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Azerbaijan: Concerns Regarding Freedom of the Media and Freedom of Expression

From November 6 to 9, Azerbaijan will host the Internet Governance Forum, an annual meeting convened by the United Nations secretary general that brings together governments, civil society, and other actors as equal partners to discuss public policy issues relating to the internet. It is the second time in six months that Baku, Azerbaijan's capital, is the venue for a major international event, having been the venue for the 2012 Eurovision Song Contest in May.

Freedom of expression is a crucial concern for the Internet Governance Forum (IGF). Indeed, the theme for this year's IGF—the role of internet governance in promoting various forms of development—recognizes the key role internet technologies play in enabling human, economic, and social development. To fully realize the internet's potential for development, all governments must protect citizens' ability to seek and impart information online without fear of reprisal. But the government of Azerbaijan has a poor and worsening record on freedom of expression, online and offline.

For years the authorities have imprisoned journalists, human rights defenders, and political opposition activists, in most cases on bogus criminal charges. Currently, at least eight journalists and three human rights defenders are behind bars. Azerbaijani authorities have not held accountable persons responsible for physical assaults and other attacks on journalists. Local authorities effectively ban peaceful public assemblies for government critics in central Baku, thereby posing an obstacle to freedom of assembly and expression. The government has committed to, but to date has not implemented, an end to criminal libel, and public officials have successfully gone to the courts in the past to imprison their critics. At the same time, Azerbaijani courts have imposed crippling fines in civil defamation suits, at times threatening the very existence of a media outlet.

As IGF host, and as a sign of commitment to the IGF's multi-stakeholder mandate and human development focus, the government of Azerbaijan should:

- Release journalists, human rights defenders, and social media activists whose cases are described in this briefing paper;
- Introduce legislative amendments to decriminalize libel and introduce a reasonable monetary cap in civil defamation cases;

Independent and pro-opposition journalists in Azerbaijan are frequently subject to harassment, intimidation, and attacks. Most of these attacks remain unsolved. The Institute for Reporters' Freedom and Safety, a local media monitoring organization, reported that more than 50 domestic and foreign journalists were harassed or attacked in 2011. Harassment continued in 2012.

Dozens of journalists have been prosecuted and imprisoned or fined in recent years, often on politically motivated criminal defamation charges or fabricated drug-related charges in apparent retaliation for their critical or investigative journalism. At this writing, three journalists are serving prison sentences and at least five other journalists are in pretrial detention on fabricated charges.

- **Faramaz Novruzoglu**, a freelance journalist who has faced years of persecution in reprisal for his coverage of alleged government corruption, was sentenced on August 27, 2012 to four and a half years of imprisonment on bogus charges of illegal border crossing and inciting mass disorder. The inciting mass disorder charge stems from Facebook postings, made under a pseudonym and falsely attributed to him, calling for protests on the eve of the March 2011 rally. Human rights activists believed that he was targeted in retaliation for critical articles he wrote alleging high-level corruption in the export of Azerbaijani crude oil and the import of Russian timber.
- **Aydin Janiyev**, who published articles in the newspaper Khural, was sentenced to three years in prison in November 2011 on trumped-up charges of “disobeying a government official.”

Janiyev was accused of breaking windows and assaulting an official of the local religious board, but the prison sentence appears in retaliation for his publications. Janiyev had previously alleged in *Khural* that the religious board member was involved in drug trafficking.

- **Anar Bayramli**, a journalist for Iranian Fars News and Sahar TV, was detained on February 17, 2012 on spurious drug possession charges. Bayramli voluntarily went to a local police station after officers came to his home to tell him the police chief wanted to speak with him. Upon arrival at the police station, Bayramli was asked to leave his jacket in one room and then was escorted to another room. The police chief never showed up, and Bayramli was not questioned, but escorted back to the first room, where officers proceeded to search him. According to Bayramli's lawyer, police "discovered" 0.387 grams of heroin in his jacket pocket. Bayramli was sentenced on June 11 to two years in prison on drug possession charges. The Baku Appeal Court halved his sentence, making him eligible for release in February 2013. Bayramli's driver, also detained on the same day as Bayramli, was released on May 16, 2012.

In Pretrial Detention:

- **Nijat Aliyev**, the editor-in-chief of Azadxeber.az, another Islamist-oriented website, was detained on May 20, 2012 while distributing CDs with material on house demolitions, the Nagorno-Karabakh conflict, and other controversial issues. Aliyev's lawyer told Human Rights Watch that police beat and threatened him to compel him to sign a confession. Aliyev is currently being held in pretrial custody on narcotics possession charges. In the lead-up to the Eurovision Song Contest, Aliyev had published a series of articles against the Eurovision contest and against a proposed gay pride parade in Azerbaijan.
- **Hilal Mammadov**, the editor of the newspaper *Tolyshi Sado* and the deputy head of the Talysh Cultural Center, was arrested on June 21, 2012 on dubious charges of drug possession. On July 4 he was additionally charged with treason and incitement of hatred, hostility, and ethnic discrimination. The previous editor of *Tolyshi Sado*, Novruzali Mammadov, died in suspicious circumstances in prison in 2010 while serving a 10-year sentence on politically motivated charges of high treason.

