



Azerbaijan Elections and After

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Introduction

Respect for human rights in the November 2005 parliamentary elections in Azerbaijan fell far short of international standards, with serious violations occurring both prior to and on election day. These shortcomings once again underscored the urgent need for major reforms in the areas of freedom of expression and assembly, the electoral law and its implementation, and accountability mechanisms.

The international community has called for investigations into election day irregularities, and the government of Azerbaijan has taken some positive steps in response. While crucially important, these steps are limited, and cannot undo the fundamental problems that plagued the run-up to the elections. Therefore, the challenge for the government of Azerbaijan and the international community now lies in ensuring that before the next major vote—the presidential election of 2008—the necessary reforms are carried out so that the election can be truly free and fair.

The Pre-Election Campaign

As Human Rights Watch documented in the briefing paper “Azerbaijan Parliamentary Elections 2005: Lessons Not Learned,”¹ interference with opposition campaigns overshadowed the steps the government took to improve the election environment. As a result, the elections were not free or fair even before the first vote was cast.

Before the elections, the government had adopted in May a decree on improving the electoral process, including requiring local government authorities to ensure that the elections were carried out in a democratic manner and instructing them to refrain from illegal interference in the electoral campaign. However, the decree was not adequately implemented. Although decisions on registration of candidates were made without party-based bias (a problem in previous elections), after the campaign began significant irregularities and serious human rights violations occurred. These included the following:

- Opposition party members who attempted to gather for rallies or meetings that were not authorized by the authorities were subjected to mass arrests and beatings.
- Police detained campaign workers for opposition and independent candidates, and warned them to stop their political work.² On numerous occasions, campaign workers who were putting up campaign posters were detained, charged with public order offenses, and sentenced to several days in prison.
- Officials exerted pressure on government workers, particularly teachers, to attend the ruling Yeni Azerbaijan Party (YAP) candidates’ meetings with voters.
- Television was overwhelmingly biased in favor of the government (although the requirement to provide free airtime to candidates from all major parties and

¹ Information in this section is based on research outlined in Human Rights Watch’s briefing paper “Azerbaijan Parliamentary Elections 2005, Lessons Not Learned,” October 31, 2005.

² As with the arrests of opposition activists during unauthorized rallies, police used their powers under the Administrative Code to detain campaign workers and accuse them of public order offenses, which can be punished by up to fifteen days in prison.

blocs was honored).

On October 25, less than two weeks before election day, President Ilham Aliev signed an executive order implementing several longstanding recommendations of the United States, European Union, Organization for Security and Cooperation in Europe (OSCE), and the Council of Europe, including inking of voters fingers with invisible ink (a measure to deter multiple voting), and lifting the ban on observers from nongovernmental organizations that receive foreign funding.³ However, concerns that their late introduction would mean that the measures would have little effect were borne out on election day itself, and other election day violations rendered the measures largely meaningless (see below).

The government used allegations of coup d'etat plots (the veracity of which could not be judged by Human Rights Watch) to influence the elections, arresting in one case three youth movement members, and in another about a dozen high-level government officials and opposition supporters.

Election Day

Election day was marred by numerous irregularities throughout the country. Local and international observers documented serious electoral violations, including incidents of ballot box stuffing, repeat voting, and tampering with results protocols. As had been predicted given the lateness of its introduction,⁴ inking of voters' fingers was haphazard and in some cases the checking procedures were not carried out at all. Government officials interfered in the voting process and attempted to influence voters. For example, there were reports of local government officials standing outside some polling stations, instructing people who to vote for. The heads of local election commissions, all members of the ruling Yeni Azerbaijan Party, refused to accept written complaints from independent and opposition observers and opposition commission members, intimidated them, and called in the police to arrest them. In several districts police reportedly removed opposition and independent observers during the vote count, and police officers participated in the count itself.⁵

Post-Election Period

After the elections, the OSCE, the Council of Europe, the U.S., the E.U., and others released statements critical of the authorities' handling of the elections.⁶ The U.S. and

³ See Human Rights Watch, "Update to 'Azerbaijan Parliamentary Elections 2005, Lessons Not Learned,'" November 3, 2005.

⁴ Ibid.

⁵ See International Election Observation Mission OSCE/ODIHR, "Statement of Preliminary Findings and Conclusions," Parliamentary Election – Republic of Azerbaijan – 6 November 2005; Norwegian Helsinki Committee, Statement, Baku, November 7; Election Monitoring Center, "Preliminary Conclusions on the election day monitoring of the third elections to the Mili Majlis of the Republic of Azerbaijan, held on November 6, 2005," Baku, 2005; and Coordinating Advisory Council "For Free and Fair Elections," "Statement of the Coordinating Advisory Council 'For Free and Fair Elections,' On the parliamentary elections held On the 6th of November, 2005," November 7, 2005. A Human Rights Watch researcher also observed election day voting and gathered information from other international and local observers in several regions of the country.

