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Azerbaijan: Media, the Presidential Elections and the Aftermath

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Summary

Azerbaijan's October 2003 presidential elections brought on a wave of repression that has had a lasting, negative impact on freedom of the media. Immediately following the elections, the Council of Europe and the Organization for Security and Cooperation in Europe (OSCE) called the elections results "falsified"¹ and "fraudulent."² The elections were followed by arrests and dismissals of political opposition members throughout the country.³ From the beginning of the election campaign, the government increased pressure on independent and opposition media representatives attempting to cover election-related events. Journalists were harassed and beaten, and media outlets put under increasing financial and other pressures. No police or security agents have been held responsible for these abuses. Moreover, since the elections, some print media have been forced to suspend publications, while others have had drops in circulations due to financial pressures and government-imposed restrictions. During the election and its aftermath, nominally independent television showed an overwhelming pro-government bias, and the future of an independent public television station remains uncertain.

This briefing paper describes government-imposed restrictions on freedom of the media in Azerbaijan following a general deterioration in the human rights situation since the 2003 presidential election. These include continuing impunity for police violence against journalists, crippling fines in civil defamation suits, and the government's ability to manipulate resources to pressure media outlets. It places the current problems with freedom of media in the context of a continuously difficult media environment for independent and opposition affiliated media since the government lifted censorship six years ago. It is based on interviews with journalists, editors, and government officials in Baku, the Azerbaijani capital, during a February-March 2004 field mission. Human Rights Watch urges the Azerbaijani government to hold accountable those law enforcement agents responsible for the beating of journalists, to repeal criminal libel laws, and to establish a monetary cap on damages in civil defamation suits. Human Rights Watch urges the international community to work with the government of Azerbaijan to bring about these changes.

General Media Environment

Most media news outlets in Azerbaijan are aligned either with the government or with individual opposition parties. Only a handful have no political affiliations. Electronic media is the most influential provider of news and information in Azerbaijan and is overwhelmingly biased in favor of the government. Numerous nongovernment newspapers and magazines, although under constant government pressure, are highly politicized and not always accurate, but provide lively fora for debate.⁴

¹ "Functioning of Democratic Institutions in Azerbaijan," Report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe, paragraph 32, Document 10030, Parliamentary Assembly of the Council of Europe, January 12, 2004.

² "Republic of Azerbaijan Presidential Election 15 October 2003 OSCE/ODIHR Election Observation Mission Report," p.2, OSCE, Office for Democratic Institutions and Human Rights, Warsaw, November 12, 2003.

³ For a full description of these events, see Human Rights Watch "Crushing Dissent: Repression, Violence and Azerbaijan's Elections," *Human Rights Watch Report*, January 2004, Volume 16, No. 1(D), [online] <http://hrw.org/reports/2004/azerbaijan0104/> (retrieved August 2, 2004).

⁴ The State Department of United States of America (U.S.) estimated that there were forty independent newspapers and magazines in 2003. "Country Reports on Human Rights Practices- 2003," released by the Bureau of Democracy, Human Rights, and Labor, U.S. State Department, [online] <http://www.state.gov/g/drl/rls/hrrpt/2003/27826.htm> (retrieved August 2, 2004). The Azerbaijan Committee to Protect Journalists, RUH, (this organization is not affiliated to the similarly named Committee to Protect Journalists, based in New York), estimated that there were between fifteen and twenty independent newspapers. Human Rights Watch interview, Aflatuna Amashov, head of RUH, Baku, February 27, 2004.

The government of Azerbaijan abolished censorship in 1998,⁵ however, it continues to exert control over the media in a variety of ways. Major television outlets are either state-owned or affiliated.⁶ Local radio stations broadcast very few information or news programs, but rather offer a variety of music and entertainment shows.⁷ The government fully controls the issuing of radio and television broadcast licenses through a licensing board that consists entirely of presidential appointees.⁸

Even prior to the 2003 election, the government exerted constant pressure on the independent print media. Financial constraints, caused by both market forces and government pressure, are a major obstacle to the free functioning of independent newspapers and magazines, leading to temporary suspensions of publication or closures. Government interference reportedly includes direct and indirect pressure on advertisers not to place advertisements in opposition-affiliated newspapers,⁹ making them rely on sales alone. Government distributors refuse to distribute and sell many opposition-affiliated or independent newspapers and magazines, significantly reducing their circulation opportunities. The authorities have in the past closed down kiosks of the smaller distributors,¹⁰ limiting their distribution capacity, especially outside of Baku. Police reportedly harassed and continue to harass individual street sellers who carry independent newspapers and magazines.¹¹

Criminal and civil defamation suits have a chilling effect on the independence of the media. Criminal defamation remains in the criminal code, and prosecutions continue, although in recent years the courts have imposed suspended rather than active prison sentences.¹²

The independent and opposition media in Azerbaijan, like the progovernment media, have been known to publish personal insults and at times be loose with the facts, but it is the opposition and independent media that frequently face defamation suits in the courts.¹³ The government's use of defamation suits, the lack of an independent judiciary, and the imposition of crippling high fines lead to unreasonable restrictions on media freedom. Government officials or those closely connected to the government are

⁵ Human Rights Watch interview with Mehman Aliyev, head of the independent Turan Information Agency, Baku, February 25, 2004, and Human Rights Watch interview with Azer Hasret, head of Central Asian and Southern Caucasus Freedom of Expression Network (CASCEN), Baku, February 26, 2004.

⁶ Human Rights Watch interview Rashid Hadjili, Media Rights Institute, Baku, February 26, 2004. Human Rights Watch interview with Mehman Aliyev, head of Turan Information Agency, Baku, February 25, 2004. "Azerbaijan Press freedom curtailed since Ilham Aliyev's election as president," December 10, 2003, Reporters without Borders, [online] http://www.rsf.org/article.php3?id_article=8769 (retrieved August 2, 2004).

⁷ Foreign radio broadcasters such as BBC, Radio Free Europe/Radio Liberty, and Voice of America broadcast locally without significant interference. Human Rights Watch interview with Rashid Hadjili, Media Rights Institute, Baku, February 26, 2004.

⁸ Human Rights Watch interview with Rashid Hadjili, Media Rights Institute, Baku, February 26, 2004.

⁹ Human Rights Watch interview with Mehman Aliyev, head of Turan Information Agency, Baku, February 25, 2004. Human Rights Watch interview with Rashid Hadjili, Media Rights Institute, Baku, February 26, 2004. "Azerbaijan Press freedom curtailed since Ilham Aliyev's election as president," December 10, 2003, Reporters without Borders, [online] http://www.rsf.org/article.php3?id_article=8769 (retrieved August 2, 2004).

¹⁰ Human Rights Watch interview with Mehman Aliyev, head of Turan Information Agency, Baku, February 25, 2004. Human Rights Watch interview with Elmar Husseynov, chief editor of *Monitor*, Baku, February 26, 2004. "Country Reports on Human Rights Practices- 2003," released by the Bureau of Democracy, Human Rights, and Labor, U.S. State Department, [online] <http://www.state.gov/g/drl/rls/hrrpt/2003/27826.htm> (retrieved August 2, 2004).

¹¹ Human Rights Watch interview with Elmar Husseynov, editor-in-chief of *Monitor*, February 26, 2004. *Monitor* is an independent weekly magazine.

¹² For example, on February 25, 2004, two journalists were convicted and sentenced to two-year suspended prison terms for an article that claimed the National Taekwondo Federation helped security forces break up demonstrations following the October 2003 presidential elections. Human Rights Watch interview with Elmar Husseynov, chief editor of *Monitor*, February 26, 2004. "Two journalists given two-year suspended prison sentences," Reporters without Borders, February 26, 2004, [online] http://www.rsf.org/article.php3?id_article=9389 (retrieved August 2, 2004). Under a suspended sentence the convicted individual is paroled. He or she does not serve his or her prison term, but would be subject to serve it upon commission of any act violating the terms of the suspended sentence.

