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HARASSED, IMPRISONED, EXILED

Azerbaijan's Continuing Crackdown on Government Critics, Lawyers,
and Civil Society



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Printed in the United States of America

ISBN: 978-1-6231-34136

Cover design by Rafael Jimenez

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Summary

The government of Azerbaijan continues to wage a vicious crackdown on critics and dissenting voices. The space for independent activism, critical journalism, and opposition political activity has been virtually extinguished by the arrests and convictions of many activists, human rights defenders, and journalists, as well as by laws and regulations restricting the activities of independent groups and their ability to secure funding. Independent civil society in Azerbaijan is struggling to survive.

In late 2015 and early 2016 the authorities conditionally released or pardoned a number of individuals previously convicted on politically motivated charges, including several high-profile figures whose arrests and convictions had drawn vocal criticism from governments, intergovernmental organizations and nongovernmental groups (NGOs). Many have sought to frame the releases as an indication of a shift in the government's punitive attitude towards independent civil society activists and groups.

However, even as the government released some activists, bloggers, and journalists, authorities have arrested many others on spurious criminal and administrative charges to prevent them from carrying out their legitimate work. None of those released had their convictions vacated, several face travel restrictions, others left the country fearing further politically motivated persecution, or had to halt their work due to almost insurmountable bureaucratic hurdles hampering their access to funding. Authorities have also harassed the relatives of those attempting to carry out their activism from abroad, in some cases by bringing criminal charges against them. Numerous lawyers representing government critics in legal proceedings have been disbarred on questionable grounds, apparently to prevent them from carrying out their work.

Based on more than 90 in-depth interviews with lawyers, nongovernmental organizations (NGOs), journalists, youth group members, political party activists, and relatives of these people, as well as detailed analysis of numerous laws and regulations pertaining to the work of NGOs, this report documents the government's concerted efforts to paralyze civil society and punish those who criticize or challenge the government through prosecutions and legal and regulatory restrictions.

Abuse and Imprisonment of Government Critics

Following a well-established pattern from 2013 to 2015, in 2016 Azerbaijani authorities used a range of false, politically motivated criminal charges, including drug possession and illegal business activity to arrest at least 20 political and youth activists. Those detained have often been subject to ill-treatment including torture. For example, youth activists Giyas Ibrahimov, 22, and Bayram Mammadov, 21, are currently in detention awaiting trial on charges of drug possession, having signed false confessions under torture. Baku police detained Ibrahimov and Mammadov on May 10, 2016 after identifying them through CCTV footage as having painted graffiti on a statue of former president Heydar Aliyev, father of the current president. Police ordered the men to publicly apologize, on camera, in front of the monument, in exchange for their release. When they refused, police beat them, forced them to take their pants off, and threatened to rape them with truncheons and bottles. They signed the confessions after this.

In another case, in November 2015, security officials detained 68 people in Nardaran, a Baku suburb known for its Shia religious conservatism and vocal criticism against the government. Among them was Taleh Bagirov, a religious scholar, imam, and leader of the “Muslim Unity” public movement. Bagirov and 17 others are on trial, facing charges of terrorism, attempted coup, illegal weapons possession, and homicide. All the men alleged at trials that police repeatedly beat them to compel confessions and testimony. Authorities denied the allegations and did not investigate.

Since August 2016, the authorities have also accused some activists of possessing banned or potentially illegally imported materials related to Fethullah Gülen, the US-based cleric whom Turkey accused of organizing the failed July 2016 coup attempt there.

The authorities also used detention of up to 30 days to harass political and social media activists, on spurious misdemeanor charges of resisting police orders or petty hooliganism. The authorities used such tactics in particular against those involved in organizing, participating in, or vocally showing support for public protests against a controversial September constitutional referendum to expand presidential powers. Officials also targeted several political opposition activists who had criticized the country’s economic deterioration at the time when protests linked to economic concerns were taking place in several different cities from December 2015 to February 2016.

Numerous activists convicted in politically motivated trials from 2013 to 2015 remain unjustly imprisoned, including Ilgar Mammadov, whom the European Court of Human Rights found in 2014 had been imprisoned in retaliation for his criticism of the government, and whose immediate release has been repeatedly called for by the Committee of Ministers.

Decimating Civil Society

For many years Azerbaijan had a large and vibrant community of nongovernmental organizations devoted to such public policy issues as human rights, corruption, democracy promotion, revenue transparency, the rule of law, ethnic minorities, internally displaced persons, religious freedom, and the like. However, prosecutions of NGO leaders and new draconian laws and regulations have decimated civil society by virtually eliminating the space for the work of critical NGOs, particularly for those working on human rights, transparency, and government accountability.

New rules require both the donor and the grantee to separately obtain government approval of each grant under consideration. Whereas previously, registration of grants essentially served a notification purpose, the Ministry of Justice and other agencies now have broad discretion to deny NGOs requests to register grants. NGOs and their staff risk criminal sanctions, including lengthy prison terms, for failure to abide by the grant registration regime. The government frequently denies registration to NGOs working on human rights, accountability, or similar issues on arbitrary grounds.

