajizade remain in prison, awaiting the ECtHR's consideration of their case.

*Case Study: Novruzali Mammadov*⁷⁵

Novruzali Mammadov, cultural activist and editor-in-chief of the Talysh-language *Tolishi Sedo* newspaper, was arrested in February 2007 on charges of resisting arrest. He was widely believed to have been targeted for his cultural and journalistic activities, as he was a leading activist of the Talysh minority community. Mammadov spent more than 15 months in pre-trial detention and was accused by authorities of spying for Iran. After a closed trial marred with due process violations, Mammadov was convicted of high treason in June 2008 and sentenced to 10 years' imprisonment. His health sharply deteriorated while in prison, and he was transferred to a prison hospital in July 2009, where he reportedly did not receive adequate medical treatment for his condition. On 17 August 2009, the 68 year-old Mammadov died of "an acute disorder of cerebral circulation as a result of cerebral thrombosis".

⁷⁴ Details of this case have been reported by various sources and the description here provides a summary of the key aspects of the case. For more information about the case, see, for example: ARTICLE 19, 'Azerbaijan: ARTICLE 19 Deplores Harassment of Internet Journalists', 13 July 2009. Retrieved 12 August 2010 from <http://www.article19.org/pdfs/press/azerbaijan-article-19-deplores-harassment-of-internet-journalists.pdf>; J. Powley Hayden, 'Azerbaijan: Court Convicts Youth Activists and Bloggers', *Eurasianet.org*, 10 November 2009. Retrieved 12 August 2010 from <http://www.eurasianet.org/departments/civilsociety/articles/eav111109.shtml>; Amnesty International, 'Azerbaijani Bloggers Lose Appeal Against Fabricated Charges', 10 March 2010. Retrieved 12 August 2010 from <http://www.amnesty.org/en/for-media/press-releases/azerbaijani-bloggers-lose-appeal-against-fabricated-charges-2010-03-10>.

⁷⁵ Details of this case have been reported by various sources and the description here provides a summary of the key aspects of the case. For more information about the case, see, for example: Radio Free Europe/Radio Liberty, 'Journalist, Rights Activist Dies in Azerbaijani Jail', 18 August 2009. Retrieved 12 August 2010 from http://www.rferl.org/content/Journalist_Rights_Activist_Dies_In_Azerbaijani_Jail/1802552.html; ARTICLE 19, 'Azerbaijan: Respected Talysh Editor Dies in Prison', 20 August 2009. Retrieved 12 August 2010 from <http://www.article19.org/pdfs/press/azerbaijan-respected-talysh-editor-dies-in-prison.pdf>; Amnesty International, 'Urgent Action: 67-Year-Old Prisoner Dangerously Ill', 31 July 2009; Council of Europe, *Report by Thomas*

*Case Study: Ganimat Zahid*⁷⁶

Ganimat Zahid, editor-in-chief of the opposition *Azadliq* newspaper, was arrested in November 2007 after an incident in which a woman Zahid had passed on the street accused him of insulting her. Another man got involved, and engaged in a scuffle with Zahid. Zahid was convicted in March 2008 on charges of hooliganism and inflicting minor bodily harm and sentenced to four years' imprisonment. Zahid maintains that the incident was set up by the authorities in retaliation for his critical writing. He was released from prison by presidential pardon in March 2010 and has returned to his position as editor-in-chief of *Azadliq* newspaper. Zahid's criminal record will prevent him from standing as a candidate in the November 2010 parliamentary elections.

*Case Study: Sakit Zahidov*⁷⁷

In June 2006, Sakit Zahidov (also known as Mirza Sakit), a satirical journalist for opposition *Azadliq* newspaper, was arrested by Ministry of Internal Affairs Anti-Narcotic Department officials. They allegedly found 10 grams of heroin in his pocket, and charged him with possession of drugs with intent to resell. Zahidov maintained his innocence and held that the heroin was planted on him. He was convicted of drug possession in October 2006 and sentenced to three years in prison. Zahidov was reportedly deprived of adequate treatment for his heart condition and was beaten by officials during his imprisonment. Zahidov was released from prison by presidential pardon in April 2009.

In 2005, a reported 300 political activists associated with opposition parties were arrested on various charges in connection with the November 2005 parliamentary elections. Many of these arrests were connected with the planned return of exiled opposition Azerbaijan Democratic Party leader Rasul Guliyev in October 2005.⁷⁸ Former Minister of Economic Development Farhad Aliyev and former Minister of Health Ali Insanov were arrested on charges of coup-plotting in the run-up to the 2005 elections. Insanov was convicted in April 2007 of bribery, forgery, and embezzlement, and sentenced to 11 years' imprisonment.⁷⁹ Aliyev was convicted in October 2007 of corruption, abuse of power, and other economic crimes, and sentenced to 10

Hammarberg, Commissioner for Human Rights of the Council of Europe Following his visit to Azerbaijan from 1 to 5 March 2010, 29 June 2010.

⁷⁶ Details of this case have been reported by various sources and the description here provides a summary of the key aspects of the case. For more information about the case, see, for example: Human Rights House Network, 'Yet Another Journalist Arrested in Azerbaijan', 13 November 2007. Retrieved 12 August 2010 from <http://humanrightshouse.org/Articles/839.html>; International Freedom of Expression eXchange, "'Azadliq" newspaper editor-in-chief sentenced at secret hearing to four years in prison for alleged "hooliganism"', 7 March 2008. Retrieved 12 August 2010 from http://www.ifex.org/azerbaijan/2008/03/07/azadlig_newspaper_editor_in_chief/; Radio Free Europe/Radio Liberty, 'Qanimat Zahid is Free', 18 March 2010. Retrieved 12 August 2010 from http://www.rferl.org/content/journalists_in_trouble_Qanimat_Zahid_is_Free/1987279.html.