¹³ Human Rights Watch interview with Aflatuna Amashov, Baku, February 27, 2004. Human Rights Watch interviews with several members of the international community based in Baku who did not wish to be named, February 2004.

invariably the plaintiffs in civil defamation suits against independent media, and the courts almost always impose significant fines.

The government controls the major printing presses and, at times, pressures smaller independent presses not to publish independent newspapers and magazines. Public officials often block access to information for journalists working for the independent press. Police harassed and beat journalists when they attempted to report on opposition party events or protests.¹⁴

Violence against and Harassment of Journalists during the Presidential Election, October 2003

While for some time the independent and opposition media have operated in an environment of restrictions and intimidation, the October 2003 presidential election worsened the climate for the media considerably. Although the government has taken some measures since the election to rectify abuses against journalists, they fall far short of what is needed to promote a free and independent media in the country. The deterioration of the media environment began with the pre-election period, which was marked by an increase in intimidation and harassment of journalists attempting to report on opposition campaign activities. In September 2003, journalists from more than twelve different media outlets reported being the victims of police and provocateur assaults and having their equipment either broken or seized.¹⁵

One such incident occurred in front of the Baku City Police Station on September 8. Fuad Mustafaev, a representative of the Popular Front Party, had been summoned to the police station after appearing on Az TV for a live political talk show with the leader of the government-aligned Modern Musavat ("Equality") political party. In an apparent attempt to limit publicity, police reportedly attacked journalists who had gathered outside the police station and continued to punch and kick them, even after they showed their press cards.¹⁶ As a result ten journalists were injured. The Secretary General of the Council of Europe, Walter Schwimmer, and the Organization for Security and Cooperation in Europe (OSCE) Representative on Freedom of the Media, Freimut Duve, made a joint statement calling on the authorities of Azerbaijan "to conduct a thorough investigation of this assault against media representatives as soon as possible."¹⁷ A police spokesman denied that the police had done anything illegal, but apologized for any accidental assaults on journalists.¹⁸ As of mid-2004, police took no action in relation to the case.¹⁹

In previous publications Human Rights Watch documented the police beatings of journalists in the course of their reporting on pre-election opposition events. These included the beatings of Tabriz Vefali, a journalist with the opposition daily newspaper, *Hurriyet*, on October 3, 2003, and of a group of journalists, including Anar Natikoglu from the opposition daily *Yeni Musavat*, who were reporting on an

¹⁴ See, "Azerbaijan: Presidential Elections 2003," Human Rights Watch briefing paper, for examples of this harassment.

¹⁵ "2003 Azerbaijan Press Freedom Review," International Press Institute, [online] <http://www.freemedia.at/wpfr/Europe/azerbaij.htm> (retrieved August 24, 2004).

¹⁶ "Internews Condemns Violence Against Journalists Near the Head Police Station," September 9, 2003, [online] <http://www.internews.az/eng/articles/20030909.shtml> (retrieved August 2, 2004) and "2003 Azerbaijan Press Freedom Review," International Press Institute, [online] at <http://www.freemedia.at/wpfr/Europe/azerbaij.htm> (retrieved August 2, 2004).

¹⁷ "The Secretary General of the Council of Europe and the OSCE Representative on Freedom of the Media express concern about the situation of the media in Azerbaijan," September 10, 2004, [online] <http://www.internews.az/eng/articles/20030910.shtml> (retrieved August 2, 2004).

¹⁸ "Azerbaijan: Police Officers Assault Journalists," 2003 News Alert, Committee for the Protection of Journalists, September 11, 2003, [online] <http://www.cpj.org/news/2003/Azer11sept03na.html> (retrieved August 2, 2004).

¹⁹ Human Rights Watch e-mail correspondence with Azer Hasret, CASCEN, May 29, 2004.

opposition rally outside of the Tabriz cinema in Baku on September 21, 2003.²⁰ Again, authorities took no action to hold police officers responsible for the beatings.²¹ The damaging result of this lack of accountability can be seen in the incidents of police violence against journalists during the election, and at least one violent incident after it.

On October 15, election day itself, there were many incidents of harassment of journalists. Police detained and beat journalists at polling stations and officials refused to allow journalists access to polling stations.²²

The following days, two demonstrations protesting the election fraud turned violent. During both, police did not distinguish between protesters and journalists reporting on the protest, and arrested them both. On the evening on October 15, journalists, along with opposition supporters and other observers, gathered in the street outside the Musavat party headquarters in the center of Baku to hear regular updates on the vote counting.²³ Emotions among the opposition supporters ran high as the level of fraud committed during the elections became apparent. At one point a Sahil Karimli, a journalist working for Lider TV, was attacked and sustained "major head and body injuries." The authorities accused Musavat members, in particular Mehdi Mehdiyev of responsibility for the attack.²⁴

Lider TV was overwhelmingly biased in favor of the government supported presidential candidate, Ilham Aliyev, during the election campaign.²⁵ In sharp contrast to the many uninvestigated attacks on journalists working for opposition or independent media, the authorities filed charges against Mehdi Mehdiyev and another Musavat activist for Karimli's beating.²⁶

By midnight a large crowd had gathered. Large numbers of police with shields and batons, other security forces, and masked men in black from the Organized Crime Unit completely surrounded the Musavat headquarters and the gathered crowd.²⁷ At around 1.00 a.m. police and security forces moved in on the crowd and beat them with rubber truncheons and their fists, injuring dozens in an unprovoked attack.²⁸

Police also arrested Azer Karachenli, a journalist for the independent weekly *Avropa* newspaper. Karachenli told Human Rights Watch:

²⁰ Human Rights Watch, "Azerbaijan: Presidential Elections 2003," p. 14, [online] <http://www.hrw.org/background/eca/azerbaijan/index.htm> (retrieved August 2, 2004).

²¹ Human Rights Watch e-mail correspondence with Azer Hasret, May 29, 2004. Human Rights Watch interview with Fuad Hasanov, director of "Against Violence" human rights center, May 30, 2004.

²² "Internews Is Concerned About Pressure On Media During The Elections," October 18, 2003, [online] <http://www.internews.az/eng/articles/20031018.shtml> (retrieved August 2, 2004).

²³ Musavat's candidate in the presidential elections was Isa Gambar, the leading opponent to Ilham Aliyev.

²⁴ Letter from the Azerbaijani ambassador to the U.S., Ambassador Hafiz Pashayev, to Human Rights Watch, dated February 10, 2004.

²⁵ See below, *Media Coverage of the Election Campaign*.

²⁶ Human Rights Watch interview with Ramiz Rzayev, first deputy general procurator, Eldar Nuriyev, deputy general procurator, and Tahir Kazimov, head of the Department of Investigation of Grave Crimes, Baku, March 1, 2004.

²⁷ See "Azerbaijan: Presidential Elections 2003," Human Rights Watch Briefing Paper, October 13, 2003, p. 21, [online] <http://www.hrw.org/background/eca/azerbaijan/index.htm> (retrieved August 2, 2004). The Organized Crime Unit is a part of the Ministry of Interior. Human Rights Watch documented many instances of torture carried out by members of the Organized Crime Unit after the October 2003 presidential elections. See "Crushing Dissent" *Human Rights Watch Report*, January 2004.

