

The Right to Remain Silent

Freedom of Expression in Azerbaijan
ahead of the 7th Internet Governance Forum



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Police crackdown on peaceful demonstration in March 2011 in Baku. This photo is the winning entry of the The World Youth Movement for Democracy, 2012 Global Photo Contest "Youth in Action: A Snapshot of Democracy". The photo was taken by Mehman Huseynov for the Institute for Reporters' Freedom and Safety (IRFS).



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www.irfs.org

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Acknowledgments

This report is a publication of the Institute for Reporters' Freedom and Safety (IRFS), an independent, non-profit organization dedicated to promoting freedom of expression in Azerbaijan.

This report has been prepared on the basis of desk-based research, field investigations, interviews, monitoring of court proceedings, media-monitoring, analysis of enquiries and complaints submitted to IRFS, IRFS safety hotline statistics, and other legally obtained information. IRFS staff compiled this report in close consultation with local and international freedom of expression experts.

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Recommendations



*Riot police called in as thousands protest
against the power abuse in the town of Guba,
March 2012. Photo: IRFS*

As this report shows, freedom of expression is under serious threat in Azerbaijan, as are the other fundamental freedoms of assembly and association. The authorities must stop curtailing these rights and take immediate action to address this situation in accordance with the country's international human rights obligations.

To that end, the Institute for Reporters' Freedom and Safety (IRFS) has developed a set of recommendations outlining steps needed to protect the rights to freedom of expression, assembly and association.



*No photo please! A journalist trying to get permission from a policeman to cover demonstration in central Baku, 2012.
Photo: IRFS*

IRFS calls on the **Azerbaijani authorities** to undertake the following specific steps:

Put a stop to violence and other forms of pressure against journalists:

- End all forms of impunity for those who attack or kill journalists and ensure that all cases of violence against journalists are resolved and all guilty parties are punished in accordance with the law.
- Detain and prosecute the masterminds who ordered the killings of Elmar Huseynov in March 2005 and Rafiq Tagi in November 2011, as well as those who carried out the attacks.
- Make public all information related to Huseynov and Tagi's murders.
- Detain and prosecute those responsible for the blackmail attempt and violation of privacy of outspoken female journalist Khadija Ismayilova in March 2012.
- Fully investigate all threats against journalists and establish adequate protection mechanisms.

Cease the use of detention to silence critical voices:

- Immediately release the currently detained and imprisoned journalists, bloggers and activists behind bars in connection with exercising their right to freedom of expression.
- Drop the charges against journalists and activists who face jail time in connection with exercising their right to freedom of expression.

The **authorities** must stop curtailing fundamental rights and take immediate action to address this situation in accordance with the country's international human rights obligations.

Improve media legislation and policies:

- Remove defamation provisions from the Criminal Code.
- Reverse the ban prohibiting foreign broadcasters from accessing national frequencies.
- Withdraw the recent restrictive amendments to freedom of information legislation aimed at limiting the activities of journalists and media outlets.
- Review and amend other media legislation to ensure it complies with international standards for press freedom.
- Establish an independent Press Ombudsman in line with international standards and empower that position with the authority of Press Ombudsman that currently belongs to the Human Rights Ombudsman.
- Set up an independent broadcasting regulatory body to ensure the fair and transparent distribution of television and radio frequencies through a simplified licensing procedure.
- Ensure that the public service broadcaster, İctimai, complies with international standards for public service broadcasting and provides balanced and varied programming for all sectors of the population.
- Allow for the creation of an independent, non-statutory press council which remains the sole responsibility of media professionals, or other self-regulatory systems of media accountability.
- Ensure transparency in media ownership structures.
- Establish an independent oversight body to ensure that government-funded advertising is distributed to media outlets in a fair and transparent manner.

Protect the rights to freedom of assembly and freedom of association:

- Allow all citizens to gather peacefully to exercise their right to freedom of assembly.
- Cease the use of excessive force to disperse protests and investigate and prosecute any violations.
- End harassment against independent NGOs and civil society representatives.
- Revise laws that restrict the ability of NGOs to operate in accordance with international standards.

IRFS also calls for **media organizations** to take full responsibility to care for their workers who are subjected to attack by initiating preventive measures and providing adequate insurance cover for medical treatment.

Finally, IRFS calls on the **international community** not to turn a blind eye on the situation of fundamental rights and freedoms in Azerbaijan. Specifically, IRFS calls on the international community to:

- Demand actions, not just words, from the Azerbaijani government, using all possible bilateral and multilateral opportunities to hold Azerbaijan to account for its freedom of expression and human rights obligations.
- Call upon the Azerbaijani government and law enforcement agencies to end all forms of impunity for violence against journalists and ensure that all cases are adequately investigated and those responsible are brought to justice.
- Call upon the Azerbaijani government to immediately release all journalists, bloggers and activists in prison or detention in connection with exercising their right to freedom of expression.

IRFS calls on the **international community** not to turn a blind eye on the situation of fundamental rights and freedoms in Azerbaijan.



*The uniformed and plainclothed police officers use force to prevent the peaceful demonstrators from advancing. May 2012, Baku.
Photo: IRFS*

Executive Summary

On the eve of the 7th Internet Governance Forum (IGF), and with less than a year left until the 2013 presidential election in Azerbaijan, the Institute for Reporters' Freedom and Safety (IRFS) has developed this report to highlight its concerns regarding violations of the rights to freedom of expression, association and assembly in Azerbaijan. In this report, IRFS concludes that all three fundamental freedoms have been curtailed in recent years, and particularly this year in connection with two major international events taking place in Baku: the Eurovision Song Contest in May 2012, and the upcoming IGF in November 2012. Journalists, bloggers, human rights defenders, independent civil society organizations, political activists, and ordinary citizens have all been victims of this crackdown on civil and political rights.

As this report demonstrates, the space for dissenting views, independent media and independent organizations to operate is shrinking in Azerbaijan. The report documents IRFS' findings and outlines major recent violations of the rights to freedom of expression, assembly and association. The report examines how the authorities continue to punish and prosecute individuals for expressing critical opinions and protesting ongoing repression.

Despite its stated commitment to democratization, IRFS believes the Azerbaijani government has demonstrated authoritarian tendencies, particularly in persecuting its citizens for disseminating unwelcome information. Though some forms of dissent still exist and are even permitted in certain cases – an argument frequently used by the government in response to criticism by local and international human rights groups – genuine critics of the regime are few and are under severe pressure. Crossing the line by reporting on certain taboo topics – such as criticism of the president or his family – can lead to serious repercussions. The authorities' tactics to silence critical voices include blackmail, intimidation, public humiliation, torture, and arrest on dubious charges, among others.

If harassment and violence against journalists is the most obvious evidence of serious problems

with press freedom in Azerbaijan, public indifference and cynicism further aggravate the situation. Despite the country's dire human rights record, many Azerbaijanis remain politically passive. This is in part due to the lack of accurate information via the state-controlled broadcast media, and in part due to intimidation caused by the serious examples the authorities make of those who dare to cross the line, but perhaps also because many see a prospering country with improving standards of living and an unprecedented construction boom. Another major constraint on media freedom is the authorities' tight control over politics, policy-making, and media. Given this environment, existing independent media remain unable to ensure the government's accountability to the public.

