

# THE SPRING THAT NEVER BLOSSOMED

## FREEDOMS SUPPRESSED IN AZERBAIJAN

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INTERNATIONAL



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**AMNESTY**  
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*Cover photo:* Protesters march to Fountain Square, central Baku, Azerbaijan in April 2011.

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# 1. INTRODUCTION

**“Since the day I was freed, I have felt like the prisoner of some fantasy, forced freedom. In my new life I am trying to find the answer to another question: can a person find freedom in an unfree country?”**

Eynulla Fatullayev, former prisoner of conscience<sup>1</sup>

Twenty years of independence, economic prosperity and relative stability in Azerbaijan have failed to significantly improve Azerbaijan’s human rights record and the fundamental freedoms of its citizens. In recent years, the government has consolidated its authoritarian rule and control of public life by adopting a wide range of laws and stepping up measures to harass and intimidate those, still a small minority, who dare to voice critical views.

Peaceful protest has effectively been criminalized by banning demonstrations and imprisoning those who organize and take part in them. Police use excessive force to break up peaceful, but officially unsanctioned demonstrations. Threats and intimidation against human rights defenders have been used together with legislative and administrative means to shut down and deny registration to civil society groups working on democracy and human rights.

Journalists have been beaten, ill-treated and abducted, while the range of independent media outlets has been curbed through laws banning foreign broadcasters from national airwaves.

New routes for exercising the right to freedom of expression, such as the internet and social media, have also come under siege. Bloggers and youth activists have been harassed and imprisoned on trumped-up charges. The government is currently considering ways to control and monitor internet use.

However, frustration with these increasingly tight controls is growing. Over a series of protests, hundreds of people gathered in the streets in March and April this year demanding democratic reform and greater respect for human rights. Inspired by their counterparts in Egypt and Tunisia, youth and opposition activists in Azerbaijan used social media tools to reach wider audiences, calling for organized cycles of protests. The authorities of Azerbaijan have suppressed these nascent signs of popular protest at their roots with a new wave of repression and intimidation. Well-publicized arrests, ill-treatment and prosecution of youth

and political activists, and tight control on domestic and international media, has tightened the screws on the fledgling protest movement – and sent out a strong message to those on the sidelines who might have thought of joining it.

The authorities have targeted journalists, independent NGOs and others who could have provided objective and independent information or advocated on behalf of the detained.

Following the protests, according to information available to Amnesty International, 14 people – 12 of them members of opposition parties and two of them sympathizers - have been convicted for organizing and/or participating in the anti-government rallies. The targeting of key figures in the opposition movement looks very much like a calculated attempt to weaken groups and political parties capable of mobilising the growing numbers of discontented citizens.

The authorities have also used trumped up charges, not related to the participation in the protests, to arrest and imprison two youth activists, an opposition leader and a human rights defender.

In total, Amnesty International considers 17 persons convicted in the run up to and in the wake of the spring protests to be prisoners of conscience.

This report focuses on the recent wave of intimidation and arrests prior to, during and after the protests in Azerbaijan in the spring of 2011. The report documents and analyzes the cases of harassment, intimidation, ill-treatment, arbitrary arrests and prosecution in unfair trials, as well as the new wave of repression directed against NGOs and media during and after the protests.

The events of March and April and their aftermath have demonstrated the fragility of the human rights situation in Azerbaijan. A variety of intimidating measures, the selective application of legislation and other more informal mechanisms of harassment by the government have revealed the lengths to which it is prepared to go in order to cripple independent movements in the country and silence dissenting voices

For the most part, the response of the international community has been cautious. Azerbaijan is a significant oil producer, and is an important transit country for Caspian and central Asian resources. The government of President Ilham Aliyev has proved a stable partner for the west in a volatile and strategically important part of the world, and has sent troops to Afghanistan and Iraq.

However, the long-term interests – of the people of Azerbaijan and the international community – are not best served by turning a blind eye to human rights violations that are undermining Azerbaijan's democratic development and long-term stability. The Azerbaijani government needs to allow space for peaceful protest, critical opinion and opposition.

Amnesty International calls on the government of Azerbaijan to end the harassment and suppression of civil society and independent media. It must free all prisoners of conscience and fully respect its obligations with regard to the freedom of expression and freedom of assembly under international law.

## 2. BACKGROUND

### 2.1 AZERBAIJAN SINCE INDEPENDENCE

The Republic of Azerbaijan achieved independence following the collapse of the Soviet Union in 1991. Since then, the country's wealth has increased dramatically, and Azerbaijan boasts some of the highest levels of economic growth in the world, due mainly to the exploitation of its rich hydrocarbon resources. However, in spite of this increased prosperity, particularly over the last decade, Azerbaijan remains plagued by corruption,<sup>2</sup> and a lack of civil and political freedoms.

Following the collapse of the Soviet Union, the simmering conflict with neighbouring Armenia over the disputed region of Nagorno-Karabakh exploded into outright war. Public anger over military setbacks swept away the government of Azerbaijan's first president Ayaz Mutalibov, the former leader of Soviet Azerbaijan. The country's first and only genuinely contested elections were held in 1992, which brought former dissident Abufaz Elchibay to power. However, continued failures in the war and chaos throughout the country led soldiers to rebel, and President Elchibey fled the capital a year later. He was replaced by Heydar Aliyev, who had been in charge of Soviet Azerbaijan between 1969 and 1982.

The war with Armenia led to the internal displacement of some 800,000 people.<sup>3</sup> Armenian troops occupied large areas of Azerbaijan. Nonetheless, President Heydar Aliyev signed a ceasefire with Armenia in 1994 that remains in place today. He also began the large-scale exploitation of Azerbaijan's oil and gas riches, signing deals with western consortia that paved the way for much of the country's current economic growth. However, political freedoms and civil rights were drastically curtailed, and the democratizing trends that had been apparent in the first years after independence were gradually replaced by a more authoritarian system. Elections were subverted; the police, courts and parliament were increasingly controlled by the presidency, and independent media sources were intimidated and harassed.<sup>4</sup>

Heydar Aliyev's 10-year rule as President brought a measure of stability to the country. In October 2003, following Heydar Aliyev's death, his son Ilham Aliyev formally assumed office after an election that was widely criticized by international observers. A number of large-scale opposition protests following the polls were forcibly dispersed by police.

The elections leading to the accession of President Ilham Aliyev in 2003 were marked by widespread curtailment of civil and political freedoms. Similar restrictions accompanied the 2005 parliamentary elections, including the harassment, intimidation, arrest, alleged torture and unfair trial of government opponents.<sup>5</sup> A referendum in 2009 removed term limits for presidents in Azerbaijan, leading many to suspect that Ilham Aliyev intends to remain in his position indefinitely.<sup>6</sup>

Meanwhile, the judiciary is beholden to the executive, and the weak parliament is dominated by members of the ruling Yeni Azerbaijan Party. Arbitrary detentions, politically motivated arrests and unfair trials are not uncommon occurrences in Azerbaijan. Even the smallest protests perceived as being in opposition are violently dispersed, while activists are arrested,

beaten and intimidated with almost total impunity.

## 2.2 CIVIL SOCIETY UNDER SIEGE

Twenty years after Azerbaijan achieved its independence, some reforms have been implemented to facilitate respect for human rights. Progress has been made in introducing some legislation that complies with international human rights standards, and some state institutions have been reformed. But the situation regarding the rights to freedom of expression, association and assembly and the way the criminal justice system functions, continue to generate serious and widespread human rights violations.

In recent years, the authorities have stepped up their harassment and intimidation of individuals because of their known or perceived political, religious or civil society activities. Freedom for journalists, non-governmental organizations (NGOs) and human rights defenders to carry out their work is shrinking. The government targets all forms of dissent whether it is from individuals, independent journalists, political and human rights activists or NGOs. Few instances of harassment and violence against journalists and civil society actors are effectively investigated and prosecuted, contributing to widespread sense of fear and self-censorship in the country.

### HARASSMENT OF INDIVIDUALS CRITICAL OF THE GOVERNMENT

In previous years, Amnesty International has documented many cases of harassment, physical abuse and arrest of government critics and opponents in Azerbaijan.<sup>7</sup>

A climate of fear still lingers following the murder of prominent journalist Elmar Hüseynov in 2005, which to this day has not been effectively investigated.<sup>8</sup>

Following Elmar Hüseynov's murder, on 2 March 2005, President Ilham Aliyev stated "the rights of every journalist and print worker, irrespective of their beliefs, are protected and should be guarded by the state". In reality, however, journalists continue to face assault, harassment, intimidation and even imprisonment for exercising their right to freedom of expression.

Those who have attempted to shed light on Elmar Hüseynov's murder have faced harassment and persecution. His widow, Rushana Hüseynova, reports that she received death threats and was forced to flee the country, after voicing her suspicions that the authorities were involved in her husband's murder. Elmar Hüseynov's friend and fellow journalist, Eynulla Fatullayev, who launched a private investigation into the murder, has been relentlessly persecuted by the authorities following the publication of an article in 2007 alleging that Elmar Hüseynov's murder may have been ordered by a senior government official.

Shortly after these allegations in 2007, Eynulla Fatullayev, the editor of two popular opposition newspapers, *Realny Azerbaydzhan* (Real Azerbaijan) and *Gündalik Azərbaycan* (Azerbaijan Daily), was convicted of defaming the Azerbaijani army. The defamation charge related to two articles that disputed the official account of the 1992 mass killings of Azerbaijani civilians in the town of Khojaly, during the conflict between Azerbaijan and Armenia in Nagorno-Karabakh.

He was subsequently convicted on additional charges of inciting terrorism for publishing an



article discussing the possible consequences for Azerbaijan of a US-Iranian war. The article criticized foreign policy decisions made by the Azerbaijani government.

In September 2009, after the European Court of Human Rights began reviewing Fatullayev's case, while in prison he was accused of possessing heroin. This new charge was fabricated as part of an attempt to keep him locked up in the event of the court ruling that he had been wrongfully imprisoned on the original charges. In 2010, the European Court of Human Rights ruled that Fatullayev was indeed wrongfully imprisoned for exercising his right to freedom of expression, and called on Azerbaijan to release him. At that point, he was prosecuted for the possession of heroin and sentenced to a further two and a half years in jail.

Eventually, following significant international pressure, Fatullayev was released by a presidential pardon in May 2011. While Amnesty International welcomes his release, and considers it to be a step in right direction, there can be no doubt that his imprisonment and ordeal has had a chilling effect on other journalists. Any optimism generated by his release must be tempered by the fact that many others remain in prisons in Azerbaijan on trumped-up charges.

Online activists and bloggers have also been targeted by the authorities as online media gains popularity as an alternative outlet for critical opinion and independent reporting.

Adnan Hajizade and Emin Milli, bloggers and activists who used online networking tools to spread information about the socio-political situation in Azerbaijan, were arrested on 8 July 2009 and accused of "hooliganism." On 8 July 2009 the bloggers were attacked by two unidentified men in a restaurant in Baku. After attempting to report the incident to the police, they were themselves arrested and charged with hooliganism.

They were arrested a week after posting a video on YouTube, in which a man dressed as donkey delivered a spoof news conference. The video satirised a news story about how the Azerbaijani government had allegedly spent hundreds of thousands of dollars importing a dozen donkeys from Germany, in a deal that allegedly masked corruption or theft of public funds. The video questioned the purchase of the donkeys, the introduction of restrictive legislation for NGOs and the low priority given by the government to human rights.