²⁸ See "Crushing Dissent," *Human Rights Watch Report*, January 2004, p. 21. The government strenuously objected to the Human Rights Watch description of these events as an "unprovoked attack." In a letter to Human Rights Watch, the government stated that the opposition had been "making plans for employing violence as a tool of achieving their political goals," that inflammatory articles published in opposition newspapers in the lead up to the elections documented this intent, and that members of Musavat acted in accordance with these instructions on October 15 and 16, 2003. Letter from the Azerbaijani ambassador to the U.S., Ambassador Hafiz Pashayev, to Human Rights Watch, dated February 10, 2004.

Police with no uniforms and others dressed in black came from the back and attacked people. In front there was a police cordon. A man in black grabbed me from behind and dragged me by the hands... I told him I was a journalist... I showed him my press card. He put me in a bus... I was trying to explain who I was, but they said 'tell us in the station.' Then my chief editor rang me on my mobile [and] I said I'd been arrested, but then the police took my telephone and turned it off.²⁹

Police then took Karachenli to the Binagadi district police station; the next day a police investigator asked him to sign a written statement that he had participated in a riot, and resisted police. He refused to sign and wrote his own statement that he had been at the Musavat headquarters reporting on events as a journalist. He was held for six days in incommunicado detention, as police refused his requests for a lawyer and to contact his family and newspaper. His family and employers searched for him throughout this period, however, the authorities denied that he was in their custody.

On the sixth day, after being allowed to telephone his chief editor, he was released from custody. A procurator from the Serious Crimes Unit of the General Procurator's office, told him that he had been sentenced to fifteen days of detention for a petty offence of hooliganism, however, according to Karachenli, he was never even taken to court.³⁰

On October 16, many journalists went to Azadliq ("Freedom") Square to report on the protest there.³¹ According to journalists present, they were easily recognizable as journalists, holding recording equipment and press cards. However, security forces, including police, army, and special forces dressed in black, cornered the journalists, threw canisters of tear gas at them and beat them with rubber truncheons. One journalist, Emin Husseinov from the Turan Information Agency, present at the rally recounted: "We all held up our press cards. We had dictaphones and microphones... I received five strong blows to my head and about fifteen to my body... I fell unconscious."³² Others from the Turan Information Agency found him, and took him away for medical treatment. They had great difficulty finding a hospital that would give him full medical treatment, several hospitals refusing once they realized that he was injured during the protests. As of mid-2004, Husseinov was still suffering from severe headaches, neck immobility, nausea, and breathing problems.³³

In February 2004, Husseinov was called three times to courts in Baku, as a witness for the prosecution in group trials against opposition members accused of post-election violence. In the indictments, he was listed as a victim. In all cases he testified that the police, and not the opposition protesters, had beaten him.³⁴ Notably, no police were held accountable for his beating.

Approximately fifty-four journalists were beaten on October 15 and 16,³⁵ and twenty-three arrested in relation to the post-election events.³⁶ Most of those arrested were sentenced for up to fifteen days' imprisonment on petty charges. Many were released before they served their full sentences.³⁷

²⁹ Human Rights Watch interview with Azer Karachenli, Baku, February 25, 2004.

³⁰ Human Rights Watch interview with Azer Karachenli, Baku, February 25, 2004.

³¹ See "Crushing Dissent," *Human Rights Watch Report*, January 2004.

³² Human Rights Watch interview with Emin Husseinov, Baku, February 26, 2004.

³³ Human Rights Watch interview with Emin Husseinov, Baku, February 25 and 26, 2004.

³⁴ Ibid.

³⁵ Human Rights Watch interview with Aflatuna Amashov, Baku, February 27, 2004, and "Azerbaijan Press freedom curtailed since Ilham Aliyev's election as president," December 10, 2003, Reporters without Borders, [online] http://www.rsf.org/article.php3?id_article=8769 (retrieved August 2, 2004).

³⁶ Human Rights Watch interview with Aflatuna Amashov, Baku, February 27, 2004.

At least one representative of the media remained in custody as of mid-2004 on charges related to the post-election violence, and another was held in custody until April 2004, when he was convicted on charges of violating public order.

On October 27, police detained Rauf Arifoglu, the editor-in-chief of the opposition daily newspaper *Yeni Musavat* and deputy head of the Musavat opposition party.³⁸ He was immediately remanded into custody for three months, and then in January 2004, the Nasimi District Court in Baku extended his pretrial custody for another three months.³⁹ For the first thirty-two days, he was held in solitary confinement.⁴⁰ The authorities accused him, along with other opposition leaders similarly detained, of organizing and participating in the violence of October 15 and 16.⁴¹ Arifoglu believed that he was being held for his journalistic work.⁴²

Although the motivation for detaining Arifoglu may well have been related to his role as a Musavat party leader, the government has made it clear that they saw his writings in *Yeni Musavat* as a contributing factor to the violence that took place after the elections. The government claims Arifoglu used inflammatory language in his articles published during the pre-election period in *Yeni Musavat* newspaper, calling on the population to react in the case of electoral fraud.⁴³ The government claimed that the language he used amounted to "instructions" and "plans" to commit violence after the elections.⁴⁴ The preliminary hearing of his case, along with six other opposition leaders in a group trial, began on May 7, and was continuing as of mid-2004. As with the other trials of people accused with the post-election violence, there remain well-grounded fears that the trial will not be held in accordance with international fair trial standards.⁴⁵ Arifoglu has suffered serious health problems during his time in custody, including a stomach ulcer.

³⁷ Human Rights Watch interviews with several members of the international community in Baku who did not want to be named, Baku, February 2004.

³⁸ *Yeni Musavat* is aligned to the Musavat opposition party and has the largest circulation of any print media in Azerbaijan.

³⁹ Human Rights Watch interview with Yadigar Mamedli, head of the Committee for the Defense of Rauf Arifoglu, Baku, 19 and 24 February.

⁴⁰ Ibid. "Azerbaijan Press freedom curtailed since Ilham Aliyev's election as president," December 10, 2003, Reporters without Borders, [online] http://www.rsf.org/article.php3?id_article=8769 (retrieved August 2, 2004).

⁴¹ He was charged with organization or participation in a mass disturbance (articles 220.1 of the Criminal Code) and resistance to a state representative or committing of violence threatening the life and health of a state representative (article 315.2 of the Criminal Code). The majority of the 128 people tried or awaiting trial in relation to the post-election violence were charged with these same articles of the Criminal Code.

⁴² "Azerbaijan Press freedom curtailed since Ilham Aliyev's election as president," December 10, 2003, Reporters without Borders, [online] http://www.rsf.org/article.php3?id_article=8769 (retrieved August 2, 2004).

⁴³ Letter from the Azerbaijani ambassador to the U.S., Ambassador Hafiz Pashayev, to Human Rights Watch, dated February 10, 2004. The letter cites statements by several opposition members allegedly showing that "the opposition has been making plans for employing violence as a tool of achieving their political goals." Among these are two citations that the government says Arifoglu wrote. Human Rights Watch was unable to view an original copy of the articles, and so cannot verify the translation or determine the context for the citations. The February 10 letter states that: "On September 30, 2003, Mr. Rauf Arifoglu . . . has written [in *Yeni Musavat*]: 'Our people who live in villages and far regions. . . should go to the polling stations with food and specially-made truncheons at the end of the election day. Should there be anyone among the polling station staff who'll try to falsify, try to steal one's vote or future, that man should be beaten as a donkey! Just a dozen of such active and truncheons-[sic]equipped men in every village can assure the objectivity of election [sic] in that polling station.'" The letter continues: "In '*Yeni Musavat*' dated September 11, 2003, he writes about two of the candidates for the Presidency, Ilham Aliyev and Hafiz Hajiyev 'That dog of his will also get its head smashed. . . I would love to see the head of that dog smashed...right in the Gelebe square. If someone wishes to take this job on, let him not wait for an urging . . . It is, indeed, a national duty of each and every one of us.'"