⁷⁷ Details of this case have been reported by various sources and the description here provides a summary of the key aspects of the case. For more information about the case, see, for example: Amnesty International, 'Azerbaijan: Sakit Mirza Zahidov', 28 June 2006. Retrieved 12 August 2010 from <http://www.amnestyinternational.be/doc/article8323.html>; International Freedom of Expression eXchange, 'Poet Sakit Mirza Zakhidov assaulted in prison, deprived of full treatment for heart condition', 28 October 2008. Retrieved 12 August 2010 from http://www.ifex.org/azerbaijan/2008/10/28/poet_sakit_mirza_zakhidov_assaulted/; Radio Free Europe/Radio Liberty, 'Azerbaijani Satirist Released', 9 April 2009. Retrieved 12 August 2010 from http://www.rferl.org/content/Azerbaijani_Satirist_Released/1605573.html.

⁷⁸ U.S. Department of State, *2005 Country Report on Human Rights Practices in Azerbaijan*, 6 March 2007.

⁷⁹ Radio Free Europe/Radio Liberty, 'Former Azerbaijani Minister Sentenced to 11 Years', 20 April 2007. Retrieved 12 August 2010 from <http://www.rferl.org/content/article/1075997.html>.

years' imprisonment.⁸⁰ The two former officials are controversial figures; while many local activists believe that they are guilty of the crimes of which they have been convicted, they also consider them to have been targeted for political reasons, and often include them in lists of political prisoners in Azerbaijan.⁸¹ *Yeni Fikir* youth movement leaders Ruslan Bashirli, Ramin Tagiyev, and Said Nuri also were arrested in the run-up to the 2005 elections and later convicted of coup-plotting. The arrest and sentencing of the *Yeni Fikir* youth has had a distinct chilling effect on independent and opposition youth movements in Azerbaijan, many of which continue to maintain a low profile nearly five years later.

*Case Study: The Yeni Fikir Youth*⁸²

Ruslan Bashirli, Ramin Tagiyev and Said Nuri, leaders of the opposition *Yeni Fikir* youth movement, were arrested in August 2005 on charges of coup-plotting in the run-up to the November 2005 parliamentary elections. The youth were accused of accepting funding from a U.S. NGO, the National Democratic Institute, to stage a revolution. Prior to their arrest, the youth had actively participated in a number of political rallies in support of the opposition *Azadliq* bloc. After a trial marred with irregularities and due process violations, the youth were convicted of plotting a coup in July 2006. Bashirli was sentenced to seven years' imprisonment, Tagiyev was sentenced to four years' imprisonment, and Nuri received a suspended sentence of five years. Nuri was later pardoned by presidential decree. The Court of Appeals reduced Tagiyev's sentence to three years' imprisonment, and he was released after completing his sentence. Bashirli, however, remains in prison with two years of his prison sentence remaining. Bashirli has reportedly been subjected to torture and mistreatment while in prison. Although many international organisations initially called for Bashirli's release, international attention has since largely shifted from his case.

*Case Study: Natiq Efendiyev*⁸³

Natiq Efendiyev, Deputy Chairman of the opposition Azerbaijan Democratic Party, was detained on charges of coup-plotting in October 2005 in the run-up to the 2005 parliamentary elections in connection with the anticipated return of exiled opposition politician Rasul Guliyev. He was reportedly tortured while in the custody of the Ministry of Internal Affairs, where he was repeatedly given electric shocks. Efendiyev had been released from a previous period of imprisonment by presidential decree after being declared a political prisoner by the PACE. In September 2006, Efendiyev was convicted of stockpiling weapons and sentenced to five years in prison, where he currently remains.

⁸⁰ R. Ismayilov, 'Azerbaijan: Former Minister of Economic Development Receives 10-Year Term', 31 October 2007. Retrieved 12 August 2010 from <http://www.eurasianet.org/departments/insight/articles/eav110107d.shtml>.

⁸¹ Azeri Report, 'FHRPO: There are 66 Political Prisoners in Azerbaijan', 5 February 2009. Retrieved 12 August 2010 from http://azerireport.com/index.php?option=com_content&task=view&id=981&Itemid=43.

⁸² For more information about the case, see, for example: K. Ismailova and S. Abbasov, 'Azerbaijan: Youth Activist Arrest Fuels Campaign Tensions' *Eurasianet.org*, 11 August 2005. Retrieved 12 August 2012 from <http://www.eurasianet.org/departments/insight/articles/eav081205.shtml>; Eurasianet.org, 'Azerbaijan: Verdict against Youth Activists Raises International Concern', 16 July 2006. Retrieved 12 August 2010 from <http://www.eurasianet.org/departments/civilsociety/articles/eav071706.shtml>; Amnesty International, Urgent Action 209/06, 4 August 2006. Retrieved 12 August 2010 from <http://www2.amnesty.se/uaonnet.nsf/7e65f5b0a8b73763c1256672003ecdef/c153f611ca657ad5c12571c30036bbe8?OpenDocument>.

⁸³ For more information about the case, see, for example: U.S. Department of State, *2005 Country Report on Human Rights Practices in Azerbaijan*, 8 March 2006; U.S. Department of State, *2006 Country Report on Human Rights Practices in Azerbaijan*, 6 March 2007; Amnesty International USA, 'Azerbaijan: Fair Trial Concerns in Cases

Violence against journalists

The use of violence and threats of violence against journalists has become a serious problem in Azerbaijan. The Media Rights Institute reported that over the past five years, there have been more than 350 instances of pressure against journalists by authorities and private individuals, including threats and attacks. In 2009 alone, 41 journalists were threatened or attacked in connection with their professional activities.⁸⁴ As of June 2010, there had been more than 30 threats of violence against journalists in 2010.⁸⁵

The Azerbaijani authorities have consistently failed to meet their international obligations in response to attacks. In virtually none of the cases from the past five years have the perpetrators of these attacks been brought to justice, including in the March 2005 murder of *Monitor* magazine editor-in-chief Elmar Huseynov.⁸⁶ As a result, a climate of impunity has emerged, allowing those seeking to stop journalists from reporting critically to use any possible means of achieving their goal. This trend has served as one of the biggest blows to freedom of expression in Azerbaijan, as few journalists are now willing to undertake the security risks associated with critical and/or investigative reporting.