The laws also require foreign entities to obtain government permission to act as a donor in Azerbaijan, to register a presence in the country, and to obtain approval for each grant. The rules give the Ministry of Finance broad discretion to reject grants on 10 different grounds including on grounds that the ministry does not consider a grant to be financially “expedient” or that there is sufficient state funding in the grant’s proposed area of activities.

Just prior to the passage of the new restrictive laws, the General Prosecutor’s Office initiated a sweeping criminal investigation involving dozens of international donors operating in Azerbaijan and their grantees. The charges related to unregistered grants, although at the time, there was no criminal penalty for issuing or receiving an unregistered grant. As part of this investigation, the government seized bank accounts of domestic NGOs receiving grants from those donors under investigation. The donors were forced to

stop their grant-making activities in Azerbaijan, eliminating key sources of funding for many independent civic groups. The majority of international donor agencies and organizations left Azerbaijan in the wake of the investigation and expanded government regulation. In early 2016 the broad criminal investigation was suspended, but not closed.

With the suspension of the investigation, the government unfroze the bank accounts of many groups. However, the act of unfreezing the accounts has not made it easier for the groups to operate, due to the obstacles to securing independent funding, as well as, in many cases, exorbitant tax fines.

Given the extent to which many local groups are dependent on international donor organizations for funding and other support, the cumulative effects of the government policy have been devastating. Anar Mammadli, director of the Election Monitoring and Democracy Studies Center, sentenced in 2015 on spurious charges related to economic crimes and released under a presidential discretion in March 2016, grimly summarized the situation for his work: “So, yes, we are free, but what can we do?! The only space for us now is on social media...or else, leave the country,” he told Human Rights Watch in September 2016.

Harassing Family Members and Targeting Lawyers

The Azerbaijani authorities have also arrested, prosecuted, and harassed activists’ family members with the apparent aim of compelling the activists to stop their work. The authorities have often targeted the relatives of outspoken journalists and activists who have fled abroad out of fear of persecution and continued their vocal activism in exile. In some cases, relatives in Azerbaijan have publicly disowned or renounced their relationships with their close relatives abroad, possibly as a means to avoid retaliation by the authorities for their relatives’ vocal criticism.

Among those facing retaliatory harassment is photo and video journalist Mehman Huseynov. Mehman’s brother Emin Huseynov, director of the media rights group, Institute for Reporters’ Freedom and Safety, sought shelter in the Swiss embassy after his group’s offices were sealed shut by the authorities in August 2014. Later Swiss officials flew him out to Switzerland. Azerbaijani authorities have kept open a spurious criminal investigation against Mehman since 2012, cancelled his identification card and passport,

preventing him from travelling abroad, and repeatedly question him about his work and about his brother Emin.

In recent years, the authorities have also targeted the few lawyers prepared to defend government critics in politically motivated trials, through arrests and prosecutions, investigations into lawyers' organizations, travel bans, and questionable disciplinary proceedings which resulted in disbarments or threats of disbarment. Once disbarred, lawyers cannot represent clients in criminal proceedings. Travel bans prevent lawyers from representing clients at the European Court of Human Rights, receiving further education or training abroad, and participating in international events.

What Should Be Done?

Under international law, and as a state party to both the European Convention on Human Rights and the International Covenant on Civil and Political Rights, the Azerbaijani government has specific legal obligations to protect the rights to freedom of expression, assembly, and association. International human rights law recognizes those freedoms as fundamental human rights, essential for both the effective functioning of a democratic society and the protection of individual dignity. Any limitations to those rights must be narrowly defined to serve a legitimate purpose and must be demonstrably necessary in a democratic society. Furthermore, the European Court of Human Rights has consistently made clear, including through five rulings against the government of Azerbaijan, that the right “to form a legal entity in order to act collectively in a field of mutual interest is one of the most important aspects of the right to freedom of association, without which that right would be deprived of any meaning.”

In line with its international commitments, the government of Azerbaijan should take immediate steps to ensure the unconditional release of political and civic activists, journalists, and human rights defenders held on politically motivated charges and end the use of trumped-up or spurious charges to prosecute government critics. It should also end harassment of activists and their family members.

The authorities should also immediately end the crackdown on civil society, including by ending undue interference with the freedom of the Azerbaijani people to form associations. The authorities should immediately revise the NGO law in line with the recommendations

made by the Council of Europe's Venice Commission, particularly ensuring that overly complicated registration requirements do not create undue obstacles to freedom of association. The government should also repeal regulations that prevent independent nongovernmental organizations from accessing non-state funding and present excessive obstacles to international donor organizations' grant-making in Azerbaijan.