Following their arrests, Adnan Hajizade and Emin Milli were convicted on 11 November 2009 of hooliganism and causing minor bodily harm, and sentenced to two and two and a half years' imprisonment respectively. In November 2010, following significant international pressure, the pair were granted a conditional release having served 16 months. Their convictions have not been overturned.

As with journalists and bloggers, human rights defenders also face harassment and intimidation in Azerbaijan for openly criticizing the authorities.

Leyla Yunus, director of the Institute for Peace and Democracy (IPD), an NGO that works on issues of democracy and human rights protection in Azerbaijan has been repeatedly targeted by the authorities. On 13 December 2008, a defamation case was brought against her for publicly voicing allegations of police corruption in Azerbaijan.<sup>9</sup> The Ministry of Internal Affairs alleged that Yunus made ungrounded, fictitious and slanderous references, and

demanded that she withdraw her earlier statements, apologise and compensate the ministry for 'moral damage' with a payment of 100,000 manats (\$US 12,500). While the defamation case against her was withdrawn on 5 March 2009, following international pressure, attempts to intimidate her have not ceased. Instead, the authorities appear to be reverting to other, more informal, methods of intimidation in order to silence her. For example, most recently, the activist had her office razed to the ground after having spoken against the government-endorsed forced evictions and the demolition of buildings in central Baku as part of a reconstruction project. It was destroyed by bulldozers late at night on 11 August, days after she gave an interview to the *New York Times* criticizing the "beautification" project in Baku.

The demolition began without any prior notice and despite a court order banning any demolition attempts on the property until 13 September 2011. Construction workers supervised by the police officers started destroying the building with an IPD employee Azad Isazadeh still inside, without giving him a chance to collect or rescue any of the office property or belongings.

#### CONTROL OVER NON-GOVERNMENTAL ORGANIZATIONS

The harassment and intimidation of critical NGOs is not limited to the targeting of individual activists.

Legislative tools such as unclear requirements regarding registration, reporting and taxation are used by the authorities to exert pressure over independent NGOs operating in Azerbaijan. The arbitrary denial of registration for NGOs has been a source of longstanding concern, and organizations critical of the government constantly face the possibility of having their registration delayed or denied. Foreign NGOs are banned from operating in the country unless they are registered and have an appropriate agreement on all their activities with the Azerbaijani Ministry of Justice. Local NGOs can in theory exist without being registered as a legal entity, but can face difficulties in receiving public or donor funds for their activities. In the past years, the European Court of Human Rights has issued several decisions finding the Azerbaijani authorities responsible for violating the rights of freedom of association by arbitrarily denying or delaying registration to NGOs.<sup>10</sup>

Recently the pressure on such organizations has been increased by introducing new amendments and changes in the law, which, according to local activists, enable the authorities to keep all aspects of civil society under their control. As evidenced by the increased harassment and closure of several independent NGOs in the wake of the protests (discussed in the following chapters), the state is quite prepared to use these legislative changes as a means of controlling and muting the independent voices of civil society.

The amendments to the laws governing NGO work<sup>11</sup> that were passed on 30 June 2009 introduced restrictive provisions for NGOs, while giving the authorities wider discretionary powers. Under these amendments, the state now has more latitude to prohibit or suspend any NGO activity that it perceives to be interfering with the state's powers. Article 13.3 of the Law on NGOs as amended states that "The charters of NGOs shall not provide for appropriation of state or local self-governed bodies, interference to these powers, as well as implying of functions of state control and revision." (Unofficial translation)<sup>12</sup>

The amendments also introduced the requirement to submit a registry of members to the

Ministry of Justice as well as to keep the ministry informed of any changes in the registry of members. These provisions have been used to threaten at least one local NGO working on media rights issues in Azerbaijan. On 19 April 2011, the Media Rights Institute (MRI, a local NGO representing the rights of journalists) received a warning from the Ministry of Justice on possible administrative sanctions on the grounds that it failed to notify the Ministry regarding the change of its chairman. The organization had in fact re-elected its existing chairman. Such vague and onerous reporting requirements make it easy for authorities acting in bad faith to exert pressure on NGOs.

The 2009 amendments also introduced new hurdles for the registration of foreign NGOs by requiring them to have a formal agreement detailing their aims and activities signed with the Ministry of Justice. However the amendments do not specify the procedures for obtaining such an agreement. The law fails to specify whether the new requirements also apply to already existing and registered foreign organizations. For example, as discussed in the chapter on stifling civil society, in March 2011, this vaguely formulated requirement has been used to shut down the Human Rights House, a branch of an international NGO critical of Azerbaijan's human rights record.

Another set of amendments that came into force in February 2009 increased fines 50-fold for the failure to submit a copy of each grant contract to the Ministry of Justice within one month.<sup>13</sup> The amendments were followed by Presidential Decree 43 adopted on 21 December 2009 requiring NGOs to register all grants and financial transactions with the Ministry of Justice.<sup>14</sup>

Amendments not directly related to the regulation of NGOs were also passed. A regulation from 2009<sup>15</sup> prohibited using residential premises for other purposes without permission. As many NGOs and newspapers are based in residential property, this regulation makes them directly vulnerable to evictions and other forms of intimidation. In several cases reported to Amnesty International, the authorities have allegedly used these provisions to put pressure on the owners of residential buildings to evict organizations critical of the government's human rights record. For example, following the adoption of the regulation, in June 2009 the MRI was ordered to leave its rented premises two months before the lease expired. According to Rashid Hajili, its director, government agencies had pressured the landlord to evict the organization from the premises.<sup>16</sup>

#### CONTROL OVER THE MEDIA

The media in Azerbaijan is predominantly state-run and content is subject to considerable political influence.<sup>17</sup> This is especially true of television, which is the major source of information in Azerbaijan.<sup>18</sup> Television news coverage is considered to be heavily biased in favour of the government. Government control is manifested both in the dominance of pro-government channels and in its role appointing and funding the Azerbaijan's National Television and Radio Council (NTRC), which controls the approval of broadcast licenses.<sup>19</sup>

Out of 23 television stations in Azerbaijan, reportedly only two, ITV and ANS TV, are not directly linked to or owned by the government.<sup>20</sup> However the latter was reported to have toned down its criticism after being banned from airwaves for three weeks and having its license suspended for five months by the NTRC in November 2006.<sup>21</sup>

The NCTR is often criticized for its political bias.<sup>22</sup> NCTR is fully funded from the state budget and all of its nine members are directly appointed directly by the president.<sup>23</sup>

Although print media enjoys greater pluralism, it has a limited reach, especially in comparison to television, and also remains largely dominated by pro-government outlets. Estimates suggest 80 per cent of newspapers are owned by the state, with approximately 10 per cent being run in turn by opposition parties,<sup>24</sup> neither of which is particularly conducive to unbiased reporting.<sup>25</sup>

Regulation of the print media is overseen by the Press Council, a membership-based, self-regulatory body. The council regularly publishes a “black list” of so-called “racketeering newspapers”. The list is published, according to the council, to reprimand newspapers that breach ethical standards, which is, in truth, not an uncommon occurrence in Azerbaijan. However, according to media representatives, there are no clear criteria on how newspapers are assessed, and at least some blacklisting appears to be politically motivated.

Independent or pro-opposition newspapers also claim to suffer from economic disadvantages. The state-owned and pro-government newspapers enjoy obligatory subscriptions from government and state institutions, including universities, hospitals and schools<sup>26</sup>, while the independent and pro-opposition newspapers told Amnesty International that companies and other potential advertisers face direct or indirect pressure from government representatives not to advertise in opposition or independent media. As a result, the paid advertising they publish is disproportionately low compared to pro-government outlets with similar circulations.

In contrast, social media, with the exception of Nakhichevan, a landlocked exclave, remains relatively uncontrolled by the government<sup>27</sup>. Despite having limited reach compared to traditional news sources,<sup>28</sup> internet based reporting has been gaining momentum, especially among young people, who increasingly see the internet as an alternative avenue for exercising their right to freedom of expression. The internet in Azerbaijan has been extensively used by young activists as a tool for mobilization and organization, as seen during the anti-government protest of April 2011, and the online campaigns demanding the freedom of detained activists, including imprisoned bloggers Adnan Hajizade, Emin Milli and Bakhtiar Hajiev (see chapter 4). In addition to providing an avenue for demanding justice at a national level, social media has also given an opportunity to Azerbaijani activists to galvanize global solidarity. Internet access remains low<sup>29</sup> outside the capital, however, due to poor infrastructure and high costs.<sup>30</sup>

#### LEGAL RESTRICTIONS ON MEDIA FREEDOMS

The government of Azerbaijan has adopted a range of legislation to extend its control over the media.

Amendments to the media law passed in December 2008 banned foreign broadcasters from using national frequencies, preventing an important source of uncensored news content from reaching most Azerbaijanis. On 1 January 2009, the BBC, Voice of America, and Radio Free Europe/Radio Liberty, which were previously broadcast on national radio frequencies, were forced to cease FM transmissions as a result of the ban. This restriction also prohibited local-language broadcasts of various international news media from accessing national television

and radio frequencies. While Azerbaijani-language services of international broadcasters can be received via the internet, shortwave or satellite, the ban on FM transmissions means that most of their previous audience is no longer able to hear them. According to Radio Free Europe/Radio Liberty President Jeffrey Gedmin despite the alternatives to FM frequencies such as internet radio or shortwave the ban has resulted in them losing 90 per cent of their audience.<sup>31</sup>

The shutdown coincided with the March 2009 constitutional referendum, which paved the way for President Ilham Aliyev to seek an unlimited number of presidential terms. This raised concerns that the timing of the ban was intended to limit citizens' access to objective and impartial information concerning their political life in the critical weeks before the referendum.

Following the banning of international broadcasters, a number of controversial amendments were adopted with further potential to restrict independent reporting.

In March 2009, Parliament passed several amendments to laws regulating the media. These allowed the closure of media outlets for the "abuse of freedom of speech and journalists' rights", vaguely defined as distributing information that threatened the integrity of the state or violated public order.<sup>32</sup> To Amnesty International's knowledge this provision has not been used to date, but their potential use is enough for media outlets to feel the warm breath of the state down their necks.

The constitutional referendum of 2009 resulted in further restrictive measures. Amendments passed in that referendum prohibited photographing, filming or recording of people without their consent, even in public spaces.<sup>33</sup> In 2009, the Council of Europe's Venice Commission criticized the draft law for failing to provide exceptions for reporting on issues or events of public interest as well as for its potential to seriously undermine and hamper journalistic work. Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, also considered the amendments to contravene Article 10 of the European Convention on Human Rights and the related case-law of the European Court of Human Rights.<sup>34</sup>

Ignoring these recommendations, on 12 February 2010 Azerbaijan's parliament, the Milli Mejlis, approved a ban on the use of video, photo, or voice recordings without the subject's prior knowledge or consent. Only law enforcement officials are exempt.<sup>35</sup>

While officials maintained that the purpose of the amendments was to protect privacy, media and civil society representatives in Azerbaijan have raised concerns about the potential of the law to be used for restricting investigative journalism and reporting on public issues.<sup>36</sup> On July 2010 citing the law, Presidential Administration guards detained several journalists, seized their videotapes, and erased images of administration buildings when the journalists tried to film a protest of the residents of the Sabirabad district over the authorities' handling of flood damage. The guards reportedly also issued a warning to the journalists that based on the new law they were not authorized to film or photograph the administration's premises.<sup>37</sup>

While these amendments are not always strictly applied or enforced, they constantly leave open the possibility of its selective application, reinforcing the prevailing climate of self-censorship.