Case Study: Agil Khalil⁸⁷

In February 2008, *Azadliq* newspaper report Agil Khalil was beaten by two men while investigating a tip related to trees being burned in a public olive grove. During the next two weeks, he reported being followed and receiving threatening phone calls. In March 2008, Khalil was stabbed by an unknown assailant. He suffered a deep chest wound and was hospitalised. Rather than seriously investigating the attacks against Khalil, in April 2008 the authorities broadcast on state television footage of an individual who claimed to be Khalil's homosexual lover, stating that he had stabbed Khalil in a fit of jealous rage. Despite Khalil's insistence that this individual had not attacked him, a Baku court convicted this individual of the crime and sentenced him to 18 months' imprisonment.

In May 2008, unidentified would-be attackers attempted to push Khalil in front of a moving train; within the same day, unidentified assailants later attempted to abduct him. Khalil escaped these incidents unharmed. Authorities prevented Khalil from leaving the country on three occasions, claiming that his role in ongoing investigations meant he could not leave. As Khalil was a victim in the case and not under investigation himself, there was no legal basis for the authorities to refuse him exit. He was eventually able to leave Azerbaijan and is currently living abroad under political asylum, continuing to write for *Azadliq* newspaper.

Associated with the 2005 Parliamentary Elections', 25 May 2006. Retrieved 12 August 2010 from <http://www.amnestyusa.org/document.php?lang=e&id=ENGEUR550022006>.

⁸⁴ Media Rights Institute, *Legal status of the mass media in Azerbaijan - Annual report 2009*, 21 December 2009. Retrieved 12 August 2010 from <http://www.mediariights.az/docs/MRI-Annual%20Report%20on%20Status%20of%20Mass%20Media%20Azerbaijan%20-%202009.pdf>.

⁸⁵ Media Rights Institute, *Legal status of mass media in Azerbaijan – Half-year report: January-June 2010*, 2 August 2010. Retrieved 12 August 2010 from http://www.mediariights.az/docs/half_year_report_2010_Azerbaijan_MRI.pdf.

⁸⁶ ARTICLE 19, 'Azerbaijan: Statement on the Fifth Anniversary of Journalist Elmar Huseynov's Murder', 2 March 2010. Retrieved 12 August 2010 from <http://www.article19.org/pdfs/press/azerbaijan-statement-on-the-fifth-anniversary-of-journalist-elmar-huseynov-s.pdf>.

⁸⁷ For more information about the case, see, for example: Radio Free Europe/Radio Liberty, 'Azerbaijan: Investigative Journalist Hospitalized after Stabbing', 14 March 2008. Retrieved 12 August 2010 from <http://www.rferl.org/content/article/1079639.html>; International Freedom of Expression eXchange, 'Recently assaulted journalist target of dangerous smear campaign; IRFS suspects silencing of newspaper intended', 7 April 2008. Retrieved 12 August 2010 from

Case Study: Bahaddin HaziyeV⁸⁸

In May 2006, Bahaddin HaziyeV, editor-in-chief of the opposition *Bizim Yol* newspaper, was abducted by a group of at least five unknown assailants, who forced him out of his car during his drive home late at night. He was forced into another car, where he was beaten severely. The attack culminated with the abductors running over HaziyeV's legs with their car before abandoning him near a lake outside Baku. He was found severely beaten with broken legs several hours later by local residents. HaziyeV stated that his attackers had warned him to "stop writing critical articles". More than four years later, HaziyeV's attackers have yet to be identified and prosecuted.

In addition to failing to investigate instances of violence against journalists in which the attackers are unknown, Azerbaijani authorities have also directly used violence against journalists. Journalists are sometimes subjected to violence while covering political events in the course of their work. For example, Institute for Reporters' Freedom and Safety Chairman Emin Huseynov was beaten by police in June 2008 while covering an event to commemorate the 80th birthday of Che Guevera. Huseynov was hospitalised and lost 50 percent of his hearing as a result of the assault.⁸⁹ Other assaults on journalists committed by the authorities occur while journalists are held in government custody.

Case Study: Seymur KhaziyeV⁹⁰

In May 2010, opposition *Azadliq* newspaper reporter Seymur KhaziyeV was detained for participating in an unauthorised demonstration organised by the opposition *Azadliq* bloc. He was given an administrative sentence of seven days of detention. After serving two days of that sentence in a police station, he was transferred to another short-term detention facility. There, KhaziyeV was interrogated by two plain-clothed officials who did not identify themselves. They made it clear that they did not agree with the articles KhaziyeV had published as a journalist, and questioned why he insisted on criticising the Azerbaijani President in his articles. They attempted to persuade him to criticise international organisations and foreign embassies instead of the Azerbaijani government. After an hour and ten minutes of questioning KhaziyeV, the officials proceeded to beat him, hitting and kicking him for approximately 20 minutes. KhaziyeV was not permitted medical attention and remained in detention until the end of his seven-day administrative sentence. The officials responsible for the incident have not been identified, prosecuted, or disciplined.

http://www.ifex.org/azerbaijan/2008/04/07/recently_assaulted_journalist_target/; Reporters Without Borders, 'Court convicts wrong man of knife attack on newspaper reporter', 15 July 2008. Retrieved 12 August 2010 from <http://en.rsf.org/azerbaijan-court-convicts-wrong-man-of-knife-15-07-2008.27356.html>; Committee to Protect Journalists, 'Agil Khalil barred from leaving the country', 19 June 2008. Retrieved 12 August 2010 from <http://cpj.org/2008/06/agil-khalil-barred-from-leaving-the-country.php>.