While many of Azerbaijan's international partners have been critical of Baku's serious failures to meet its human rights commitments, the criticism appears to have had little impact on these actors' relationships with the government. Many actors appear to have prioritized the country's geostrategic importance and hydrocarbon resources and have sought to deepen relationships and cooperation without insisting on clear human rights improvements. The European Union and the United States should impose visa bans on senior government officials such as ministry of interior officers and prosecutors responsible for the unjustified criminal prosecutions of human rights defenders, journalists and activists in retaliation for their peaceful exercise of their rights.

Azerbaijan's international partners should also take a comprehensive and coordinated response to the government's crackdown on independent voices and use their significant leverage, both bilaterally and through multilateral—including financial—institutions, to convince the government to reverse the crackdown. This should include clear benchmarks for human rights improvements and concrete policy consequences should those expectations not be met.

The government of Azerbaijan relies heavily on oil and natural gas export revenues, but the resource price slump in 2015 prompted the government to seek significant support from the Asian Development Bank, the World Bank, the European Bank for Reconstruction and Development, and the European Investment Bank, creating a key moment at which external influence could help to improve the human rights situation. In continuing to finance development projects that are clearly designed to advance the social and economic needs of the people, these institutions should not provide direct budget support until the government ceases its attack on civil society organizations and activists. Financial institutions should refrain from financing oil and gas projects until the government implements the corrective actions outlined by the board of the Extractive Industries Transparency Initiative (EITI)—a prominent international multi-stakeholder initiative that promotes government openness in natural resource management— particularly ensuring NGOs can receive funding from non-

Azerbaijani government sources and an environment that enables public debate on the government's economic and other policies.

Recommendations

To the Government of Azerbaijan

- Immediately and unconditionally release wrongfully imprisoned human rights defenders, journalists, civil society and political activists, including Ilgar Mammadov.
- Vacate convictions against those released and remove restrictions on freedom of movement.
- End harassment and threats against civil society and media workers.
- End harassment of the family members of activists, journalists, and others whom the authorities have placed under criminal investigation because of the exercise of political rights.
- End the politically motivated prosecutions of lawyers involved in the defense of government critics.
- Ensure that independent civil society groups can operate without undue hindrance or fear of reprisals and persecution.
- Remove undue restrictions to accessing foreign grants and amend legislation on NGOs in accordance with the recommendations of regional and international human rights institutions, particularly regarding the registration, operation, and funding of NGOs.
- Drop all tax-related cases against NGOs and their leaders and drop fines that relate to unregistered grants.

To the European Union and European Member States

- Ensure that public human rights benchmarks are an integral part of the negotiation of a new Partnership Agreement with Azerbaijan, clearly spelling out in any draft agreement the specific steps Azerbaijan should take in order to address concerns in these areas, and consider delaying the start of negotiations until Azerbaijan takes such steps. These should include, but are not limited to:

- Reform of laws and regulations governing nongovernmental organizations and their funding;
- Ensuring that the EU can without undue hindrance fund independent civil society organizations;
- Compliance with the Council of Europe's Committee of Ministers calling for the release of Ilgar Mammadov.
- Impose visa bans on officials responsible for the ill-treatment of detainees, including unjustly imprisoned human rights defenders, journalists, and activists; also impose visa bans on senior government officials such as ministry of interior officials and prosecutors responsible for the unjustified criminal prosecutions of human rights defenders, journalists and activists in retaliation for their peaceful exercise of their rights.
- Publicly and in all diplomatic engagement raise human rights concerns and call on the Azerbaijani government to take the specific steps listed above and more generally foster an environment in which political and civil society activists can express dissenting opinions freely, including through organizations, without fear of retribution.

To the United States

- Impose visa bans on officials responsible for the ill-treatment of detainees, including unjustly imprisoned human rights defenders, journalists, and activists; also impose visa bans on senior government officials such as ministry of interior officials and prosecutors responsible for the unjustified criminal prosecutions of human rights defenders, journalists and activists in retaliation for their peaceful exercise of their rights.
- Publicly and in all diplomatic engagement raise human rights concerns and call on the Azerbaijani government to take the specific steps listed above and more generally foster an environment in which political and civil society activists can express dissenting opinions freely, including through organizations, without fear of retribution.

To Multilateral Development Banks

- Through diplomatic engagement with the Azerbaijani government and in public statements, raise concerns on the continued crackdown, emphasizing how the crackdown undermines civic participation, social accountability, and public debate, and the importance of an enabling environment for civil society for sustainable development.
- Refrain from providing countercyclical support or policy-based loans to the government until the government has taken the necessary steps to allow independent individuals and groups to participate in the crafting of the country's development agenda and freely share their views about public affairs.
- Refrain from providing additional financing for extractive industries projects, like the Shah Deniz Gas Field Expansion, until the government is again compliant with the Extractive Industries Transparency Initiative (EITI). This will help ensure there is a framework within which natural resource revenues can genuinely contribute to inclusive development.

