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Azerbaijan's Human Rights Situation Prior to the Election

Commission for Security and Cooperation in Europe

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Thank you, Chairman Hastings and the other members of the Commission, for allowing me to submit this written statement. Human Rights Watch welcomes the opportunity to submit our main concerns and recommendations for this hearing on Azerbaijan. The Commission's hearing is an important opportunity to candidly assess the shortcomings that continue to mar the Azerbaijani government's human rights record, and to encourage the Azerbaijani authorities to undertake concrete steps to address them prior to the October 2008 Presidential Elections.

The upcoming presidential elections in Azerbaijan are an important test to the integrity of the country's democratic institutions and its commitments to international human rights standards. The elections also provide an important opportunity for the United States to constructively engage with the Azerbaijani leadership to resolve some of the long-standing human rights problems in the country.

Human Rights Watch has a long record of work on Azerbaijan that dates back to the country's independence. Since 2000 we have done extensive research on election-related abuses in Azerbaijan and published several reports and other documents documenting violent suppression of opposition demonstrations, persecution of political opponents, election day irregularities, and other abuses.¹ We were on the ground to document abuses during the 2003 presidential and 2005 parliamentary elections and engaged with the Azerbaijani authorities, urging them to address urgent human rights concerns. Since the last elections, we have continued to document serious abuses, including persecution of

¹ See *Crushing Dissent: Repression, Violence and Azerbaijan's Elections*, vol. 16, No 1(D), January 2004, <http://hrw.org/reports/2004/azerbaijano104>; and *Azerbaijan Elections and After*, A Human Rights Watch Briefing Paper, November 18, 2005, <http://hrw.org/backgrounder/eca/azerbaijan1105/azerbaijan1105.pdf>.

journalists, torture by law enforcement officials, and attacks on non-governmental organizations and human rights defenders.

As the presidential elections in Azerbaijan are fast approaching, we are pleased to be able to share our main concerns and recommendations with the Commission.

Main Concerns:

Human Rights Watch is particularly concerned about rapidly deteriorating media freedoms in Azerbaijan and the closure of the country's main independent election monitoring organization. These developments will negatively impact the upcoming presidential elections in October and compromise the freedom and fairness of the vote. Other concerns include: torture in police custody, politically motivated arrests and prosecutions, harassment and intimidation of human rights defenders and violations of freedom of assembly.

- Human Rights Watch is concerned that the Azerbaijani government has used **libel, defamation and other criminal charges to intimidate independent and opposition journalists**, some of whom have also been physically attacked by unknown assailants. By the end of 2007, nine journalists were imprisoned in Azerbaijan for defamation and other criminal charges. Although President Aliyev pardoned five of these journalists, four remain in prison. They are:
 - Eynulla Fatullayev, the outspoken founder and editor-in-chief of two newspapers – *Realny Azerbaijan* and *Gundelik Azerbaijan* – who was convicted in October 2007 for fomenting terrorism and other dubious criminal charges and sentenced to eight and a half years in prison. His sentence was upheld by the Baku Appellate Court on January 16. The terrorism charges derived from an article Mr. Fatullayev wrote arguing that the government's Iran policy might make Azerbaijan vulnerable to attack from Iran and speculating what targets for attack might be. Such expression is legitimate political commentary, and is speech that is protected under article 10 of the European Convention on Human Rights and article 19 of the International Covenant on Civil and Political Rights. Six months prior to the October 2007 conviction, Mr. Fatullayev had been sentenced to two and a half years in prison on charges of libel and insult for an internet posting, which he denied writing. Both newspapers founded by Mr. Fatullayev, which had the largest circulations among print outlets in the country, were effectively shut down in

May 2007, after Emergency Ministry and National Security Ministry personnel evicted staff from the papers' premises, confiscated computer hard drives, and sealed their offices shut.

