



HUMAN RIGHTS HOUSE
FOUNDATION

UPDATE ON THE HUMAN RIGHTS SITUATION IN AZERBAIJAN

United Nations Human Rights Committee
118th session
September 2016

humanrightshouse.org

CONTENT

Introduction	3
Release of leading civil society figures	4
Continued systematic use of arbitrary detention	5
Crackdown against dissenting voices in the electoral period	6
Constitutional referendum of 26 September: Criticism voiced by national and international sources to the amendments	6
Continued repression of civil society in the recent period	8
Crackdown on civil society and human rights defenders	8
Crackdown on independent media	9
Questions and recommendations to the government	9

Contact person:

Florian Irminger, Head of Advocacy
Human Rights House Foundation (HRHF)
Mob: +41 79 751 80 42
Email: florian.irminger@humarightshouse.org

About the Human Rights House Foundation (www.humanrightshouse.org)

The Human Rights House Foundation empowers, supports, and protects human rights defenders and their organisations. The Foundation establishes Human Rights Houses and unites them in a network to promote the universal freedoms of assembly, association and expression, and the right to be a human rights defender. More than 100 human rights organisations work together in 16 Human Rights Houses.

The Human Rights House Foundation is based in Oslo, with an office in Geneva and representation in Brussels and Tbilisi.

Prior to being forced to cease activities in March 2011, the Human Rights House Azerbaijan served as an independent meeting place, a resource centre, and a coordinator for human rights organisations in Azerbaijan. In 2010, 6,000 human rights defenders, youth activists, independent journalists, and lawyers used the facilities of the Human Rights House Azerbaijan, which had become a focal point for promotion and protection of human rights in the country. The House ceased all its activities following an order by the Ministry of Justice on 10 March 2011.

INTRODUCTION

The Human Rights House Foundation (HRHF) produced the present document as an addendum to the NGO report submitted to the United Nations Human Rights Committee in December 2015.¹

It was prepared in cooperation with Azerbaijani partners. The names of these partners and their organisations are not disclosed for their security.

There is no indication that the human rights situation in Azerbaijan has improved: the release from prison of leading civil society figures is not a sign of systemic change, but a signal of the leverage the international community has to ensure such releases, for example of human rights lawyer Intigam Aliyev, human rights defenders Rasul Jafarov, Anar Mammadli, Bashir Suleymanli, Leyla Yunus, and her husband Arif Yunus, and journalist Khadija Ismayil.

The Ministry of Justice of the Republic of Azerbaijan ordered the Human Rights House Azerbaijan to cease all its activities in March 2011. Since then, the human rights situation in Azerbaijan has continued to deteriorate and the legislation affecting civil society and human rights defenders has worsened, especially with regard to freedom of association and assembly, freedom of expression and opinion, and the right to be a human rights defender. As HRHF documented in its report with Freedom Now, “during 2014, the authorities rounded up the country’s most well-known civil society leaders and audaciously even targeted those who monitored and documented the cases of political prisoners.”²

Following an official visit to Azerbaijan in September 2016, the United Nations Special Rapporteur on human rights defenders, Michel Forst, called upon Azerbaijan to “rethink [its] punitive approach to civil society.”³

Azerbaijan has indeed accepted visits by various international human rights mechanisms recently. We acknowledge this, but caution that Azerbaijan has not taken, or shown signs of taking, any meaningful steps to implement the recommendations of these mechanisms. As highlighted by the Special Rapporteur himself, assessments by these international mechanisms have all found the same thing: a worsening situation for human rights defenders, civil society, and individual freedoms in Azerbaijan.

¹ Human Rights House Network, *NGO report on civil and political rights in Azerbaijan*, December 2015, available at http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/AZE/INT_CCPR_ICO_AZE_22692_E.pdf.

² Freedom Now and Human Rights House Network, *Breaking point in Azerbaijan*, Washington, DC and Geneva, May 2015, available at <http://humanrightshouse.org/Articles/20947.html>.

³ HRHF, “Azerbaijan: ‘Rethink punitive approach to civil society,’” 22 September 2016, available at <http://humanrightshouse.org/Articles/21894.html>.