This sentiment of resignation is also evident in the media sector. There are very few independent outlets left, as even traditional opposition voices have been silenced through force or other means of influence (for example, an apartment complex, currently under construction, will be offered to journalists and editors, including from the opposition media). Similarly, some opposition outlets have recently softened their tones after receiving government grants. In a marked change over the past year, few media outlets in Azerbaijan are now regarded as independent. In this environment, self-censorship has become as great a challenge as imposed censorship.

The government has also stepped up activity on the legislative front, enacting and proposing new laws that dramatically reduce the space for the free flow of information and the freedoms of expression, assembly and association.

While fears of a further crackdown may be real, the primary factors driving the marginalization of independent media are the tightly controlled political environment and the lack of public interest in political participation.

The Azerbaijani authorities bear responsibility for the atmosphere of impunity in which physical and moral attacks against journalists encroaching on powerful interests – including, in two cases, murder – are commonly carried out as a way to silence critical voices.



*Azerbaijani riot police detain a man during a protest march. Spring 2011, Baku.
Photo: IRFS*

Introduction

This report is a publication of the Institute for Reporters' Freedom and Safety (IRFS), an independent, non-profit organization dedicated to promoting freedom of expression in Azerbaijan. The organization's reporting has been instrumental in bringing the issues of press freedom in Azerbaijan to the attention of relevant organizations and officials in the United States and Europe. IRFS has been a member of the International Freedom of Expression Exchange (IFEX) since October 2007.

IRFS' broad freedom of expression approach and its ability to respond rapidly to even the most outrageous actions against press freedom are the defining factors of IRFS' activities in Azerbaijan. This report is part of IRFS' broader efforts to safeguard and promote freedom of expression in Azerbaijan.

Freedom of expression deserves special protection because of its cross-cutting nature and its role as a safeguard for the protection of other basic human rights. It is comprised of free speech, the sanctity of an individual's opinion, a free press, the open exchange of ideas and information, the right to access information, artistic freedom, and even the right to silence. The right to freedom of expression is particularly interrelated with other fundamental freedoms – such as freedom of association and freedom of assembly.

This report documents IRFS' findings and outlines recent violations of the rights to freedom of expression, assembly and association. The report provides insight into how the government continues to punish and prosecute individuals for expressing critical opinions and protesting ongoing repression.

In addition, the report explores the connection between new technology and fundamental freedoms, specifically the rights to freedom of association and peaceful assembly. Authorities are increasingly targeting online activists, social networkers, and online communities – in other words, associational activities occurring on the Internet. IRFS considers many of these groups to be protected "associations" under international law.

The findings of this report give cause for concern that the rights to freedom of expression, association and assembly in Azerbaijan are not guaranteed for all. The authorities' failure to protect these rights has serious implications for further democratic development and overall stability in Azerbaijan.

This report has been prepared on the basis of desk-based research, field investigations, interviews, monitoring of court proceedings, media-monitoring, analysis of enquiries and complaints submitted to IRFS, IRFS safety hotline statistics, and other legally obtained information. IRFS staff compiled this report in close consultation with local and international freedom of expression experts.

The report contains seven chapters covering the key areas on which IRFS focuses: the constitutional, policy and legal environment for free expression; impunity for attacks against journalists; and the working environment for journalists and critical voices.

The report contains IRFS' recommendations to the Azerbaijani authorities to address the deteriorating situation for fundamental freedoms. Chapter One examines cases of violence against journalists and impunity for their attackers. Chapter Two outlines legal means of repressing free expression, including problematic legislative provisions and political use of the law. Chapter Three covers the detention and persecution of media workers and human rights defenders, providing information on current and recent cases of detention and imprisonment in connection with freedom of expression. Chapter Four explores mutual restrictions on the interlinked fundamental freedoms of expression, assembly and association. Chapter Five covers the ways in which the state controls both broadcast and print media. Chapter Six examines the situation of freedom of expression in the last largely free space in Azerbaijan: the Internet. IRFS' conclusions on the freedom of expression situation in the country are provided at the end of the report.



*The colleagues lay flowers on the grave of Elmar Huseynov, July 17 2012, Baku.
Photo: IRFS*

Impunity for violence against journalists

One of the most significant obstacles to freedom of expression in Azerbaijan remains the high frequency of violent attacks against journalists and media workers and impunity for their attackers. This has resulted in widespread practices of self-censorship in the country, as many journalists fear crossing certain lines in writing about taboo topics, such as corruption and the business interests of the president's family.

In March 2005, *Monitor* magazine editor-in-chief **Elmar Huseynov** was murdered in a well-organized attack that appeared to be a contract-style killing. After receiving a number of death threats, he was gunned down in the stairwell of his apartment building in Baku, where he died on the scene. More than seven years later, the authorities have failed to adequately investigate this case and no one has been brought to justice for the attack. Huseynov was well-known as a hard-hitting investigative journalist who was highly critical of the authorities. His case has become deeply symbolic, reminding the Azerbaijani media community of the courage needed to pursue investigative journalism and of the inherent risks associated with this work.

Since Huseynov's murder, there have been more than 200 attacks against journalists in Azerbaijan, including another murder. In November 2011, prominent writer and journalist **Rafiq Tagi** was attacked in the street near his home by an unknown assailant who stabbed him seven times. Following surgery, Tagi had appeared to be in recovery, but he then died four days after the attack under circumstances the local media community considered suspicious. His death was initially attributed to choking; however, the Ministry of Health later stated that the cause of death was peritonitis. Prior to his death, in an interview given in the hospital, Tagi said a recent article he had written criticizing the Iranian authorities could have been the cause for the attack against him.¹ A leading Iranian cleric had previously issued a fatwa against Tagi following his publication in 2007 of an article which criticized the role of Islam as hindering Azerbaijan's democratic development,

for which Tagi served more than a year in prison in Azerbaijan on charges of inciting religious hatred. In the first nine months of 2012, there have been a total of 34 cases of violent attacks against 45 journalists and their family members in Azerbaijan. In virtually no case of violence against journalists since Huseynov's murder have the authorities undertaken serious investigations into the attacks and brought the true perpetrators to justice. This has created a climate of fear for the media community and impunity for those who wish to use violence to silence criticism.

Other examples of particularly violent attacks against journalists following Huseynov's murder include the attack in May 2006 against *Bizim Yol* newspaper editor-in-chief **Bahaddin Haziye**, who was abducted by a group of five unknown assailants on his drive home late at night. They forced Haziye out of his car and into another vehicle where he was beaten severely. The attackers broke Haziye's legs by running over them with their car before abandoning him near a lake outside Baku. Shortly before the attack, Haziye had published articles critical of Ministry of National Security officials.