⁸⁸ For more information about the case, see, for example: Eurasianet.org, 'Recent Attack Has Independent Journalists, Civil Society Activists on Guard in Azerbaijan', 4 June 2006. Retrieved 12 August 2010 from <http://www.eurasianet.org/departments/civilsociety/articles/eav060506.shtml>; International Freedom of Expression eXchange, 'Offenders guilty of beating editor-in-chief still at large after three years', 26 May 2009. Retrieved 12 August 2010 from http://www.ifex.org/azerbaijan/2009/05/26/offenders_still_at_large/.

⁸⁹ International Freedom of Expression eXchange, 'IRFS chairman assaulted, injured by police while monitoring event commemorating Che Guevera's birthday', 16 June 2008. Retrieved 12 August 2010 from http://www.ifex.org/azerbaijan/2008/06/16/irfs_chairman_assaulted_injured/.

⁹⁰ ARTICLE 19 interview with Seymur KhaziyeV, Baku, 8 July 2010. For more information about the case, see, for example: Azeri Report, 'Azadliq Bloc Condemns Azerbaijani Government for Suppressing Freedom of Assembly

*Case Study: Hakimeldostu Mehdiyev*⁹¹

Hakimeldostu Mehdiyev, opposition Yeni Musavat newspaper reporter, was detained without cause in September 2007 by Ministry of National Security officials in the Sharur region of the Azerbaijani exclave of Nakhchivan. He was beaten severely while in custody, sustaining injuries to his head, a broken rib, and extensive bruising. The officials responsible were not identified or disciplined for their actions. Since that time, Mehdiyev has reported that authorities have continued to harass him and his family. He has received death threats and has been assaulted in the course of conducting his journalistic activities. Mehdiyev is now a Nakhchivan correspondent for the Institute for Reporters' Freedom and Safety.

Harassment, intimidation, and persecution of government critics

A significant negative development over the past five years has been the use of harassment, intimidation, and threats against government critics, including civil society activists and political party members. Among the most notable of such developments has been the systematic targeting by the Azerbaijani authorities of the opposition political parties, severely restricting their ability to engage in normal political party activities.

Authorities have implemented particularly tight restrictions on the right to freedom of assembly since the violent break-up of a peaceful opposition demonstration following the 2005 parliamentary elections.⁹² Demonstrations are only permitted in specified remote sites far from Baku's centre. Unsanctioned protests are immediately broken up by police and sometimes plain-clothed officials⁹³, who sometimes use force to detain protesters. Musavat Party Chairman Isa Gambar and Popular Front Party Chairman Ali Kerimli noted that their party members have been detained on a number of occasions in 2010 for attempting to stage peaceful unsanctioned demonstrations. Kerimli expressed concern regarding the treatment by police of detainees following these demonstrations, stating that there had been cases of torture.⁹⁴

In Azerbaijan's regions outside of Baku, attempts by opposition party members to gather in restaurants and tea houses are often dispersed by police, and Kerimli noted that in some regions, such as Sabirabad, the proprietors of these establishments have been ordered by local authorities not to serve persons affiliated with the opposition.⁹⁵

Moreover, Gambar, Kerimli, and Azerbaijan Democratic Party Chairman Sardar Jalaloglu all reported significant restrictions on their movement within the country, even when travelling for personal purposes, such as to attend a funeral.⁹⁶ In addition, Popular Front Party Chairman Ali

Rights', 28 May 2010. Retrieved 12 August 2010 from

http://azerireport.com/index.php?option=com_content&task=view&id=2149&Itemid=42.

⁹¹ For more information about the case, see, for example: U.S. Department of State, *2007 Country Report on Human Rights Practices in Azerbaijan*, 11 March 2008; International Freedom of Expression eXchange, 'Correspondents in Nakhchivan Autonomous Republic receive death threats; IRFS correspondent assaulted,' 2 February 2009. Retrieved 12 August 2010 from http://www.ifex.org/azerbaijan/2009/02/02/correspondents_in_nakhchivan_autonomous/;

⁹² R. Abbasov and M. Muradova, 'Police Squash Sit-Down Protest', *Eurasianet.org*, 28 November 2005. Retrieved 12 August 2010 from http://www.eurasianet.org/azerbaijan/news/police_20051128.html.

⁹³ For example, see ARTICLE 19, 'Azerbaijan: Authorities Clamp Down on Protesters in First Election-Related Demonstration', 15 April 2010. Retrieved 12 August 2010 from <http://www.article19.org/pdfs/press/azerbaijan-authorities-clamp-down-on-protesters-in-first-election-related-de.pdf>.

⁹⁴ ARTICLE 19 interviews with Isa Gambar and Ali Kerimli, Baku 7-8 July 2010.

⁹⁵ ARTICLE 19 interview with Ali Kerimli, Baku, 8 July 2010.

⁹⁶ ARTICLE 19 interviews with Ali Kerimli, Isa Gambar, and Azerbaijan Sardar Jalaloglu, Baku, 7 -8 July 2010.