RELEASE OF LEADING CIVIL SOCIETY FIGURES

On 17 March 2016, the authorities in Azerbaijan released more than a dozen political prisoners, as part of a presidential pardon of 148 detainees on the eve of the spring Novruz holiday (Azerbaijan New Year celebration). Following this, and other recent releases, Intigam Aliyev, Anar Mammadli, Rasul Jafarov, Arif and Leyla Yunus, and many other human rights defenders, journalists, and activists were released from prison:

- The political prisoners released by presidential pardon on 17 March 2016 included human rights campaigner Rasul Jafarov; the head of a local election monitoring group Anar Mammadli⁴; youth activists from NIDA movement Rashad Hasanov, Rashadat Akhundov, Mammad Azizov, and Omar Mammadov; human rights defenders Taleh Khasmammadov and Hilal Mammadov; opposition Musavat party deputy chair Tofiq Yagublu; journalists Parviz Hashimli and Yadigar Mammadli; and blogger Siraj Karimov.
- Anar Mammadli⁵ is chairman of the Election Monitoring and Democracy Studies Centre (EMDS), an organisation that has been carrying out independent election monitoring in Azerbaijan since 2001. On 26 May 2014, he was found guilty of conducting illegal business, abuse of office and tax evasion. On 26 August 2015, the Supreme Court of Azerbaijan upheld the sentence of five and a half years in prison against him.
- Rasul Jafarov⁶ is the Head of the Human Rights Club, an organisation established in December 2010 to protect human rights and freedoms in Azerbaijan. He organised the 'Art for Democracy' and 'Sing for Democracy' campaigns in the context of the Eurovision Song Contest in Baku in 2012 to draw international attention to the government's crackdown on civil society. On 16 February 2016, the Supreme Court of the Republic of Azerbaijan dismissed in the final instance the appeal submitted by human rights defender Rasul Jafarov against the ruling on his conviction for illegal entrepreneurship, abuse of authority, forgery and embezzlement.
- On 17 March 2016, the Baku Court of Appeals converted the six-year prison sentence of journalist Rauf Mirkadirov to a five-year suspended sentence, thus effectively releasing him from custody.
- On 28 March 2016, Intigam Aliyev was released following the Plenum of the Supreme Court's decision to convert his seven-and-a-half-year prison sentence to a suspended term for the rest of the sentence. While Intigam Aliyev has been released, he remains under travel restrictions and is unable to travel abroad without special permission. The authorities have not yet returned the equipment and documentation seized following his arrest in August 2014, including over 100 case files, compromising lawyer-client confidentiality and preventing continuing litigation on those cases. The criminal investigation into the Legal Educations Society (LES), an organisation which Intigam Aliyev is head of, has been suspended but has not been closed, while Intigam Aliyev's personal and NGO bank accounts remain frozen and his office sealed. Intigam Aliyev is a prominent human rights lawyer and a mentor for other lawyers and activists. When detained, Intigam Aliyev represented many Azerbaijanis at the European Court of Human Rights. His release from prison is only

⁴ See also <http://humanrightshouse.org/Articles/21541.html>

⁵ See also : <http://humanrightshouse.org/Articles/19866.html>

⁶ See also : <http://humanrightshouse.org/Articles/20890.html>

conditional and he still faces restrictions, including on his right to travel.⁷ The charges against him and his detention have deprived many Azerbaijani citizens of their right to appeal and seek justice before the court, and it is only with full rehabilitation of his rights that he will be able to continue this essential work.

- On 19 April 2016, the human rights defenders Leyla Yunus and her husband Arif Yunus were allowed to travel to the Netherlands⁸ to receive medical care for their deteriorating health and to be reunited with their daughter. Leyla Yunus and Arif Yunus were sentenced to 8 1/2 and 7 years in prison, respectively, in August 2015 for “fraud” and other purported crimes related to their NGO work. Toward the end of 2015, the Yunuses were released from jail and their sentences were suspended due to their poor and deteriorating health conditions.
- On 25 May 2016, the Supreme Court of Azerbaijan upheld Khadija Ismayil’s appeal and released her on probation. Khadija Ismayil is an award-winning investigative journalist⁹. She was arrested in January 2014 and sentenced to 7.5 years in prison¹⁰. She still faces restrictions, including a ban on travelling abroad for five years.

