



Submission for the 50th Session of the Committee on Economic, Social and Cultural Rights in relation to the Third Periodic Report of AZERBAIJAN (E/C.12/AZE/3)

> Human Rights Club Baku 15 March 2013

Background

The Human Rights Club (hereinafter "the HRC") is a Baku-based NGO that works to promote and protect human rights in Azerbaijan, including economic, social and cultural rights. The HRC is the organization behind the current Art for Democracy campaign, which seeks to use all forms of artistic expression to promote democracy and human rights in Azerbaijan, as well as the previous Sing for Democracy campaign, which used the 2012 Eurovision Song Contest (which was held in Baku) as a platform for the same goals.

The HRC has prepared this submission to provide the Committee with objective and concrete facts regarding violations of the right to adequate housing and cultural rights in Azerbaijan. The submission provides general information about these issues, as well as examples of specific cases of cultural-related rights violations forced evictions, and other violations of the right to adequate housing.

The submission is divided into three sections:

- Part I contains information regarding forced evictions and other violations of property rights under Articles 11, as well as Articles 2 and 3, of the International Covenant on Economic, Social and Cultural Rights (ICESCR) in Azerbaijan. It also includes suggestions for questions to be addressed to the Azerbaijani Government and recommendations for measures needed to improve the situation in this regard.
- Part II contains information regarding violations of cultural rights under Articles 2, 3 and 15 of the ICESCR in Azerbaijan. Relevant questions and recommendations have also been included.
- Following Part II, the HRC has provided several supporting materials as annexes.

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PART I: Property Rights

Article 11

- 1. During the reporting period, the Government of Azerbaijan carried out many evictions in settlements in and around Baku without court decisions and without regard to the prohibition on forced evictions in Article 11 of the ICESCR.
- 2. The HRC regrets that the government has failed to publish statistics or other official information about the number of forced evictions and the areas affected, despite the fact that the Committee repeatedly requested the disclosure of this information.
- 3. There are still acquisition practices of properties and lands without public notifications.¹ On 18 December 2012, houses on the crossroads of Fizuli and Samad Vurgun streets were demolished without warning, and residents were forced to leave their homes. Baskkhanim Abbasli, the mother of imprisoned Musavat Party Youth Movement Chairman Tural Abbasli, and her relatives, who protested against the demolition process, were taken to Nasimi Distict Police Department #21 and held until 4 pm the following day. The police used force to detain the residents.²
- 4. On 22 December 2010, the Supreme Court denied an appeal filed by resident Hikmat Ismayilov, whose house on Fizuli Street was demolished. Ismayilov was detained by police while protesting the demolition of his house. The demolition of his house continued while he was detained.
- 5. A cafe belonging to Yevlakh region resident Sutan Bahram Allahverdiyev was demolished without warning. Although Sultanov appealed to the regional Executive Power and the court, it yielded no result. He is currently planning to send an appeal to the European Court of Human Rights.³
- 6. Houses at Fizuli and Samad Vurgun streets were demolished; the demolition started before residents were allocated new housing, and before they were able to vacate the house. Several residents who protested the demolition process were detained by force. The Supreme Court denied an appeal on this issue filed by residents. In addition, a café belonging to an entrepreneur was illegally destroyed.
- 7. In 2012, the Azerbaijani government conducted a series of compulsory resettlements with the purpose of expanding the area of Flag Square to accommodate the venue for the Eurovision Song Contest. However, although it is required by law (the Law on Acquisition of Land for Public Purposes), the government has failed to present a public report evaluating the social and environmental impact of this infrastructure project and providing statistical data on compulsory resettlement.
- 8. There are no clear government policies pertaining to the right to adequate housing, property and resettlement. There are no statistics or other information about forced evictions and resettlement plans as part of major state-backed infrastructure projects in Baku and other big cities.
- 9. In the List of Issues, the Committee requested that Azerbaijan provide information about "the number of persons and families evicted within the last five years, and in particular, in relation to the renovation of Baku and the construction of the Eurovision venue." As noted above, Azerbaijan has not adequately responded to this request.