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

- **Vugar Gonagov** and **Zaur Guliyev**, executive director and editor-in-chief of Xayal TV in Guba, respectively, were arrested in March 2012 and charged with organizing and participating in social unrest and abuse of power. The charges are apparently linked to their posting on YouTube of a speech by the governor of Guba, which many believe was the catalyst for mass protests in Guba on March 1, 2012. The pretrial investigation of eight individuals on charges related to the protest, including Gonagov and Guliyev, is ongoing. Guliyev was allowed no visits from his lawyer from March 13 until April 6; Gonagov was allowed two visits from his lawyer, but on the second visit, apparently under pressure, he told his lawyer that he no longer wanted his services.

Gonagov and Guliyev hired a new lawyer who was allowed to meet with them before they were transferred to the pretrial facility. In a letter dated October 16, Vugar Gonagov wrote that his health deteriorated significantly in prison, that prison management denied him medication when he was ill, and that Interior Ministry officials threatened him with sexual abuse and other consequences if he did not confess. The prosecutor's office issued a public statement alleging that Gogarov's abuse claims were false and were aimed at diverting public attention and hindering the investigation.

A trial date has not yet been set for Gonagov and Guliyev.

- **Avaz Zeynalli**, editor of *Khural*, was detained in October 2011 and is currently in pretrial detention on questionable extortion charges apparently brought in retaliation for *Khural*'s critical reporting. The charges against Zeynalli were pressed by a member of parliament from the ruling party who recently resigned from her seat after being implicated in a corruption scandal. Additional tax evasion charges were brought against Zeynalli in March 2012. *Khural*'s property was seized by court bailiffs in October 2011, after it failed to pay a total of 19,000 AZN (US\$24,300) in court-issued fines in defamation cases brought by the head of the presidential administration and director of the Mass Media State Support Fund. At this writing, Zeynalli's trial was ongoing.

Recently Released:

- **Bakhtiyar Hajiyev**, a Harvard University graduate and a member of the youth movement Positive Change, was arrested on March 4, 2011 in advance of a March 11 protest that he actively promoted through social media. He was charged with evading mandatory military service and sentenced to two years in prison. Hajiyev alleged police severely beat him while he was in their custody; the prosecutor's office has failed to investigate his complaint about the abuse. In June 2012 Azerbaijan's Supreme Court released Hajiyev on parole.
- The chief editor of Islamazeri.az, a website that promotes a strict interpretation of Islam and is run by individuals close to Iranian religious circles, **Ramin Bayramov**, was arrested on August 11, 2011. Soon after his arrest, Azerbaijan's prosecutor general and National Security Ministry published a joint statement saying that Bayramov was suspected of treason; however, Bayramov was convicted of illegal possession of firearms and drugs. He was granted early release on August 17, 2012, after serving 13 months of an 18-month prison sentence.
- **Abulfaz Bunyadov**, a journalist with the newspaper Truths of Islam, another publication that promotes strict interpretation of Islamic values, was arrested in February 2012 and sentenced to fifteen months' imprisonment on May 14, 2012 on bogus narcotics charges. He was released on August 18, 2012 on a suspended sentence.

A Note on the Misuse of Narcotics Charges:

Authorities in Azerbaijan commonly use bogus drug possession charges to retaliate against independent and pro-opposition journalists. This was the case in five of the ten cases described above. Three additional cases of misuse of narcotics charges further illustrate this pattern.

- **Jabbar Savalanli**, a 21-year-old youth activist, was convicted in April 2011 and sentenced to two-and-a-half years in prison on bogus drug charges apparently in retaliation for criticizing the authorities on social media sites. He was amnestied in December 2011 after serving over eight months in prison. Savalanli continued his activism following his release, and in April he was drafted, although he had been previously exempted from military service for health reasons.
- Outspoken editor **Eynulla Fatullayev** was charged with illegal drug possession while already serving eight-and-a-half years on trumped-up terrorism charges. He was released in 2011 following a 2010 European Court of Human Rights judgment in his favor ordering his immediate release.
- *Azadlig* newspaper journalist and satirist **Mirza Zakir** served three years in prison from 2006 to 2009 for alleged heroin possession.

