

Submission to the Follow-up Review of Azerbaijan

**By the World Organisation against Torture, the Institute for Peace and Democracy,
and the International Partnership for Human Rights**

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1. Introduction

One year after the review by the Committee against Torture (CAT), the political context and human rights situation remains the same: a system of power based on patronage and oppression, unfair elections, a general crackdown on civil society, and a high level of corruption. It can be said that Azerbaijan is moving towards a consolidated autocracy.

It is in this context that we submit information to the CAT to be considered under the follow-up procedure. In particular, it highlights developments since 2015 as they relate to two of the follow-up recommendations, i.e. the eradication of widespread torture and ill-treatment (section 2 below) and the imprisonment and alleged torture of human rights defenders (section 3 below).

2. Development with Regard to the Eradication of Widespread Torture and Ill-treatment: The Nardaran Case

a. Severe Torture and ill-treatment

In 2015 and 2016, 17 members of the Shiite minority of Nardaran, including Mr. Taleh Bagirzadeh, Mr. Jahad Balakishiev, Mr. Shamil Abdylaliev, and Mr. Bahruz Askerov, were severely tortured. They were arrested on 26 November 2015 during a special operation of the Main Directorate for Combating Organized Crime in Nardaran in an attempt to crack down the Muslim Unity, a Shiite organisation that criticizes the President and government and its control over Nardaran village since 2002.

In this so-called “Nardaran case”, the arrested are charged with serious crimes including murder, terrorism, riots, illegal possession of weapons, violent seizure of power, incitement to religious hatred.

According to information received by his lawyer, Mr Taleh Bagirzadeh the head of Muslim Unity, was arrested and was brought to a van where officers proceeded in hitting his face, smashing his head on the ground, trying to break his back and verbally abusing him. Mr. Bagirzadeh was subsequently brought to the offices of the Main Organized Crime Department where he was forced to lay on the ground and was severely beaten resulting in blood loss and open flesh wounds. Two to three days after his arrest, an investigator from the General Prosecutor’s office visited Mr. Bagirzadeh and expressed shock about his condition. However, no investigation was initiated.

During his arbitrary detention on the premises of the Organized Crime Department, Mr. Bagirzadeh was repeatedly beaten and threatened to confess allegations of terrorism and espionage and to testify against the other accused. Moreover, he was regularly brought to the basement of the building while his head was covered with a sack. There, an officer would sit on his shoulder, while others stroke at his legs until they swell to an unrecognizable shape. He was further forced to sign an incriminating statement.

On 29 December 2015 Mr. Bagirzadeh was finally allowed to see his lawyer, who immediately filed a torture complaint. The dates for hearings were repeatedly postponed until the wounds on his body had healed. However, Mr. Bagirzadeh withdrew his complaint on 23 February 2016 because of repeated threats and torture.

According to information by family members, the conditions of at least three other defendants are also alarming. Mr Jahad Balakishiev, Mr Shamil Abdylaliev, and Mr Bahruz Askerov were severely wounded by gunshots during their arrest on 26 November 2015. As of today, they have not received proper medical treatment. According to information by family members a bullet has been left in Mr Balakishiev's body close to his heart and in Mr Askerov's leg and two bullets remain in Mr Abdylaliev's body. This results in severe suffering and leaves the three detained disabled and unable to walk on their own.

b. Unfair Trials

The trial against Mr Bagirzadeh and the 16 co-defendants, which started on 19 July 2016 before the Baku Court of Grave Crimes, raises serious concerns: Torture allegations raised by their lawyers during the hearing were dismissed by the judge and their right to participate in the trial was refused. At a hearing on 30 November 2016, Mr Bagirzadeh, was removed from the courtroom for expressing resentment about inappropriate statements by the witness, an employee of the Sabunchu District Police Office, directed towards his lawyer. When the hearing continued on 2 December 2016, the defendants were brought to the court but not allowed to enter the room of the hearing. The judge stated that he will exclude them from the hearing as long as he deems appropriate. On subsequent hearings held on 16 and 19 December, the defendants were again not allowed to participate in the hearing on 25 January 2017, the Baku Court for Grave Crimes sentenced Mr Bagirzadeh to 20 years in prison on charges of planning armed seizure of power and changing the constitution. The other 16 defendants were sentenced between 10 and 20 years in prison.¹ To date, the government has not carried out any investigations into the allegations of torture.