⁶ See, for example, "Azerbaijan Parliamentary Elections," press statement of the U.S. State Department, presented by Adam Ereli, Deputy Spokesman, Washington D.C., November 7, 2005; and "Statement by the Presidency of the European Union on the Preliminary Findings and Conclusions of the OSCE/ODIHR

others put pressure on Azerbaijan to investigate complaints of fraud on election day and to take corrective action. In response, the government revised the results in several districts and promised to investigate other allegations of fraud (although government officials maintained that overall the elections had been carried out democratically).⁷ President Aliiev also reportedly fired several local government officials implicated in electoral violations, and police arrested four others.⁸

Fears of widespread clashes between opposition protesters and the police, as had happened after the 2003 presidential election, did not materialize. The authorities continued to limit freedom of assembly, refusing to authorize several rallies proposed by the opposition and not allowing any in the center of the capital, Baku. Opposition parties generally opted to hold protest rallies in compliance with government restrictions on place and time, and thus avoided violent dispersal,⁹ although police reportedly used force to break up several small unauthorized opposition gatherings.¹⁰ At the time of the authorized opposition rallies, police closed off the streets in a wide radius around the January 20 metro station and Galaba theatre square, where the rallies took place.¹¹

In some parts of the country police put pressure on opposition members not to go to Baku at the time that rallies were held, arresting at least one of them and putting others under surveillance.¹² In Zagatala police reportedly arrested fifteen participants of an opposition rally held locally on November 13, and a local court sentenced two of the participants to seven and ten days respectively in prison for public order offenses.¹³ Government officials and employees also put pressure on students at state-run higher education institutions not to attend opposition rallies and to attend a YAP rally on November 10.¹⁴

International Election Observation Mission for the Parliamentary Elections in Azerbaijan," November 7, 2005. In contrast, Russia and Iran were reported as stating that the elections were held in a free and fair manner.

⁷ The results in several districts were overturned, and opposition candidates who on initial results had lost the vote were then declared the winners. Nevertheless, President Aliiev was quoted by local media as saying that the elections had been conducted in a democratic atmosphere and expressed the will of the people, although he admitted that there had been irregularities in two districts, and ordered an investigation into this. See "Ilham Aliyev Promises to Punish People Responsible for Falsification of Elections," Turan Information Agency, November 8, 2005.

⁸ "The Head of Administration of Surakhani District of Baku and of Sabirabad Region of Azerbaijan Have Been Dismissed from their Posts for Interference in the Process of Elections," Turan Information Agency, November 10, 2005; "Prosecutor Office of Azerbaijan Detained Four Representatives of Election Commission Suspected for Falsification of the Results Elections," Turan Information Agency, November 10, 2005.

⁹ Human Rights Watch interview with member of the diplomatic community, Baku, November 10, 2005. See also "Opposition rally on November 18 not permitted for the request for it being submitted late," Today.az news website, November 15, 2005, [online] <http://www.today.az/news/politics/21295.html> (retrieved November 15, 2005); "Supporters of Isa Gambar Have Held Picket in Front of the Election Commission," Turan Information Agency, November 14, 2005; and "Next Rally of Opposition Will Take Place in Saatli and Nardaran," Turan Information Agency, November 15, 2005.

¹⁰ "Supporters of Isa Gambar Have Held Picket in Front of the Election Commission," Turan Information Agency, November 14, 2005; "Azerbaijani President Fires Another Local Governor," Radio Free Europe/Radio Liberty, November 25, 2005.

¹¹ A Human Rights Watch researcher observed this on November 9, 2005.

¹² Human Rights Watch telephone interviews with opposition members, Lenkoran, November 6-9, 2005.

¹³ "Opposition in Zagatala Will Continue the Actions of Protest," Turan Information Agency, November 14, 2005; "Azerbaijani President Fires Another Local Governor," Radio Free Europe/Radio Liberty, November 25, 2005.

¹⁴ Human Rights Watch telephone interviews with a youth opposition member, Baku, November 9, 2005, and with an NGO member, Baku, November 16, 2005. See also "Students and Teachers of Baku State University Threatened with Dismissal for Participation at Demonstration," Turan Information Agency, November 9, 2005; and "The Ruling Party 'Yeni Azerbaijan' Has Held the Rally-Concert," Turan Information Agency, November 10,

Recommendations

Human Rights Watch calls on the government of Azerbaijan to conduct impartial and thorough investigations into all reports of irregularities that occurred on election day, and to take corrective steps. This process should not be limited to a few high profile cases, as at present. Those responsible for abuses during the pre-election period and on election day should be held accountable. The international community should insist that the government take these steps.

We also call on the government to implement, in a timely manner, a series of reforms to ensure that the election in 2008 will be free and fair. We call on the U.S., E.U., OSCE, and Council of Europe to work with Azerbaijan to implement the following benchmarks, within a regulated timeframe:

Freedom of Assembly and Other Political Rights

- Amend the Law on Freedom of Assembly so that the authorities' possibilities to restrict the time and place of public gatherings are in accordance with international standards;
- End the practice of intimidating opposition activists in the regions against traveling to Baku to attend rallies;
- Thoroughly and impartially investigate the police use of disproportionate force and other abuses when dispersing unauthorized rallies;
- Investigate the role of local government authorities and police in interfering in the election campaign process, and hold accountable all officials found to have abused their powers, including the police use of administrative detention as a means of harassing opposition supporters;
- End the practice of administrative detention, which is used as a means to harass and intimidate opposition supporters, and amend the Administrative Code to this effect;
- Promptly bring to trial according to international standards those accused of attempting a coup d'etat, and ensure that the trials are open so they can be monitored by international experts. If they are not brought to trial, they should be released.

Election Day Redress

- Thoroughly and impartially investigate all complaints of election fraud or falsification, hold accountable officials found responsible, and take appropriate remedial steps to ensure that the election in relevant districts properly reflects the will of the voters;
- Amend the Election Code and other relevant legislation to change the composition of the Central Election Commission and lower-level commissions to end the government control of these bodies, in line with OSCE recommendations following the October 2003 presidential election in Azerbaijan.

Media Diversity and Freedoms

- Set up a parliamentary commission or other body to investigate informal censorship. The body should work with the OSCE Special Representative on Freedom of the Media to produce a program of action to improve press freedom in the country;
- Ensure that the public television station is genuinely independent, in accordance with Azerbaijan's commitments and obligations stemming from membership in the Council of Europe;
- Create a new broadcast licensing system that has an independent decision-making body, a transparent process, and clear criteria for issuing broadcasting licenses.