Imprisonment and Harassment of Human Rights Defenders

In addition to its harassment of journalists and social media activists, the government of Azerbaijan also attempts to silence critics, human rights defenders, and other members of civil society.

- Human rights defender **Ilham Amiraslanov**, who worked on behalf of flood victims and investigated the alleged misappropriation of state funds by local authorities, was arrested in June 2012 on bogus weapons possession charges. Law enforcement bodies did not thoroughly investigate Amiraslanov's claims that he was ill-treated in custody, and on September 12, a court sentenced him to two years of imprisonment.
- Blogger and human rights defender **Taleh Khasmammadov** was sentenced to four years of imprisonment on April 20, 2012 on charges of hooliganism and physically assaulting a public official. Khasmammadov had published allegations of involvement by law enforcement officials in human trafficking and narcotics sales. He published articles in such pro-opposition newspapers as *Azadlig* and *Gundem Xeber*. Police arrested Khasmammadov in November 2011 when he went to the station to present his allegations of police abuses. Five athletic-looking policemen claimed that Khasmammadov assaulted and beat him.
- **Vidadi Isganderov**, a human rights defender, was sentenced to three years in prison on August 27, 2011. After running for office in the November 2010 parliamentary elections, Isganderov submitted a complaint to the authorities alleging vote rigging in his district. Despite video footage and other materials in support of Isganderov's allegations, the authorities failed to investigate. Instead, they brought charges against him, and he was found guilty of interfering with the election.
- **Oktay Gulaliyev**, a human rights defender from the "Kur" civil society organization, was arrested in April 2012 for inciting unrest and violence and resisting orders from government

officials. Gulaliyev was released on June 13 but continues to face criminal charges. Gulaliyev claimed several police officers beat him during arrest. His lawyer filed a complaint with the prosecutor's office, but the authorities did not investigate the allegation. Gulaliyev claims his arrest is linked to an investigation he launched into how money earmarked for rebuilding damage caused by a flood on the Kura River was spent.

- **Mehman Huseynov**, a photographer and social media activist with the Institute for Reporter Freedom and Safety (IRFS) who photographed and exposed police violence as Azerbaijan prepared for the Eurovision Song Contest in May 2012, was detained in June on spurious hooliganism charges. He was released shortly after on his own recognizance, but still faces criminal prosecution.
- **Zaur Gurbanly**, one of the leaders of the [Nida youth movement](#), was arrested on September 29 by several plainclothes men who said they were personnel from the Interior Ministry's organized crime department. He was forced into a car and kept incommunicado for 48 hours at an unknown location without being allowed access to a lawyer or his family and without any official explanation for his arrest. Two days later the ministry's press office announced that a court had sentenced Gurbanly to 15 days of administrative detention for allegedly disobeying a police order. He was released after 15 days.
- In 2012 Azerbaijan's Ministry of Justice issued two formal warnings to the Institute for Reporters' Freedom and Safety (IRFS). One warning alleged that IRFS had disseminated "biased" information, and another alleged that IRFS had failed to inform the Ministry of Justice of changes in the organization's chairmanship. IRFS has said that it made no changes to its founding documents. In the event of a third warning, the Ministry of Justice may request a court to deregister IRFS.
- In February 2012 the Foreign Ministry of Nakhchivan, an autonomous republic within Azerbaijan, issued a warning to the Nakhchivan-based Democracy and NGO Development Resource Center. In its letter, the ministry ordered the organization to stop disseminating "false" information about human rights in the region.
- In March 2011 the Ministry of Justice suspended the Azerbaijan Human Rights House, a member of the International Human Rights House Network and a registered organization that served as a training and resource center and conference venue for local groups.

Defamation Charges

Defamation and libel remains a criminal offense even though the government's national action plan for human rights included a commitment to decriminalize defamation in 2012. In recent years, Azerbaijani public officials have used criminal and civil defamation charges to stifle critical and opposition journalists, although the numbers of such suits have decreased by about half since 2010. According to the Media Rights Institute, during the first six months of 2012, 17 defamation suits were brought against media outlets or journalists, 6 of which were criminal defamation suits brought chiefly against pro-opposition newspapers. The Media Rights Institute also found that in 2011, 24 civil and 8 criminal defamation suits were filed.

- For example, in June 2012 a court ordered Azadlig to pay 30,000 AZN (approximately \$36,000) to Tagi Ahmadov, the head of the Baku Metro Service, a position appointed by the government and considered to be equivalent to a public official. The lawsuit related to an article published in Azadlig's April 8, 2012 issue of the newspaper about the increase in metro fares.
- In May 2012 a court fined Ramin Deko of Azadlig 3,000 AZN for defaming Novruzali Aslanov, a pro-government member of parliament. The article cited local residents' negative views of Aslanov's work and drew an unfavorable parallel between Aslanov and a character from an Azerbaijani novel.