Currently the government of Azerbaijan is considering a legal framework for regulating online media. Draft laws currently under discussion could potentially restrict Azerbaijani web users' access to information. The amendments proposed by the Ministry of National Security would make spreading "misinformation" a criminal offence. The draft legislation loosely defines "misinformation" as the "distribution of false information with the aim of spreading panic among the population".<sup>38</sup>

The plan to criminalize spreading "misinformation" came shortly after the government stepped up its efforts to harass, imprison and threaten political activists on social networks. The authorities have frequently used the criminal justice system to threaten online expression. Adnan Hajizade and Emin Milli were imprisoned after posting a satirical video criticizing the government. Following anti-government protests in spring 2011, activists who used Facebook to spread information about the protests were detained or pressured, and some have been arrested on highly questionable charges. As discussed under the chapter on youth activists, the authorities also initiated criminal charges against Elnur Majidli, one of the creators of a Facebook page calling for protests in March 2011, on the grounds of inciting hatred.

Amnesty International is concerned that the government could potentially use the broad definition of what constitutes misinformation to further restrict online freedom of expression, and to intimidate bloggers, journalists and social network users. Furthermore, the government appears to be increasing its control of the internet in other areas. A draft law on internet regulation would see all internet-based TV channels and radio stations licensed by the Ministry of Communications and Information Technologies, potentially subjecting them to the same kind of restrictions and pressures that currently affects traditional broadcasters.

Azerbaijan's obligation to respect freedom of expression includes expression that uses online media. Any restrictions on the right to freedom of expression on the internet must be consistent with Azerbaijan's international legal obligations, especially with regards to freedom of expression and opinion and the right to privacy.<sup>39</sup>

#### DEFAMATION LAW AS A MEANS OF CONTROLLING DISSENT

In recent years the authorities have used both criminal and civil defamation charges to silence critical journalists, human rights defenders and other civil society activists. Those convicted of defamation have faced prison sentences and fines.<sup>40</sup>

Defamation continues to be a criminal offence under Azerbaijani criminal law. Articles 147 (defamation) and 148 (insult) of the Criminal Code provide for up to three years and six months of imprisonment respectively.

According to Azerbaijan's Media Rights Institute, 31 of the 71 defamation cases brought against media representatives in 2010 were criminal prosecutions. In 17 out of the 31 criminal cases the court found against the journalists. However unlike the previous years, no prison sentences were handed out based on defamation claims and most of the sentencing was limited to fines or correctional labour outside of prison.

In civil defamation claims, the court awarded substantial pecuniary and non-pecuniary damages to the authorities in 35 out of 40 cases.<sup>41</sup> In the first half of 2011, 11 new cases of

defamation were initiated, while 27 lawsuits remained pending in the courts from previous years.<sup>42</sup>

In the last two years there has been a decrease in the number of prison sentences handed down for criminal defamation. In itself this is definitely welcome, though this reduction is also due in part to an increase in self-censorship on the part of Azerbaijani journalists. At the same time, a trend of using other charges less obviously connected with freedom of expression to silence critical voices has also emerged, where those attempting to criticize the government are charged and imprisoned on apparently trumped-up charges such as hooliganism or drugs possession (as discussed in subsequent chapters).

The criminalization of defamation remains an important legal barrier to the exercise of the freedom of expression in Azerbaijan. The European Court of Human Rights, whose jurisdiction Azerbaijan has accepted as a member of the Council of Europe, has ruled that Azerbaijan violated the right of freedom of expression by imposing a punishment of imprisonment on a journalist accused of defamation and insult.<sup>43</sup> Similarly, the Commissioner for Human Rights of the Council of Europe, Thomas Hammarberg, has noted the abusive application of defamation laws in Azerbaijan and called on the authorities to decriminalize defamation.<sup>44</sup>

Civil defamation provisions also present an obstacle to freedom of expression in Azerbaijan, as they are often used by public officials to intimidate and silence opposition and independent media outlets through heavy fines. These heavy fines present serious problems for many media outlets, which already face difficult economic situations. For example, *Khural*, a weekly newspaper operating in Azerbaijan since 2002, faces possible closure after it was unable to pay damages awarded in several defamation lawsuits brought against it in 2010. On 24 July 2010, Narimanov District Court ordered the newspaper to pay 10,000 manats (\$US 12,500) for insulting the honour and dignity of the head of the President's Office, Ramiz Mehdiyev, in an article published on May 23, 2010. The article entitled "Ramiz Mehdiyev's Plan to eliminate Bakhtiyar Vahabzade" alleges that the head of the presidential administration attempted to prevent Bakhtiyar Vahabzadeh, an Azerbaijani poet, from being elected to Parliament.<sup>45</sup> On 1 September, the Appeals Court upheld the decision.

The Azerbaijani Parliament is due to consider a draft law in its autumn session, which would decriminalize defamation. Amnesty International welcomes these steps and urges the authorities to ensure that new civil defamation provisions are implemented in compliance with international standards of free expression and that in no circumstances will people be imprisoned as a punishment for defamation.

## 3. THE SPRING PROTESTS IN AZERBAIJAN

**“This is just the beginning; there will be more such actions. We want an end to corruption, we want to be free, we want our future.”**

An Azerbaijani activist on 11 March protests.

Following the popular uprisings in the Middle East and North Africa, in March and April 2011, Baku too witnessed a brief flowering of anti-government protest. Hundreds of people gathered on the streets over separate series of protests demanding democratic reform and greater respect for human rights. Inspired by their counterparts in Egypt and Tunisia, Azerbaijani youth and opposition activists seized upon social media to reach out to wider audiences, calling for organized cycles of protests.

Though extremely small in comparison to events in the Arab world, the response of the Azerbaijani government was swift and uncompromising. Protests were banned and violently dispersed; organizers identified and imprisoned; the clampdown ongoing. Azerbaijan is a more restrictive place today than it was 12 months ago. With the calls for greater freedoms crushed, the prospect of their delivery is remoter today than it was before.

### 3.1 EFFECTIVE PROHIBITION OF FREEDOM OF ASSEMBLY

The cycle of protests started online with the creation of a Facebook page for a “Great People’s Day” on 11 March, calling for the resignation of the government. The page was directly inspired by similar campaigns in the Middle East.<sup>46</sup> Initially, the protest organizers called for a ‘virtual’, internet-based, expression of solidarity and protest. Organizers asked Facebook users to voice their support online simply by clicking the “I’m attending” button on the related Facebook page. Calling for any action to be conducted “in a civilized manner and without provocations” the organizers stressed the peaceful nature of the initiative.

The call for virtual protests soon transformed into calls for real protests to express public disenchantment with the government. However no concrete rallies were planned and the various organizers remained unclear about the locations as well as the size of the protests.<sup>47</sup>

The Azerbaijani Interior Ministry gave warning in advance that any unsanctioned demonstrations would be “resolutely” dispersed.<sup>48</sup>



In the days leading up to 11 March, dozens were detained and questioned. Police also detained and harassed individuals who tried to disseminate information leaflets about the protests. Three activists, Dayanat Babayev, Sakhavat Soltanly and Rashadat Akhundov were sentenced to five days in prison for alleged “hooliganism and resisting police” for attempting to disseminate information by leaflets and on their Facebook pages on the 11 March Facebook protests.

Around 4,000 people announced they would take part in the virtual 11 March protest. In order to prevent people from gathering and taking part in a physical as opposed to merely virtual protest, the security forces, including police and dozens of people in civilian clothing, were deployed throughout the city centre. The police also closed a central metro station to make gathering in the city centre more difficult. In the end, about 100 people attempted to rally in downtown Baku, calling for freedom and the resignation of the president. The attempt, however, was violently disrupted. Many activists were detained pre-emptively, before they had arrived at the scene. The small groups of protesters that managed to gather at the Fountain square in Central Baku were broken up by the police, dragged to the patrol cars and taken to various police stations.<sup>49</sup>

Forty-three people were arrested, 23 of whom were released after an official warning not to participate in the protest. The rest appeared in court on the evening of 11 March charged with various misdemeanours. Nine were convicted of disobeying police and sentenced to between five and eight days’ imprisonment.

On the following day, 12 March, authorities broke up another protest rally staged by the opposition Musavat Party with similar violence. The Musavat Party had applied to the Baku City Executive Committee (municipal council) for permission to stage a protest at a public square opposite Tabriz cinema, a venue that has been approved as a suitable place for holding mass gatherings according to the September 2008 list of protest locations announced by Baku Executive Authorities.<sup>50</sup>

However the city authorities denied them the permission to assemble at the requested location on the grounds that the area was traffic intensive and as such the safety of the protesters could not be guaranteed. Instead they offered Bibi Heybat Stadium, which is far from central Baku, as an alternative venue. Rejecting this unsuitable alternative, the Musavat Party went ahead with the unsanctioned protest on 12 March – declaring Fountain square, a pedestrianised area in central Baku, as the new location of the rally. About 300 people gathered there, in the first relatively organized public protests calling for the resignation of the current regime since 2005.<sup>51</sup> The peaceful protest was soon violently dispersed by police, who detained more than 100 protesters. Police officers were observed punching and kicking protesters who were not resisting while arresting them and also, reportedly, while in custody. Several people were detained by police on their way to the event.

In closed trials on 13 March, Azerbaijani courts sentenced 30 of the protesters to between five and eight days in prison. According to reports, the defendants were denied the right of representation by a lawyer of their choice, and were sentenced in summary trials lasting 10 to 15 minutes that took place late into the night.<sup>52</sup>

The next protest on 2 April was dubbed a “Day of Rage”. Using a Facebook page, the main

organizers, the opposition Musavat Party and the Popular Front Party (PFP) called the Azerbaijani public to “show their rage against the dictatorial regime that has been squashing, humiliating, and violating their rights.”<sup>53</sup>

A week before the 2 April protest, the organizers submitted a notification to the Baku City Executive Committee, informing them of their intention to hold a peaceful protest of no more than 3,000 people at Narimanov square. According to the organizers, they chose this particular location as it is inside the zones officially designated by Baku authorities as suitable for protests. The protest was intended to last two or three hours.

However, the Baku Executive Committee again refused to allow the protest at the requested location, and once again asked the organizers to hold the protest on the premises of Bibi Heybat Stadium. The authorities claimed that a protest in Narimanov square would disrupt the flow of traffic, although the square is able to hold 3,000 people without blocking the roads.

The organizers then attempted to hold a peaceful protest with 1,000 participants in Fountain square in the centre of Baku. Fountain square is comfortably large enough to hold over 1,000 protesters safely and securely if the authorities were to prepare the area beforehand. However the attempt to protest was again violently suppressed.