In March 2008, *Azadliq* newspaper correspondent **Agil Khalil** was attacked by four unknown assailants near the newspaper's office and stabbed, sustaining a deep chest wound. Khalil had been assaulted by two security officers the previous month during the course of his investigation into reports of trees being burned in an olive grove in Baku, and had refused to stop investigating the story despite having received warnings not to continue. Khalil narrowly escaped further attempted attacks against him in the following months before the authorities permitted him to leave Azerbaijan for safety abroad. Rather than seriously investigating the attacks against Khalil and prosecuting those responsible, the authorities pinned the attack on a man claiming to be Khalil's homosexual lover, who stated on nationwide television that he had attacked Khalil out of jealousy. Khalil maintained that he did not know this man and he was not responsible for the attack.

¹ <http://bit.ly/xhgk2h>

In March 2011, *Azadliq* newspaper correspondent **Seymur Haziye**v was attacked by six masked assailants on his way home at night on the outskirts of Baku. Haziye

v was forced into a vehicle with a sack over his head and driven to an unknown location, where he was questioned and tortured for two hours, and warned to be as "intelligent and quiet as the others." Haziye

v had previously been tortured in police custody in May 2010 following his arrest for participating in an unsanctioned protest. He was beaten by two plain-clothed officials who interrogated him in connection with his published criticism of the president.

In April 2011, *Azadliq* newspaper correspondent **Ramin Deko** was abducted by three plain-clothed assailants in his village outside of Baku. They forced him into a car and drove him to another village, where they questioned him about his online activities and his criticism of the president, and put psychological pressure on him for eight hours. Before releasing Deko, his attackers warned him to keep quiet about the attack; however, he immediately disclosed the information to the media. The following evening, two of the assailants were waiting for Deko when he left the newspaper's office, and attacked him, beating him severely "as a reprisal."

In April 2012, journalist **Idrak Abbasov** was attacked by a group of employees of the State Oil Company of Azerbaijan (SOCAR) while he was filming the destruction of residential properties near an oilfield outside of Baku. Abbasov was beaten severely and was knocked unconscious for several hours, sustaining broken ribs, injuries to his eyes, and head trauma, for which he was hospitalized for nearly a month. SOCAR later blamed Abbasov for instigating the attack. Abbasov is affiliated with IRFS, *Ayna* and *Zerkalo* newspapers, and the Institute for War and Peace Reporting. He was potentially targeted for exposing human rights violations in the run-up to the Eurovision Song Contest, which was held in Baku in May 2012.¹

¹ Less than three weeks prior to the attack, Abbasov received the Guardian Journalism Award at the Index on Censorship Freedom of Expression Awards in London: <http://bit.ly/GY2k40>

Photo: IRFS



Photo: IRFS



Since Huseynov's murder, there have been more than 200 attacks against journalists in Azerbaijan, including another murder. In November 2011, prominent writer and journalist **Rafiq Tagi** was attacked in the street near his home by an unknown assailant who stabbed him seven times. Following surgery, Tagi had appeared to be in recovery, but he then died four days after the attack under circumstances the local media community considered suspicious. The murder of Rafiq Tagi still remains unsolved.



*The house of Azerbaijani Parliament, Milli Majlis.
Photo: IRFS*

Legal repression of freedom of expression

Despite Azerbaijan's commitment to respect and protect the right to freedom of expression through its accession to major international human rights treaties and as provided for in the national legal framework, in practice the authorities do not respect this right. Instead, they use the law to silence criticism and repress dissent. The mere existence of some laws – such as criminal defamation provisions – has a chilling effect on the media community, contributing to the widespread practices of self-censorship in the country. Other laws are applied in a political manner to make examples of critical journalists, bloggers and activists.

Restrictions on freedom of information

In a worrisome move, on 1 June 2012 the Azerbaijani parliament, the Milli Mejlis, adopted a series of amendments to the Law on the Right to Obtain Information, the Law on the State Registration of Legal Entities, and the Law on Commercial Secrets. The amendments permit commercial entities to keep their registration information secret, including information about their ownership and structure. As is the case with many draft laws in Azerbaijan, the amendments were sent to Parliament without being made public. On 6 July 2012, the president issued a decree giving the amendments the force of law within three months. These amendments contradict international standards for freedom of information and will make it more difficult for journalists to investigate and report on corruption.¹

There are further problems with the Law on the Right to Obtain Information, largely due to the failure by many government bodies to comply with the law's requirements for information-owners and other implementation problems. For example, for more than five years the government failed to appoint an Information Ombudsman as stipulated by the law. In February 2011, parliament amended the law, combining the position of Information Ombudsman with that of the existing Human Rights Ombudswoman, which was viewed as a negative step as she lacks independence from the government.

Defamation

Among the most longstanding legal provisions problematic to freedom of expression are the defamation provisions which remain in Azerbaijan's criminal code. Although the "National Action Program for increasing the efficiency of human rights and freedoms in the Republic of Azerbaijan"² pro-

vided for the adoption in 2012 of a new defamation law which would decriminalize defamation, at present, defamation remains a criminal offense, carrying a penalty of up to three years in prison. Defamation provisions are not used as frequently to imprison journalists as in previous years, but they are still in use.

The more frequent use of civil defamation provisions to restrict the ability of independent and opposition newspapers to operate presents a serious obstacle to freedom of expression. Highly critical newspapers such as *Azadliq*, *Yeni Musavat* and *Khural* are the most frequent targets of defamation lawsuits, many of which are based on complaints filed by Members of Parliament and other public officials. The heavy damages awarded as a result of these lawsuits contribute to the already dire financial situation of these newspapers, making continued operations difficult.

Other problematic laws

In addition to the aforementioned laws, there are a number of other legal barriers to freedom of expression. These include the Media Law; the Television and Radio Broadcasting Law; the NGO law; and the Grants Law. These laws contain problematic provisions and are sometimes applied in a political manner.

Political use of laws to imprison critics

Recent years have seen a shift of imprisonment on charges clearly linked with journalists' professional activities – such as defamation – to imprisonment on a wide range of other charges which seem to be unconnected but are intended to make an example of critical journalists, bloggers and activists. These charges include hooliganism, drug possession, weapons possession, inciting hatred, supporting terrorism, tax evasion, extortion, and appealing for mass disorder.

According to a report by the Council of Europe's Special Rapporteur on the follow-up to the issue of political prisoners, there are currently more than 80 cases of alleged political prisoners in Azerbaijan.³ IRFS considers nine current cases of imprisoned or detained journalists, and three current cases of imprisoned human rights defenders, to be politically motivated in connection with their exercise of the right to freedom of expression, along with another case of a journalist and one more of a human rights defender who face jail time if convicted on the criminal charges standing against them. These cases are outlined in the following chapter of this report.