⁴⁴ Ibid.

⁴⁵ The OSCE has followed the trials of 127 people charged with the post-election violence. Lawyers and local observers have obtained information about many breaches of international human rights standards, including the right to a lawyer of the defendants' choice, and forced confessions. In the preliminary hearing of the group trial in which Arifoglu was a defendant, the judge reportedly dismissed allegations of torture raised by the lawyers of several defendants, and observer access to the trial was limited. E-mail correspondence from Fuad Hasanov, director of "Against Violence" Human Rights Center, to Human Rights Watch, dated May 18, 2004.

On December 31, 2003, police arrested Sadiq Ismailov, a journalist from the independent *Baki Khaber* ("Baku News") newspaper, and accused him of being involved in the post-election violence. Police said that they had found a photograph of Ismailov, taken during the demonstrations, in which he was holding a stone. His lawyer, Mubaris Garaev, claimed that Ismailov's prosecution was a result of articles he had written since the election that were critical of the government. After his arrest, he was held in the Sabail district police station, where he was threatened and put under psychological pressure, which continued when he was transferred to the Serious Crimes Unit of the General Prosecutor's office. Although he requested Garaev to represent him, the police provided a state-appointed lawyer instead, thus depriving him of a lawyer of his choice. Ismailov confessed to the charges. However, once his own lawyer, Garaev, was able to defend him, a week after his arrest, Ismailov recanted his confession, telling Garaev that he had been threatened and pressured.⁴⁶ On April 2, 2004, he was convicted in the Court of Serious Crimes and given a four-and-a-half-year suspended prison sentence.⁴⁷

Government Response

In meetings with Human Rights Watch, officials denied that there was any pressure put on journalists during the election period.⁴⁸ In relation to the violence on October 15 and 16, they explained that it was not possible to determine who was a journalist in the crowds, implying that the police did not specifically target journalists, but, in defending themselves, the police may have unintentionally used physical force against journalists.⁴⁹ The authorities categorically denied that the police had used excessive violence on October 15 and 16, and stated that the police were attacked and were defending themselves, in accordance with their duties.⁵⁰ Officials also stated that many people claimed to be journalists, and even held journalists cards, who in fact were not journalists and attended the protests as opposition members.⁵¹

Although government officials denied any pressure on or targeting of journalists, they recognized the need to regulate relations between law enforcement authorities and journalists, and therefore agreed to participate in a Permanent Commission for Investigation and Elimination of Conflicts between Mass Media and Authorities, set up on the joint initiative of the Press Council of Azerbaijan and the Ministry of Interior.⁵² The Commission included representatives of the Press Council, Ministry of Justice, General Procurator's Office, and Ministry of Interior, and had its first sitting on February 2, 2004.⁵³

⁴⁶ Human Rights Watch interview with Mubaris Garaev, Baku, February 20, 2004.

⁴⁷ "List of Persons on Trials in Connection with the Post Election Events (Public Disorders) in Baku," provided by the OSCE to Human Rights Watch on May 26, 2004. Azer Hasret, CASCEN, stated that another journalist, Ruslan Khalilov, from the opposition daily newspaper *Jumhuriyet*, was also beaten on October 16 in Azadliq Square and was then arrested and accused of participating in the post-election violence. "One more journalist found... in detention," Azer Hasret, CASCEN, [online] <http://www.cascen.org/modules.php?name=News&file=article&sid=1377> (retrieved August 2, 2004). On March 5, 2004, Khalilov was given a three-year suspended sentence.

⁴⁸ Human Rights Watch interview with Ramiz Rzayev, first deputy general procurator, Eldar Nuriyev, deputy general procurator, and Tahir Kazimov, head of the Department of Investigation of Grave Crimes, Baku, March 1, 2004.

⁴⁹ Human Rights Watch interview with Ramiz Rzayev, first deputy general procurator, Eldar Nuriyev, deputy general procurator, and Tahir Kazimov, head of the Department of Investigation of Grave Crimes, Baku, March 1, 2004 and Human Rights Watch interview with Ramil Usubov, minister of interior, Baku, March 3, 2004.

⁵⁰ Human Rights Watch interview with Ramil Usubov, minister of interior, Baku, March 3, 2004.

⁵¹ The Minister of Interior stated that in a country of approximately 8,000,000 people, there were 60,000 bearers of press cards in Azerbaijan, many of which were issued by opposition parties to people who were not really journalists. Human Rights Watch interview with Ramil Usubov, minister of interior, Baku, March 3, 2004.

⁵² Human Rights Watch interview Ramil Usubov, Minister of Interior, Baku, March 3, 2004.

⁵³ Human Rights Watch interview with Aflatuna Amashov, Baku, February 27, 2004. Human Rights Watch interview with Qanimat Zahidov, chief editor of *Azadliq*, Baku, February 26, 2004. "First Sitting of Joint Commission with Participation of Press Council Members and Law Enforcement Authorities Takes Place," February 2, 2004, Turan Information Agency.

The Press Council and authorities have discussed ways of making journalists identifiable when they are covering public events, such as specific clothing, so that law enforcement officials can easily identify them.⁵⁴

Media Environment Since the Elections

While the establishment of the Permanent Commission is a positive step, by itself it is an inadequate measure for promoting freedom of the press. Since the authorities have held no one accountable for the attacks and harassment against journalists, a climate of impunity for such intimidation and violence persists. At the same time, a host of other problems continue to hamper the independent and opposition media. These include the proliferation of civil and criminal defamation suits, the government's pattern of informal manipulation of media broadcasters, newspaper distribution networks, and printing presses, and other forms of control and intimidation.

Economic Pressures and Government Control of Resources

On October 17, the Azerbaijan state printing press refused to print six opposition newspapers, *Azadliq*, *Yeni Musavat*, *Baki Khaber*, *Hurriet*, *Yeni Zaman*, and *Novoe Vremya*.⁵⁵ *Yeni Musavat* representatives reported that the management of the printing press told them that their employees refused to print the opposition newspaper because it is against the government. They also said that they were suspending printing because of debts owed by the opposition newspapers to the printing press.⁵⁶

Of the handful of private printing presses, only one, Chap Evi, agreed to print the opposition newspapers. Several printing houses told representatives of *Yeni Musavat* that they had been ordered by the authorities not to print the *Musavat* opposition newspaper, or that they feared retribution from the government if they were to print it.⁵⁷

For six days in November, the opposition newspapers were not printed for lack of paper. Prior to the election, paper for newsprint cost up to U.S. \$500 per ton. After the election, paper prices soared, reaching over U.S. \$1,000 per ton by November.⁵⁸ Opposition newspapers accused the government of increasing paper prices through manipulating supply to create an artificial shortage of paper. One opposition newspaper editor, reflecting a view common among the opposition, claimed that the government allegedly controlled the import of paper and held large stocks of paper in storage, not making it available to buyers.⁵⁹ By the end of February 2004, paper prices had stabilized to between U.S. \$650-700, still significantly higher than prior to the elections.⁶⁰

⁵⁴ Human Rights Watch interview with Aflatuna Amashov, Baku, February 27, 2004. The Azerbaijan state printing press answers to the Presidential Administration.

⁵⁵ Human Rights Watch interview with Gabil Abbasoglu, deputy chief editor of *Yeni Musavat*, Baku, February 25, 2004. "Azerbaijan Press freedom curtailed since Ilham Aliiev's election as president," December 10, 2003, Reporters without Borders, [online] http://www.rsf.org/article.php3?id_article=8769 (retrieved August). "2003 Azerbaijan Press Freedom Review," International Press Institute, [online] <http://www.freemedia.at/wpfr/Europe/azerbaij.htm> (retrieved August 2, 2004).