United Nations

- Ensure meaningful follow up to the visits of the United Nations' Special Rapporteur on human rights defenders and the Working Group on arbitrary detention.
- The UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment should request to visit Azerbaijan to examine the situation with torture and ill-treatment in custody and formulate detailed recommendations for steps to address problems identified.
- UN member states should monitor the implementation of the detailed recommendations made by the special rapporteurs on human rights defenders and on arbitrary detentions, as well as the concluding observations and recommendations made by the UN Human Rights Committee review of Azerbaijan in October 2016.
- Members of the Human Rights Council should follow up on their June 2015 joint statement on the situation of human rights defenders in Azerbaijan and call for

the release of those still detained on politically motivated grounds and for the revision of legislations affecting NGO activities and access to foreign funding.

Council of Europe

- Secretary General of the Council of Europe Thorbjørn Jagland should continue his inquiry into Azerbaijan's implementation of the European Convention on Human Rights, and insist on the Azerbaijani government's full cooperation in the process.
- The Committee of Ministers should continue to closely monitor the implementation of the European Court of Human Rights' decision on Ilgar Mammadov and ensure its full implementation.
- The Committee of Ministers should urge the Azerbaijani authorities to implement the recommendations made by the Commissioner for Human Rights Nils Muižnieks.
- The Parliamentary Assembly's monitoring procedure on the honoring of obligations and commitments by Azerbaijan should continue to place strong emphasis on the monitoring and reporting of undue restrictions placed on the work of civil society groups in the country, making detailed recommendations on the steps the Azerbaijani government needs to take to address these concerns.
- Assist the Azerbaijani authorities in bringing its laws and rules regulating the work of civil society groups in line with Azerbaijan's international obligations and recommendations made by the European Commission for Democracy through Law (Venice Commission).

Methodology

Research for this report was conducted by Human Rights Watch researchers in interviews and document reviews conducted between March and September 2016. Researchers conducted over 90 interviews with lawyers, staff, and leaders of nongovernmental organizations (NGOs), journalists, youth group members, and political party members and activists, and their relatives.

Human Rights Watch researchers also reviewed laws, including legislative amendments, adopted since 2014, including to the Law on Grants, the Law on NGOs, and Code of Administrative Offenses, also relevant regulations and rules pertaining to the work of domestic and international nongovernmental groups. Researchers also obtained and analyzed copies of documents relevant to specific cases, including indictments of persons convicted on politically motivated charges and court judgments.

Human Rights Watch also conducted research into the engagement of multilateral development banks and the Extractive Industries Transparency Initiative (EITI) with Azerbaijan. We met with staff and board members of several multilateral development banks. Researchers also reviewed public statements by the European Union, various United Nations agencies, the United States government, and the Council of Europe, in response to Azerbaijan's crackdown on civil society.

Many interviews were conducted in English and Russian by Human Rights Watch researchers who are fluent in both languages. Numerous interviews were conducted in Azeri by a Human Rights Watch research assistant who is a native speaker of Azeri. In a few instances the names of interviewees have been withheld at their request and out of concern for their security. Researchers explained to each interviewee the purpose of the interview and how the information gathered would be used. No compensation was offered or paid for any interview.

Most interviews were conducted by telephone or via internet communication. Human Rights Watch also interviewed NGO and youth activists, lawyers, political activists, and their relatives residing or traveling outside of Azerbaijan, including in Germany, the Czech Republic, the Netherlands, Poland, and Georgia.

The scope of this research was necessarily limited by constraints imposed by the Azerbaijani government, which is hostile to international scrutiny by human rights organizations. Human Rights Watch does not have direct access to Azerbaijan, after authorities prevented the organization's researcher for Azerbaijan from travelling to the country in March 2015. Prior to this, Human Rights Watch researchers regularly traveled to Azerbaijan to conduct research and meet with government officials.

Since 2013, Human Rights Watch has closely monitored developments in Azerbaijan and issued numerous news releases, other publications, and videos, urging the authorities to end the crackdown and release human rights defenders, journalists, social media and youth activists imprisoned on politically motivated charges. We have called on the authorities to repeal regressive amendments and allow the unimpeded work of independent nongovernmental groups in accordance to Azerbaijan's international commitments to uphold freedom of expression and assembly. We have also called on Azerbaijan's international partners to play a positive role in ensuring the government protects fundamental human rights in Azerbaijan.

Some of the research presented in this report was published in Human Rights Watch news releases and other public documents from 2013 to 2016. The analysis of Azerbaijan's legal obligations concerning freedom of expression, assembly, and association has been largely reprinted from Human Rights Watch's September 2013 report "Tightening the Screws: Azerbaijan's Crackdown on Civil Society and Dissent."

Human Rights Watch also reviewed media interviews with government officials and official statements related to the findings of this report.