Kerimli has not been permitted to leave the country since 2006, as the authorities have refused to renew his passport.⁹⁷

*Case Study: Ali Kerimli*⁹⁸

Ali Kerimli, Chairman of the opposition Popular Front Party, has not been permitted to leave the country since 2006, as the authorities continue to refuse to renew his passport, claiming that he is being investigated for a charge from 1994 of being in possession of a grenade at a political demonstration. It is unclear why this charge is being investigated at this late date. It is also unclear why this should affect Kerimli's ability to receive a passport, as he had been issued several passports in the time between the alleged 1994 incident and the time his renewal application was refused in 2006. Kerimli maintains his innocence and believes that the authorities are restricting his movement to prevent him from freely expressing his political opinions. He noted that the last trip he had taken abroad was in January 2006 to the PACE, where he had given a speech that was critical of the authorities' conduct in the 2005 parliamentary elections. Kerimli is awaiting the ECtHR's review of his case.

The Popular Front Party, one of Azerbaijan's leading opposition parties, lost its office in central Baku in November 2006 after a government-initiated lawsuit resulting in a decision by the Baku Economic Court that the property had been illegally leased to the party.⁹⁹ As a result, the party has not had a working office since that time, making it difficult to carry out even routine party activities. Popular Front Party Chairman Ali Kerimli noted that while the authorities had designated a new office for the party after evicting them from their previous office, the space was not suitable for work, as it was remote from Baku's centre and lacked basic provisions such as water and electricity. The party has attempted to find a suitable space to rent, but Kerimli said that they have been unsuccessful as landlords have refused to rent to the party out of fear of retaliation by the authorities.¹⁰⁰

Musavat Party Chairman Isa Gambar noted that professors associated with his party cannot get jobs at state universities. Youth associated with Musavat must hide their political affiliation until finishing university, he said, and if they chose to make it known at that stage, they face difficulty finding jobs.¹⁰¹ Kerimli reported that the situation is similar for youth affiliated with the Popular Front Party, and noted that several youth had been expelled from universities because of their links to the party. Further, he said that party members and their families have very low chances of finding and keeping jobs.¹⁰²

Azerbaijan Democratic Party Chairman Sardar Jalaloglu noted that being affiliated with an opposition party in Azerbaijan has become quite risky. "We carry out activities like dissidents in the Soviet times", he said.¹⁰³ Popular Front Party Chairman Ali Kerimli echoed this sentiment, stating "We work like dissidents, not like political parties. We work from our houses and

⁹⁷ ARTICLE 19 interview with Ali Kerimli, Baku, 8 July 2010.

⁹⁸ ARTICLE 19 interview with Ali Kerimli, Baku, 8 July 2010. See also RFE/RL Newline, 'Azerbaijani Oppositionist Denied Passport for Foreign Travel', 1 August 2006. Retrieved 12 August 2010 from <http://www.hri.org/news/balkans/rferl/2006/06-08-01.rferl.html>.

⁹⁹ U.S. Department of State, 2005 Country Report on Human Rights Practices in Azerbaijan, 6 March 2007.

¹⁰⁰ ARTICLE 19 interview with Ali Kerimli, Baku, 8 July 2010.

¹⁰¹ ARTICLE 19 interview with Isa Gambar, Baku, 7 July 2010.

¹⁰² ARTICLE 19 interview with Ali Kerimli, Baku, 8 July 2010.

¹⁰³ ARTICLE 19 interview with Sardar Jalaloglu, Baku, 7 July 2010.

organise party events only on the Internet. We have no chance to gather, like dissidents. We expect persecution every day".¹⁰⁴

*Case Study: Husseyn Abdullayev*¹⁰⁵

Husseyn Abdullayev, a former Member of Parliament (MP), was arrested and stripped of his parliamentary mandate in March 2006, following an altercation during a parliamentary session with another MP. Abdullayev was an independent MP, although he was considered to be close to the ruling Yeni Azerbaijan Party. Abdullayev had criticised some of the information presented in the Prime Minister's annual report on the government's performance, when another MP claimed Abdullayev insulted him and initiated a fist fight, which led to Abdullayev's arrest on charges of inflicting bodily harm. Abdullayev was stripped of his parliamentary mandate, detained for two months, and then released after receiving a two-year suspended sentence. The other MP was not arrested, nor did parliament take any disciplinary measures against him.

The situation for NGOs working on issues pertaining to democracy and human rights has also significantly worsened. Several civil society activists interviewed for this report noted their fear that the authorities would focus more attention on restricting the activities of NGOs following the 2010 parliamentary elections, once international attention has shifted from Azerbaijan.¹⁰⁶

Media Rights Institute (MRI) Chairman Rashid Hajili described an increasingly difficult operating environment, noting that working on media rights issues had become much riskier since 2005. For example, he explained that the MRI had been forced to move offices in 2009 because of pressure on the landlord from an unspecified source.¹⁰⁷ Most recently, in August 2010 an employee of the MRI was called into the Baku Police Department for questioning following the release of the MRI's semi-annual report on the legal status of media in Azerbaijan. Officials told the employee to "be careful not to damage Azerbaijan's image" through publishing these reports.¹⁰⁸ According to Hajili, the Azerbaijani authorities now treat any form of civic activism or collective social activity as they would political dissent. "Even if a group of farmers got together to discuss their work, the authorities would crack down", he said.¹⁰⁹

Institute for Reporters' Freedom and Safety (IRFS) Chair Emin Huseynov recalled a conference in July 2010, during which a presidential administration official accused him of being radical, and not working in a constructive manner. Huseynov also noted that Ministry of Justice officials had accused the IRFS of taking money to work as a spy for the West.¹¹⁰ IRFS employees have often been harassed by authorities while conducting their professional activities.¹¹¹

¹⁰⁴ ARTICLE 19 interview with Ali Kerimli, Baku, 8 July 2010.