Articles 2 and 3

10. Article 2, paragraph 2, and Article 3 of the ICESCR prohibit any discrimination in the exercise of the right of everyone to take part in cultural life on the grounds of race, color,

¹<u>http://www.singfordemocracy.org/en/reports/general-report-on-human-rights</u> (see the 3rd report)

² <u>http://obyektiv.tv/index.php?view=video&id=2746&option=com_jomtube&Itemid=14&lang=az</u>

³ <u>http://www.singfordemocracy.org/en/reports/general-report-on-human-rights</u> (see the 3rd report)

sex, language, religion, political or other opinion, national or social origin, property, birth or other status.⁴

11. There are numerous challenges in protecting and safeguarding cultural heritage of all groups in Azerbaijan. The HRC regretfully notes that as part of an official "reconstruction" effort, more than 30 buildings have been demolished over the past few years within Baku's walled Old City (Ichari Shahar), a maze of atmospheric cobblestone streets twisting around the 15th century Shirvanshah Palace. The Old City is listed as a UNESCO World Heritage Site.⁵

Questions for the Azerbaijani government:

- What is the status of relocation of persons in connection with the construction of Winter Boulevard and the expansion of Flag Square for construction of Crystal Hall (venue of the Eurovision 2012 Song Contest)? Have they been provided with adequate compensation?
- How many persons and families have been evicted in Azerbaijan within the last five years, in particular, in relation to the renovation of Baku and the construction of the Eurovision venue?
- What steps has Azerbaijan taken to address the issue of forced evictions in the Winter-Park and State Flag Square?
- How much compensation has been given to the victims of those evictions?
- How is the "Winter Park" construction area considered legally permissible in accordance with the Law on Allocation of Land for Public Purposes?
- Has the government systematically collected data on violations of the right to adequate housing and forced evictions in the most at-risk region, Baku?

Recommendations for improvements:

- Develop and implement, in association with independent civil society members, a comprehensive action plan on the social and environmental impacts of realization of development projects and involuntary evictions in Baku.
- Provide clear legislative guidance outlining the responsibilities of authorities tasked with carrying out forced evictions.

⁴ See general comment No. 20 (2009)

⁵ http://www.eurasianet.org/node/65323

PART II: Cultural Rights

Articles 2, 3 and 15:

- 12. Article 2, paragraph 2, and Article 3 of the ICESCR prohibit any discrimination of access to effective protection of the moral and material interests of authors, including administrative, judicial and other remedies, on the grounds of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, which has the intention or effect of nullifying or impairing the equal enjoyment or exercise of the right as recognized in article 15, paragraph 1 (c).
- 13. Article 15 of the ICESCR recognizes the right of everyone to take part in cultural life and enjoy the benefits of scientific progress and its applications. It also recognizes the right of authors to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author. In General Comment 21, the Committee stressed "the need to take into consideration existing international human rights standards on limitations that can or cannot be legitimately imposed on rights that are intrinsically linked to the right to take part in cultural life, such as the rights to privacy, to freedom of thought, conscience and religion, to freedom of opinion and expression, to peaceful assembly and to freedom of association."
- 14. The HRC prepared several reports in 2012, outlining discriminatory practices and violations of the rights of musicians, artists, actors and activists who use artistic and cultural activities to express the importance of human rights and criticize social and political policies.⁶ The HRC is deeply concerned by these ongoing violations.
- 15. The HRC regrets that, in retaliation for expressing critical opinions, citizens of Azerbaijan can face government pressure in performing their activities in the spheres of art and culture; they (or their relatives) can be dismissed from their jobs, deprived of their state pensions or honorary titles, harassed, or illegally detained. The HRC is concerned over a steady increase in such cases over the past few years.
- 16. In Azerbaijan, the Ministry of Culture is directly responsible for implementation of state-funded activities and policies in the field of culture. As a result of aggressive and intolerant attitudes by government officials, musicians, artists and actors have been forced out of their jobs and have had to leave Azerbaijan out of fear for their safety. Such pressures are aimed at creating a climate of fear, which threatens artistic freedom of expression in the country.
- 17. The Azerbaijani government should cease pressures and threats against persons exercising cultural rights as protected by the ICESCR. The government should avoid interfering with the exercise of the freedoms of expression and assembly of individuals and groups expressing their opinions through the production of arts.
- 18. The following cases are examples of violations of cultural rights protected by the ICESCR:

• Azer Cirttan's case

Singer/songwriter Azer Cirttan and his family left Azerbaijan in May 2011 out of fear for their safety. A number of concerts he attempted to perform were cancelled after the venue owners faced pressure, and eventually he reported that all venues were afraid to work with him. He feared that he was being stalked after unknown persons followed him in Baku.⁷ In his songs, Cirttan was critical of the authorities, particularly on social issues.