¹ <http://bit.ly/PaIyFN>

² <http://bit.ly/PxH3Tw>

³ <http://bit.ly/PxGN71>



Prominent human rights defender Vidadi Iskenderov with his lawyer Khalid Baghirov. Summer 2011, Goychay. Photo: IRFS

Detention and persecution of media workers and human rights defenders

The Azerbaijani authorities have a proven track record of using detention and other forms of pressure to stifle dissent and protest. This year, the stakes are higher than usual for those voicing critical opinions in Azerbaijan with the country hosting two major international events in 2012: the Eurovision Song Contest, which was held in Baku in May, and the upcoming Internet Governance Forum, which will take place in Baku in November. Local media workers and human rights defenders fear that once international attention has waned, they will face acts of retaliation for exposing unsavory truths about the country, and indeed, some critical individuals were already targeted in the aftermath of Eurovision. Critical media workers and human rights defenders face detention based on the political use of laws as examined in the previous chapter of this report, or other forms of persecution such as harassment, threats and blackmail.

Current cases of detention and imprisonment

Nine journalists are currently in detention or in prison on politically motivated charges in connection with freedom of expression:

- **Nijat Aliyev:** editor-in-chief for the website www.azadxeber.com, facing up to three years in prison if convicted on drugs-related charges. He was arrested following his criticism of government policies on issues including religion, LGBT rights, and high expenditures for the Eurovision Song Contest.
- **Anar Bayramli:** reporter for the Iranian broadcaster Sahar TV, serving a two-year prison sentence on drug possession charges following his criticism of Azerbaijan's bilateral relations with Israel and other foreign policy issues.
- **Vugar Gonagov:** Khayal TV executive director, facing up to 10 years in prison if convicted on charges of organizing mass disorder and abuse of office for uploading a video to YouTube showing the Guba regional mayor making derogatory comments about local residents, which led to mass protests and the mayor's dismissal.
- **Araz Guliyev:** editor of the religious website www.xeber44.com, facing up to five years in prison if convicted on charges of hooliganism, following his arrest while participating in a protest of religious followers at an international folklore festival in the southern region of Masalli.
- **Zaur Guliyev:** Khayal TV editor-in-chief, facing up to 10 years in prison if convicted on charges of organizing mass disorder and abuse of office along with Vugar Gonagov.
- **Aydin Janiyev:** *Khural* newspaper regional correspondent, serving a three-year prison sentence on charges of hooliganism following his publication of articles critical of the religious authorities in the region.
- **Hilal Mammadov:** editor-in-chief of the minority Talysh language *Tolishi Sedo* newspaper and Talysh cultural activist, facing up to 12 years in prison if convicted on charges of drug possession, high treason, and inciting ethnic hatred.
- **Faramaz Novruzoglu:** freelance journalist, serving a prison sentence of four and a half years on charges of appealing for mass disorder and border-crossing without proper documentation after he used social media to criticize the authorities and call for protests.
- **Avaz Zeynalli:** see the case information in the side-bar.

Avaz Zeynalli

Editor-in-chief of *Khural* newspaper Avaz Zeynalli faces up to 10 years in prison on charges of extortion and failure to implement a court decision. At the time of publication, he had been detained for more than one year, since his arrest on 28 October 2011. Zeynalli reports that his health has deteriorated in detention, as he suffers from a number of serious ailments.

The charges against Zeynalli stem from a complaint filed by then-Member of Parliament Gular Ahmadova, who claimed he attempted to blackmail her. Ahmadova was later involved in a scandal after two videos were posted to YouTube appearing to show her negotiating the price for a parliamentary seat.¹ Ahmadova resigned following the release of the first video. Local activists have since called for the charges against Zeynalli to be dropped as Ahmadova has been discredited.

Photo: RFE/RL



¹ <http://bit.ly/S384Kx>

Mehman Huseynov

In addition, multimedia journalist and activist Mehman Huseynov faces up to five years in jail on hooliganism charges following a scuffle with a police officer while he was attempting to photograph a demonstration in Baku in May 2012. Huseynov's arrest may have been connected with his activism with the Sing for Democracy movement which used Eurovision as a platform to promote democratic change in Azerbaijan, or his photographs depicting human rights abuses by the authorities, which are widely used in the local and international media.



Photo: IRFS

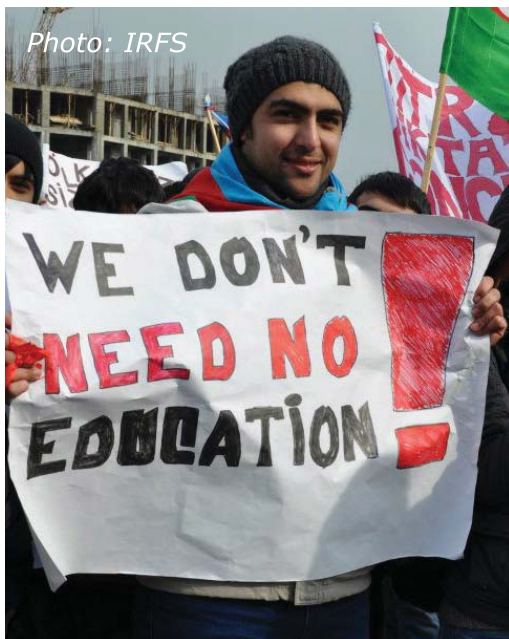


Photo: IRFS

Zaur Gurbanli

On 29 September 2012, blogger and activist Zaur Gurbanli was arrested and held for more than 48 hours incommunicado before the authorities finally released information confirming he had been arrested and sentenced to 15 days of administrative detention for refusing to cooperate with a police investigation into drug trafficking. Gurbanli may also have been targeted for his activism with the Sing for Democracy movement or the NIDA youth movement, including his distribution of fliers bearing the image of the president's face and asking "What if I go in 2013?" (referring to the 2013 presidential election).

In addition to the cases involving journalists, three human rights defenders are currently in prison on politically motivated charges in connection with freedom of expression, and another faces jail-time if convicted of similar charges:

- **Ilham Amiraslanov:** activist with Kur Civil Society, serving a two-year prison sentence on weapons possession charges after accusing local officials of misappropriating funding intended for victims of the 2010 Kura river floods.
- **Ogtay Gulaliyev:** activist with Kur Civil Society, facing up to three years in prison if convicted on charges of hooliganism following his criticism of local authorities in connection with the 2010 Kura river floods.
- **Vidadi Iskenderov:** human rights defender and political activist, serving a three-year prison sentence on charges of interfering with the November 2010 parliamentary elections after being arrested for participating in anti-government protests in April 2011.
- **Taleh Khasmammadov:** blogger and human rights defender with "Law and Rights 2010," serving a four-year prison sentence on hooliganism charges after he posted a series of videos to YouTube containing interviews with victims of human rights abuses.

Past cases of detention and imprisonment

The authorities' political use of the law to detain critics is not limited to these current cases. Detention and imprisonment of journalists in connection with their professional activities became a serious problem between 2006 and 2007, when authorities imprisoned a number of journalists on criminal defamation charges and other politically motivated charges such as drug possession and inciting hatred. By December 2007, with 10 journalists behind bars, Azerbaijan

had become the top jailer of journalists in Europe and Central Asia, and one of the top five jailers of journalists in the world at that time. Although the then-imprisoned journalists have since been released, there have been many more similar cases in their wake. The fact that nearly five years on there remain a similar number of journalists behind bars calls into question Azerbaijan's seriousness about its international human rights and freedom of expression obligations.