Hundreds of protesters arriving at the 2 April protest were confronted by riot police armed with shields, truncheons, and rifles with rubber bullets. Uniformed police surrounded the square and plainclothes officers targeted individuals who were chanting slogans, forcibly covering their mouths and dragging them into buses and police vans. The protests that had started peacefully turned violent as several protesters resisted being arrested by the police. Many of them were punched and beaten with batons as they were being arrested. Video footage of the protests shows police officers kicking and beating protesters with batons as they dragged them into nearby buses. Video footage also shows helmeted riot police allegedly spraying tear gas inside a bus holding detained protesters.<sup>54</sup>

According to the police, 17 shop windows were broken and 25 parked cars were damaged in the confrontation that lasted about an hour. In total police estimated the damages for 2 April at 19,000 mantas (\$US 24,500) including damages to various transport companies for estimated loss of business, damages to police vehicles and to the buildings, shops and other property.

In total 157 people were arrested, in addition to the 17 protest organizers who had been arrested in days leading to the protests.<sup>55</sup> Following the protests, around 60 persons faced administrative charges for violating public order or resisting the police, receiving between five to 10 days of administrative detention.<sup>56</sup> In addition, four opposition leaders were charged with criminal offences for allegedly organizing the mass unrest, a crime that carries a maximum three-year prison sentence.

Despite the arrests, the leaders of two major opposition parties -- Isa Gambar, the head of the Musavat Party and Ali Karimli, leader of PFP -- pledged to continue peaceful non-violent protests.

The Public Chamber -- a coalition of opposition political parties and NGOs, including the Musavat Party and PFP -- announced that it planned another protest in Baku on April 17 dubbed a "Great Unity Day".<sup>57</sup>

The representatives of the Public Chamber again applied for permission to hold the protest at Narimanov square, but once again the authorities denied the group permission for the requested venue and issued a warning that "if the radical opposition attempts to stage another unsanctioned protest action it will be [as] strongly suppressed by [the] relevant authorities as the previous one."<sup>58</sup>

Indeed, protesters on 17 April were met with similar violence from the police. Hundreds of people were detained and arrested, while police used excessive force in dispersing the protesters. The police arrested not only protesters, but a number of passers-by and three Swedish journalists who were later deported on the grounds of not having adequate accreditation to work in Baku.<sup>59</sup>

While the protests were neither violent in nature nor large or widespread enough to cause any real threat to the regime, the Azerbaijani authorities demonstrated their complete refusal to let even small numbers of people exercise their right to free expression. The denial of permission, coupled with the excessive use of force by police against protesters, violated the protesters' rights, especially the right to freedom of assembly and the right to be free from ill-treatment.

The public statements and declarations by the organizers indicate that they intended to stage a peaceful protest. Amnesty International believes that the isolated incidents of vandalism that occurred are not attributable to them.

Furthermore, the organizers tried to organize legitimate demonstrations in accordance with the requirements of the law. They repeatedly applied for the permission to hold the rallies in designated and suitable areas for demonstrations, but their requests were consistently and unjustifiably denied by the city authorities. In doing so, the authorities have effectively criminalized peaceful protest.

Amnesty International representatives attended and monitored the protests on 11 and 12 March. In both cases, the protests were peaceful, but were nevertheless broken up by the police who used force to disperse and arrest the peaceful protesters. With regard to the 2 April and 17 April protests, the reports and testimonies of eyewitnesses and international organizations as well as the available video footage also demonstrate that the protests were peaceful until the police started dispersing, beating and arresting the protesters.

Amnesty International is deeply concerned by the restrictive interpretation and application of the right to freedom of assembly by the Azerbaijani authorities. The city authorities prohibit public assembly in the centre of Baku based on grounds that it disturbs the leisure activities and normal functioning of commercial entities.<sup>60</sup>

The denial of the permission to gather anywhere in central Baku and the beating of largely peaceful protesters clearly violated Azerbaijan's international human rights obligations.

Protesters in Baku are only allowed to assemble in officially designated areas, most of which are outside the city centre and cut off from the fabric of daily life in the capital. They consequently fail to offer protesters the ability to peacefully express their views in a visible, public location. According to the Organization for Security and Co-Operation's Guidelines on Freedom of Peaceful Assembly, "as a general rule, assemblies should be facilitated within 'sight and sound' of their target audience."<sup>61</sup>

The organizers of public protests are therefore placed in the invidious position of having either to consent to protest in irrelevant and unsuitable locations, or run the risk of the severe clampdowns that took place during the March and April protests. While protests may inevitably temporarily disrupt the commercial and leisure activities that take place in the city centre, Amnesty International believes such disturbances cannot be used to justify the de facto prohibition of peaceful protests which are the key plank of the freedoms of expression and assembly.

#### TREATMENT OF DETAINED PROTESTERS

Several activities detained at and after the March-April protests have complained of ill-treatment at the moment of their arrest and subsequently while in police custody.

Hasan Karimov, Chairman of the PFP was arrested at his home at around 5 pm on 2 April, immediately after the protests. His lawyer Tahir Khanaliyev told Amnesty International that police arrested Hasan Karimov without a court order or offering any explanation for his arrest. He was taken to Sabayl District police department and placed overnight in an overcrowded 19 m<sup>2</sup> cell with some 50 other inmates where he developed respiratory problems.

Police guards denied his request to be transferred to another cell until his condition deteriorated to the point where an ambulance was required. He was taken to hospital, where he remained for several days. Hasan Karimov has a heart condition and suffered a heart attack two years ago. He was not charged and has received no explanation from law enforcement officials for the reasons of his arrest.

Tazakhan Miralamli, Chairman of Jalilabad branch of the PFP, was arrested on 2 April in Fountain square. Riot police beat him with batons while taking him into custody. His left eye was badly injured. He maintains that he was beaten again while being held in the Sabayl district police department before being taken to hospital, where, in addition to the injury to his eye, he was diagnosed with a broken finger, kidney problems and extensive soft tissue damage.

Tural Abbasli, leader of the youth wing of the opposition Musavat Party, was arrested by police during the 2 April protests and taken to Yasamal district police station. He maintains that he was beaten again while in custody.

### 3.2 THE PERSECUTION OF YOUTH ACTIVISTS AND PROTEST ORGANIZERS

The spring protests sparked a wave of arrests of youth activists and protest organizers on highly questionable or illegitimate charges, as the authorities of Azerbaijan sought, for the time-being successfully, to nip the nascent protest movement in the bud. Key activists and senior opposition party members were targeted and a clear message sent out – the public expression of dissent will not be tolerated, nor any attempt to galvanise public opinion against the current regime. The Azerbaijani spring never blossomed; the earth it sought to take root in has been scorched. Its sole fruit – 17 prisoners of conscience.

#### THE HARASSMENT AND DETENTION OF YOUTH ACTIVISTS

The first to be targeted by the authorities were the young online activists who used Facebook, Twitter and other networking sites to call for protests and express their discontent with the regime. As young people found new ways of expressing opinions and exchanging information, the authorities responded by cracking down on online activism. Police have detained, interrogated and imprisoned a number of activists and organizers behind the Facebook events that called for protests.

The Azerbaijani authorities are also doing everything in their power to discredit and intimidate these activists: state television has broadcast a series of interviews and documentaries which portrayed Facebook users as “mentally ill”. Universities, controlled by the state, routinely warn students to steer clear of criticizing the status quo or face expulsion.

Such was Tural Abbasli's fate. Following his arrest on 6 April, Tural Abbasli was expelled from Baku State University, where he was in his final year of study for a master's degree in journalism.<sup>62</sup> He was banned from continuing his studies for “administrative reasons.” The faculty of journalism at Baku State University reportedly claimed that Tural Abbasli failed to attend classes for 100 tuition hours and did not pay the tuition fee of 900 manats (\$US 1,135) for the academic period between September 2010 and the end of March 2011.<sup>63</sup> Tural Abbasli, who was unable to attend the classes and exams between March and April because of his detention, believes that his expulsion was politically motivated.

#### JABBAR SAVALAN

A history student at Sumgayit University, and an active member of the youth wing of the opposition PFP, 19-year-old Jabbar Savalan was arrested soon after beginning to post critical comments on Facebook.

In early January, Jabbar Savalan reposted an article originally published in a Turkish newspaper that was critical of Azerbaijan's President. The article described President Ilham Aliyev as corrupt and as a gambler. Jabbar also took part in a small anti-government protest on 20 January.

On 4 February, on Facebook, he called for a “Day of Rage” inspired by protests in the Middle East and North Africa. The next day he told his family that he was being followed by unidentified men.

On the evening of Saturday 5 February he was seized as he returned home from an PFP meeting in Sumgayit. He was handcuffed and forced into a police vehicle without any explanation or being informed of his rights.

At the police station he was searched. Police then claimed to have found 0.74g of marijuana in his outer jacket pocket.

He was interrogated over the weekend (Saturday night and Sunday 6 February) without access to a lawyer. When he eventually met with his lawyer on Monday 7 February, Jabbar Savalan claimed that police had slapped and threatened him until he signed a confession. He denied possessing the marijuana and said that the police must have planted it on him when they put him in the police vehicle.

On 7 February, Sumgayit District Court ordered Jabbar Savalan to spend two months in pre-trial detention. He was convicted of possessing illegal drugs for personal use on 4 May, despite a blood test taken after his arrest which showed no trace of drugs.

Apart from the evidence of the drugs themselves, which were allegedly planted, his conviction was largely based on the confession he was forced to sign without access to a lawyer and has since retracted. Jabbar has been in prison since 5 February. His sentence will end in August 2013.

After the trial, the police officer who first interrogated Jabbar Savalan approached his lawyer and allegedly threatened him. According to lawyer Anar Gasimov, the officer told him that he did not like his closing speech, because it was critical of the state. The policeman added: "I know where you live. We will see what I will do for you."

Amnesty International visited Jabbar Savalan's family in March 2011 and they were adamant that the activist has no history of drug use. This was confirmed by his friends and classmates.

Amnesty International has documented similar cases where drugs have been "found" on prominent critics of the government, such as Eynulla Fatullayev and Sakit Zahidov. In 2006 another prominent critic of the government, journalist Sakit Zahidov, was sentenced to three years for allegedly possessing heroin, which he says police planted in his pocket.

Jabbar Savalan appealed against his conviction in July, but the appeal was rejected. During the appeal hearings the Chief of Criminal Investigations at the Sumgayit City Police Department was called to give evidence. He refused to reveal the identity of the person who allegedly told the police that Jabbar Savalan possessed drugs, or how this individual could have known that Jabbar possessed drugs.

In the light of the above, Amnesty International considers Jabbar Savalan to be a prisoner of conscience. At his final appeal hearing, Jabbar Savalan told the court: "My imprisonment in prison is the same as that in my life. That is why living inside four walls is not too difficult for me. After all, one could say that there is no place which is free in this country."

#### **BAKHTIAR HAJIYEV**

Opposition activist Bakhtiyar Hajiyev, aged 29, was first detained and threatened with conscription on 18 November 2010. He had been standing as an opposition candidate in the 7 November parliamentary elections and afterwards exposed numerous electoral violations.

He successfully argued that he was still entitled to immunity from conscription as a parliamentary candidate, and that this invalidated the notification, and was released.

On 24 January 2011, after his electoral immunity expired, he was again detained and charged with evading military service. He was served with a new notification of conscription on the same day as being charged.