CONTINUED SYSTEMATIC USE OF ARBITRARY DETENTION

The United Nations Working Group on Arbitrary Detention (WGAD) visited Azerbaijan from 16 to 25 May 2016.¹¹ In its preliminary findings, while taking in account the pardon decree of 17 March 2016 that resulted in the release of many political prisoners and prisoners of conscious, the WGAD did not observe any significant change in the country with respect to Azerbaijan depriving persons of their liberty. The WGAD held that Azerbaijan continues to detain human rights defenders, journalists, and political and religious leaders on criminal or administrative charges to silence them and to impair their basic human rights and fundamental freedoms. These practices are an abuse of authority and violate Azerbaijan’s obligations to uphold the rule of law.

The WGAD was able to visit recently arrested student activists Bayram Mammadov and Giyas Ibrahim at the Kurdakhani pre-trial detention facility. The pair are accused of having tagged a statue of late President Heydar Aliyev with the phrase “Happy Slave Day.” Both reported having been subjected to violent interrogation techniques at a police station before being sentenced to four-months pre-trial detention for drug-related charges by the Khatai District Court. During the visit, the working group observed what seemed to be “physical sequels” of the treatment they were subjected to.

⁷ See also the final statement of the Working Group on Arbitrary Detention:

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20021&LangID=E>

⁸ See also : <http://www.rferl.org/content/azerbaijan-yunus-couple-leave-country/27683955.html>

⁹ See also: <http://humanrightshouse.org/Articles/21589.html>

¹⁰ See also: <http://humanrightshouse.org/Articles/21130.html>

¹¹ The final statement of the Working Groups on Arbitrary Detentions is available at:

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20021&LangID=E>

Beyond the use of arbitrary detention to target human rights defenders, journalists and activists, the WGAD observed that, in Azerbaijan, people could be deprived of liberty for administrative and criminal offences. These administrative offences are defined in broad and imprecise terms, which enable the authorities to deprive persons of their liberty on unreasonable grounds, such as so-called offences of hooliganism and refusal to obey public authorities. The sentences for these administrative offenses are often disproportionate.

Azerbaijan's practice of arbitrary detention shows that the judiciary is not independent and that the authorities do not respect basic principles of the rule of law – be it depriving persons of their right to legal counsel, or failing to protect them from torture and other forms of ill treatment.

CRACKDOWN AGAINST DISSENTING VOICES IN THE ELECTORAL PERIOD

The wave of arrests during the electoral period leading to the 26 September 2016 constitutional referendum illustrates the continued use of arbitrary detention by the authorities in Azerbaijan.

A popular referendum on constitutional changes should be an opportunity for true public debate on the future of the State's institutions. Everyone should be allowed to freely and safely express their opinions during a campaign, as the right to participate in public life includes disagreeing with the government's proposals. However, instead of promoting a popular debate, the Azerbaijani authorities started a new wave of their

Constitutional referendum of 26 September: Criticism voiced by national and international sources to the amendments

The amendments to the constitution were accepted by popular referendum on 26 September by around 90 percent of those that voted, give or take a few percentage points either way for each amendment.

These amendments prolong the presidential term from 5 to 7 years and introduce the posts of first vice-president and vice-president. Other changes are related to restrictions in the right to freedom of assembly, which would be contingent on “public order and morality;” and the right to property, which could be restricted in the interests of “social justice and effective land use.” In addition, Azerbaijani citizenship could be withdrawn “in accordance with the law.”

On 19 August the Election Monitoring and Democracy Studies Centre (EMDS) published an opinion on the proposed amendments. EMDS notes that the Referendum Act “proposes to significantly increase the power of the executive branch at the expense of the legislative branch depressing the division of power.” It is also set to further restrict human rights, and in particular property rights, freedom of expression and assembly, and right for citizenship.

On 20 September the Venice Commission published its preliminary opinion on the constitutional referendum. The Commission criticises the procedure of adoption of the reform as well as the proposed institutional reform. It states that the reform “weakens further the Parliament and even judiciary, consolidating the already disproportionate power of the President and making the government even less accountable.” It also criticises “the lack of clarity of the rules set in the Constitution for passing such modifications, the facts that the Parliament was not formally involved in the process, and that the time for public discussions about the reform was insufficient.”

crackdown on civil society and opposition, which is directly related to the referendum.¹²

The outcome of the referendum is completely overshadowed by the events that preceded and accompanied it, and it cannot be considered a legitimate reflection of the people's will. The authorities silenced independent voices who criticised the process and showed that they have not abandoned the "revolving door policy" of politically motivated arrests, in which the authorities release some people while arresting others.