In September 2016, Human Rights Watch sent letters to the Azerbaijani Minister of Justice and General Prosecutor to obtain their response to the findings documented in this report, including their responses to allegations of torture and ill-treatment in custody, politically motivated prosecutions, excessive use of pretrial detention, arbitrary restrictions on freedom of movement, as well as the steps planned to bring legislation and regulations regarding NGOs into line with Azerbaijan's international commitments, and to implement the *Ilgar Mammadov v. Azerbaijan* European Court of Human Rights judgment. Human Rights Watch did not receive any response to the letters.

I. Arrests and Convictions of Activists, Journalists, and Others

Throughout 2016, Azerbaijani authorities arrested numerous political and other activists, and bloggers, particularly in August and September, ahead of the September 26 constitutional referendum which expanded presidential powers. The authorities used a range of false, politically motivated criminal charges, including drug possession and illegal business activity. The authorities have also accused some activists of possessing banned or potentially illegally imported materials related to Fethullah Gülen, the US-based cleric whom Turkey accused of organizing the failed July 2016 coup attempt there.

The authorities also harass political activists, including those vocal on social media, through administrative or misdemeanor charges, which carry sentences from 15 to 90 days' detention. The authorities targeted those involved in criticizing the September 2016 constitutional referendum or organizing or supporting public protests against the referendum, as well as those criticizing the country's economic deterioration coinciding with protests across the country from December 2015 to February 2016.

The arrests follow a pattern well-established by the government in 2013 to 2015 when authorities arrested or convicted numerous human rights defenders, lawyers, and journalists on politically motivated criminal charges in retaliation for their activism, including at least 40 people in 2014 alone. Many were sentenced to long prison terms in deeply flawed trials. From late 2015 through May 2016 the government released a number of these individuals, including several whose cases had received international attention.

However, many others convicted in 2014 and 2015 in politically motivated trials remain in prison and have exhausted all domestic appeals. Most of the civic activists, journalists, and others released have been forced to stop their work due to restrictive laws and regulations related to nongovernmental organizations (described in more detail in the next chapter). Some activists have left the country altogether and their organizations have ceased to function.

Arrests and Convictions in 2016

Arrests of Individuals with Alleged Links to Fethullah Gülen

Beginning in August, the authorities targeted some outspoken critics claiming that they had ties to Fethullah Gülen, a US-based cleric whom the Turkish government has publicly blamed for the July 2016 attempted coup in Turkey. On August 15, Azerbaijan's General Prosecutor's Office announced that a criminal case had been opened to identify and punish the "Gülenists" in Azerbaijan.¹ In an August meeting with his Turkish counterpart, Azerbaijani Interior Minister Ramil Usubov vowed to take all necessary steps against Gülen supporters in Azerbaijan, stating, according to media reports: "We'll do whatever we can do to eliminate this problem."²

Fuad Ahmadli

State Security Service officials arrested opposition Azerbaijan Popular Front Party (APFP) member and activist on social media, Fuad Ahmadli, on August 18 in downtown Baku. During a search of Ahmadli's house soon afterwards, police claimed to have found prohibited religious books and compact discs, and leaflets with Gülen's speeches.³ Authorities also accused Ahmadli, who is an operator at a local mobile telephone company call center, of illegally obtaining and sharing personal data and other information of mobile phone subscribers. Three other employees of mobile phone operators were arrested on the same charges.⁴ Ahmadli is in pretrial detention on charges of abuse of authority and violating the law on operational search activities [surveillance].

A statement by the General Prosecutor's Office and the Ministry of Interior about the case describes Ahmadli's opposition political affiliation and cites the "material evidence attesting to [his] illegal activities" as "religious literature prohibited by law and CDs,

¹ "Gülen supporters to be prosecuted in Azerbaijan," *News.Az*, August 15, 2016, <http://news.az/articles/politics/111743> (accessed August 17, 2016).

² "Ramil Usubov: Against the FETO movement's supporters in Azerbaijan" [in Azeri], *Azadlig Radiosu*, August 31, 2016, <http://www.azadliq.org/a/ramil-usubov-Gülen-herekat/27957708.html> (accessed September 21, 2016); and "Ramil Usubov promised the Turks to fight against FETO in Azerbaijan," *Turan News Agency*, August 31, 2016, <http://contact.az/docs/2016/Politics/o83100167328en.htm#.V-16ePB94hc> (accessed September 2, 2016).

³ Institute for Reporter Freedom and Safety (IRFS), "Official Statement Issued on Opposition Party Activist's Arrest," August 19, 2016, <https://www.irfs.org/news-feed/official-statement-issued-on-opposition-party-activists-arrest/> (accessed August 26, 2016); and "Persons involved in illegal investigation detained in Azerbaijan," *Trend News Agency*, August 19, 2016, <http://en.trend.az/azerbaijan/politics/2650897.html> (accessed August 20, 2016).