⁵⁶ Human Rights Watch interview with Gabil Abbasoglu, Baku, February 25, 2004. Human Rights Watch interview with Elchin Shikhlinisky, chief editor of *Zerkalo* (The Mirror), an independent, Russian-language daily newspaper, Baku, March 1, 2004. According to Reporters Without Borders, however, the Azerbaijan printing press continued to print government and pro-government newspapers that were equally indebted. "Azerbaijan Press freedom curtailed since Ilham Aliiev's election as president," December 10, 2003, Reporters without Borders, [online] http://www.rsf.org/article.php3?id_article=8769 (retrieved August 2, 2004).

⁵⁷ Human Rights Watch interview with Gabil Abbasoglu, deputy chief editor of *Yeni Musavat*, Baku, February 25, 2004.

⁵⁸ Human Rights Watch interview with Vuqar Mammedov, chief editor of *Hurriet*, Baku, February 20, 2004. Human Rights Watch interview with Gabil Abbasoglu, deputy chief editor of *Yeni Musavat*, Baku, February 25, 2004.

⁵⁹ Human Rights Watch interview with Vuqar Mammedov, chief editor of *Hurriet*, Baku, February 20, 2004.

⁶⁰ Ibid. Human Rights Watch interview with Gabil Abbasoglu, deputy chief editor of *Yeni Musavat*, Baku, February 25, 2004.

In January 2004, the Azerbaijan state printing press agreed to resume printing the opposition newspapers.⁶¹

Civil Libel Suits

Azerbaijani law provides for moral damages in cases involving defamation. The civil code grants individuals the right to recover damages caused by the "dissemination of information harming the honor, dignity or business reputation of a natural person."⁶² In a May 2002 decision, the Constitutional Court clarified that "damages" included moral and material harm.⁶³ The court affirmed trial court judges' discretion to assign damages, and while it set no financial parameters, it ruled that judges should "take into account the character and degree of moral and physical suffering as well as the guilt of the respondent, his/her financial position and other important aspects." While affirming the right of individuals to defend their honor and dignity, it also noted the state's obligation to protect freedom of expression.

Prior to the elections in 2003, the growing number of civil cases against opposition newspapers, usually brought by government officials or those close to them, resulted in crippling high fines, and seemed aimed at silencing criticism and threatening the viability of media outlets.⁶⁴ This indicates the need for the law to be revised to ensure that it cannot be used to such ends.

With regard to the trend of assessing prohibitive damages, a committee of the Council of Europe's Parliamentary Assembly stated:

[M]ajor opposition newspapers faced lawsuits as a result of their criticism of government officials and for publishing information on corruption and financial scandals. As a result, shockingly high and disproportionate fines were imposed by the local courts. In some cases, this led to the interruption of publication of newspapers forced into bankruptcy... Taking into consideration the pre-election context and being aware of the problems linked to the independence of the judiciary in Azerbaijan, as well as of the traditional objection to criticism by the leadership, the co-rapporteurs cannot but suspect an obvious effort to silence criticism expressed by opposition media.⁶⁵

Commenting in September 2003 on fines imposed on the *Yeni Musavat* newspaper as a result of libel cases, the OSCE and Council of Europe stated that the fines were "disproportionate and might undermine the financial viability of this newspaper. We are all the more worried that this may discourage

⁶¹ Human Rights Watch interview with Gabil Abbasoglu, deputy chief editor of *Yeni Musavat*, Baku, February 25, 2004. Human Rights Watch interview with Elchin Shikhlinsky, chief editor of *Zerkalo*, Baku, March 1, 2004.

⁶² Article 23 (4) of the Civil Code of the Republic of Azerbaijan. Article 23 (4) reads in full: "Where information harming the honor, dignity or business reputation of a natural person is dissemination, such person has the right to recover damages caused by such dissemination and obtain a declaration that the information is untrue."

⁶³ Decision of the Constitutional Court of Azerbaijan Republic On Interpretation of Articles 21 and 23 of the Civil Code of Azerbaijan Republic, May 31, 2002 [online] www.constitutional-court.az.org/decisions (retrieved July 22, 2004).

⁶⁴ According to Azer Hasret of CASCEN, government and pro-government media outlets have not faced this barrage of civil defamation cases. In the past opposition activists have attempting to bring claims against government and pro-government newspapers, however, the courts rejected the applications. Human Rights Watch e-mail correspondence with Azer Hasret, May 29, 2004.

⁶⁵ "Functioning of Democratic Institutions in Azerbaijan," Report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe, Document 10030, Parliamentary Assembly of the Council of Europe, January 12, 2004.

critical reporting at a time when media pluralism and the full and unhindered exercise of press freedoms will be essential in the run up to the forthcoming presidential elections.”⁶⁶

In the same statement, the OSCE and Council of Europe went on to recommend that the authorities review the provisions concerning libel contained in the Azerbaijani law in accordance with international standards, in particular article 10 of the European Convention on Human Rights, to which Azerbaijan is a party.⁶⁷

There is no evidence that the Azerbaijani government has acted on this recommendation. Indeed the situation since then has further deteriorated, with the excessive fines in libel cases threatening the closure of several newspapers.

For example, in August 2003, the Sabail District Court in Baku had ordered that the bank accounts of *Yeni Musavat* be frozen as a measure to ensure payment of fines imposed on the newspaper as a result of several libel cases. The fines from these cases, brought by government officials and employees, amounted to over U.S. \$100,000, a vast amount in a country where the national average wage is approximately U.S. \$65 per month.⁶⁸

Although the newspaper was under huge financial burdens from these court decisions, it was able to keep operating on a day-to-day basis, using the income from daily sales of the newspaper to fund the running costs. However, in January 2004, the Sabail District Court made a further order to intercept payments from the newspaper's distributors, and direct them to the payment of the court fines. This order was implemented in late February, threatening the very existence of the opposition newspaper.⁶⁹ By late May, the newspaper's bank accounts remained frozen and funds continued to be diverted directly from their accounts for payment of the fines. The newspaper was still being published, but with a significantly reduced circulation.⁷⁰ Due to the financial pressures on the newspaper, the journalists were not receiving regular wages.

On March 16, journalists from *Yeni Musavat* started a hunger strike in protest of what they saw as pressure on the newspaper from the authorities and the demand to repay the excessive fines.⁷¹

The national daily opposition newspaper *Azadliq* has faced similar problems, but on a smaller scale. Its bank accounts were frozen in November 2003 by court order, also in relation to unpaid fines imposed for libel suits, amounting to over U.S. \$10,000.⁷²

At the end of February 2004, the opposition *Hurriyet* newspaper was also suffering severe financial difficulties, at least in part because of fines imposed as a result of libel cases. Journalists were not

⁶⁶ "The Secretary General of the Council of Europe and the OSCE Representative on Freedom of the Media express concern about the situation of the media in Azerbaijan," September 10, 2004, [online] <http://www.internews.az/eng/articles/20030910.shtml> (retrieved August 2, 2004). See also "Media Rights Institute is Concerned about High Penalties," May 7, 2003, [online] <http://internews.az/eng/articles/20030507.shtml> (retrieved August 2, 2004).

⁶⁷ Article 10 of the European Convention on Human Rights grants the right to freedom of expression.

⁶⁸ Human Rights Watch interview with Gabil Abbasoglu, deputy chief editor of *Yeni Musavat*, Baku, February 25, 2004. "Azerbaijan Human Development Report 2003," United Nations Development Program, at <http://www.un-az.org/undp/nhdr2003/14.html>.