¹⁰⁵ For more information, see, for example: U.S. Department of State, *2007 Country Report on Human Rights Practices in Azerbaijan*, 11 March 2008; RFE/RL Newline, 'Azerbaijani Premier's Annual Report Triggered Fistfight in Parliament', 20 March 2007. Retrieved 12 August 2010 from <http://www.hri.org/news/balkans/rferl/2007/07-03-20.rferl.html#09>.

¹⁰⁶ ARTICLE 19 interviews in Baku, 5-8 July, 2010.

¹⁰⁷ ARTICLE 19 interview with Rashid Hajili, Baku, 5 July 2010.

¹⁰⁸ Media Rights Institute, 'MRI program coordinator was called to the Baku Police Department', 8 July 2010. Retrieved 12 August 2010 from <http://www.mediarights.org/index.php?lngs=eng&id=58>.

¹⁰⁹ ARTICLE 19 interview with Rashid Hajili, Baku, 5 July 2010.

¹¹⁰ ARTICLE 19 interview with Emin Huseynov, Baku, 8 July 2010.

¹¹¹ For example, International Freedom of Expression eXchange, 'Journalists Harassed by Presidential Administration Guards,' 22 July 2010. Retrieved 12 August 2010 from http://www.ifex.org/azerbaijan/2010/07/22/journalists_harassed/.

Alimammad Nuriyev, a member of the Council of State Support to NGOS acknowledged that it was difficult for individuals to express critical opinions against government bodies out of fear of persecution.¹¹²

State control of the broadcast media

The Azerbaijani government exercises tight control over the broadcast media, making it difficult for critics to gain access and resulting in a noted lack of political pluralism in the broadcast media. The government's domination of the broadcast media has severely crippled its ability to develop. Out of Azerbaijan's seven national television stations, one is directly owned by the state, one is public, and five are privately owned. All, however, operate in a manner heavily biased in favour of the state. This is largely due to the fact that the state, through the NTRC, controls the approval of broadcast licenses.¹¹³ Privately-owned ANS Television, among the most popular private television stations, was reported to have been fairly independent in the past, but following the government's temporarily suspension of its broadcast in 2006, media monitors have reported that ANS has adopted a more careful approach.¹¹⁴ As most Azerbaijanis get their news from television, much of the population receives little or no exposure to independent and critical news reporting.

There is a particular lack of political pluralism in television programming. According to the results of a study conducted by the IRFS, over the past year, there has been no criticism of the government shown on any Azerbaijani television channel, and independent and opposition politicians have been given no coverage. The IRFS considered 90 percent of the broadcast programming as "positive propaganda" of the government, with the remaining 10 percent of programming containing more neutral coverage of the government.¹¹⁵

In fact, opposition party leaders have very rarely been permitted to appear on television since the 2005 parliamentary elections. Musavat Party Chairman Isa Gambar reported that since the 2005 elections, he had appeared once on public television in March 2009, in connection with the constitutional referendum to abolish the presidential term limitation. He had appeared on independent ANS TV several times between 2005 and 2007, but has not since then. While Musavat Party members are sometimes invited to participate in programmes on public television, Gambar noted that the topics of discussion have always been on international or historical issues, never on current domestic political issues.¹¹⁶ Popular Front Party Chairman Ali Kerimli reported that he had appeared on television in Azerbaijan only once since the 2005 parliamentary elections, also on public television in connection with the March 2009 constitutional referendum.¹¹⁷ Azerbaijan Democratic Party Chairman Sardar Jalaloglu noted that television coverage of events where opposition figures are present, such as a roundtable discussion which had been organised by the OSCE Office in Baku, showed only representatives

¹¹² ARTICLE 19 interview with Alimammad Nuriyev, Baku, 7 July 2010.

¹¹³ IREX, *Media and Sustainability Index 2010: Azerbaijan*, 2010. Retrieved 12 August 2010 from http://www.irex.org/programs/MSI_EUR/2010/EE_MSI_2010_Azerbaijan.pdf.

¹¹⁴ U.S. Department of State, *2009 Country Report on Human Rights Practices in Azerbaijan*, 11 March 2010.

¹¹⁵ Institute for Reporters' Freedom and Safety, *Appeal to Council of Europe Summer Session Participants*, 21 June 2010. Retrieved 12 August 2010 from <http://www.irfs.az/content/view/4090/lang.eng/>.

¹¹⁶ ARTICLE 19 interview with Isa Gambar, Baku, 7 July 2010.

¹¹⁷ ARTICLE 19 interview with Ali Kerimli, Baku, 8 July 2010.

of international organisations and foreign embassies, not the representatives of the opposition parties.¹¹⁸

Radio broadcast is similarly controlled by the state, particularly following the NTRC's decision to prohibit foreign broadcasters from accessing national airwaves as of 1 January 2009. This decision directly affected the BBC, Radio Free Europe/Radio Liberty, and Voice of America, eliminating the only sources of independent broadcast news for many Azerbaijanis.¹¹⁹

Pressure on the print media

Independent and opposition voices are present in the print media, but independent and opposition publications are experiencing seriously low circulation and subscription rates, and serious financial constraints which make normal operations difficult. Independent and opposition publications face particular difficulties, however, as they report to have unequal access to printing and distribution facilities as compared with pro-government publications. They also face disproportionate financial constraints, as businesses chose not to advertise in opposition publications out of fear of retaliation by the government.¹²⁰ In 2008, the government established a State Media Support Fund which has provided funding to some independent and opposition media outlets; however, concerns remain that the fund is an attempt by the government to discourage media outlets from reporting critically in the hope that they might receive state funding.¹²¹ As noted above, many independent and opposition publications are saddled with excessive damages from civil defamation lawsuits.¹²²

Yeni Nesil Journalists' Union Chairman Arif Aliyev described the current operating environment for independent media as more difficult and "less free" than it was five years ago. The main difference he observed was the decrease in independent media coverage. Where five years ago many independent media structures existed, now there were few. "The remaining independent media are now focused only on surviving", he said. Aliyev fears that the situation will worsen following the upcoming 2010 parliamentary elections, noting that post-election periods often result in actions against the media, such as the closures of newspapers.¹²³ *Azadliq* newspaper editor-in-chief Ganimat Zahid noted that the remaining opposition newspapers are in a particularly difficult situation as compared to 2005, when there were more opposition newspapers and they felt they had stronger support. Now, for example, *Azadliq* was in a position of vulnerability, facing a significant amount of debt due to defamation lawsuits filed by public officials, and uncertain how long the newspaper could continue to work in its current office space.¹²⁴

¹¹⁸ ARTICLE 19 interview with Sardar Jalaloglu, Baku, 7 July 2010.