- Mirza Sakit, a reporter and satirist for the daily *Azadlyg*, who is serving a three year prison sentence on dubious charges of narcotics possession.
 - Ganimed Zahid, editor-in-chief of *Azadlyg* who was arrested in November 2007 and sentenced to four years in March 2008 on hooliganism charges, which local and international observers consider spurious; and
 - Mushfig Husseinov, a *Bizim Yol* newspaper journalist who was sentenced to six years in prison in January 2008 and prohibited from engaging in journalistic work for two years on questionable extortion charges, which local NGOs believe were the result of entrapment. In April 2008 the appeal court reduced Mr. Husseinov's prison sentence to five years and left the prohibition unchanged.
- The Azerbaijani government has also **failed to meaningfully investigate numerous reports of violence and threats of violence against opposition and independent journalists.**
 - In March 2008 four unknown assailants attacked and stabbed in the chest Agil Khalil, a correspondent with *Azadlyg*, a newspaper critical of the Azerbaijani authorities. A month earlier Mr. Khalil had been attacked and beaten by two security officers while doing investigative work. Despite video and photographic evidence of the incident the prosecutor's office refused to investigate further. After the prosecutor's office closed the file against the two offending officers, a government-sponsored media campaign was waged to discredit Mr. Khalil. A national television station broadcast footage claiming Mr. Khalil is gay and had been stabbed by a jealous ex lover, Sergei Strekalin. On July 15, 2008, a Baku district court sentenced Mr. Strekalin to one and a half years for the stabbing of Mr. Khalil, to which he confessed. The court decision allegedly "proved" that Khalil was attacked not because of his journalism, but for personal reasons.
 - In April 2007 unknown assailants attacked *Realny Azerbaijan's* Uzeir Jafarov, who sustained serious injuries. At least two other journalists, Hakimeldostu Mehdiyev and Suhayla Gamberova, were hospitalized with injuries they sustained following assaults in 2007 related to their work.
 - It is unfortunate that over three years later, the prominent case of Elmar Huseynov, editor in chief of journal *Monitor*, who was murdered in March 2005, remains unresolved.

- Human Rights Watch is alarmed about the recent **closure of the Election Monitoring Center (EMC)**, an independent domestic monitoring organization that worked in partnership with the U.S.-based National Democratic Institute, a non-partisan, non-governmental organization promoting election transparency and fairness worldwide. On May 14, the Khatai District Court of Baku found the EMC in violation of registration laws and ordered the EMC's liquidation. The EMC was founded in 2001 and had overseen election observers in six elections in Azerbaijan and planned to conduct election observation during the October 2008 presidential elections. The EMC's registration had been granted only on February 12, 2008, after being denied six times. However, less than three months later, on April 29, the Ministry of Justice initiated legal proceedings against the organization claiming that EMC had given inaccurate information about its founders and legal address, and opened eight local offices in the regions without informing the ministry. The decision to immediately cancel the registration and liquidate the organization, rather than issue a warning and allow EMC to correct any mistakes in the registration, suggests that the action is politically motivated.
- Another well-documented area of concern in Azerbaijan is the problem of **torture**. NGOs regularly receive reports of torture, particularly in police lockups. Emblematic of this problem is a case Human Rights Watch has been closely monitoring involving three teenage boys convicted in June 2007 of murdering another boy. The boys all stated repeatedly, including at trial, that they were subjected to severe beatings and other forms of torture and ill-treatment by police and investigators in March 2005. The main evidence against the boys were the coerced confessions and incriminating statements against one another about participation in the murder, which they all maintained none of them committed. The government failed to conduct a meaningful investigation into these and other allegations of abuse.
- The existence of **political prisoners** is another long-standing problem in Azerbaijan. Although some progress was made in this regard in 2004-2005, the problem persists and tends to worsen during election cycles, as the government seeks to incapacitate its most serious rivals. For instance, in advance of the November 2005 parliamentary elections, authorities arrested dozens of high-profile government officials, businessmen, and opposition politicians on allegations of an attempted coup. Most prominent among them are the former Economic Minister Farhad Aliyev and his brother Rafiq Aliyev, the former president of the Azpetrol oil company, as well as a former Health Minister Ali Insanov. The Court for Serious Crimes sentenced Farhad Aliyev to ten years in prison on October 31, 2007 and his brother to nine years. Ali Insanov was sentenced to 11 years in April 2007. Appeals did not alter the decisions. Parts of their trials were

completely closed and lawyers have cited numerous procedural violations, raising serious concerns about the fairness of the trials.