⁴ They are charged with violating legislation on operative-investigative activity and abuse of office, Criminal Code of Azerbaijan, arts. 308.1 and 302.1. IRFS, "Official Statement Issued on Opposition Party Activist's Arrest."

printed speeches of Fethullah Gülen, and documents on members of the so-called Gülen community.”⁵ On August 23, law enforcement authorities reported the merger of Ahmadli’s case with the case of another activist from the Azerbaijan Popular Front Party, Faig Amirov, also suspected of collaboration with the Gülen organization.⁶

Previously, Baku police detained Ahmadli in December 2015 and a court sentenced him to 10 days’ detention for disobeying police orders. Two days prior to his arrest, police officials invited Ahmadli and warned him about his critical Facebook posts.⁷ Ignoring the warning, he posted criticism of the government’s currency devaluation and the economic downturn in the country, and asked whether people were desperate enough to protest publicly against the government’s policies.⁸

Faig Amirov

On August 20, two days after arresting Ahmadli, authorities arrested Faig Amirov, an assistant to the APFP chairman and financial director of the leading opposition newspaper *Azadliq*. During a search of Amirov’s apartment, police took dozens of *Azadliq* invoices. While searching the apartment and Amirov’s car, police allegedly found books and compact discs about Gülen. According to his lawyer, Amirov denies the books are his and believes police planted them in his car prior to the search. Because the books are imported, Amirov is at risk of charges alleging that the books lacked a special permit required for certain imported goods. The books are not on the list of banned religious literature regulated by the State Committee on Religious Matters.⁹

The statement by the General Prosecutor’s Office claimed that “Amirov, using his position as the financial director of *Azadliq* newspaper for personal gain, together with like-minded people in the Hizmet [Gülenist] movement is suspected of maintaining connections with

⁵ Ibid.

⁶ Criminal Code of Azerbaijan, arts. 302 and 308. Human Rights Watch telephone interview with lawyer Asabali Mustafayev, September 23, 2016.

⁷ Human Rights Watch telephone interview with Fuad Ahmadli, April 10, 2016.

⁸ “Azerbaijan Arrests another Blogger,” *Meydan TV*, January 25, 2016,

<https://www.meydan.tv/en/site/news/11389/Azerbaijan-Arrests-Another-Blogger.htm> (accessed September 2, 2016); “In Azerbaijan, advocate claims police pressure on Khalid Khanlarov,” *Caucasian Knot*, February 4, 2016, <http://eng.kavkaz-uzel.ru/articles/34497/> (accessed September 2, 2016).

⁹ Human Rights Watch telephone interview with lawyer Agil Lahij, September 22, 2016.

people, whose names are on the list of ‘imams of Hizmet.’” The statement also alleges that Amirov distributed Gülenist materials through electronic media.”¹⁰

Authorities have charged Amirov with “inciting religious hatred” and “infringing the rights of citizens under the pretext of conducting religious rites.” In a public statement, Amirov’s lawyer said the prosecutors allege that Amirov is an imam and delivered sermons that inspired religious animosity.¹¹ He is in pretrial detention and faces between two and five years in prison if convicted.¹²

Elgiz Gahraman

On August 12, Baku police arrested NIDA youth movement member Elgiz Gahraman on charges of drug possession. NIDA, which is Azeri for exclamation mark, is a youth opposition movement active on social media and highly critical of the government. Police took Gahraman to the Interior Ministry’s Organized Crime Unit. After allegedly discovering 3.315 grams of heroin on him, the authorities charged Gahraman with illegal drug possession in a large quantity with an intention to sell. If convicted, Gahraman faces up to 12 years in prison.¹³ On August 13, Baku’s Narimanov District Court authorized Gahraman pretrial detention for four months.

For several days, police did not inform Gahraman’s family of his whereabouts and did not give him access to a lawyer of his choosing; a state-appointed lawyer represented him at the hearing on pretrial measures. Gahraman was only allowed to see his own lawyer on August 19. According to the lawyer, Gahraman said that Organized Crime Unit officers beat him on the head and neck when they first detained him, but later gave him an ointment for his bruises, apparently to fade the marks left by the beating. The lawyer told Human Rights Watch that he saw no visible wounds on Gahraman during the visit.¹⁴

¹⁰ “Azerbaijan blames party leader’s aide for distributing Gülen’s ideas,” *Ann.az*, August 24, 2016, <http://ann.az/en/azerbaijan-blames-party-leaders-aide-for-distributing-gülen-s-ideas/#.V91CXJh96Cg> (accessed September 2, 2016); and Reporters Without Borders, “Turkey-style pretext used to arrest critic in Azerbaijan,” August 24, 2016, <https://rsf.org/en/news/turkey-style-pretext-used-arrest-critic-azerbaijan> (accessed September 2, 2016).

¹¹ “Lawyer: The investigation called Faig Amirov Imam of Gulen supporters (UPDATED),” *Contact.az*, August 22, 2016, http://www.contact.az/docs/2016/Politics/082000166221en.htm#.V-vSZ_krLIV (accessed September 29, 2016).