Bakhtiyar Hajiyev requested that he be allowed to perform an alternative form of service. Under Article 12 of Azerbaijan's Military Draft Law, this appeal should be considered by a Draft Board. Rather than consider the appeal, the authorities chose to charge Bakhtiyar, but released him on the condition that he could not leave his hometown of Ganja, and had to register daily with the police.

The timing of his original arrest, and the fact that his second arrest occurred before a crime could even be committed, lead Amnesty International to believe that both arrests were in response to his standing as an opposition parliamentary candidate.

On 2 March Bakhtiyar Hajiyev co-founded a Facebook group calling for an 11 March virtual protest against government corruption and oppression. Participants were simply invited to register their attendance online to take part in the protest.

On 4 March, immediately after the page became public, he was arrested for a third time in Ganja and accused of failing to register daily with the police. Bakhtiyar Hajiyev says that he had registered with the police at 10am that morning. When his lawyer asked the police to show him the register, they reportedly said that they had lost it.

At a court hearing the same day, Bakhtiyar Hajiyev was remanded in custody for two months pending his trial. During the hearing, he passed a letter to his lawyer. The letter said that whilst in custody, police questioned him about his Facebook activity, then punched him, strangled him, twisted his arms, and pressed down on his face until his mouth bled. They also threatened him with rape.

To date the allegations about his ill-treatment have not been investigated. Bakhtiyar Hajiyev's lawyer has made repeated requests for an investigation, all of which he says have been denied without explanation.

On 18 May, Bakhtiyar was convicted of evading military service and sentenced to two years in prison: the maximum prison term allowed by law.

Amnesty International views all three arrests as baseless. The first arrest occurred when Bakhtiyar Hajiyev had parliamentary immunity from conscription, the second before he was served with a valid conscription notification he could be accused of evading, and the third without any evidence that he did not register. The organization therefore views his subsequent conviction as an attempt to silence his dissenting voice. Amnesty International considers him to be a prisoner of conscience, imprisoned solely for the peaceful expression of his views, and calls for his immediate and unconditional release.

#### **ELNUR MAJIDLI<sup>64</sup>**

On 1 April former parliamentary candidate and France-based opposition activist Elnur Majidli was charged in his absence with attempting the “violent overthrow of authority, or distributing materials calling for such”. The charge carries a maximum sentence of 12 years in prison. The Azerbaijani authorities reportedly requested an international warrant for his arrest. According to Elnur, Interpol has refused to accept the warrant, stating that no supporting evidence has been provided.

Elnur Majidli had been co-organizing the series of protests in Azerbaijan via Facebook. Shortly before the opening of the criminal case against him he received a telephone call from the General Prosecutor’s Office warning him to cease his Facebook activities or face prosecution. He has also received several threatening phone calls from anonymous callers in Azerbaijan.

Amnesty International has reviewed Elnur’s Facebook activity and considers the accusation that he has been calling for a violent overthrow of the state to be baseless. The organization believes he is being prosecuted simply for exercising his rights to freedom of expression and association, and that the charges against him should be dropped.

Unable to reach Elnur Majidli in France, the authorities have sought to punish his family for his activities. On 1 April, police raided both his and his cousin’s family homes. Fourteen armed officers of Azerbaijan’s anti-terrorism unit were used in the raid on his house, at the time of which only his mother was at home.

After the raid on his house, uniformed policemen stationed outside their house kept the family under observation for two months. The family suspect that they are still under observation by police officers in civilian clothing.

Following Elnur Majidli’s prosecution his father and brother were both fired from their positions in a state-owned shipping company and the Ministry of Finance respectively.

Elnur Majidli told Amnesty International: “there are threats every day – to me, and to my family. I am psychologically exhausted”.

Young bloggers, journalists, political activists, students and their families are all aware of the grave consequences if they dare to speak out against the state. Yet Azerbaijanis choose to run these risks rather than continue to live quietly in a society where they are unable to exercise their most basic human rights.

#### **THE CRIMINAL PROSECUTION OF OPPOSITION SUPPORTERS**

In addition to the youth activists, who were charged and convicted trumped-up charges as described in the chapter above, following the violent dispersal of the 2 April protests, the police began a series of arrests targeting members and supporters of the opposition parties, believed to have been instrumental in organizing the protests.

Members of the political opposition parties Musavat and the PFP, both of which supported and helped organize the protests, were subjected to a deliberate strategy of intimidation. According to information available to Amnesty International, 14 opposition supporters have



been convicted in connection with their participation in the 2 April rally. A further two were convicted on highly questionable charges. These widely publicized arrests and subsequent convictions have sent out a strong signal to others contemplating voicing or acting on their political dissent. They would also appear to have been intended to further disrupt the organizational capacity of the leading opposition parties.

## **THE CRIMINAL PROSECUTION OF PROTEST ORGANIZERS AND PARTICIPANTS**

### **THE CASE OF ZULFUGAR EYVAZOV, SAHIB KERIMOV, ARIF ALYSHLI, BABEK HASANOV, ELSHAN HASANOV AND ELNUR ISRAFILOV**

On 25 August Zulfugar Eyvazov, (chairman of the PFP Nizami branch) Sahib Kerimov (advisor to the PFP chairman), Arif Alyshli and Babek Hasanov (PFP members), Elshan Hasanov, (Musavat Party member) and Elnur Israfilov (non-affiliated) were convicted in connection with their participation in the 2 April protest.<sup>65</sup> The four were found guilty of participating in public disorder under the Criminal Code Article 233. More specifically, the court found the defendants guilty of disturbing public order, impeding traffic and hindering the functioning of commercial and other entities by taking part in the 2 April protests.

Arif Alyshli and Elnur Israfilov were also convicted of damaging property under Article 186.1 of the Criminal Code. The two were found guilty of causing damage to a public bus when attempting to open it in order to free protesters detained inside, who, they allege, were being ill-treated. Both were ordered to pay a total of 1,325 manats (\$US 1,685) in damages, in addition to the custodial sentences they received.

The Sabayl District Court sentenced Sahib Kerimov and Elshan Hasanov to two years' imprisonment and Babek Hasanov and Zulfugar Eyvazov to 18 months.

Arif Alyshli and Elnur Israfilov were sentenced to three and to two and half years respectively. Arif Alyshli received two years for participating in public disorder under Article 233 and 18 months for damaging property under Article 186.1. His overall sentence was later reduced by six months given the absence of a previous criminal record. Elnur Israfilov received two years for participating in public disorder and a year for damaging property. His sentence was similarly reduced by six months.

### **CASE OF TURAL ABBASLI, ARIF HAJILI, MAHAMMAD MAJIDLI AND FUAD GAHRAMANLI**

On 3 October, Arif Hajili,<sup>66</sup> Chairman of the Musavat Party Central Executive Committee, Tural Abbasli, head of Musavat's Youth Organization and Mahammad Majidli, Head of the Popular Front Party Public Relations, were also convicted of active participation in public disorder under Article 233 of the Criminal Code. The three of them were sentenced to two and a half years each in prison by Sabayl District Court. A fourth opposition leader, deputy chairman of the PFP Fuad Gahramanli was given a suspended two-year sentence. The judge ruled that he be placed under conditional house arrest for two years.

The four were found guilty of actively participating in activities causing disruption of public order by virtue of being the alleged organizers of the 2 April protest events.

### **CASE OF AHAD MAMMADLI, ELNUR MAJIDLI, RUFAT HAJIBAILI AND ULVI GULIYEV**

Ahad Mammadli, the deputy head of the youth wing of the Musavat Party, PFP member Elnur Majidli, Rufat Hajibaili, Musavat Party activist and the unaffiliated Ulvi Guliyev, were all convicted of participating in public disorder under Article 233 of the Criminal Code by the Nasimi District Court on 10 October.

Elnur Majidli and Rufat Hajibaili were sentenced to two years and 18 months' imprisonment respectively. The additional charges of criminal damage against them were dropped by the court. Ulvi Guliyev and Ahad Mammadli were also convicted of violently resisting police under Article 315 of the Criminal Code. They both received sentenced to two years for participating in public disorder and an additional two years for resisting police. The court later reduced their overall sentence to three years.

### **THE CRIMINALIZATION OF PEACEFUL PROTEST**

All 14 people involved in the cases described above were convicted of "organizing and participating in actions that disturb public order" in actions infringing public order under Article 233 of the Criminal Code. With the exception of Fuad Gahramanli, whose custodial sentence was suspended, all of those convicted received sentences, on this count alone, of between one and half and two and a half years in prison. In so doing, the Azerbaijani courts have effectively criminalized the exercise of the rights of its citizens to peaceful assembly and expression.

Article 233 of the criminal code, "organizing and participating in actions that disturb public order", is a vague and ill-defined provision.<sup>67</sup> Under the article, the elements of the criminal action can range from the "infringement of normal activity of transport and enterprise" to "insubordination towards the authorities". The law makes both "organizing" and "participating" in such actions a crime.<sup>68</sup> Such vagueness has allowed judges to interpret the law in such a way that even makes calling on others to participate in peaceful protest actions a crime, punishable with imprisonment.

In its judgment of 25 August, the Sabayl District Court found all six defendants guilty of participating in actions disturbing public order under Article 233 by virtue of having "participated in activities with the intent of disrupting public order, the flow of traffic, recreational activities of citizens and the operation of industries, businesses and institutions in the centre of Baku city."

It is, of course, true that the protests resulted in disruption to the activities of those in close proximity to the event. This would have been the case even if they had been allowed to proceed peacefully. Such is the nature of protests. It is not the case, however, that such disruption was the primary intention of the accused. What they actually intended was to participate in a peaceful, unlawfully denied, protest. In the context of such a peaceful protest, the inevitable disruption involved cannot in itself be considered to constitute a criminal offence.

What the courts failed to establish when convicting the ten men charged solely under Article 233, was whether they intended to organize a violent protests, or were themselves involved in, or incited others to violent or criminal acts. The requests by defence lawyers in the trial that concluded on 25 August to have available video footage presented in court to

demonstrate and analyze any criminality of the defendants' actions during the protests were, in any case, ignored.

Instead, the judgment focuses on the claim that the six defendants "disobeyed the official warnings based on the laws of the Republic of Azerbaijan on "Freedom of Assembly" and other normative acts and appropriate assessment by the authorities, such as the Baku City Executive Committee and law enforcement agencies which could not allow for such activities in the interest of maintaining public order and protecting the rights of other individuals." Or, in others words, that they participated in a banned protest.

Throughout the trial as well as in the judgment, no attempt was made to analyze why the protests – which were requested in areas designated as appropriate for public gatherings - were prohibited, or whether this was in fact lawful. During the trials, all requests by defence lawyers to call representatives of city authorities as witnesses, who would be able to explain why permission had been denied, were rejected by judges.

Similarly, no evidence of an intent to organize violent actions or of personally committing a criminally punishable act was advanced during the trial which concluded on 3 October with the convictions of Arif Hajili, Tural Abbasli, Mahammad Majidli and Fuad Gahramanli under Article 233 for having been the "main organizers of the criminal acts" connected with the 2 April protests. The four men were convicted without any evidence to link them with the planning, committing or inciting of a specific criminal action connected with the 2 April rally. The prosecution did present numerous witnesses who testified about incidents of property damage that occurred during the protests; however none of the witnesses was able to link the accused with the acts of vandalism, or to identify them as personally responsible for the damages caused. Despite this, the four were effectively found guilty of criminal damage for the vandalism committed by others based on the court's ruling that their organization of the protest actions amounted to "active participation in the criminal activities" under article 233 the Azerbaijan Criminal Code.