- **Human rights defenders in Azerbaijan have been subjected to physical and verbal attacks and other forms of pressure and harassment**, including public smear campaigns on television and in the print media. In the past two years, staff of the Institute for Reporter Freedom and Safety (IRFS), an outspoken media monitoring organization, have been subjected to beatings by police, arbitrary detentions, harassment and surveillance by security officials. In the most recent incident, on June 14, Emin Huseynov, the IRFS chairman, was detained together with two of his colleagues while they carried out their work as journalists. While in custody, Mr. Huseynov was threatened and subjected to verbal abuse before a police officer hit him on the back of the neck with a gun. Huseynov was released shortly afterwards, but lost consciousness after he left the police station and was hospitalized with severe head trauma. He remained hospitalized for 24 days and has still not recovered fully.
- Human Rights Watch has received numerous complaints of continuing **violations of freedom of assembly** by the Azerbaijani government. Several times this year, police have prevented political parties from organizing public rallies in the run-up to the presidential polls. Most recently, on July 11, Baku's district police prevented the opposition Musavat party's attempt to organize a rally in front of the city's municipality to protest violations of freedom of assembly; eight people were detained briefly. Police prevented another attempted Musavat Party demonstration on June 17, briefly detaining 16 party members and two opposition journalists. In other incidents, police have also prevented journalists and human rights activists from gathering to protest government pressure on media and suppression of freedom of expression.

As part of its dialogue with the Azerbaijani authorities, the United States Government should advance concrete and measurable reform steps that would significantly improve the human rights climate in the run-up of the October presidential elections in Azerbaijan.

These reforms should include the following steps:

- Immediately and unconditionally **release the remaining journalists** from prison and take a number of resolute steps to show the government's commitments to freedom of expression in the run-up to the presidential elections;
- **Repeal the criminal libel law.** As a minimum, interim step, the government should announce a moratorium on further use of it. Civil remedies with a reasonable monetary cap, not criminal prosecutions, should be available in cases of libel;

- **Initiate a criminal case on the fact of assault against *Azadlyg* journalist Agil Khalil by security officials and hold perpetrators accountable; Conduct effective investigations into the murder of Elmar Huseynov and all incidents of violence or threats of violence against journalists;**
- **Re-register the Election Monitoring Center (EMC) and refrain from creating any impediments to domestic observation of the October 15 Presidential polls in the country.**
- **Refrain from the use of arrest and prosecution to silence political opposition.**
- **Investigate all allegations of torture and ill-treatment of detainees and hold perpetrators accountable. Make a statement at the highest level condemning torture and ill-treatment;**
- **Publicly condemn harassment of civil society members and thoroughly investigate all physical attacks against human rights defenders. Investigate the police violence against IRFS chairman, Emin Huseynov, and hold perpetrators accountable;**
- **Respect freedom of assembly and allow for greater freedom of expression including through public gatherings in the run-up to the presidential polls;**
- **Investigate all cases of use of excessive force by law enforcement during demonstrations.**

Thank you very much for considering our information and recommendations. I remain at your disposal should the Commission request anything further on these issues or on the human rights situation in Azerbaijan more broadly.

For additional Human Rights Watch reporting on Azerbaijan, please see:

- Human Rights Watch's Submission on Azerbaijan to the European Commission's ENP Progress Report
<http://hrw.org/english/docs/2008/01/24/azerba17874.htm>
- Azerbaijan: Outspoken Editor Sentenced to Eight Years and Six Months
<http://hrw.org/english/docs/2007/10/30/azerba17204.htm>
- Letter to EBRD on Country Strategy Review for Azerbaijan
<http://hrw.org/backgrounders/eca/azerbaijan0907/>
- Letter to President Aliyev Urging Journalists' Release
<http://hrw.org/english/docs/2007/08/15/azerba16693.htm>