¹¹⁹ Radio Free Europe/Radio Liberty, 'Azerbaijan Bans RFE/RL, Other Foreign Radio from Airwaves, 30 December 2008. Retrieved 12 August 2010 from http://www.rferl.org/Content/Azerbaijan_Bans_RFERL_Other_Foreign_Radio/1364986.html.

¹²⁰ IREX, *Media and Sustainability Index 2010: Azerbaijan*, 2010. Retrieved 12 August 2010 from http://www.irex.org/programs/MSI_EUR/2010/EE_MSI_2010_Azerbaijan.pdf.

¹²¹ U.S. Department of State, *2009 Country Report on Human Rights Practices in Azerbaijan*, 11 March 2010.

¹²² Media Rights Institute, *Legal Status of the Mass Media in Azerbaijan Annual Report 2009*, 21 December 2009. Retrieved 12 August 2010 from <http://www.mediariights.az/docs/MRI-Annual%20Report%20on%20Status%20of%20Mass%20Media%20Azerbaijan%20-%202009.pdf>.

¹²³ ARTICLE 19 interview with Arif Aliyev, Baku, 5 July 2010.

¹²⁴ ARTICLE 19 interview with Ganimat Zahid, Baku, 8 July 2010.

New media - a mixed picture

The Internet serves as an alternative source of information for many who cannot obtain the information they need through the print and broadcast media. As Internet accessibility grows, an increasing number of Azerbaijanis are getting their news online, from online versions of the major print newspapers and online television stations such as Obyektiv TV and AN TV.¹²⁵ The use of new media technologies has become popular, particularly among youth. Many public figures in Azerbaijan are using these tools to reach a wider audience; for example, Azerbaijani President Ilham Aliyev now maintains a Twitter account and a YouTube channel.¹²⁶ Emin Huseynzade, Caucasus Project Manager for Transitions Online, reports that the number of Azerbaijani language blogs in Azerbaijan has increased from 6,000 in 2008 to more than 30,000 at present.¹²⁷

There have been reports of certain websites being blocked¹²⁸, and information posted on the Internet has been a factor in some criminal cases against journalists.¹²⁹ Speculation persists that the Azerbaijani government is preparing to clamp down on freedom of expression via the Internet through the introduction of a new draft law which is expected to require Azerbaijani websites to obtain licenses from the state.¹³⁰ However, authorities presently have far less control of the exchange of information online than they do on more traditional forms of media.

Barriers to access to information

The inability of citizens to access public information in Azerbaijan presents another obstacle to freedom of expression. Although the 2005 Law on the Right to Obtain Information (RTI) in Azerbaijan largely complies with international freedom of information standards, implementation of the law remains problematic. While some public bodies have made an effort to comply with their obligations as information-owners under the RTI law, many have not. Some refuse to respond to information requests by falsely claiming that the information is a state secret, some deny that they are information-owners, and many simply choose to ignore information requests. The government's failure to appoint an Information Ombudsman means that citizens have no recourse other than the courts, which often do not hold information-owners accountable under the RTI law. Achieving realisation of RTI is critical to achieving broader freedom of expression in Azerbaijan, and it is a pre-condition of the realisation of many other rights.¹³¹

¹²⁵ Retrieved 12 August 2010 from <http://www.youtube.com/user/Obyektivtv#p/a> and <http://www.youtube.com/user/ANTVws#p/p>.

¹²⁶ Retrieved 12 August 2010 from <http://twitter.com/presidentaz> and <http://www.youtube.com/user/presidentaz>.

¹²⁷ ARTICLE 19 interview with Emin Huseynzade, Baku, 7 July 2010.

¹²⁸ For example, G. Lomsadze, 'Azerbaijan: RFE/RL Website Experiencing Access Problems in Baku', 8 March 2010. Retrieved 12 August 2010 from <http://www.eurasianet.org/departments/insight/articles/eav030910c.shtml>.

¹²⁹ For example, in Eynulla Fatullayev's initial conviction of defamation in 2007. Human Rights Watch, 'Azerbaijan: Opposition Editor Sentenced to Prison', 25 April 2007. Retrieved 12 August 2010 from <http://www.hrw.org/en/news/2007/04/25/azerbaijan-opposition-editor-sentenced-prison>.

¹³⁰ K. Rahdar, 'Azerbaijan Grapples with New Media Freedom', *ISN Security Watch*, 7 June 2010. Retrieved 12 August 2010 from <http://www.isn.ethz.ch/isn/Current-Affairs/Security-Watch/Detail/?ots591=4888caa0-b3db-1461-98b9-e20e7b9c13d4&lng=en&id=117004>.

¹³¹ ARTICLE 19, *Time to Reset the Code Locks: Realising the Right to Know in Azerbaijan after the Adoption of the 2005 Law on the Right to Obtain Information*, October 2009. Retrieved 12 August 2010 from <http://www.article19.org/pdfs/publications/azerbaijan-freedom-of-information-report.pdf>.