¹² Criminal Code of Azerbaijan, arts. 283.2.2 (inciting national, racial or religious hatred) and 168.1 (infringement of the rights of citizens under the pretext of performing religious rites). Human Rights Watch telephone interview with lawyer Agil Lahij, September 22, 2016.

¹³ Criminal Code of Azerbaijan, art. 234.4.3. See also: “Activist Arrested, Held Incommunicado,” Human Rights Watch news release, August 19, 2016, <https://www.hrw.org/news/2016/08/19/azerbaijan-activist-arrested-held-incommunicado>.

¹⁴ Human Rights Watch telephone interviews with lawyers Fariz Namazli and Nemat Karimli, August 17 and 19, 2016.

Gahraman's lawyer also told Human Rights Watch that Gahraman felt compelled to sign a false statement confessing to drug possession following the beating and after officials also threatened him with sexual humiliation. The officials also made him sign statements about his connection with Fethullah Gülen.¹⁵ Some pro-government media outlets in Azerbaijan had linked Gahraman to Gülen.¹⁶ Gahraman denies any connection to Gülen.¹⁷ On October 7, the Appeals Court dismissed his request to be released to house arrest.¹⁸

Arrests in Nardaran

Taleh Bagirov

Authorities arrested Taleh Bagirov, a religious scholar, imam, and leader of the “Muslim Unity” public movement, on November 26, 2015 during an operation in Nardaran, a Baku suburb known for its Shia religious conservatism and criticism of government policies.¹⁹ The raid turned violent under unclear and disputed circumstances, with shootings leaving two police and seven civilians dead. Police detained 68 people. Officials have charged Bagirov with a number of grave crimes, including terrorism, attempt to violently seize power, illegal firearms possession, and homicide. In July, Bagirov stated at trial that Ministry of Interior Organized Crime Unit officials beat him repeatedly and injured him, including breaking his nose. The beatings were apparently to compel Bagirov to give testimony against two political opposition leaders as being the masterminds behind the alleged armed uprising.²⁰ Organized Crime Unit officials kept Bagirov in their custody, rather than transferring him to a pretrial detention facility and did not grant him access to his lawyer until December 29, more than a month after his detention.

Seventeen individuals being tried together with Bagirov also stated that police had beaten them repeatedly to compel confessions and testimony. Authorities denied the allegations

¹⁵ Human Rights Watch telephone interview with lawyer Nemet Karimli, August 18, 2016.

¹⁶ Ibid.; and Eynulla Fatulaev, “Ali Kerimli and Fethullah Gülen’s residency [Али Керимли и резиденатура Фетхуллаха Гюлена],” *Haqqin.az*, August 15, 2016, <http://haqqin.az/news/77712> (accessed September 10, 2016).

¹⁷ Human Rights Watch telephone interviews with lawyer Nemet Karimli, August 17 and 18, 2016.

¹⁸ Human Rights Watch telephone interview with lawyer Nemet Karimli, October 7, 2016.

¹⁹ Human Rights Watch telephone interviews with lawyer Javad Javadov, August 12 and September 15, 2016; see also: Liz Fuller, “Azerbaijani theologian is said to have been plotting coup,” *RFE/RL*, November 27, 2015, <http://www.rferl.org/content/caucasus-report-azerbaijan-theologian-plotted-coup/27393340.html> (accessed August 29, 2016).

²⁰ Human Rights Watch telephone interview with lawyer Javad Javadov, August 12, 2016; see also: “Taleh Bagirov: At the Organized Crimes Unit I faced Incredible Torture” [in Azeri], July 19, 2016, *Azadlig Radosu*, <http://www.azadliq.org/a/27866707.html> (accessed September 27, 2016).

but did not thoroughly investigate. Bagirov remains in detention pending trial and faces up to life in prison if convicted.²¹

The authorities had previously targeted Bagirov in politically motivated cases, and he served two years in prison from 2013 to 2015 on spurious drug possession charges. Police had arrested Bagirov in March 2013, one week after he gave a sermon in a mosque sharply criticizing the government.²²

Fuad Gahramanli

On December 8, 2015, the Azerbaijani authorities detained Deputy APFP Chairman Fuad Gahramanli and charged him with inciting the public to overthrow the government and incitement of national, racial, social or religious hatred.²³ Gahramanli had posted on his Facebook page criticism of the government for the violence during the November 2015 police operation in Nardaran. The prosecutor's office invited Gahramanli for questioning as a witness in the Nardaran investigation, and when he refused, in the absence of an official warrant, police forcibly took him from his house. The same night, after several hours of interrogation, Baku's Nasimi District Court ordered him held in pretrial detention. Officials searched Gahramanli's house and confiscated his computer.²⁴ The General Prosecutor's Office accused Gahramanli of "making publications since September 2015 on Facebook, calling citizens to disobey the authorities, [and] carried out activities aimed at inciting religious hatred and animosity between the different currents of Islam."²⁵ The trial is ongoing; Gahramanli remains in custody.