• Jamal Ali's case

Rocker/rapper Jamal Ali was detained during his performance with his band, Bulistan, at an opposition protest in Baku on 17 March 2012. Unidentified men, apparently in response to some particularly harsh language used by Ali, attacked the performers,

⁶ <u>http://www.singfordemocracy.org/en/reports/general-report-on-human-rights</u>

⁷ http://www.freemuse.org/sw46307.asp

setting off a brawl. Uniformed police officers quickly intervened and detained Ali. He was sentenced to 15 days in prison for "hooliganism," but released after 10 days.⁸ Ali reported being tortured and threatened while in detention. Upon his release, Ali left Azerbaijan out of fear for his safety.⁹

• Ilgar Jahangir's case

Ilgar Jahangir is well-known actor who was fired from his postion with the State Theatre of the Young Spectators on 30 November 2012 because of his criticism of high-ranking officials. In particular, he seems to have been targeted for his comment, "Our president is going to sports events, but not once to the theater. The state has made us dependent on it. The theater has produced great actors. There is one picture ofan actor: a music director does not have a picture. But we have rooms with 5-6 Ilham Aliyev and Heydar Aliyev pictures. What can I tell them?"¹⁰

Rustam Ibrahimbekov's case

Rustam Ibrahimbekov is a prominent filmmaker and scriptwriter, and head of the Azerbaijan Cinematographers' Union. In recent years, Ibrahimbekov has become an outspoken critic of the government, particularly this year in connection with the upcoming presidential election. He has recently been subjected to a number of pressures from the authorites, including a criminal case against the Union on tax evasion charges. The Union was also pressured into leaving its offices, and Ibrahimbekov has faced trouble at the Baku airport upon entering and exiting the country. Additional information is provided in the Annexes section of this submission.

Bakhtivar Hidavat's case

Writer Bakhtiyar Hidayat's book Ag garanliglar ("White darkness") was removed from bookstores in 19 November 2012 without an official explanation, although one bookstore owner told the media that the book contained statements critical of the state. The writer alleged that he was targeted for his membership in an opposition political party and his criticism of current situation in Azerbaijan through his poems. He believes bookstore owners stopped selling his book as the result of pressure from the authorities¹¹.

Akram Aylisli's case

Prominet author Akram Aylisli has faced threats of violence and other serious pressures following the publication of his latest book, "Stone Dreams" which is viewed by critics as being pro-Armenian. President Aliyev issued a decree stripping Aylisli of his national title and monthly literary stipend. Ruling party MPs demanded he leave the country or that his DNA be tested to see if he was really Azeri, and not, in fact, Armenian. Highranking government officials called him a traitor, saying "public hatred" was the correct response.¹² Aylisli's wife and son both lost their jobs in state-controlled institutions. The head of a pro-government party offered 10,000 AZN to anyone who would cut off Aylisli's ear.¹³ This call for violence against Aylisli has sparked strong condemnation from the international community.

• Said Aliyev's case

Azerbaijani rapper Said Aliyev (also known as Dado) was called into the traffic police department, allegedly in connection with an investigation into a car accident. Alivey visited the police office, and on his way out, an unknown man hit him on the shoulder. However, the man, allegedly a police officer, claimed that Aliyev had hit him. The rapper was taken to the Nasimi District Police Office and then to court, where he was sentenced

http://www.guardian.co.uk/world/2012/may/18/tortured-singer-flees-azerbaijan-eurovision

http://www.hrw.org/news/2012/03/21/azerbaijan-investigate-alleged-ill-treatment-police