⁶⁹ Human Rights Watch interview with Gabil Abbasoglu, deputy chief editor of *Yeni Musavat*, Baku, February 25, 2004. "Yeni Musavat Nears Shutdown," March 15, 2004, Turan Information Agency.

⁷⁰ Human Rights Watch telephone interview with Gabil Abbasoglu, deputy chief editor of *Yeni Musavat*, May 28, 2004.

⁷¹ The fines were as a result of libel actions brought by the Azerbaijan Ambassador to Turkey, former President Heydar Aliyev's brother, Agil Aliyev, the Defence Ministry, school number 249, and Defense Minister Safar Abiev. "Yeni Musavat Daily's Correspondents Continue Hunger Strike," March 17, 2004, Turan Information Agency.

⁷² Human Rights Watch interview with Qanimat Zahidov, chief editor of *Azadliq*, Baku, February 26, 2004.

receiving regular wages due to the financial hardships of the newspaper.⁷³ On March 15, *Hurriet* was forced to suspend publication (see below).⁷⁴

Drop in Circulation and Closures

These financial pressures have had a significant impact on the independent and opposition press, leading to a reduction in circulation of many newspapers and the closure or suspension of operations of others.⁷⁵

According to Gabil Abbasoglu, the deputy chief editor of *Yeni Musavat*, the cost to produce one newspaper in February 2004 was between 25 and 35 per cent higher than it had been prior to the election.⁷⁶ He estimated that due to the financial difficulties of the newspaper, circulation had dropped from between 20-30,000 copies before the elections to 18,000 after the elections, and to approximately 8,000 by late May 2004.⁷⁷

Hurriet's circulation dropped from 8,000 in December 2003, to 3,000 in February 2004. Due to the financial burdens on the newspaper, and government harassment leading to difficulties distributing and selling the newspaper outside of Baku, the newspaper suspended publishing on March 15 and had not yet resumed as of mid- 2004.⁷⁸

Financial difficulties, particularly the difficulty in obtaining advertising, forced *Avropa* to suspend publishing in October 2003. By May 2004, the newspaper had not yet resumed publication.⁷⁹

Nonfinancial pressures also led the independent press to suspend publications. In the last week of February 2004, *Monitor*, a weekly independent magazine, was not able to publish, since their contractor for developing color photographs refused to print the original photographs for that week's edition. The contractor told representatives of *Monitor* that they had received a visit from local officials who warned them not to continue working with *Monitor*.⁸⁰

Chap Evi Printing Press Case

The largest printing press in the country is the state-owned Azerbaijan printing press. There are a handful of privately owned printing presses, however their refusal to publish opposition newspapers following the 2003 election made clear that they are either unwilling or unable to act independently of

⁷³ Human Rights Watch interview with Vuqar Mammedov, chief editor of *Hurriet*, Baku, February 20, 2004.

⁷⁴ Human Rights Watch telephone interview with Vuqar Mammedov, chief editor of *Hurriet*, May 31, 2004.

⁷⁵ Even newspapers that are not aligned to the opposition and refrain from content that is highly critical of the government have been suffering from a reduction in circulation. *Sharq* newspaper's circulation at the beginning of March 2004 was approximately 3,500, whereas three years earlier it had been 14,000. Akif Ashirli, the chief editor of *Sharq*, believed that the downturn was due to the current economic position of the population, making it hard for them to afford to buy newspapers, and a general lack of trust in the print media. Human Rights Watch interview with Akif Ashirli, Baku, March 3, 2004.

⁷⁶ Human Rights Watch interview with Gabil Abbasoglu, deputy chief editor of *Yeni Musavat* Baku, February 25, 2004.

⁷⁷ Human Rights Watch telephone interview with Gabil Abbasoglu, deputy chief editor of *Yeni Musavat*, May 28, 2004, "Yeni Musavat Nears Shutdown," March 15, 2004, Turan Information Agency. Abbasoglu recognized that prior to the elections circulation was higher because of heightened public interest in political news. However, according to Abbasoglu, the usual circulation of the newspaper when there were no elections was between 17-18,000, thus showing a substantial drop by May 2004. Another factor in a reduction in circulation of opposition newspapers after the elections could be that the population became fearful to buy these newspapers and therefore to be seen to align themselves with the opposition when they were aware of the mass arrests and dismissals of opposition members, immediately following the elections. See "Crushing Dissent," *Human Rights Watch Report*, January 2004, p.21.

⁷⁸ Human Rights Watch telephone interview with Vuqar Mammadov, chief editor of *Hurriet*, May 31, 2004. Human Rights Watch e-mail correspondence with Fuad Hasanov, May 30, 2004.

⁷⁹ Human Rights Watch interview with Azer Karachenli, journalist with *Avropa*, Baku, February 25, 2004 and Human Rights Watch e-mail correspondence with Azer Hasret, CASCEN, May 29, 2004.

⁸⁰ Human Rights Watch interview with Elmar Husseyinov, chief editor of *Monitor*, Baku, February 26, 2004.

the government.⁸¹ The Azerbaijan printing press has also refused to publish the weekly independent magazine *Monitor*,⁸² and on several occasions has refused to publish opposition newspapers.

The only printing press prepared to publish newspapers that were out of favor with the government since the election was the Chap Evi printing press. However, during this period the authorities have put Chap Evi itself under pressure.

On January 7, 2004, the electricity supply to the printing press premises was turned off. According to Shalbaz Khuduoglu, the director of Chap Evi, the leadership of Azereftgaz, which supplied the electricity for the area where the printing press was located, informed him that electricity would no longer be supplied to his premises.⁸³ Khuduoglu took the matter to the Republican Economic Court, and on February 13, the court ordered Barmek, the electricity network operator, and Azereftgaz to turn the electricity back on. However, neither respondent fulfilled the court order and Chap Evi printing press remained without electricity.

In order to resume work, Khuduoglu bought a generator and the printing press resumed work on January 18. However, the cost of running the generator was approximately ten times that of using supplied electricity, and the working conditions were nearly intolerable. The noise from the generator was so loud that it was impossible to carry on a conversation in the printing press premises.⁸⁴

On February 16, Khuduoglu received a letter from the landlord, Aidin Mustafeev, requesting that Chap Evi leave the premises because other businesses, employing approximately one 150, were operating on the same premises and were not able to continue work without electricity. The landlord, and other tenants, believed that they could restore the electricity supply if Chap Evi moved away.⁸⁵ Chap Evi remained in the premises until mid-April, when their inability to restore their electricity supply forced them to move. By the end of May they had resumed work in another premise. According to Khuduoglu, electricity in their previous premises was immediately restored once Chap Evi moved out.⁸⁶

Khuduoglu believed that the refusal to supply electricity to Chap Evi was a deliberate government attempt to close down his operations and therefore deny independent media the choice of independent publishing in Azerbaijan.⁸⁷

⁸¹ See above *Economic Pressures and Government Control of Resources*.

⁸² The chief editor is in a constantly precarious position, trying to find a reliable printing press to publish the magazine. At times he has resorted to using photocopiers to manually print editions. Human Rights Watch interview with Elmar Husseynov, chief editor of *Monitor*, Baku, February 26, 2004.

⁸³ Human Rights Watch interview with Shalbaz Khuduoglu, director of Chap Evi, Baku, February 26, 2004. "Chap Evi Printing House Brings Action Against Barmek and Azereftgaz," Turan Information Agency, posted on CASCEN website on February 16, 2004 [online] <http://www.cascfen.org/modules.php?name=News&files=articles&sid=1307> (retrieved August 2, 2004).

⁸⁴ Human Rights Watch interview with Shalbaz Khuduoglu, Baku, February 26, 2004. A Human Rights Watch researcher also observed the working of the printing press using the generator, February 26, 2004.