The mass arrests and torturing of Mr. Taleh Bagirzadeh, Mr. Jahad Balakishiev, Mr. Shamil Abdylaliev, and Mr. Bahruz Askerov and the 14 other accused has to be understood in President Ilham Aliyev's general crackdown of government critics and opposition in an attempt to consolidate power and to establish an autocracy with a system of patronage and oppression. While the government is alleging terrorism, observers depict the attacks and trials as breaking dissent. This crackdown resulted in the virtual non-existence of a secular opposition to Aliyev's government. It has been suggested that some thus turned to religious movements that currently present the sole alternative to the current government.

3. Development with Regard to the Imprisonment and Alleged Torture of Human Rights Defenders

As will be illustrated below, the CAT's recommendations on arbitrary detention and ill-treatment of Human Rights Defenders are far from being implemented. While some of the most prominent Human Rights Defenders and critical voices have been released due to international pressure, including Leyla and Arif Yunus, Intigam Aliyev, Mahamad Azizov, Rashadat Akhundov, Ashad Hassanov Anar Mammadli, and Rasul Jafarov, others, like Ilgar Mammadov, are still in prison.

¹ Turan, 'An Appeal against the Verdict in the "Nardaran Case"', 10 February 2017, available online: contact.az/docs/2017/Social/021000182861en.htm?86.

There has even been a new wave of imprisonment and harassment of journalists and activists as well as amendments to the constitution and criminal law that further limits human rights activities and consolidates the President's power.

c. Consolidation of Power Through New Amendments to the Constitution and Criminal Law

In September 2016, Azerbaijan held a constitutional referendum that further strengthens and consolidates the power of President Ilham Aliyev and his family. Changes to the constitution include (i) an extension of the president's term of office from five to seven years; (ii) creation of two vice-presidential posts whose occupants are appointed and dismissed by the president; (iii) providing the first vice president with presidential power in the event that the president steps down or becomes incapable of discharging his duties (this power was previously with prime minister, who needs to be approved by parliament), (iv) empowerment of the president to dissolve parliament if it rejects presidential nominees to key government posts twice in one year; and (v) abolishment of age limit (previously at 35 years) of presidential candidates.²

Earlier this year, President Aliyev has appointed his wife as the first vice president which further consolidates the power of the Aliyev family.³ It is further suspected that the abolishment of the age limit should pave the way for Aliyev's 19-year old son to run for president.

On 30 November 2016, parliament passed laws that criminalize online defamation or derogation of honor and dignity of President Ilham Aliyev. Violators face fines up to 1000 AZN (€537) or two years in prison, or 1500 AZN (€805) or a year in prison if they do so using "fake profiles or nicknames." Since online defamation is already criminalized, this amendment is another way to silence and harshly punish dissent.⁴

d. New Wave of Imprisonment and Harassment

Discontent within opposition groups and civil society grew particularly after the unfair elections in 2013. Human Rights Defenders started publishing information on the President's involvement in corruption and criticized his omnipotence. The government responded to the rising activism with a general crackdown on civil society, imposing high fines for participation in and organization of unauthorized protests. Amendments to NGO laws were introduced with stricter registration requirements, restrictions on funding, and higher fines for administrative offenses, which made the day-to-day operation of civil organizations increasingly difficult.⁵

While some prominent Human Rights Defenders have been released since the CAT reviewed Azerbaijan's periodic report in 2015,⁶ there has been a new wave of arrests and harassments.

² Radio Free Europe, 'Azerbaijan Holds Controversial Constitutional Referendum' 26 September 2016, available online: <http://www.rferl.org/a/azerbaijan-referendums-constitutional-changes-aliyev/28012681.html>.