¹⁰ http://www.azadliq.org/content/article/24785618.html

¹¹ http://www.azadliq.org/content/article/24775267.html

¹² http://www.hurriyetdailynews.com/azerbaijani-writer-target-of-attacks-due-to-novelcontent.aspx?pageID=238&nid=40696

http://www.rferl.org/content/azerbaijan-novelist-reward-cutting-off-ear-aylisli/24899021.html

to 10 days of administrative detention on charges of resisting police. The HRC believes that Aliyev was arrested on trumped-up charges and that the real reason for his detention was his song and music video *Avtosh* (*Reckless Driver*), posted to YouTube, in which he criticizes the traffic police. While being questioned by police, Aliyev phoned his brother under pressure, saying that the police were demanding that the video clip be removed from YouTube. Additional information is provided in the Annexes section of this submission.

• Pressure against the Art for Democracy campaign

The Azerbaijani authorities have exerted serious pressure against the Art for Democracy campaign, which seeks to use all forms of artistic expression to promote democracy and human rights in Azerbaijan, including advocating for the protection of artists' rights. Shortly after Art for Democracy's launch event in December 2012, without any explanation, the authorities revoked the residence permit of Art for Democracy's Advocacy Director, Rebecca Vincent, preventing her from returning to her home and separating her from her family ever since. Police also detained and questioned on false grounds prominent filmmaker Ulvi Mehti in connection with his participation in the Art for Democracy and its predecessor, Sing for Democracy, calling the campaigns "anti-national" and intended to "sabotage" Azerbaijan. Additional information is provided in the Annexes section of this submission.

Questions for the Azerbaijani government:

- What steps has the government taken to ensure objective and effective investigations into the cases outlined in this submission, particularly the cases of Jamal Ali and Said Aliyev?
- What has the government done to ensure protection of artists who receive threats, in particular Akram Aylisli?
- What is the reason behind the ongoing pressure against the Art for Democracy campaign? For what reason has the government revoked Rebecca Vincent's residence permit? What disciplinary actions have been taken against the police officers who detained Ulvi Mehti without a proper cause?
- Has Azerbaijan adopted any official policy relating to the rights of artists, in particular artistic freedom of expression? Please provide all relevant court decisions from the reporting period.
- Please provide clarification regarding the approval procedures for access to public and government-owned spaces for artistic displays and performances.

Recommendations for improvements:

- Cease detentions of artists in connection with their work.
- Ensure adequate protection of artists who receive threats in connection with their work.
- Thoroughly and impartially investigate all reports of unfair dismissals and ill treatment of artists and others working in the cultural sphere.
- Cease pressure and discriminatory practices towards cultural organizations and artists who are critical of authorities, including the Art for Democracy campaign.
- Make public the forthcoming draft Law on Culture and consult with all relevant stakeholders through robust public discussions on this law.

Annexes

Art for Democracy Campaign under Attack in Azerbaijan (06/03/2013)

Baku, 6 March 2013. Since its launch in December 2012, the Art for Democracy campaign has been under attack by the Azerbaijani authorities. Campaign staff and attendees of the Art for Democracy launch event have been targeted, and the group behind the campaign, the Human Rights Club, has been denied registration. These moves have occurred against a backdrop of a vicious ongoing crackdown on broader civil society in Azerbaijan. The Human Rights Club calls for urgent action by the international community to protect these critical voices and hold Azerbaijan accountable for its human rights obligations.

Following the 11 December Art for Democracy launch event, the Azerbaijani authorities took aggressive action to target the campaign and its supporters. One week after the launch event, while traveling outside of the country, Art for Democracy's Advocacy Director, American-British human rights activist Rebecca Vincent, was notified that her Azerbaijani residence permit had been revoked. No official explanation has been given. Since that time she has not been permitted to enter the country to return to her home.

Also following the event, prominent filmmaker Ulvi Mehti was detained by police and questioned for two hours in connection with his participation in the event. Although the explanation given for his detention was that two diplomats had allegedly lost some documents at the event, a written statement later provided by the police confirmed that there had been no such report.

Art for Democracy, as well as foreign governments which supported the launch event, was harshly criticized in articles published by ruling party newspapers that labeled Art for Democracy as "anti-national" and intended to "sabotage" Azerbaijan.