Eynulla Fatullayev

The case of Eynulla Fatullayev particularly stands out because of the authorities' persistent targeting of him in the face of widespread international condemnation, including a European Court of Human Rights (ECtHR) judgment in his favor. Fatullayev was the editor-in-chief of Realny Azerbaijan and Gundelik Azerbaijan newspapers, and prior to that, the deputy editor to Elmar Huseynov at Monitor magazine until Huseynov's murder in March 2005. Following the murder, Fatullayev refused to cease his investigation into who had killed Huseynov, despite his family receiving threats. In April 2007 he was convicted on criminal defamation charges and sentenced to two and a half years in prison, on the basis of an article he had written and some postings attributed to him in an Internet forum which challenged the government's presentation of facts related to the 1992 Khojali massacre. In October 2007, Fatullayev was convicted on charges of supporting terrorism, inciting hatred, and tax evasion, on the basis of an article he had written criticizing Azerbaijan's foreign policies. He was given a cumulative prison sentence of eight and a half years, including the previous defamation conviction.



Photo: IRFS

While Fatullayev was still in prison, in December 2009 prison officials claimed to find heroin in his clothing in his jail cell. He was charged with drug possession. Many local and international rights groups considered the new charge to be politically motivated and intended to keep him in prison despite the then-expected ECtHR judgment regarding his previous convictions. In April 2010, the ECtHR ruled on the April 2007 and October 2007 convictions, finding that Fatullayev's imprisonment constituted a violation of his freedom of expression and right to a fair trial, and ordering his immediate release – an unusual step for the Court. Rather than releasing him, the authorities moved forward with the investigation into the drug possession charges, for which Fatullayev was convicted in July 2010 and sentenced to two and a half years in prison. Despite widespread international calls for the authorities to execute the ECtHR judgment and release Fatullayev from prison, they kept him in prison until May 2011, when he was finally released by presidential pardon after more than four years of wrongful imprisonment.

Other significant cases from recent years include Azadliq newspaper editor-in-chief **Ganimat Zahid**, who served two and a half years in prison on charges of hooliganism and inflicting minor bodily harm following his arrest in November 2007 after getting into an altercation which appeared to be a set-up. Zahid's brother, Azadliq newspaper satirical journalist **Mirza Sakit** also served nearly three years in prison following his arrest on charges of drug possession in June 2006. Azadliq newspaper is one of the highest circulation newspapers in the country and is known for its criticism of the authorities. Bloggers and youth activists **Emin Milli** and **Adnan Hajizade** served 17 months in prison on charges of hooliganism following their arrest in July 2009 after they appealed to police as victims when they were attacked in a restaurant. Prior to their arrest, Milli and Hajizade had posted a satirical video to YouTube, criticizing the government's high expenditure on the import of donkeys from Germany.

Death in detention

The harsh prison conditions in Azerbaijan can have quite serious health consequences for media workers and human rights defenders who find themselves behind bars. In a tragic example, in August 2009, editor-in-chief of the minority Talysh language newspaper Tolishi Sedo and Talysh cultural activist **Novruzali Mammadov** died in custody while serving a 10-year prison sentence on charges of high treason. Prior to his death, Mammadov had reported a number of serious health issues, some of which were likely exacerbated during a 15-day period when prison officials kept him in solitary confinement and deprived him of bedding and warm clothes. The authorities failed to provide Mammadov with adequate medical care and kept him in prison despite widespread international calls for his release on humanitarian grounds.

Sexual blackmail against critical journalists



Photo: RFE/RL,
Courtesy Image

Journalists who criticize the Azerbaijani authorities face significant risks beyond legal means of persecution. One tactic is the use of photographs and films of a sexual nature in an attempt to silence critical voices.

In the run-up to the November 2010 parliamentary elections, opposition Azadliq newspaper editor Azer Ahmadov was secretly filmed engaging in sexual activity with a woman who was not his wife. The film was broadcast nationwide on the pro-governmental Lider TV station. In 2011, secret films of a sexual nature were taken of two Azadliq newspaper reporters, Natiq Adilov and Tural Jafarov, in hotel rooms. The films were also broadcast on Lider TV.

In March 2012, journalist Khadija Ismayilova, who works for the Azerbaijani service of Radio Free Europe/Radio Liberty, was similarly targeted when a sex video of her filmed by hidden camera was posted to the Internet. Ismayilova had refused to be silenced after she was subjected to a blackmail attempt the previous week, when she received intimate photos taken of her with a note stating "Whore, behave. Or you will be defamed." Ismayilova is a well-known and outspoken critical journalist who has published a series of articles exposing official corruption.

The Azerbaijani authorities have failed to seriously investigate the violations of privacy in these cases, and no one has been brought to justice.

Journalists and human rights defenders behind bars



Avaz Zeynalli



Aydyn Janiyev



Anar Bayramli



Hilal Mammadov



Nijat Aliyev



Vugar Gonagov



Faramaz Novruzoglu



Araz Guliyev



Zaur Guliyev



Ilham Amirasanov



Vidadi Iskenderov



Taleh Khasmammadov



*Police crackdown on peaceful demonstration in Baku, October 20 2012.
Photo: IRFS*

Mutual restrictions on the fundamental freedoms of expression, assembly and association

Repression of freedom of expression in Azerbaijan is not limited to traditional forms of media, or even to online media. Increasingly, the authorities are taking steps to limit individuals' rights to express any form of dissent – whether through publishing or broadcasting through traditional forms of media; posting via online media outlets or social networking sites; taking to the streets in protest; or simply being affiliated with a non-governmental organization or political party perceived as critical of the authorities.

The rights to freedom of expression, freedom of assembly, and freedom of association are fundamental to democratic society, as mutually reinforcing rights. In Azerbaijan, despite the country's obligations to respect and protect these rights through its accession to major international human rights treaties and per the national legal framework, these have become mutually restricted rights, presenting an obstacle to the country's overall democratic developments. These rights have been particularly restricted since the series of protests in Baku in March and April 2011, inspired by the Arab spring, to which the authorities responded harshly, and especially since another series of protests in the run-up to the Eurovision Song Contest, which took place in Baku in May 2012.

Crackdown on protests

In the wake of the Arab spring, Azerbaijani youth activists and political parties organized a series of pro-democracy protests in Baku. Before the protests took place, the authorities targeted several of the organizers. Opposition activist **Jabbar Savalan** served nearly a year in prison on charges of drug possession after he was arrested in January 2011 when police claimed to have found marijuana in his pocket. In the weeks prior to his arrest, Savalan had used his Facebook page to criticize the authorities and call for a "Day of Rage" against the government. Two of the founders of a Facebook event page for a "Great People's Day" protest in March 2011, **Bakhtiyar Hajiyev** and **El-nur Majidli**, were similarly targeted. Blogger and civic activist Hajiyev served 15 months in prison on charges of evading military service following his arrest in March 2011. Blogger Majidli, who resides in France, was charged with calling for the violent overthrow of power and faces possible arrest if he attempts to return to Azerbaijan.