³ The Washington Post, 'Azerbaijan's president has chosen a new VP – his wife', 22 February 2017, available online: https://www.washingtonpost.com/news/worldviews/wp/2017/02/22/azerbaijans-president-has-chosen-a-new-vp-his-wife/?utm_term=.1326ceeb7f06.

⁴ Reuters, 'Azerbaijan criminalizes defamation of the president online', 30 November 2016, available online: <http://www.reuters.com/article/us-azerbaijan-defamation-idUSKBN13P2OT>.

⁵ OMCT and IPHR, 'Shadow Report to the Committee against Torture on the Review of Azerbaijan, November 2015', available online:

⁶ See e.g. Reuters, 'Azerbaijan frees dissents in amnesty', 17 March 2016, available online: <http://www.reuters.com/article/us-azerbaijan-rights-pardon-idUSKCN0WJ29W>.

According to information gathered by the Institute for Peace and Democracy, 162 political prisoners remain in detention as of March 2017.⁷ Some of those cases are listed below.

- In March 2017, **Mehman Huseynov**, a journalist and chairman of the Institute for Reporters' Freedom and Safety, was sentenced to two years in prison. He was not allowed to speak in his defence. He is charged with defamation originating from a private case brought by the chief of the police department. Mr Huseynov published a report describing how the police had tortured and ill-treated him when he was detained overnight by police in January 2017.⁸

- On 21 February 2017, the day Ilham Aliyev's wife was appointed as First Vice President, **Nisakhanim Valiyeva** was held in police custody for four hours. She is the Chair of the Classical Popular Front Party and had posted a critical Facebook post about the appointment of Aliyev's wife. She was released only after deleting her critical Facebook posts.⁹

- On 17 February 2017 **Elchin Ismayilli**, founder and editor of Kend.info, an on-line news portal known for its reporting on corruption and human rights violations, was arrested. He is accused of threatening a government employee and was charged with extortion and abuse of a position of influence. On 18 February, the Nasimi District Court sentenced Ismayilli to pre-trial detention. He is held in the Kurdakhani pretrial detention centre.¹⁰

- The government is also pursuing defenders and journalists who are working from exile. Shortly after giving a speech at the European Parliament on the human rights situation in Azerbaijan in February 2017, **Emin Milli**, head of Meydan TV, a critical TV channel operating from Berlin, reported to German Police that he had received threats from the Azerbaijani authorities.¹¹

- Where the authorities are unable to reach their critics because they are in exile, they have sought to harass family members remaining in Azerbaijan. On 22 February 2017, the brother and nephew of **Ordukhan Teymurkhan**, a blogger based in the Netherlands, who is known for his criticism of the president, were sentenced to 30 days in detention on entirely made-up charges of disobeying police orders.¹²

⁷ The list of cases can be accessed under the following link: <http://www.contact.az/advertisements/Список%20на%2031%20марта%202017.doc>. (available only in Russian).

⁸ Human Rights House Network, 'Mehman Huseynov detained In Azerbaijan', 10 January 2017, available online: <http://humanrightshouse.org/Articles/22150.html>. For more information see also Institute for Reporters' Freedom and Safety, 'Defence Files Objection to Judge at Mehman Huseynov's Appeal Hearing', 10 April 2017, available online: <https://www.irfs.org/news-feed/mehman/defence-files-objection-to-judge-at-mehman-huseynovs-appeal-hearing/#more-18736>.

⁹ OMCT, 'Azerbaijan: Crackdown on Free Expression Accelerated Conviction of Prominent Blogger', 3 March 2017, available online: <http://www.omct.org/human-rights-defenders/urgent-interventions/azerbaijan/2017/03/d24228/>.

¹⁰ Meydan TV, 'Journalist Elchin Ismayilli Given 24 Day Pre-trial Detention', 20 February 2017, available online: <https://www.meydan.tv/en/site/news/21237/>.

¹¹ OMCT, 'Azerbaijan: Crackdown on Free Expression Accelerates with Conviction of Prominent Blogger' 3 March 2017, available online: <http://www.omct.org/human-rights-defenders/urgent-interventions/azerbaijan/2017/03/d24228/>.