Notably, the people who eyewitness saw committing acts of vandalism, as well as those who were caught on film or photographed, have to date not been identified, detained or charged.

The calls by opposition parties and the Public Chamber for protests (as expressed in public statements and interviews) constantly and explicitly referred to peaceful forms of protest. Amnesty International believes that the organizers of the protests intended to stage a peaceful protest and that the isolated incidents of vandalism that occurred are not attributable to them. As discussed in the chapter on freedom of assembly, the organizers repeatedly sought to conduct legitimate and peaceful protests. However, their requests to stage rallies at appropriate and publicly visible venues were unreasonably denied by the city authorities, in violation of their obligations under international human rights law guaranteeing the freedom of assembly. It is worth noting that in a meeting with Ministry of Interior officials, senior police officers from the Baku police confirmed to Amnesty International that they had not been requested by the municipal authorities to provide any opinion on the appropriateness or possible security concerns that the applied for rallies might occasion.

Based on the analysis of the court materials available to Amnesty International, it is clear that the defendants convicted under article 233 alone were found guilty of the crime of

causing public disorder solely on the basis of having allegedly organized and or attended the protests. There was no substantiated evidence showing that they had incited, or committed, any criminal actions.

Amnesty International believes that there is no credible evidence that any of the imprisoned opposition supporters were engaged in anything more than the legitimate exercise of their right to freedom of expression and association, when proceeding with a protest rally that had been unreasonably and unlawfully denied authorisation. As such, Amnesty International believes that Zulfugar Eyvazov, Sahib Kerimov, Babek Hasanov, Elshan Hasanov, Tural Abbasli, Arif Hajili, Mahammad Majidli, Elnur Majidli, and Rufat Hajibaili are prisoners of conscience and calls for their immediate and unconditional release. In so far as Arif Alyshli, Elnur Israfilov, Ahad Mammadli and Ulvi Guliyev have also been convicted under Article 233 and have received discrete sentences relating to this offence, Amnesty International also considers them to be prisoners of conscience.

## FAIR TRIAL CONCERNS

### PRE-TRIAL STAGE

Before the trials of the opposition members and supporters started substantively, the pre-trial stages were marked by a series of procedural irregularities.

In most cases, the opposition supporters were arrested without an appropriate warrant. All the activists' pre-trial hearings were held behind closed doors. In several cases, the activists were denied timely access to legal representation and were charged after being questioned without having the possibility to be represented by the lawyers of their choice.

On 9 April, Ulvi Guliyev, Babek Hasanov, Sahib Kerimov, Elshan Hasanov and Ahad Mammadli were denied the opportunity to be represented by the lawyers of their choice at their remand hearing. The lawyers from Legal Education Society (LSE), who had offered pro-bono assistance to detained activists, were told by the judge that they could not represent more than one detained opposition member at a time due to an alleged conflict of interest.

The five detained activists were subsequently represented by state appointed lawyers at the remand hearings but were later allowed to be represented by other lawyers of their choice from LSE, who did not have other pending cases of opposition supporters.

Babek Hasanov, who was arrested on 2 April, was reportedly denied legal counsel for three days. During this time, his family members and relatives sought but were denied the information about his whereabouts. He was released on 5 April, after the prosecution failed to provide any evidence supporting the allegation that he damaged a shop window when participating in the protest. However, he was arrested again on 8 April on the same charges, without any new evidence being provided.

Despite providing no grounds to conclude the activists would abscond or hinder the investigation, Azerbaijani courts ordered all but one activist, Fuad Gahramanli, to pre-trial detention for two months. In all the other cases, the court extended the pre-trial detention of the defendants by a further two months without giving the necessary justification as required

under the Criminal Code. Two defendants, Ahad Mammadli and Ulvi Guliyev, remained in detention even after their extended pre-trial detentions expired on 8 and 9 August respectively.

### **INEQUALITY OF ARMS AND THE PRESUMPTION OF INNOCENCE**

The right to be presumed innocent, one of the fundamental principles of fair trial under international law, requires that the defendants should be considered innocent until convicted by the appropriate tribunal. The burden of proof rests on the prosecution to establish, beyond reasonable doubt, the guilt of the defendants.<sup>69</sup>

On at least one occasion this requirement was significantly ignored. In its 25 August judgment, the Sabayl District Court when delivering its judgment on the six defendants, the court referred to Tural Abbasli, Arif Hajili, Mahammad Majidli, and Fuad Gahramanli, in respect of whom the judgment was still pending in separate proceedings as “active participants” in the 2 April protests and “guilty of committing the criminal acts outlined under Article 233 of the Criminal Code of the Republic of Azerbaijan”. While this was, perhaps, a mistake on the part of the Sabayl Court, it is a revealing one that is indicative of the lack of rigour and independence shown by the courts in these cases.

International human rights standards provide for the right of the accused to “examine, or have examined, witnesses against him”.<sup>70</sup> Defence lawyers maintain, however, that they were often denied the opportunity to challenge the conflicting or inaccurate testimonies or arguments presented by the prosecution as incriminating evidence, or present evidence of their own.

The defendants were also prevented from calling a number of key witnesses. Significantly, the six defendants sentenced on 25 August by the Sabayl court were denied their request to call representatives of the Baku City authorities in order to question the reasons for the denial of the requests to hold the protests applied for – despite this issue going to the heart of the charges against them.

### **FURTHER PROSECUTIONS OF OPPOSITION ACTIVISTS ON TRUMPED UP CHARGES**

In addition to those convicted in relation to their involvement in the protests, the authorities have also brought questionable criminal charges against Vidadi Isgandarov, a human rights defender, and opposition leader Shahin Hasanli. While the charges are not directly related to their participation in the protests, the timing of their arrests, as well as the dubious nature of the charges and the lack of incriminating evidence strongly suggest that they too were targeted and punished for their political activities and the peaceful exercise of their rights to freedom of expression and assembly.

### **VIDADI ISGANDAROV**

On 27 August 2011, and following an unfair trial, Goychay District Court sentenced human rights defender and former parliamentary candidate Vidadi Isgandarov to three years in prison for interfering with the 2010 parliamentary elections.

Vidadi Isgandarov was accused of forcing five people to vote against their will, interference with the work of the commission by stealing ballots from the table of the Chairman of the Election Commission and assaulting an individual at a polling station. He was found guilty

under Articles 159.3 (obstruction of voting), 160.1 (interference with the work of election commissions) and 132 (battery) of the Criminal Code of Azerbaijan.

Vidadi Isgandarov, the head of the Promotion of Democracy Defence NGO and a member of the umbrella opposition group the Public Chamber, has represented people against the state in several claims relating to extortion, corruption and police violence. He also took an active part in the March and April anti-government protests.

He was arrested on 17 April for participating in opposition protests and sentenced to 15 days' administrative arrest by the Nizami District Court.

On 2 May, his administrative detention ended but instead of releasing him the authorities brought criminal charges against him. Nizami District Court once again remanded Vidadi Isgandarov for two months pending his trial.

The criminal charges against him related to the November 2010 parliamentary elections, where he ran as an independent candidate for the Agdash-Goychay district. Having openly criticized the conduct of the elections, Isgandarov submitted a complaint and supporting video material to the office of the prosecutor alleging ballot rigging. However, instead of investigating the allegations, he was summoned to the prosecutor's office where he was told he was being investigated for electoral violations. The case was later dropped because of lack of evidence.

His lawyer, Akif Alizade, maintains that the criminal charges were filed without introducing any new evidence, as required.

According to Vidadi Isgandarov the accusation that he stole a ballot box in facts relates to his grabbing the ballot papers from the table of the electoral commission to demonstrate that they had been cancelled illegally. He was also accused of interfering in the work of electoral commission members in three polling stations when he was only present at two. Despite the conflicting testimonies on this and other materials of the case, the judge delivered a guilty verdict without requesting or viewing the video footage available from the polling stations.

There was also no evidence presented proving that Vidadi Isgandarov intimidated people and interfered with their free vote. The witnesses introduced by the prosecution as having been deprived of the ability vote denied the account or knowing the defendant at all.

Finally, the only witness who testified against him on charges of battery was found by the court to be mentally ill. His testimony, which was given in the absence of a doctor or appropriate counsel, ought, in accordance with the Azerbaijani Code of Criminal Procedure, to have been excluded.

Amnesty International believes that Vidadi Isgandarov, like many others protesting in the streets of Baku, was been detained and jailed solely for exercising his rights to freedom of expression and freedom of assembly. The timing of his arrest and the reopening a closed investigation strongly suggest that the primary motive behind his prosecution was to keep a prominent activist behind bars.

### **SHAHIN HASANLI**

Shahin Hasanli, managing board member of the Popular Front Party, was one of those arrested on 31 March prior to the 2 April opposition rally. According to his lawyer, four law enforcement officials in plain clothes broke into his house while he was sleeping. They made him put his jacket on, handcuffed him and drove him to the police station, where he was searched. Police allegedly discovered several Kalashnikov bullets wrapped in paper in the pocket of his jacket. Shahin Hasanli was charged with illegal possession of arms under Article 228 of the Criminal Code of Azerbaijan. On 2 April, Shamkir District Court ordered his pre-trial detention for one month.

He was convicted on 22 July and sentenced to two years' imprisonment for the possession of illegal arms.

According to his lawyer, Mansum Bayramov, no evidence was presented to the court to prove that Hasanli was in possession of the firearms at the moment of his arrest. The lawyer told Amnesty International that despite his requests, the bullets were not tested for fingerprints and no efforts were made to find the source of the bullets or question where they had come from. Similar to the case of Jabbar Savalan, the bullets on Shahin Hasanli were discovered after he was arrested and transferred to the police department in Shamkir District.

Shahin Hasanli, who was one of the main organizers behind the March and April protests, claims that the bullets were planted on him by the police at the time of his arrest and maintains that he has been targeted because of his political activities.

Once again, the timing of Hasanli's arrest a few days before the April protests, the nature of charges and the paucity of supporting evidence, all point strongly to the conclusion that his arrest was politically motivated.

Amnesty International considers both Vidadi Isgandarov and Shahin Hasanli to be prisoners of conscience, imprisoned solely for their beliefs and political activities and calls for their immediate release.

### **3.3 STIFLING CIVIL SOCIETY**

In addition to targeting youth activists and political opposition, the authorities have also clamped down on key segments of civil society. People and organizations capable of presenting any form of challenge to the authorities in terms of criticising the abuses or exposing violations – such as human rights defenders, organizations monitoring and promoting democratic reform, and journalists – have been targeted for their work and subjected to increased pressure, intimidation and harassment, since the protests earlier this year.

#### **ATTACKS ON JOURNALISTS**

On several occasions during the spring protests, police officers harassed and intimidated journalists. In many cases, this appeared to be a direct attempt on the part of the authorities to hinder or prevent journalists carrying out their work.