In addition to these pre-emptive measures to suppress protest, the authorities used excessive force to disperse the crowds of people gathered in political demonstrations in March and April 2011, and interfering with journalists' ability to cover the events. Scores of protesters were arrested, and 14 were sentenced to time in prison.¹ Two of these

– human rights defender **Vidadi Iskenderov** and political activist **Shahin Hasanli** – remained in prison at the time of publication.

On 1 March 2012, mass protests broke out in the city of Guba when a video was posted to YouTube showing the regional mayor making derogatory comments about local residents. Around 1,000 people took to the streets in protest, and the mayor was dismissed from his appointed position the following day. The authorities used excessive force to disperse the crowds, and at least two journalists were seriously injured and five others sprayed with tear gas.² Khayal TV journalists **Vugar Gonagov** and **Zaur Guliyev** were arrested for uploading the video to YouTube and remained in detention at the time of publication, facing up to 10 years' imprisonment if convicted on charges of organizing mass disorder and abuse of office. In addition to Gonagov and Guliyev, the dozens of Guba protestors were arrested, 26 of these people were brought to trial.³

Young activists took to the streets in Baku again in the run-up to the Eurovision Song Contest in May 2012. The authorities responded harshly, using excessive force to disperse the crowds, arrest-

Freedoms Repressed in Azerbaijan, April 2011. Available at <http://bit.ly/vLIRZT>

² <http://bit.ly/xCgbk3>

³ According to information provided by independent lawyer, Elchin Sadigov.

¹ Amnesty International, *The Spring that Never Blossomed*:

ing participants, and interfering with journalists' ability to cover the events. Multimedia journalist **Mehman Huseynov** faces up to five years in jail on hooliganism charges stemming from an altercation with a police officer while he was attempting to photograph one of these protests. Sing for De-

mocracy and NIDA youth movement activist **Zaur Gurbanli**, who was active in the pre-Eurovision protests, was later targeted when he was arrested in September 2012 and sentenced to 15 days of administrative detention for refusing to cooperate with a police investigation.

New proposed amendments to freedom of assembly law

In a worrisome move, at the time of publication, local media reports indicated that the Azerbaijani parliament was considering amendments to the Law on Freedom of Assembly which would dramatically increase the penalties for organizing or participating in unsanctioned protests. Under the new provisions, protest participants could be fined between 500 and 1,000 AZN (increased from 7 to 13 AZN per the current legislation), and organizers could be fined between 1,500 and 3,000 AZN if they are ordinary citizens, or between 3,000 and 6,000 AZN if they are officials. If the organizer is a legal entity – such as a political party or an NGO – it could be fined between 15,000 and 30,000 AZN. In light of the financial hardships faced by many activists and NGOs, as well as the fact that critical groups are rarely granted permission to hold demonstrations, if passed, these provisions would have a serious chilling effect on freedom of assembly in the country. This is a particularly ominous move in light of the upcoming 2013 presidential election.

Pressure against NGOs

Local and international NGOs working on democracy and human rights in Azerbaijan are increasingly becoming the targets of government interference. This can take the form of harassment, or more seriously, of legal pressure. Critical NGOs face particular difficulty when attempting to register as official legal entities, often being repeatedly denied registration on claims of minor technical problems with their applications.¹ As many as 1,000 NGOs are estimated to remain unregistered in Azerbaijan. Amendments to the NGO law in 2009, followed by a governmental decree in March 2011, required NGOs to register their grants with the Ministry of Justice before implementing the funded activities, and made it more difficult for foreign and international NGOs to establish branches in the country.

In parallel to their crackdown on protests in March and April 2011, the authorities engaged in a similar crackdown on NGOs considered to be critical of the government. The Azerbaijan Human Rights House was ordered to cease operations, without

warning and despite the fact that the NGO had complied with all relevant legal requirements. The Baku office of the National Democratic Institute was also shut down as it did not have registration despite the fact that it had applied for registration several times since 2006.² Three local NGOs in the city of Ganja were also ordered to close. During that same period, the Ministry of Justice sent letters to IRFS, the Media Rights Institute, and the Nakhchivan-based Democracy and NGOs Development Resource Center, warning them of possible administrative sanctions despite the fact that they had complied with all relevant legal requirements.³ Two IRFS employees were also detained and questioned about their activities.

The government's attitude towards NGO activists who expressed critical opinions in the run-up to the Eurovision Song Contest remains a cause for serious concern. Less than a week after Eurovision in May 2012, senior presidential adviser Ali Hasanov stated at a conference that these activists "should

¹ International Partnership Group for Azerbaijan, *Running Scared: Azerbaijan's Silenced Voices*, March 2012, pp. 27-28. Available at <http://bit.ly/QLHoPi>

² <http://bit.ly/gIUySV>

³ *Running Scared: Azerbaijan's Silenced Voices*, pp. 26-27.



*Police crackdown on peaceful demonstration in Baku. Spring 2012.
Photo: IRFS*

not dare appear in society” and that “public hatred” should be shown to them. In July 2012, the president made further ominous comments, stating that those who had exposed human rights problems in Azerbaijan ahead of Eurovision were “anti-nationalist forces” and “traitors to the nation.”⁴ Given the high level and public nature of these comments, local activists fear retaliation once international attention – which peaked during Eurovision but was somewhat sustained in the period ahead of the IGF – has shifted from the country.

Targeting of lawyers

Few lawyers in Azerbaijan remain willing to take on high profile cases involving human rights abuses, and those who do face the risk of harassment, pressure, or interference with their professional activities. In 2011, prominent lawyers **Elchin Namazov** and **Khalid Bagirov** were disbarred, and **Osman**

Kazimov was suspended, after they took on cases defending activists arrested during the March and April 2011 protests. **Alaif Hasanov**, who defended blogger and activist Bakhtiyar Hajiyev as well as political activist Shahin Hasanli, both arrested in connection with the same protests, was the target of a smear campaign by local authorities. The authorities used force against **Intigam Aliyev** and **Yalchin Imanov** when they attempted to get information about detainees following these protests, to provide them with legal counsel.⁵ Media Rights Institute lawyer **Elchin Sadigov** has been accused of anti-government activity and has recently faced disciplinary proceedings in connection with his work defending Khural newspaper editor-in-chief Avaz Zeynalli.⁶ Several other human rights lawyers have reported being pressured by the collegium of lawyers, Azerbaijan’s bar association.

⁵ *Running Scared: Azerbaijan’s Silenced Voices*, pp. 29-30.

⁶ <http://bit.ly/OU0eCP>

⁴ <http://bit.ly/SJguHF>

A tall, white telecommunications tower with a red and white striped antenna, standing on a hill with buildings in the background. The tower has a spherical observation deck near the top. The background shows a clear blue sky and a cityscape with various buildings and greenery.

State control over the media

Photo: IRFS

The political climate in Azerbaijan remains hostile to the activity of mass media outlets and citizen journalists. Traditional radio and television broadcasters are under particularly tight government control, either directly or through informal means of pressure.