⁸⁵ Ibid. "Chap Evi Printing House Brings Action Against Barmek and Azereftgaz," Turan Information Agency, posted on CASCEN website on February 16, 2004 [online] <http://www.cascfen.org/modules.php?name=News&files=articles&sid=1307> (retrieved August 2, 2004).

⁸⁶ Human Rights Watch telephone interview with Shalbaz Khuduoglu, May 28, 2004.

⁸⁷ Human Rights Watch interview with Shalbaz Khuduoglu, Baku, February 26, 2004. In the past, the Azerbaijani authorities have used their control over the supply of electricity to manipulate access to information. In 2000, according to Radio Free Europe/Radio Liberty, electricity to the ANS television station was cut for fifteen minutes on July 14 in order to censor an interview with Chechen field commander Shamil Basaev that was being aired at the time because the government felt that the interview contained terrorist propaganda. Electricity cuts by regional authorities during opposition candidates' broadcasts were a common complaint of opposition parties in the final weeks before the November 2000 parliamentary elections. Representatives of *Yeni Musavat* complained to Human Rights Watch in February 2004 that their electricity supply was regularly interrupted in late 2003 and early 2004 in what they felt was an attempt by the authorities to disrupt the production of their newspaper.

Television

Television is the most important source of news in Azerbaijan, with more than 90 percent of the population receiving their news from electronic media.⁸⁸ There are five major national television stations: AzTV (the official state channel), Space TV, Lider TV, ATV, and ANS. Space TV, Lider TV and ATV are reportedly controlled either by family members of President Aliyev, or people close to the Aliyev family.⁸⁹ ANS is owned independently, and takes a pro-government stance in its programming.⁹⁰

During the election campaign period, the programming of all the major television stations was biased in favor of the government. Although the Election Code required state media outlets to create equal conditions for all registered candidates, media monitoring clearly demonstrated how the government used state media for its own campaign.

According to the report by the Organization for Security and Cooperation in Europe (OSCE) on the election, "In the four weeks preceding the election, Ilham Aliyev received 2 hours and 35 minutes of coverage during prime time news on *State TV*, all positive or neutral in tone. Heydar Aliyev received some 46 minutes. In the same period, all other candidates combined received a total of only 12 seconds."⁹¹

The private channels- Lider TV, ANS, Space TV, and ATV- also displayed an overt bias in favor of Ilham Aliyev and against opposition candidates.⁹²

The television coverage of the post-election violence also displayed a lack of balance. The major channels showed repeated video footage of violence allegedly carried out by opposition members and failed to show the video footage available of police violence.⁹³

When Azerbaijan joined the Council of Europe in January 2001, it made a commitment to create an independent public television station.⁹⁴ In response to this, the government created a working group to

⁸⁸ Human Rights Watch interview with Rashid Hajili, Media Rights Institute, February 26, 2004. "Functioning of Democratic Institutions in Azerbaijan," Report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe, paragraph 72, Document 10030, Parliamentary Assembly of the Council of Europe, January 12, 2004

⁸⁹ Human Rights Watch interview with Rashid Hajili, Media Rights Institute, Baku, February 26, 2004. "Azerbaijan Press freedom curtailed since Ilham Aliyev's election as president," December 10, 2003, Reporters without Borders, [online] http://www.rsf.org/article.php?id_article=8769 (retrieved August 2, 2004).

⁹⁰ Commentators explain that ANS, as with any big business interests in Azerbaijan, is quickly influenced by the government because of the need to have good relations with tax inspectors, police, the courts, the procuracy and other government agencies. In addition, in order to obtain advertising, a major source of revenue for a television station, good relations with the government are also needed. Human Rights Watch interview with Rashid Hajili, Media Rights Institute, Baku, February 26, 2004. Human Rights Watch interview with Mehman Aliyev, head of Turan Information Agency, Baku, February 25, 2004.

⁹¹ "Republic of Azerbaijan Presidential Election 15 October 2003 OSCE/ODIHR Election Observation Mission Report," p.12, OSCE, Office for Democratic Institutions and Human Rights, Warsaw, November 12, 2003. Heydar Aliyev was initially the incumbent presidential candidate in the elections. However, he had been seriously ill and not seen in public since April 2003, and his son, Ilham Aliyev, took over the candidacy for the ruling party.

⁹² According to data gathered by the OSCE from September 16 through October 13, 2003, Lider TV allocated ten hours and 51 minutes of its prime time news to Ilham Aliyev, all positive in tone, but only 24 minutes of mainly negative coverage to the two opposition front-runners. Space TV allocated Aliyev over five hours of positive primetime news coverage, and the opposition front-runners received 49 and 33 minutes of negative or neutral coverage. ANS allocated 40 minutes of primetime news coverage to Aliyev that was positive or neutral and the opposition front-runners received a total of 13 minutes of mainly negative or neutral coverage. ATV allocated over 43 minutes of primetime news coverage to Aliyev with a positive tone and one of the two leading opposition candidates received less than three minutes of primetime news coverage. "Republic of Azerbaijan Presidential Election 15 October 2003 OSCE/ODIHR Election Observation Mission Report," p.13, OSCE, Office for Democratic Institutions and Human Rights, Warsaw, November 12, 2003.

⁹³ Human Rights Watch interviews with a range of NGOs and opposition members in Baku between February 18 and March 5. See also "Confederation of Journalists of Azerbaijan Calls on TV Channels to Observe Journalist Ethics," February 2, 2004, Turan Information Agency.

draft a bill on the creation of public television and after a delayed process, parliament adopted the bill on January 10, 2004.⁹⁵ The bill was widely criticized by media rights organizations for failing to provide mechanisms to ensure the independence of the public television station.⁹⁶

In particular, the bill provided for the president to appoint the head of the public television station, and for the funding to come directly from the government budget with no safeguards to ensure that funding is provided without conditions that could impede the independence of the broadcaster. The bill also required the public television station to broadcast all official statements immediately and without changes.⁹⁷

After parliament adopted the bill, Council of Europe experts reviewed it, reportedly making comments on twenty-five of the articles.⁹⁸ On March 3, President Aliiev exercised his right to veto the law and sent it back to parliament, a move greeted positively by those critical of the bill.⁹⁹ At the time of writing, an amended bill had not yet been passed by parliament.

Access to Information

Independent media is often blocked from accessing official information. Government ministries and other bodies have at times refuse to provide interviews to independent media outlets, which they perceive as being out of favor with the government, and fail to invite them to public and press events.¹⁰⁰ At times, journalists have been harassed or punished for seeking information.¹⁰¹

From September 2003 until March 2004, journalists from the opposition newspaper *Azadliq* and *Yeni Musavat* were refused access to parliament to report on parliamentary sessions. According to media rights observers, the authorities claim that these newspapers wrote insulting articles about members of parliament and therefore were refused access to parliament.¹⁰² Both newspapers continue to face problems with access to the building housing the ruling Yeni Azerbaijan party, and so cannot attend briefings when government officials hold them there.¹⁰³

⁹⁴ "Opinion No. 222 (2000). Azerbaijan's application for membership of the Council of Europe," Article 14 (iv)(f) states that Azerbaijan undertakes "to turn the national television channel into a public channel managed by an independent administrative board."

⁹⁵ "Council of Europe Comments on 25 Articles of Law on Public TV," March 15, 2004, Turan Information Agency. "Nobody Knows What New Law on Public Television to be Like," March 22, 2004, Turan Information Agency.

⁹⁶ See for example "Statement by the Media Rights Institute: Draft Legislation on Public Television," December 25, 2003, [online] <http://www.internews.az/eng/articles/20031225.shtml> (retrieved August 2, 2004).