Amnesty International representatives present at the 11 March protest observed two journalists being ill-treated while covering the protests. Police kicked a reporter from Turan

news agency in the stomach when he was knocked to the ground, and a Radio Free Europe/Radio Liberty journalist was hit in the face as police tried to disperse the protest.<sup>71</sup>

On 2 April, according to the media reports, approximately 30 journalists working for various media outlets were intercepted by riot police near Fountain square in Baku. The journalists were not allowed to enter the square, and were thus prevented from photographing, filming or interviewing those taking part in the protests. In addition, the media rights organization, Reporters Without Borders, reported that around 10 media representatives including Mehman Kerimli, Elchin Hasanov, Shahvalad Choban Oglu, Zamin Haji, Sakit Zahidov and Zafar Guliyev, were manhandled and briefly detained. Several of them were allegedly beaten.<sup>72</sup>

A number of journalists have been briefly abducted, beaten and threatened in separate incidents.

On 26 March, Seymour Haziyeu, a journalist with opposition newspaper *Azadliq*, was abducted and beaten by six masked assailants. Seymour told Amnesty International that he was abducted as he was returning home from work to his village near Baku around midnight on 26 March. He said the masked men approached him in a minivan, covered his head with a sack and forced him into the vehicle. The men beat him inside the minivan, after which they drove him to a house 25 minutes away and continued beating him. They took both his mobile phones and damaged his laptop before releasing him around 2:30 a.m.

At a 28 March press conference in Baku, Seymour Haziyeu presented a medical certificate documenting the bruises to his chest and neck. Local human rights groups met with the Ministry for Internal Affairs, who say they have appointed a senior police officer to investigate the incident.

Seymour maintains that the attack against him is linked to his activities as an opposition activist, as well as critical articles he has written as a columnist for *Azadliq*. "They told me to be smart and live quietly like everyone else in this country or I might face a tragic outcome in the future", he said.

Seymour Haziyeu maintains that he has been threatened and beaten several times in recent years because of his articles criticizing President Ilham Aliyev. He told Amnesty International that he had previously been arrested for participating in an opposition rally in May 2010 and beaten at a police detention centre, where police officers threatened him with worse if he continued writing articles critical of the government.

Another *Azadliq* journalist, Ramin Deko was reportedly abducted on 3 April around 10 am by three men and taken to the Mashtagha area in Baku. The abductors forced him to sit in the car and took away and switched off his mobile phone. He was taken into an unidentified house, where he was allegedly questioned about his critical articles about the president, as well as his activities on social networks. He was reportedly advised "to be smart" or risk facing "serious consequences." He was released approximately six hours later.

Defying his abductors' warnings not to publicize the incident, Ramin Deko contacted several media outlets to report the incident of his abduction and pressure. On following day, when he was leaving work in Baku around 10pm, he was intercepted by two unidentified men. Ramin



told Amnesty International that two men hit him in the face and stomach and told him to be smart, before he managed to run away from them.

By October 2011, neither of these incidents relating to the harassment and ill-treatment of journalists had been effectively investigated and no one has been brought to justice.

Amnesty International calls on the Azerbaijani authorities to allow journalists to conduct their work in a manner consistent with international human rights law, and to allow them to cover ongoing events in the country without the threat of harassment or arrest.

#### HARASSMENT OF CIVIL SOCIETY ORGANIZATIONS

Between February and April 2011, while the spring protests were being planned and orchestrated, the Azerbaijani authorities stepped up pressure against both local and international NGOs working on democratic reform and human rights issues.

In March 2011, the Azerbaijani authorities closed five NGOs. Three local NGOs located in Ganja, the Election Monitoring and Democracy Studies Centre (EMDS) working on fair elections and civil society development; Demos Public Association, working on youth education and training on information technologies; and the Ganja Regional Information Centre, providing access to internet technologies for the youth were closed by the authorities without any formal explanation or apparent legal grounds. The branches of two international organizations were also shut down on the grounds of their alleged failure to comply with registration requirements

Other Baku-based NGOs also reported increased pressure by the authorities. Notably, the Institute for Reporters' Freedom and Safety (RIFS) employees reported increased police surveillance and harassment.<sup>73</sup>

On 4 March 2011 at 7pm, representatives of the Ganja regional administrative government came to the regional offices of the NGOs EMDS and Demos Public Association. The authorities demanded that the employees of both NGOs leave the premises immediately and hand the office keys over to the Nizami regional police department. No legal grounds or justification for the eviction was provided at the time; police referred simply to "instructions from above". According to reports from a member of one of the NGO's staff, local government representatives, with the help of police officers, forcibly evicted him from the office and confiscated all of the equipment. The same day, in a similar procedure, another NGO, the Ganja Regional Information Centre, was shut down and had their equipment confiscated in exactly the same manner.

On 10 March, the Azerbaijani branch of the Norwegian organization Human Rights House (HRH) received a letter from the Ministry of Justice demanding the organization cease operations on the grounds that it was in breach of the June 2009 amendments to the Law on Non-governmental Organizations, on account of having failed to conclude an agreement with the Ministry of Justice of their activities and operations in the country.

HRH was registered as an international branch of the Human Rights House Foundation in 2007. Consequently their registration was in compliance with the Azerbaijan legislation at the time of their registration.

The NGO received no prior warnings or notifications of it being in breach of any provisions of Azerbaijani law or regulations at any time prior to their de-registration notice being served. The legal amendments, which justified the closures, are vaguely worded and do not specify whether they apply to previously registered NGOs. Nor do they provide for retroactive application for registration.

Since opening in 2009, Human Rights House worked as a resource centre and had been a popular meeting place for youth organizations, human rights activists and journalists. The organization has been targeted by the authorities in the past. On 10 February 2011, shortly after hosting a press conference about the arrest and detention of opposition youth activist, Jabbar Savalan, police officers visited the NGO and threatened to evict them from their premises.

On 23 May 2011, Vugar Gojaev, Director of HRH, was summoned and interrogated by the Ministry of Internal Affairs. He was questioned in connection with a letter the authorities had received from the European Parliament, which raised concerns regarding the recent arrests of activists, and the closure of the HRH office in Baku<sup>74</sup>. Vugar Gojayev was questioned for four hours in relation to his providing information to international organizations. He was warned that the authorities were monitoring his activities and advised to “think carefully before taking decisions.”

Currently, despite the efforts of HRH to conclude an agreement with the Ministry of Justice and renew their registration, the organization’s registration remains suspended.

On 7 March 2011, the head of the National Democratic Institute (NDI) in Azerbaijan was given a letter of notice by the Ministry of Justice ordering that their office be shut down. The letter stated that the NGO had failed to register the organization in accordance with the law. In the last five years, NDI has requested registration with the Ministry of Justice several times, but has been refused each time.

That same day, shortly after NDI had received notification from the authorities, armed police reportedly entered the office and demanded the staff shut down all operations immediately. The office has since been closed and sealed.<sup>75</sup>

These seemingly arbitrary and unjustified closures took place at the same time as the spring protests which led to the arrest and imprisonment of dozens of activists, leading many to believe that moves were intended to silence not only the political opposition but also others who could speak about the abuses.<sup>76</sup>

## 4. CONCLUSIONS

Since 2009, and Amnesty International's last report on the respect for the freedom of expression in Azerbaijan (*Independent Journalists Under Siege*, Index: EUR 55/004/2009) the situation has deteriorated even further. Today, few critical voices are tolerated in Azerbaijan. Criticism of the state is regularly punished whether it is voiced through politics, journalism, satire, activism, education, or even social networking websites.

Intimidation, arbitrary detentions, beatings and criminal prosecutions all continue to be used to restrict the expression of views critical of the government.

Peaceful protest has effectively been criminalized through the restrictive interpretation of the law on freedom of assembly, and the imprisonment of peaceful protests.

The authorities of Azerbaijan have used their powerful state machinery, vague laws and compliant courts to weaken NGOs, opposition political parties and media outlets seeking to expose these violations and calling for change.

The cumulative effect of these practices, together with the long-standing impunity of the authorities for such actions, has been to foster a climate of fear and self-censorship in Azerbaijani society, which is stalling, indeed, reversing, the country's transition to a stable a democracy.

This crackdown on dissenting opinion and rival political and social platforms is being facilitated by a muted response from members of the international community.

The authorities of Azerbaijan must reverse this trend; its international partners should be more insistent in calling for it.

### RECOMMENDATIONS

Amnesty International calls on all relevant officials of Azerbaijan, including the President, the General Prosecutor, the Minister of Interior and the Minister of Justice to:

- End the harassment, intimidation, arbitrary detention and criminal prosecution of individuals and organizations legitimately exercising the right to freedom of expression to express critical or dissenting views;
- Immediately and unconditionally release all prisoners of conscience - those detained solely for the peaceful exercise of their rights - and ensure that anyone charged with offences relating to acts of violence committed during the course of protests is tried in fair and public proceedings in accordance with international standards;
- Ensure that all allegations of intimidation and harassment directed against youth activists, members and supporters of opposition political parties, journalists and civil society

representatives are fully investigated and the perpetrators brought to justice in accordance with international fair trial standards;

- Ensure that human rights defenders, lawyers and other civil society actors are able to carry out their legitimate activities without fear or threat of reprisal, obstruction or legal and administrative harassment; in particular allow the organizations arbitrarily targeted and shut down during the spring protests to resume their lawful activities;
- Decriminalise defamation; and ensure that civil defamation laws are not used to punish or prevent legitimate criticism of government or public officials;
- Ensure that all provisions regulating access to the internet fully comply with international law and standards protecting the right to freedom of expression, including the right to seek, receive and impart information;
- Allow independent TV and radio broadcasters to operate without unlawful restrictions and allow international media to resume broadcasting on national frequencies;
- Allow independent media outlets and journalists to operate freely, without fear of reprisal, unlawful restrictions and arbitrary prosecutions;
- Respect the rights to freedom of assembly of all its citizens and allow peaceful demonstrations to be organized in appropriate locations - generally within sight and sound of their target audience - with the necessary practical and security arrangements in place;
- Ensure that the Azerbaijan Law on Freedom of Assembly is implemented in accordance with international human rights standards, including taking measures to lift the effective ban on peaceful demonstrations in the centre of Baku;
- Refrain from the criminal prosecution of the organizers and participants of peaceful demonstrations;
- Conduct a thorough, independent and impartial investigation into the use of force by law enforcement officers during the dispersal and arrest of protesters in March/April 2011 demonstrations, and that any officials, including those who may have exercised command responsibility, found to have used arbitrary or excessive force against demonstrators or subjected anyone to torture or other ill-treatment, are brought to justice in accordance with international standards for fair trial;
- Conduct a thorough, independent and impartial investigation into all allegations of ill-treatment of those detained under both administrative and criminal charges in connection with their participation in the March/April protests;
- Ensure that all those arbitrarily detained and ill treated for their peaceful participation in the protests in March- April are offered appropriate redress.

Amnesty International also calls on international organizations as well as the governments of the United States of America, European Union, and other bilateral partners to:

- To place greater emphasis on the respect for human rights in their relations with the Azerbaijani authorities, including by raising documented cases of human rights violations with the Azerbaijani authorities;
- To call for the immediate and unconditional release of all the prisoners of conscience;
- To increase their support for the work of human rights defenders and independent civil society activists in Azerbaijan.