Low professionalism of journalists

Concerns regarding a low level of professionalism of journalists are sometimes listed as contributing factors to the poor freedom of expression climate in Azerbaijan.¹³² Many Azerbaijani government officials have placed blame on the unprofessional behaviour of journalists - rather than the government's actions - for the current state of freedom of expression.¹³³

ARTICLE 19 notes that a number of factors have contributed to this low level of professionalism, including insufficient training for journalists and a lack of funding among most media outlets to provide salaries at the level needed to sustain a professional corps of journalists.

While some of these concerns are valid, ARTICLE 19 believes that focus on this issue has been too often used to deflect criticism from more serious problems. The low level of professionalism of journalists is largely a technical issue which should be addressed in the context of media development. Greater attention should be given to the root causes of the poor freedom of expression climate, namely actions taken by the Azerbaijani authorities to limit criticism.

¹³² For example, International Media Support, 'Polarized Media in Azerbaijan', 15 May 2008. Retrieved 12 August 2010 from <http://www.i-m-s.dk/article/polarized-media-azerbaijan>.

¹³³ E. Huseynli, 'Azerbaijani top official: Country created all conditions for independent media development (Interview)', 14 July 2010. Retrieved 12 August 2010 from <http://en.trend.az/news/society/media/1720535.html>.

6. Conclusions

Throughout its two-year project in Azerbaijan, and in specific research undertaken for this report, ARTICLE 19 has noted two particularly striking and worrisome observations which have been echoed throughout the Azerbaijani media community and civil society, and among political parties. The first is the widespread concern that the Azerbaijani government is regressing from – not progressing towards – democracy, and slipping instead towards authoritarianism. The second is the sentiment expressed by many civil society and political activists that they feel as if they are living as dissidents once more, as they did under the Soviet system. However, unlike in Soviet times, they are now unaware of exactly which lines cannot be crossed, leaving them in a particularly vulnerable situation.

As evidenced by these observations and by the trends and cases examined in this report, the current state of freedom of expression in Azerbaijan is alarming. The Azerbaijani authorities use a range of tactics to restrict freedom of expression. Journalists, civil society activists, and political activists expressing opinions critical of the government are imprisoned for political reasons. Government critics are harassed, intimidated, and threatened for expressing their opinions. Violence is used against critical journalists. The broadcast media is controlled by the state and lacks political pluralism, and independent and opposition newspapers face a number of pressures. Barriers remain which prevent individuals from accessing public information.

Indeed, the freedom of expression situation should be considered among the most pressing human rights concerns in Azerbaijan. Measures taken by the Azerbaijani authorities to restrict freedom of expression present a serious threat to Azerbaijan's democratic development. This situation requires urgent and immediate attention by the Azerbaijani government and by the international community.

To that end, ARTICLE 19 has developed a number of recommendations regarding specific steps that should be taken to improve the freedom of expression situation in Azerbaijan. A full list of these recommendations is provided prior to the introduction of this report.

Key recommendations to the Azerbaijani government include:

- To fully comply with its international commitments to respect and protect freedom of expression;
- To bring all legislation into compliance with international standards for freedom of expression, including through decriminalising defamation;
- To immediately release those currently imprisoned in connection with expressing critical opinions and cease the imprisonment of persons for political reasons;
- To effectively, promptly and independently investigate all cases of violence against and ill-treatment of journalists and media workers and to prosecute those responsible;
- To cease its practices of harassment, intimidation, and persecution of those who express critical opinions;
- To cease its targeting of opposition political parties and youth movements and allow them to function freely;
- To enact measures to create and promote an enabling environment for free, independent and diverse media; and

- To take immediate, concrete steps to create an environment conducive to freedom of expression ahead of the November 2010 parliamentary elections.

Key recommendations to the international community include:

- To prioritise freedom of expression in Azerbaijan as a pressing issue and continue monitoring and reacting to freedom of expression violations;
- To recognise cases of violations of freedom of political expression as such and to raise these cases in dialogues with the Azerbaijani government;
- To exert greater pressure on the Azerbaijani government to meet its international commitments to freedom of expression;
- To increase support to civil society organisations working to promote and protect freedom of expression in Azerbaijan;
- To increase support to independent media structures and the development of new media technologies in Azerbaijan; and
- To include serious consideration of the long-term freedom of expression environment in assessments of the conduct of Azerbaijan's November 2010 parliamentary elections.

Finally, to those on the frontline, the journalists, civil society activists, youth activists, political party activists and ordinary citizens of Azerbaijan who continue to experience freedom of expression violations, ARTICLE 19 has only one recommendation: to continue to demand respect for their right to freedom of expression. The right to freedom of expression is a universal right guaranteed by international human rights law which the Azerbaijani government has committed to respect and protect. Achieving full respect for this right requires political will, which can only be achieved through citizens actively participating in the democratic process by exercising their right to freedom of expression.



ARTICLE 19

GLOBAL CAMPAIGN FOR FREE EXPRESSION

The freedom of expression situation in Azerbaijan has deteriorated significantly over the past five years. Since the 2005 parliamentary elections in Azerbaijan, the authorities have demonstrated an intolerance to criticism, using a variety of tactics to silence critical voices. As a result, many civil society and political activists feel they are living again as dissidents, as they did under the Soviet system.

In this report, ARTICLE 19 analyses trends of concern from a freedom of expression perspective over the past five years, with a particular focus on freedom of political expression. The report contains individual case studies, as well as an overview of international freedom of expression standards and the relevant domestic legal framework in Azerbaijan. It also contains ARTICLE 19's recommendations to the Azerbaijani government and the international community on how to improve the freedom of expression situation, which should be considered among the most pressing human rights concerns in Azerbaijan.