Further, the Human Rights Club, the primary group behind Art for Democracy, was denied registration by a Baku Court on 19 February. The Human Rights Club has been attempting to register with the state as a non-governmental organization for the past two years.

"The government's aggressive reaction to the launch of Art for Democracy is deeply disturbing," said Art for Democracy Project Coordinator Rasul Jafarov. "The campaign is intended to be positive and creative, and we approached the launch event in a constructive manner, inviting government officials to attend and speak. The targeting we have faced since our launch shows the government's unwillingness to allow freedom of expression of any form, including artistic freedom of expression."

"These acts of retaliation against Art for Democracy and the Human Rights Club are alarming, especially in the context of the broader ongoing crackdown on civil society in Azerbaijan," said Art for Democracy Advocacy Director Rebecca Vincent. "Azerbaijani NGOs are facing attack on all fronts at an unprecedented level. There is a serious need for immediate support to protect these precious few remaining critical voices in the country."

The Human Rights Club calls for urgent action by the international community to address these violations and protect independent civil society in Azerbaijan. The authorities must be held liable for their international human rights obligations.

Art for Democracy Campaign Condemns Detention of Azerbaijani Rapper Dado for Music Video Criticizing Police (04/03/2013)

Baku, 04 March 2013. The Art for Democracy campaign strongly condemns the detention and harassment of popular Azerbaijani rapper Said Aliyev, also known as Dado, and considers this action as unlawful interference with his right to freedom of expression.

On 27 February, Aliyev was called into the traffic police department, allegedly in connection with an investigation into a car accident. Aliyev visited the police office, and on his way out, an unknown man hit him on the shoulder. However, the man, allegedly a police officer, claimed that Aliyev had hit him. The rapper was taken to the Nasimi District Police Office and then to court, where he was sentenced to 10 days of administrative detention on charges of resisting police.

Art for Democracy declares that Aliyev was arrested on trumped-up charges and that the real reason for his detention was his song and music video *Avtosh (Reckless Driver)*, posted to YouTube, in which he criticizes the traffic police. While being questioned by police, Aliyev phoned his brother under pressure, saying that the police were demanding that the video clip be removed from YouTube.

Aliyev's rights have repeatedly been violated since his arrest. His family was not informed of his detention for two days; the rapper was questioned without the presence of a lawyer and was not provided with an attorney; and he was not transferred from the police office to the detention center until 1 March, when the media began disseminating information about his arrest.

The rapper told his brother that he had been insulted and degraded by the police, who gave him a rag and forced him to clean the police station.

Art for Democracy notes that Azerbaijani artists have faced increased pressure in recent years for expressing critical opinions or creating critical works of art. Other recent examples of this pressure include the forced migration of musician Azer Cirttan and rapper Jamali Ali; the harassment of famous producer and Chairman of the Cinematographers' Union Rustam Ibrahimbekov; the dismissal of actor Ilgar Jahangir from his job at a theater; the ban on the sale of writer Bakhtiyar Hidayet's novel *Ag Garanliglar (Light Darkness)*; and the smear campaign against writer Akram Aylisli and his family over his novel Каменные Сны (*Stone Dreams*).

Art for Democracy calls on the Azerbaijani authorities to immediately release Said Aliyev, who only exercised his constitutional right to freedom of expression, and to find and punish those who arrested the rapper on trumped- up charges and insulted him in detention. Art for Democracy also urges the government to comply with its obligations to respect and protect human rights.

Art for Democracy further calls upon the international community to increase efforts to hold the Azerbaijani government accountable for its human rights obligations.

STATEMENT ON HARASSMENT OF AZERBAIJAN CINEMATOGRAPHERS UNION AND ITS CHAIRMAN RUSTAM IBRAHIMBEKOV 05 February 2013

As representatives of civil society, we strongly condemn the recent harassment of well-known Azerbaijani filmmaker and screenwriter Rustam Ibrahimbekov and the Azerbaijan Cinematographers Union chaired by him, and consider these actions to be a crackdown on the freedom of expression and association.