During the weeks that preceded the referendum, intimidation and arrests of those raising their voice to criticise the process became routine. Journalists, bloggers, human rights defenders and political opponents were targeted by the authorities in an attempt to stop the spreading of information about the referendum and their participation in protest rallies. The authorities tried to prevent protest actions from taking place and on some occasions attacked and detained demonstrators and journalists.

Natig Jafarli of the Republican Alternative Movement (ReAl) was arrested on 12 August following his peaceful action and criticism of the referendum. Prior to his arrest, ReAl, a movement co-founded by Natig Jafarli, had been campaigning against the referendum and had begun to collect signatures as a referendum campaign group. Natig Jafarli has been charged by a court in Baku for "illegal business" and "abuse of official powers – when such actions lead to serious consequences or are committed with the purpose of influencing the outcome of an election (referendum)" and was sentenced to four-months of pre-trial detention. The use of "organisational charges" against human rights defenders, journalists and activists is a well-known method to attempt to legally justify a politically motivated detention, in addition to charges such as hooliganism or consumption of illegal narcotics. Natig Jafarli's home was searched during the night and two computers and several legal documents were seized. Finally, on 9 September, a Baku court ruled to free Natig Jafarli.

Two other ReAl activists, Elshan Gasimov and Togrul Ismayilov,¹³ were also arrested and sentenced to seven days of administrative detention on 15/16 August. According to contact.az, they were arrested by "persons in civilian clothing" while trying to collect printed campaign material.

The prominent activist and former political prisoner Bakhtiyar Hajiyev was arrested on 15 August and could be, according to his lawyer¹⁴, charged with disorderly conduct. "Yesterday I got into an altercation with traffic police and was injured; the traffic police employed physical force. Now we are going to the 27th district police station. Either these [policemen] must be punished, or I must leave the country. There is no other option." Bakhtiyar Hajiyev wrote on his personal Facebook page.

Information about Elgiz Qahreman of NIDA Youth Movement, who had been missing for four days in August, revealed that he is being detained by the Department Against Organized Crime. It is reported that he has been sentenced to four months of pre-trial detention and could face 5

¹² See also: <http://humanrightshouse.org/Articles/21835.html>

¹³ See also : <http://www.contact.az/docs/2016/Social/081500165690en.htm#.V7LnpZN96rN>

¹⁴ See also : <http://www.contact.az/docs/2016/Social/081500165641en.htm#.V-PrkxZOEzn>

to 12 years in prison on drug charges. Meydan TV reports that there is some speculation that his arrest could be linked with the other arrested activists.

On 17 September, an estimated 10,000 people attended a protest organised by the Azerbaijani Popular Front Party. Slogans heard at the rally included: “We’ll sooner die than leave the square,” “No to monarchy! End to thievery,” “We want Azerbaijan as portrayed by AZTV” [state media], and “Sign the Association Agreement with the EU.” According to the deputy chairman of the Popular Front Party, in many parts of the country the police have blocked the roads to hundreds of activists who were heading to the rally in Baku. After the rally, the Baku police were seen attacking and detaining demonstrators, as well as journalists and civil rights activists. According to initial estimates, the police arrested 51 people. Most of the detainees were members of the Azerbaijani Popular Front Party. Journalist Orkhan Charci, former editor of Carci.az website, was also detained. Most of the detainees were released by 19 September 2016. Some 12 Popular Front Party members, including Orkhan Charci, were sentenced to eight days of administrative detention for disobeying police orders, and one political activist was fined (200 AZN). Several of them were detained¹⁵.

CONTINUED REPRESSION OF CIVIL SOCIETY IN THE RECENT PERIOD

Authorities in Azerbaijan have not taken a single step to reform the systemic nature of the repression against civil society. While some leading civil society figures were released from prison, the work of human rights defenders remains *de facto* criminalised, which the authorities hide behind periodic releases of human rights defenders, journalists, and activists, who should never have been in prison in the first place.¹⁶

Crackdown on civil society and human rights defenders

Civil society has been paralyzed as a result of legislative amendments since 2009.