⁹⁷ Ibid.

⁹⁸ "Council of Europe Comments on 25 Articles of Law on Public TV," March 15, 2004, Turan Information Agency.

⁹⁹ "Azeri President Imposes Veto on Public TV Law," Internews, March 10, 2004, [online] <http://www.internews.az/eng/articles/20040310.shtml> (retrieved August 2, 2004). "Nobody Knows What New Law on Public Television to be Like," March 22, 2004, Turan Information Agency, and "Internews Praises Ilham Aliyev," March 9, 2004, Turan Information Agency.

¹⁰⁰ Human Rights Watch interview with Qanimat Zahidov, chief editor of *Azadliq*, Baku, February 26, 2004. Human Rights Watch interview with Rashid Hajili, Media Rights Institute, Baku, February 26, 2004.

¹⁰¹ On July 7, 2003, the Nizami District Court fined and convicted journalist, Rauf Mirgadirov from the independent daily *Zerkalo* newspaper for hooliganism after he asked the Mayor of Baku for the name of the contractor in charge of repairing a road that had remained closed for a long period of time. "Journalist Penalized for Requesting Information," July 7, 2003, [online] <http://www.internews.az/eng/articles/20030707.shtml> (retrieved August 2, 2004).

¹⁰² Human Rights Watch interview with Rashid Hajili, Media Rights Institute, Baku, February 26, 2004 and Human Rights Watch interview with Qanimat Zahidov, Baku, February 26, 2004. According to the Center for Journalism in Extreme Situations (CJES), a media watchdog based in Moscow, on December 3, 2004, U.S. Defense Secretary Donald Rumsfeld, who was visiting Azerbaijan, gave a press conference in the Presidential Administration at which the Administration's press office did not allow opposition media to attend, claiming a lack of space. CJES Bulletin issue no. 49 (99), December 1-7, 2003.

¹⁰³ Human Rights Watch email communication with interview Rashid Hadjili, Media Rights Institute, August 2, 2004.

Journalists' Protests

Since the elections the authorities, in breach of the right to freedom of assembly, have denied journalists permission to hold protests and police have beaten those who attempted to protest.

On January 30, the Committee for the Defense of Rauf Arifoglu, the chief editor of *Yeni Musavat* and deputy head of Musavat party, wrote to the City Mayor's office requesting permission to hold a demonstration on February 5, in front of the General Procurator's Office to protest the arrest of the chief editor of *Yeni Musavat*. On February 4, they received an answer, denying them permission, stating that Arifoglu's court case would be held soon and there was no basis for holding a protest.¹⁰⁴

On February 6, 2004, representatives of the opposition daily newspaper *Hurriyet* requested permission from the City Mayor's Office to hold a protest on February 11, in front of the General Prosecutor's Office. They wanted to protest the arrest of Rauf Arifoglu and Sadiq Ismailov, the *Baku Khabar* journalist, and demand their release. Both were in custody on charges relating to the post-election violence.¹⁰⁵

On February 11, the City Mayor's office denied them permission to hold the protest. Approximately thirty journalists decided to go ahead with the protest, and as they approached the General Procurator's office, a large group of police blocked their path. As they tried to move on, police beat the protesters and arrested four of them, including the chief editor of *Hurriyet*, Vuqar Mammedov. The four were held for several hours. They were tried by a local court on petty charges of insubordination to police, and fined and warned, and then released.¹⁰⁶

Recommendations¹⁰⁷

To the Government of Azerbaijan:

- Immediately release Rauf Arifoglu pending the outcome of his trial;
- Investigate all attacks on journalists and prosecute those found responsible;
- Provide training for law enforcement on human rights standards, in particular the Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, and ensure that mechanisms are in place to monitor whether police officers adhere to them in practice. Training should also include the rights of the press to report on opposition and other events and police activities and the right of the public to be informed about such events, including human rights violations, and other matters of legitimate public interest;
- Ensure the impartial access for journalists to government information and facilities;

¹⁰⁴ Human Rights Watch interview with Yadigar Mamedli, head of the Committee for the Defense of Rauf Arifoglu, Baku, February 19 and 24, copy of the letter from the Committee to the City Mayor's Office, dated January 30, 2004, on file with Human Rights Watch, copy of the letter from the City Mayor's Office to the Committee, dated February 4, 2004, on file with Human Rights Watch.

¹⁰⁵ See "Azerbaijan: Presidential Elections 2003," *Human Rights Watch Briefing Paper*, [online] <http://www.hrw.org/background/eca/azerbaijan/index.htm> (retrieved August 2, 2004).

¹⁰⁶ Human Rights Watch interview with Vuqar Mammedov, chief editor of *Hurriyet*. "Journalists beaten up, arrested and fined," CASCEN with AJK, February 11, 2004, [online] <http://www.cascfen.org/modules.php?name=News&file=article&sid=1294> (retrieved on August 2, 2004). Since the elections, the City Mayor's Office in Baku has consistently refused to give permission to opposition parties and affiliated groups to hold protests. In particular, they refused to grant permission to the opposition parties Musavat, Azerbaijan Democratic Party, and Popular Front of Azerbaijan-Reformers faction.

¹⁰⁷ Human Rights Watch gratefully acknowledges the contribution of Alex Lupis, program director for the CIS region for the Committee to Protect Journalists, for his insights and contributions regarding the recommendations to this briefing paper.

- Repeal criminal insult and libel provisions from the criminal code;
- Amend the civil code to establish a reasonable statutory cap on civil awards for non-pecuniary damages;
- Set up a parliamentary commission of investigation or other body to investigate the issues of violence against journalists and informal censorship that would work with the OSCE Special Representative on Freedom of the Media to produce a program of action to improve press freedom in the country;
- Ensure that government authorities facilitate, rather than block, the right to freedom of assembly, in particular by granting journalists permission to carry out peaceful public protests and by ensuring their safety at such gatherings;
- Prioritize the founding of a genuinely independent public television station, in accordance with commitments and obligations stemming from membership in the Council of Europe.

To the International Community:

- Urge the Azerbaijani authorities to ensure full respect for media freedoms in bilateral and multilateral meetings, and follow up on the Azerbaijani government's commitments regarding media freedom;
- Monitor closely the activities of Azerbaijani law enforcement agencies, and ensure that any technical assistance or other aid to them is conditioned on a clear commitment to improving their record on harassment and violence against journalists and excessive use of force against demonstrators. Condemn publicly police violence and intimidation of media professionals.
- Call for the abolition of criminal defamation in Azerbaijan;
- Assist the Azerbaijani government to amend the civil code and other relevant laws to stop the abuse of civil defamation cases to restrict press freedom;
- Provide interested journalists and defense lawyers training on defamation issues and internationally protected media freedoms;
- The OSCE Representative on Freedom of the Media should encourage the Azerbaijani authorities to set up a parliamentary commission or other body to investigate the issues of violence against journalists and informal censorship and work with that body to ensure that an effective program of action to improve press freedom is developed;
- The Council of Europe should continue to press the Azerbaijani authorities to set up a genuinely independent public television station;
- The World Bank and the European Bank for Reconstruction and Development should make respect for media freedoms an element of their country assistance strategies for Azerbaijan. Support for a free and independent media should also become an integral part of efforts to combat corruption in the country;

- The European Union should use its Partnership and Cooperation Agreement with Azerbaijan to press for concrete improvements in the field of media freedom and other areas of urgent human rights concern. These reform demands should take the form of specific benchmarks, setting clear timeframes, and spelling out the consequences for non-compliance;
- The United States government should use every opportunity to raise concern about abuses in the field of media freedom and other areas of urgent human rights concern with Azerbaijani government officials, and press for the authorities to take urgent measures to address them;