There are very few independent media outlets left in Azerbaijan, as even many traditional opposition voices have been silenced through force or other means of influence (for example, an apartment complex, currently under construction, will be offered to journalists and editors, including from the opposition media). Similarly, some opposition outlets have recently softened their tones after receiving government grants. In a marked change over the past year, few media outlets in Azerbaijan are now regarded as independent. In this environment, self-censorship has become as great a challenge as imposed censorship.

The four newspapers not sponsored by the state, which seek to disseminate alternative political views, have very low circulation figures, reaching less than three percent of the population. The state economy has been monopolized by a small number of oligarchs, which limits the advertising market, and constitutes another obstacle to the development of independent media in Azerbaijan. Even medium-sized companies and entrepreneurs refrain from advertising in the independent and opposition media for fear of angering the authorities. Restrictions on advertising revenue and printing and distribution facilities, as well as an acute lack of private investment, serve to suffocate the handful of relatively successful independent publications remaining.

Another tactic to keep the relatively independent media marginalized is limiting their access to decision-makers. Top policy-makers and their press officers do not hold regular public briefings. The presidential administration's press pool is a closed group of trusted and easily manipulated journalists. Those who have access to the ruling elite do not ask unwelcome questions, and those who are more inquisitive simply are not given access.

The government has also stepped up activity on the legislative front, enacting and proposing new laws that dramatically reduce the space for the free flow of information and the freedoms of expression, assembly and association.

Control of the broadcast media

Presently, the most controlled segment of the Azerbaijani media is television and radio broadcasting. The country has nine national, 14 regional and 13 cable television stations, and 12 radio stations. Following the authorities' ban on foreign broadcasters from accessing national frequencies in 2009, which took the Azerbaijani services of the BBC, Radio Liberty/Radio Free Europe and Voice of America off the air, there has been an absence of diversity of opinion in nationwide broadcasting. These stations were the only alternative information sources for Azerbaijani listeners. The 12 radio stations which currently broadcast through nationwide frequencies fail to ensure pluralism.

Three (AzTV, Idman Azerbaijan and Medeniyyet Azerbaijan) out of the nine national television channels are state-owned, and in contrast to the international trend of privatizing state media, the Azerbaijani government continues to open a new state television station approximately every other year. There are supposedly independent television stations in the regions outside of Baku, but they merely broadcast music and entertainment programming and do not provide information about current affairs in the country.

The Azerbaijani public service broadcaster, Ictimai, does not serve the functions of public service broadcasting as stipulated in international standards. Ictimai does not serve the public interest or ensure pluralism, failing to provide balanced and varied programming for all sectors of the population as required through its membership in the European Broadcasting Union. Since its formation in 2005, Ictimai has essentially served the needs of the state, largely being used as a propaganda tool of the government with little or no independent reporting. Ictimai gives only brief – and often incorrect – information about significant events in the country, such as the activities of political parties or



*Three men
read Azadliq
newspaper
in Baku.
Photo: IRFS*

public associations. It often disseminates incorrect information about individuals and organizations, and refuses to grant them airtime to exercise their right to reply.

The nine national channels work in a top-down manner, with one-way communication between the state and citizens. News coverage on these channels is closely coordinated with the president's office, so that coverage is similar from one channel to the next. This form of control is by no means coercive, as the top television managers are among the country's political elite and are the willing partners of the ruling regime. As far as political coverage is concerned, the message remains consistent: whatever problems Azerbaijan may be facing, President Aliyev is firmly in charge, and any political alternative is inconceivable. These channels serve the government's political goals, shaping public opinion by boosting, playing down, or ignoring certain issues, figures, or groups and instilling sentiments that benefit the ruling regime's political interests.

Just as there is a lack of political competition in the public realm, there is also no competition among the six private television channels as far as political coverage is concerned. When it comes to entertainment programming, however, the competition

is fierce. Though all six channels operate as commercial entities that rely on advertising revenues, they remain tightly controlled by the state.

Combining state propaganda with a lucrative business operation works because it generates state-of-the-art television entertainment, sustains audiences, and thus attracts advertisers. The advertising market was more robust in the years preceding the global financial crisis, but even now national television channels remain profitable. To many in Azerbaijan – especially the provincial, older, less-educated, and poorer demographic – free national television is the only affordable form of entertainment. Once people are attracted to a channel by soap operas and other appealing entertainment programs, they also watch the national news on the same channel.

Because the government exercises full control over the broadcast licenses via the National Television and Radio Council (NTRC), the licensing of broadcast media outlets remains highly political, biased, and non-transparent. The NTRC consists of seven acting members appointed directly by the president and is fully funded from the state budget. There is no legal guarantee of its independence. Broadcast media outlets not sponsored by the state are un-

able to obtain licenses, such as Objectiv TV, which has been attempting to obtain a license for several years.

The government has recently minimized the number of tenders for new and potential broadcasters to get available frequencies. Until 2010, a lack of empty frequencies was used as an excuse to avoid providing broadcast licenses to unwelcome/uncontrolled media. At that time, the NTRC refused to publicize the list of empty frequencies, in blatant violation of the law on broadcast media. Now, the NTRC states that while there are enough empty frequencies, there is no need for so many television channels in such a small country. The NTRC has also suggested that the appearance of new television channels will negatively affect the advertising incomes of the existing channels, which might have an adverse impact on the quality of their work.¹ This argument shows that the NTRC is unwilling to allow new and independent players to enter the broadcast market, in this way hindering media development.

The impossibility of obtaining broadcast licenses has led to the emergence of online television channels. There are presently four online television channels in Azerbaijan, and content produced by three of these reflects alternative opinions. But low-quality and expensive Internet services hinder the development of these channels, as they are highly dependent on the speed and quality of the Internet (considering that video content must be uploaded onto websites). These online channels will only have a chance of becoming popular enough to compete with traditional television channels if fully affordable and accessible fiber optic Internet is ensured in the country.

Restrictions on the print media

Both direct political control and economic pressure, combined with a lack of fair rules, are damaging the development of professional journalism in Azerbaijan. This is particularly the case with the print media.

The ruling regime has sought to silence critical newspapers by putting the squeeze on their adver-

tising revenue, limiting their distribution channels, and initiating hundreds of defamation lawsuits against them. The result has been a general decline in criticism and public debate on crucial issues. The concentration of buying power among state-supported publications and a lack of standards providing for impartiality have resulted in a rather uneven playing field for Azerbaijan's print media.

The state controls print media through economic pressure. State-owned and pro-governmental media are financed through compulsory subscriptions by state institutions, while also gaining revenue from advertising, in a market dominated by state companies. According to Rahim Hajiyev, editor-in-chief of *Azadliq* newspaper, companies that wish to advertise in critical media outlets are prevented from doing so through intimidation.²

Control over distribution also facilitates also limits the market for critical publications. Recently a number of press kiosks were installed in Baku, which are actually booths selling all kinds of food and consumer goods except for newspapers (although there are small newspaper stands beside these booths). Information about the ownership of these booths is kept secret. They were installed in locations previously occupied by newspaper kiosks belonging to the Qasid and Qaya distribution companies.