Human rights defenders have been accused by public officials to be a fifth column of the Western governments, or foreign agents, which has led to misperception in the population of the truly valuable role played by civil society. Activists promoting fundamental freedoms and criticizing violations have been accused of being political opponents, touting values that run counter to those of their society or culture. They were denounced as politically or financially motivated actors. They were attacked, threatened or brought to court and sentenced under such charges as “hooliganism”, “money-laundering”, “provocation”, “drug-trafficking” or incitement to overthrow the State. Defenders have faced smear campaigns in attempt to discredit their work, by relegating them to political opposition, or indeed as traitors. The demonization of defenders has been exacerbated by the lack of awareness within civil society of the mechanisms they can resort to and tools they can use to boost their legitimacy and protection.

¹⁵ More information about the rallies of 17 September, including video depicting the clashes with the police are available here: <https://www.meydan.tv/en/site/society/17505/> and <https://www.meydan.tv/ru/site/news/17371/>

¹⁶ HRHF, “PACE side event: A year of attempts to hide dire human rights record,” 22 June 2016, available at <http://humanrightshouse.org/Articles/21726.html>.

Following the above-mentioned visit to Azerbaijan in September 2016 of the Special Rapporteur on human rights defenders, he considered that over the last two to three years, the civil society in Azerbaijan has faced the worst situation since the independence of the country: dozens of NGOs, their leaders, employees and their families have been subject to administrative and legal persecution, including the seizure of their assets and bank accounts, travel bans, enormous tax penalties and even imprisonment.

Crackdown on independent media

Independent media also works under the pressure, as reported in more detail in the submissions of Article 19 to the Human Rights Committee in view of its 118th session.

Despite protection under national and international law that guarantees the right to freedom of expression, Azerbaijan has continued to face challenges in ensuring an enabling environment for the media and journalists. Independent media outlets have been frequently targeted.

Their licenses have often been withdrawn for the expression of critical views. For example, in December 2014, the Government suspended the activity of Radio Free Europe / Radio Liberty in Azerbaijan, in the context of a broader criminal persecution against civil society.

Meydan TV was forced to terminate its broadcast in the same month in 2014. Its editor and director both had to flee abroad, and many of its journalists are banned from travelling abroad and their bank accounts are still frozen.

In July 2016, the offices of ANS TV/Radio were closed as part of an investigation related to its coverage of the attempted coup d'état in Turkey.

QUESTIONS AND RECOMMENDATIONS TO THE GOVERNMENT

We present the following questions and recommendations for the Human Rights Committee to put forward to the government of the Republic of Azerbaijan, during its review at the 118th session of the Committee:

- Put an end to the repression against civil society. Immediately and unconditionally release and rehabilitate the civil and political rights of all prisoners of conscience. Drop all charges and investigations pending against journalists, political opposition leaders, grassroots activists, human rights defenders, lawyers, and their organisations.

Questions in relation to the repression against civil society:

- What justifies the fact that some released human rights defenders or journalists remain under travel bans, such as lawyer Intigam Aliyev and journalist Khadija Ismayil?
- What steps does the government foresee taking to implement the recommendations made by many international bodies regarding bringing Azerbaijan's legislation on freedom of association and assembly in line with its international obligations?
- When will the government fully comply with judgments of the European Court of Human Rights and findings of the Working Group on Arbitrary Detention, and release those whose detention were found to be arbitrary, in particular Ilgar Mammadov?

- Conduct a prompt, thorough, and impartial investigation into all cases of detention, torture, and other human rights abuses directed against human rights defenders, journalists, and activists, and provide appropriate compensation to the victims of such violations.

Questions in relation to the detention conditions of civil society figures:

- Have the authorities ensured an independent and thorough investigation into cases of alleged torture and ill-treatment in detention of human rights defenders such as Leyla Yunus and her husband Arif Yunus, and what are the results of such investigations?
- Evidence indicates that activists are ill-treated when detained by police, such as student activists Bayram Mammadov and Giyas Ibrahim (directly witnessed by the WGAD). What measures are the authorities taking to hold law enforcement agents guilty of such conduct accountable and to end the use of ill-treatment in police custody, pre-trial detention facilities and prisons?
- The authorities reported to the United Nations Committee against Torture (CAT) that, during the reporting period to CAT, no cases of torture were recorded.¹⁷ Can the authorities explain this claim further and share how they ensured investigations into alleged cases of ill-treatment and torture directed against human rights defenders, journalists and activists?

¹⁷ HRHF, “Updated: CAT raises deep concerns over treatment of human rights defenders in Azerbaijan,” 23 December 2015, available at <http://humanrightshouse.org/Articles/21281.html>.