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- 1 Eynulla Fatullayev, "Может ли человек обрести свободу в несвободной стране?", Radio Azadlyg, 13 June 2011  
<http://www.radioazadlyg.org/content/blog/24233828.html> (accessed 21 September 2011)
  - 2 Transparency International's Global Corruption Barometer  
<http://www.transparency.az/news.php?item.30> (accessed 21 September 2011)
  - 3 Internal Displacement Global Overview of Trends and Developments in 2010  
<http://www.internal-displacement.org/publications/global-overview-2010.pdf> (accessed 21 September 2011)
  - 4 Azerbaijan: The contracting space for freedom of expression, (Index: EUR 55/003/2007) 24 January 2007  
<http://www.amnesty.org/en/library/info/EUR55/003/2007/en> (accessed 21 September 2011)
  - 5 Azerbaijan: Fair Trial Concerns in Cases associated with the 2005 Parliamentary Elections, (EUR 55/002/2006) 25 May 2006  
<http://www.amnesty.org/en/library/asset/EUR55/002/2006/en/fe63c8f9-d42a-11dd-8743-d305bea2b2c7/eur550022006en.html>  
(accessed 21 September 2011)
  - 6 BBC News, "Azeris end president's term limit", 19 March 2009, <http://news.bbc.co.uk/1/hi/7949327.stm> (accessed 21 September 2011)
  - 7 Azerbaijan: The contracting space for freedom of expression, (Index: EUR 55/003/2007) 24 January 2007  
<http://www.amnesty.org/en/library/info/EUR55/003/2007/en> (accessed 21 September 2011)
  - 8 According to the Azerbaijani authorities international arrest warrant has been issued for two Georgian citizens, who have been identified as suspects. However, the Georgian authorities reportedly deny that any formal request to take legal action against the suspects has been received.
  - 9 On 3 December 2008, the Ministry of Internal Affairs brought a defamation suite against her in connection with an interview with the news website [www.day.az](http://www.day.az), where she criticized authorities handling of the case of three missing girls. In her interview, among other issues, Leyla Yunus raised concerns about allegations that a senior police officer of the Devechi district had ordered the kidnapping of the girls.
  - 10 The European Court of Human Rights has examined several cases related to unfulfilled requests for registration of associations in Azerbaijan. For more info see:  
Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit to Azerbaijan from 1 to 5 March, 2010, Strasbourg, June 29, 2010,  
<https://wcd.coe.int/wcd/ViewDoc.jsp?id=1642017> (accessed 21 September 2011)
  - 11 The amendments were made to the Law on Non-governmental Organizations, the Law on Grants and the Code of Administrative Offences.
  - 12 Article 13 NGO Charter, Law on Non-Governmental Organizations of the Republic of Azerbaijan.  
<http://www.venice.coe.int/docs/2011/CDL-REF%282011%29049-e.pdf> (accessed 21 September 2011)

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13 Amendments to the Article 223-1 of the Administrative Code enacted in February 2009, increased fine for failure to submit a copy of each grant contract to the Ministry of Justice from 50 manats (\$US 62) to between 1,000–2,500 manats (\$US 1,240– \$US 3,100).

See NGO Sustainability Index - July 2010

[http://www.usaid.gov/locations/europe\\_eurasia/dem\\_gov/ngoindex/2009/azerbaijan.pdf](http://www.usaid.gov/locations/europe_eurasia/dem_gov/ngoindex/2009/azerbaijan.pdf) (accessed 21 September 2011)

14 A December 25 presidential decree instructed that NGOs must register grants with the Ministry of Justice before making any transactions with grant funds. New amendments to Article 223-1 of the Administrative Code were enacted in February, which increased the fine for failure to submit a copy of each grant contract to the Ministry of Justice from 50 manats (\$US 62) to between 1,000–2,500 manats (\$US 1,240– \$ US 3,100). See NGO Sustainability Index - July 2010

[http://www.usaid.gov/locations/europe\\_eurasia/dem\\_gov/ngoindex/2009/azerbaijan.pdf](http://www.usaid.gov/locations/europe_eurasia/dem_gov/ngoindex/2009/azerbaijan.pdf) (accessed 21 September 2011)

15 October 2009 Amendments to the Housing Code of Azerbaijan

16The Institute for Reporters' Freedom and Safety (IRFS), "Media Rights Institute being kicked out of office", 25 June 2009

<http://www.irfs.az/content/view/2503/2/lang.eng/> (accessed 21 September 2011)

17European Neighbourhood Journalism Network. Azerbaijan - Media Landscape

[http://www.journalismnetwork.eu/index.php/en/country\\_profiles/azerbaijan/](http://www.journalismnetwork.eu/index.php/en/country_profiles/azerbaijan/) (accessed 21 September 2011)

18 IREX, "Media Sustainability Index 2010: the Development of Sustainable Independent Media in Europe and Eurasia," p. 128,

[http://www.irex.org/programs/MSI\\_EUR/2010/EE\\_MSI\\_2010\\_Azerbaijan.pdf](http://www.irex.org/programs/MSI_EUR/2010/EE_MSI_2010_Azerbaijan.pdf), (accessed 17 August 2010)

19 IREX, "Media Sustainability Index 2010: the Development of Sustainable Independent Media in Europe and Eurasia,"

[http://www.irex.org/programs/MSI\\_EUR/2010/EE\\_MSI\\_2010\\_Azerbaijan.pdf](http://www.irex.org/programs/MSI_EUR/2010/EE_MSI_2010_Azerbaijan.pdf), (accessed 17 August 2010)

20 Out of 23 TV stations, eight are national, fourteen regional and thirteen cable. IREX, "Media Sustainability Index 2010: the Development of Sustainable Independent Media in Europe and Eurasia,"

[http://www.irex.org/programs/MSI\\_EUR/2010/EE\\_MSI\\_2010\\_Azerbaijan.pdf](http://www.irex.org/programs/MSI_EUR/2010/EE_MSI_2010_Azerbaijan.pdf), (accessed 17 August 2010)

See also: Today.Az., "Azerbaijan to begin inspections to issue licenses to three channels", 7 June 2011,

<http://www.today.az/news/society/87660.html> (accessed 27 June 2011)

21 On 24 November 2006 the most watched independent TV channel in Azerbaijan, ANS was denied the extension of its license by the NTRC. The channel was banned but resumed after three weeks. Their licence was extended for six month in April 2007 as a result of the international pressure.

Council of Europe: Parliamentary Assembly, "Honouring of Obligations and Commitments by Azerbaijan", 30 March 2007, Doc.

11226, available at: <http://www.unhcr.org/refworld/docid/462890fb2.html> (accessed 11 October 2011)

<http://assembly.coe.int/Documents/WorkingDocs/Doc07/EDOC11226.pdf>

22 IREX, "Media Sustainability Index 2010: the Development of Sustainable Independent Media in Europe and Eurasia,"

[http://www.irex.org/programs/MSI\\_EUR/2010/EE\\_MSI\\_2010\\_Azerbaijan.pdf](http://www.irex.org/programs/MSI_EUR/2010/EE_MSI_2010_Azerbaijan.pdf), (accessed 17 August 2010)

23 Council of Europe, Committee of Ministers, "Recommendation Rec (2000)23 of the Committee of Ministers to member states on the independence and functions of regulatory authorities for the broadcasting sector" 20 December 2000,

<https://wcd.coe.int/ViewDoc.jsp?id=393649&Lang=en> (accessed 21 September 2011)

24 IREX, "Media Sustainability Index 2010: the Development of Sustainable Independent Media in Europe and Eurasia," [http://www.irex.org/programs/MSI\\_EUR/2010/EE\\_MSI\\_2010\\_Azerbaijan.pdf](http://www.irex.org/programs/MSI_EUR/2010/EE_MSI_2010_Azerbaijan.pdf), (accessed 17 August 2010)

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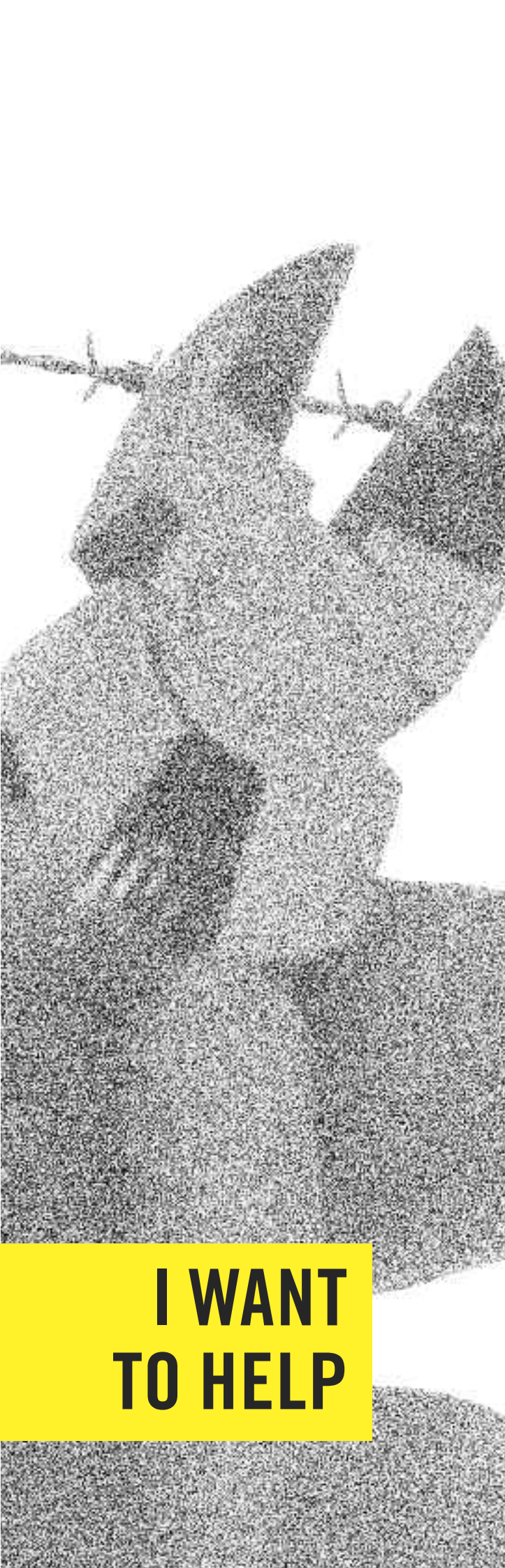
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## THE SPRING THAT NEVER BLOSSOMED FREEDOMS SUPPRESSED IN AZERBAIJAN

The rights to freedom of expression and assembly in Azerbaijan are severely restricted. In spite of this, youth activists, political opposition parties and others organized public protests in March and April 2011, demanding more freedoms and regime change.

But a new wave of repression and intimidation started; the Azeri authorities crushed these signs of popular protest at their roots. The police carried out well-publicized arrests, beatings and imprisoned activists and opposition politicians. This sent a chilling message to the dissenting voices.

This report focuses on the recent wave of intimidation and arrests prior to, during and after the protests in the spring of 2011. It includes cases where people face harassment, ill-treatment, arbitrary arrests and imprisonment after unfair trials. It shows how human rights organizations were closed down by the authorities and pro-opposition journalists were beaten and threatened.

Amnesty International calls for an end to restrictions on freedom of expression and assembly. There should be an immediate end to the intimidation of activists and immediate release of those imprisoned for peacefully exercising their rights.

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