Rustam Ibrahimbekov, one of the most prominent intellectuals of Azerbaijan, is famous for his criticisms of the government policy and activity of government officials. These criticisms have recently become much sharper. Particularly, after his statements on the upcoming presidential election, Ibrahimbekov and the civil society organization that he leads have faced increased pressure.

After a tax inspection conducted on November 20, 2012 the Department for Preliminary Investigation of Tax Crimes under the Ministry of Taxes launched a criminal case against the Azerbaijan Cinematographers Union under Article 213.1¹⁴ of the Criminal Code on December 27, 2012. Member of the Union, Lale Efendiyeva, who in 2009 was authorized to organize the Baku 'East-West' film festival, is facing charges under Article 179.3.2¹⁵. On January 18, 2013 employees of the Department for Preliminary Investigation of Tax Crimes conducted another inspection in the office of the Cinematographers Union and took away the original tax documents, copies of which had already been submitted to the Ministry of Taxes. On January 23, employees of the Baku Executive Power evicted the personnel of Cinematographers Union from their office located in the Government House, without official authorization or prior notice.

On December 30, 2012, Rustem Ibrahimbekov's diplomatic and ordinary passports were taken at the Baku airport when he was returning from Moscow. Ibrahimbekov was informed that it was required for investigation. He was allowed to go after two hours. Airport officials told Ibrahimbekov that they did not respect him, as he did not respect and esteem the supreme commander-in-chief (i.e. the president). On January 21, 2013, Ibrahimbekov faced a similar problem at the airport; he was required to wait due to alleged technical problems, and was eventually allowed to go 30 minutes before the flight.

Meantime, national TV channels of Azerbaijan and newspapers, which are under strict government control, have started a smear campaign against Rustam Ibrahimbekov, accusing of misappropriation of funds without presenting evidence and alleging that Ibrahimbekov owns lots of apartments, offices and companies. There have been reports of pressure on other members of the Cinematographers Union as well.

We declare that the criminal case filed against the Cinematographers Union, the eviction of the Union staff from their office and the abovementioned behaviour towards Rustam Ibrahimbekov are unlawful and directly related to his criticisms. We consider that the Azerbaijani government should listen to and draw the right conclusion from criticisms instead of suppressing critical voices.

Such an attitude of the Azerbaijani authorities towards the Cinematographers Union and its chairman demonstrates lack of interest of the government in formation of a proper and independent civil society, its readiness to suppress the critical voices by all possible means and its defiance of both the domestic and international laws. These steps are aimed at restricting the citizens' right to freedom of expression and association, which is unacceptable in a democratic society.

We urge the Azerbaijani government to put an end to the harassment of Rustam Ibrahimbekov and other members of the Cinematographers Union, and respect the citizens' rights to freedom of expression and association guaranteed by both the Azerbaijani Constitution and international legal instruments that Azerbaijan has ratified.

¹⁴ Evasion of payment of taxes or other obligatory payments in significant amounts; punished by fine from 1,000 up to 2,000 AZN or corrective labor for up to 2 years or imprisonment for up to 3 years¹⁵ Misappropriation or embezzlement of entrusted property belonging to someone else

At the same time, we call on the international community to keep focus on this issue and defend the Cinematographers Union and its chairman by all legal means.

Rashid Hajili, Media Rights Institute Rasul Jafarov, Human Rights Club Leyla Aliyeva, Center for National and International Studies Anar Mammadli, Election Monitoring and Democracy Studies Center Ilgar Ibrahimoglu, Center for the Protection of Freedom of Conscience and Religion Mirvari Gahramanlı, Oil Workers' Rights Protection Committee Irada Javadova, Human Rights Education Public Union Ziya Quliyev, Legal Initiatives Center Intigam Aliyev, Legal Education Society Leyla Yunus, Peace and Democracy Institute Firudin Allahverdi, composer Elmir Mirzayev, composer Rehman Bedelov, culturist Zefer Guliyev, political expert Jamal Ali, musician Gunduz Agayev, cartoonist Tora Agabeyova, artist Tural Haji, photo and graphic designer Aynur Zarintaj, blogger Ilkin Gambar, chief editor of www.minval.az portal