¹² See e.g. Human Rights Watch, 'Azerbaijani Activist's Family Arrested, Harassed', 1 March 2017, available online: <https://www.hrw.org/news/2017/03/01/azerbaijani-activists-family-arrested-harassed>.

- **Asif Yusifli** and **Fuad Gahramanli** both members of the EITI NGO Coalition that works towards more transparency in extractive industries, have been arrested on 25 November 2014 and 8 December 2015 respectively. Mr Yusifli, also a high-ranking member of Azerbaijan's opposition Popular Front Party, was later convicted on charges of fraud and forgery. He is presently serving a six-year prison sentence. Mr Gahramanli, deputy chairman of the opposition Popular Front Party, was charged with incitement to religious hatred in connection to comments he posted on Facebook. On 25 January 2017 he received a 10-year prison sentence.¹³

- In May 2016, **Giyas Ibrahimov** and **Bayram Mammadov** from the N!DA Youth Movement were arrested, after Mr Mammadov had posted a photo on Facebook of a graffiti they had painted on a statue of Heydar Aliyev, the late former President of Azerbaijan and the father of the current President. They were arrested on spurious drug charges and allegedly tortured repeatedly in police custody. Both were sentenced to ten years imprisonment.¹⁴

- On 25 November 2016, **Ikram Rahimov**, editor in Chief of the online news site realliq.info, was sentenced to one year in prison after reporting on bribery and tax evasion by local authorities.¹⁵ Mr Rahimov alleged of having been tortured when held in arbitrary detention by the Sumgayit City Police Department for three days. The police put a cellophane bag over his head until he could no longer breathe and transmitted his ill-treatment via live video chat to the person whom Mr Rahimov had reported as being involved in the bribery. The police also demand that Mr Rahimov apologized to the person concerned.¹⁶ Mr Rahimov has been released in March 2017. No investigations have been carried out into torture allegations.

- **Fuad Ahmedli** and **Faig Amirli**, both members of the Popular Front Party, have been arrested on 18 August 2016 and 20 August 2016 respectively. They ran the leading opposition newspaper Azadlig. Although they claim being atheists, they were arrested for being supporters of Fatullah Gülen, the person allegedly responsible for the attempted coup in Turkey in 2016. It has been suggested that the government is using the anti-Gülen push as a pretext to crack down on opposition and human rights defenders.¹⁷ They are currently in pre-trial detention. Both suffer health problems.

¹³ OMCT, 'Azerbaijan: Joint Letter to the Members of the Extractive Industries Transparency Initiative Board on the Working Conditions of Civil Society in Azerbaijan', 20 October 2016, available online: <http://www.omct.org/human-rights-defenders/urgent-interventions/azerbaijan/2016/10/d24009/>.

¹⁴ OMCT, 'Azerbaijan: Joint Statement: Stop Crackdown on Freedom of Expression', 6 December 2016, available online: <http://www.omct.org/monitoring-protection-mechanisms/urgent-interventions/azerbaijan/2016/12/d24087/>; Human Rights Watch, '10-Year Sentence for Political Graffiti in Azerbaijan', 8 December 2016, available online: <https://www.hrw.org/news/2016/12/08/10-year-sentence-political-graffiti-azerbaijan>.

¹⁵ OMCT, 'Azerbaijan: Joint Statement: Stop Crackdown on Freedom of Expression', 6 December 2016, available online: <http://www.omct.org/monitoring-protection-mechanisms/urgent-interventions/azerbaijan/2016/12/d24087/>.

¹⁶ Institute for Reporters' Freedom and Safety, 'Journalist and Citizen Whose Problems He Publicized Convicted on Defamation Charges', 30 November 2016, available online: <https://www.irfs.org/news-feed/journalist-and-citizen-whose-problems-he-publicised-convicted-on-defamation-charges/>.

¹⁷ Institute for War and Peace Reporting, 'Azerbaijan Continues Anti-Gülen Campaign', 2 September 2016, available online: <https://iwpr.net/global-voices/azerbaijan-continues-anti-gulen-campaign>.