Freedom of Assembly

Azerbaijani authorities also limit freedom of expression in other ways, including by breaking up peaceful protests, often with violence, and arresting and sentencing peaceful protestors, organizers, or participants. The Azerbaijani authorities have effectively banned all forms of peaceful protest from the center of Baku and instead force all demonstrations into designated zones on the outskirts of the city. Since early 2006, authorities have not authorized a single opposition protest in the center of Baku.

- On October 20, 2012, police rounded up dozens of protestors in an unsanctioned rally in central Baku, roughing them up and forcing them into police cars and buses. Many were fined and released, but at least 13 were sentenced to up to 10 days of detention on misdemeanor offenses. Several detainees refused the services of a state-provided lawyer, and they were not

allowed to obtain a lawyer of their choosing.

- The authorities dramatically restricted freedom of assembly and cracked down on the several peaceful protests in the days before the [2012 Eurovision Song Contest](#) was to begin in Baku. On May 21, 24 and 25, police and plainclothes security officials used excessive force to disperse peaceful protesters, violently rounding them up and arbitrarily detaining dozens.
- On April 7, 2012—the day before a sanctioned opposition protest on the outskirts of Baku—police detained twenty activists who had been distributing flyers encouraging people to attend the rally. Seven were found guilty of disobeying police orders and were sentenced to administrative imprisonment from 10 to 15 days. The others were released after several hours or were fined and released.
- On March 17, 2012, police detained two musicians from the popular band Bulistan as it played at a peaceful demonstration. The musicians allege that they were beaten by police during their arrest and at the police station where they were initially held. They, together with one of the protest organizers arrested with them, served 5 to 10 days in administrative detention.
- On March 6, 2012, Baku police violently dispersed a peaceful demonstration, ill-treating at least two activists while arresting them. Police allegedly beat several other demonstrators in police custody before fining and releasing them after several hours.
- During peaceful protests in March and April 2011 inspired by the Arab Spring, hundreds of demonstrators were detained; dozens were sentenced to up to 15 days' administrative detention; and 14 of them were convicted on criminal charges and imprisoned for up to three years. In 2012, 12 were released by presidential pardons, but some were forced to make Soviet-style denouncements of their political beliefs and colleagues as a condition of their release. **Shahin Hasanli**, an opposition Popular Front Party activist and one of the organizers of the April 2011 protests, remains in prison since his arrest on March 31, 2011. In July 2011, a Baku district court convicted him of spurious weapons possession charges and sentenced him to two years' imprisonment.

New Legislation

On June 12, 2012, the Azerbaijani parliament adopted legislation that allowed Azerbaijani companies to withhold information pertaining to their registration, ownership structure, and shareholders. The legislation appeared to be a response to the publication of a series of articles that exposed the private business interests of President Aliyev's family.

Recommendations

To the Government of Azerbaijan:

- In light of the pattern of prosecution of activists for their online activities—described above and in the recent report, “Searching for Freedom: Online Expression in Azerbaijan” by the Expression Online Initiative—enact legal safeguards against illegal surveillance on the internet.
- Immediately release from custody the journalists, human rights defenders, and bloggers whose cases are described above, including

Eight imprisoned journalists and bloggers:

- Vugar Gonagov
- Zaur Guliyev
- Aydin Janiyev
- Avaz Zeynalli
- Ramin Bayramov
- Hilal Mammadov
- Nijat Aliyev
- Faramaz Novruzoglu

Three imprisoned human rights defenders:

- Vidadi Isganderov
- Taleh Khasmammadov
- Ilham Amiralaov
- Allow peaceful assemblies. Police should not use force against peaceful protestors and should not interfere with the work of journalists covering demonstrations. Shahin Hasanli, the opposition party activist serving a prison sentence in relation to peaceful demonstrations in 2011, should be freed.
- Unconditionally drop the charges against those facing criminal prosecution in connection with

exercising their right to freedom of expression, including Ogtay Gulaliyev and Mehman Huseynov, and expunge the criminal conviction against Bakhtiyar Hajiyeu from his record.

- Decriminalize libel and ensure reasonable limits on monetary awards in civil defamation cases.
- Ensure everyone detained, including journalists and activists, enjoys full due process rights, in particular access to a lawyer of their choosing, access to their families, and other fair trial norms.
- The absolute prohibition on torture and ill-treatment of detainees should be rigorously observed, and authorities should promptly, thoroughly, and effectively investigate all allegations of ill-treatment in police custody and hold responsible officials accountable.
- Take measures to prevent any further harassment, intimidation, and violence against journalists and social media activists, including by ensuring that all incidents of such nature are promptly and effectively investigated and perpetrators are held to account.

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