Qasid and Qaya have also taken a hit in terms of subscription revenue. According to Qaya Distribution Company Director Khanhuseyn Aliyev, all state agencies have been unofficially ordered to subscribe to newspapers via the Kaspi Distribution Company.³ Restrictions on press distribution have seriously affected the sales incomes of some high-circulation newspapers such as *Yeni Musavat* and *Azadliq*. This monopolization of all forms of press distribution (mobile sales, kiosks and subscriptions) will allow the government to easily prevent the sale of certain newspapers and magazines.

² <http://bit.ly/TB4v3d>

³ As stated in June 2012 at a conference of the Azerbaijan Editors' Union: <http://www.ayna.az/2012-06-23/cemiyet/9913-qazet-AliNasanov-media>

¹ <http://bit.ly/PaLcLA>



Courtesy Image

Freedom of expression online¹

¹ For a fuller picture of the situation of Internet freedom in Azerbaijan, see the report by the Expression Online Initiative, *Searching for Freedom: Online Expression in Azerbaijan* available at www.expressiononline.net

The last several years have seen a marked increase in Internet use, both globally and within Azerbaijan, as technological developments and a rising consumer demand have made it possible for more and more people to access the Internet. In parallel to this growth in Internet use, however, have come increased measures to restrict how people can access the Internet and what they can do online.

As host of this year's IGF, which will take place in Baku from 6 to 9 November 2012, Azerbaijan's record on Internet freedom has become a topic of increasing scrutiny, by actors within the country and by the international community. While the Internet in Azerbaijan can be considered partly free, there are some obstacles which must be addressed to ensure full Internet freedom in the country. Some of these are technical forms of censorship – such as data-filtering and content-blocking – and there are concerns that use of these methods to restrict free expression could increase in the future.

At present, however, the most significant threat to free expression online is the targeting by authorities of individuals who take to the Internet to voice critical opinions. For the most part, Azerbaijanis are technically able to do what they like online, but that does not mean there will not be repercussions. On the contrary, those who cross certain lines in their online postings – such as calling for protest, exposing corruption, or criticizing the president and his family – do so at significant risk.

The government has increasingly attempted to exercise greater control over the Internet, though it remains much less restricted than print and broadcast media, which are the main sources of news for most citizens. In the Law on Mass Media of 1999, the Internet was categorized as part of the mass media. Because of this, all rules applied to the traditional media, which are considered to be highly problematic, could also be used for Internet regulation. The Ministry of Communications and Information Technologies is the major body responsible for regulating the Internet, but experts have em-

phasized the urgent need for this role to be shared with an organization that is not under state control.¹ The ministry imposes restrictions on the assignment of the “.AZ” national domain.²

While online media are largely free from government censorship, the authorities have expressed a desire to regulate it.³ They have a long record of monitoring, interfering with, and sometimes censoring online expression, occasionally blocking pro-opposition and critical websites and prosecuting persons for their online postings. The government was believed to be behind the sabotaging of the e-mail accounts and Facebook messages of critical journalists, human rights defenders and opposition political party activists.⁴ A number of journalists and activists have been imprisoned in connection with critical articles they posted online. At the time of publication, five bloggers and activists remained in prison or in detention in connection with expressing critical opinions online: **Nijat Aliyev, Vugar Gonagov, Zaur Guliyev, Taleh Khasmammadov**, and **Faramaz Novruzoglu**.⁵

No specific legislation restricting the Internet exists, although statements by top government officials suggest that legal mechanisms of control may be forthcoming, including the licensing of Internet-based television programming.⁶ These worrisome statements, which were mostly made with regard to online video and audio content, show that the state intends to interfere with the online broadcast news not covered by local television and radio, and views that differ from the official positions.⁷

¹ <http://www.eurasianet.org/node/61060>

² IRFS, *Azerbaijan Critical Voices in Danger*, Semi-annual Azerbaijan freedom of expression report, January 01-July 01, 2012, <http://bit.ly/PJqTkC>

³ <http://www.eurasianet.org/node/61060>

⁴ <http://bit.ly/WD5PI6>

⁵ More information on these cases is provided in Chapter Two of this report.

⁶ <http://www.today.az/view.php?id=77287>

⁷ Rashid Hajili, 'Freedom of Media in Azerbaijan,' *Spotlight on Azerbaijan*, Foreign Policy Centre, April 2012. Available at <http://fpc.org.uk/fsblob/1462.pdf>



*Opposition youth protest in downtown Baku, March 2011.
Photo: IRFS*



Conclusion

The Azerbaijani authorities have developed a sophisticated repressive system that stifles critical and independent voices. Acts of retaliation to quash dissent, attacks against journalists, pressure on civil society organizations, repression of peaceful protest and other grave violations of fundamental freedoms have become systematic in Azerbaijan and are perpetuated by the climate of complete impunity for such acts. As a result, the space for dissenting views, independent media and independent organizations to operate is shrinking.

Human rights defenders have been especially affected by the climate of hostility and intolerance prevailing in Azerbaijan today. Faced with enormous obstacles in the performance of their work, the legitimacy of which is questioned and criminalized, they suffer threats and attacks against their operations and personal security. The lack of access to public information has also complicated the task of defending human rights in Azerbaijan. IRFS views such adverse conditions for the protection of rights with concern, as they create a chilling effect for the defenders who, fearing retaliation, may cease their activities of watchdogs of government policies. Above all, if defenders do not have adequate protection for their rights, it is difficult for them to carry out their work protecting the rights of other persons.

As for the freedom of expression situation in the country, IRFS reiterates its conclusions as stated in previous reports, noting concern over the absence of a climate of tolerance promoting active participation in public life and the open exchange of ideas among diverse sectors of society.

The Azerbaijani authorities bear responsibility for the atmosphere of impunity in which physical and moral attacks against journalists encroaching on

powerful interests – including, in two cases, murder – are commonly carried out as a way to silence critical voices.

In addition to this crackdown, the tightly controlled political environment and the lack of public interest in political participation are major factors driving the marginalization of the independent media. The lack of a vibrant independent media is inseparable from the larger issue of an absence of political pluralism in Azerbaijan. Without public demand for respect for political rights and civil liberties – press freedom included – attempts by outside actors to promote democracy or improve the human rights situation in the country are unlikely to make a difference.

The overall environment in which the Azerbaijani media currently operates prevents it from holding those in power to account, and from providing citizens with quality independent news reporting. When the media is unable to fulfill such intrinsic functions, society cannot properly voice its concerns or canalize its discontent through peaceful, institutionalized means. Until this fundamental right is guaranteed, a more democratic Azerbaijan remains a distant prospect.

Institute for Reporters'
Freedom and Safety
info@irfs.org
www.irfs.org
www.facebook.com/irfs.org
TWITTER: @IRFS_Azerbaijan



The Right to Remain Silent

Freedom of Expression in Azerbaijan
ahead of the 7th Internet Governance Forum