Arrests and Convictions of Other Political Activists and Critics

Natig Jafarli

On August 12, authorities arrested Natig Jafarli, a prominent government critic and executive secretary of the opposition Republican Alternative (REAL) movement,

²¹ Human Rights Watch telephone interview with lawyer Javad Javadov, September 16, 2016.

²² Human Rights Watch, *Tightening the Screws* (New York: Human Rights Watch, 2013), <https://www.hrw.org/report/2013/06/01/tightening-screws/azerbaijans-crackdown-civil-society-and-dissent>

²³ Human Rights Watch telephone interview with lawyer Nemat Karimli, August 13, 2016.

²⁴ IRFS, "APFP deputy chairman Fuad Gahramanli detained," December 8, 2015, <https://www.irfs.org/news-feed/apfp-deputy-chairman-fuad-gahramanli-detained/> (accessed September 22, 2016).

²⁵ "Azerbaijan Prosecutor General's Office Issues Statement on Arrest of APFP Deputy Chairman," *Eurasia Diary*, December 9, 2015, <http://eurasiadiary.com/news/human-rights/1397-azerbaijani-prosecutor-generals-office-issues-statement-on-arrest-of-apfp-deputy-chairman> (accessed July 14, 2016).

interrogated him, and charged him with illegal entrepreneurship and abuse of office. A court sent him to pretrial detention for four months.²⁶ Officials denied Jafarli access to a lawyer of his choosing during the interrogation and remand hearing. That same night, police searched Jafarli's house and confiscated two computers and numerous legal documents. On September 9, Baku's Nasimi District Court released Jafarli on his own recognizance. The criminal investigation against Jafarli is ongoing and he cannot leave Baku. If convicted, Jafarli could face up to eight years' imprisonment.²⁷

The REAL Movement (Republican Alternative), whose leader Ilgar Mammadov is currently in prison on politically motivated charges (*see case description below*), is a pro-democracy political group seeking the country's transition from a presidential to a parliamentary republic guaranteeing democratic rights and freedoms.

The charges against Jafarli stem from a criminal case the General Prosecutor's Office opened against numerous international and domestic nongovernmental groups in 2014 (*see below*). At the time of his arrest, Jafarli chaired REAL's Referendum Initiative Group, which campaigned against the September 26 constitutional referendum and the proposed amendments.²⁸ As a respected economic expert, Jafarli had regularly posted on social media about Azerbaijan's economic situation and allegations of misappropriation of state funds. Jafarli has come under pressure from the authorities in the past. Officials interrogated him at least 15 times in 2014 and 2015 as part of the General Prosecutor's large criminal investigation involving dozens of international donors operating in Azerbaijan and their grantees (*see below*).

Giyas Ibrahimov and Bayram Mammadov

On May 10, 2016, Baku police detained youth activists Giyas Ibrahimov, 22, and Bayram Mammadov, 21, who both face bogus drug possession charges. The two were initially

²⁶ Criminal Code of Azerbaijan, arts. 192.1 (illegal business) and 308.2 (abuse of official powers—when such actions lead to heavy consequences or are committed with the purpose of influencing the outcome of an election (referendum)). Human Rights Watch telephone interviews with lawyer Javad Javadov, August 4 and 16, 2016.

²⁷ Human Rights Watch telephone interview with lawyer Javad Javadov, September 16, 2016.

²⁸ Human Rights Watch telephone interviews with senior members of the REAL Movement, names withheld, August 14 and 16, 2016. The September 2016 constitutional referendum abolished minimum age requirements for presidential and parliamentary candidates, extended the presidential term of office from five to seven years, and expanded the power of the president to dissolve parliament. "Azerbaijan calls September referendum on greater presidential powers," *EurActiv*, July 26, 2016, <https://www.euractiv.com/section/europe-s-east/news/azerbaijan-calls-september-referendum-on-greater-presidential-powers/> (accessed August 26, 2016).

detained because police identified them on CCTV footage as having painted graffiti on a statue of former president Heydar Aliyev, father of the current president.²⁹ According to the men's lawyer, Elchin Sadigov, police at Baku's Narimanov district police station ordered them to publicly apologize, on camera, in front of the monument, in exchange for their release. When Ibrahimov and Mammadov refused, police beat them, forced them to take their pants off, and threatened to rape them with truncheons and bottles. Under duress, the men signed confessions to drug possession. Mammadov is a member of NIDA. Ibrahimov belongs to Solfront, another leftist youth group. Both are students at Baku Slavic University.³⁰

Sadigov told Human Rights Watch that he was only able to meet his clients on May 12, after they had signed the forced confessions about drug possession. Sadigov stated that when he was able to meet with his clients, he saw visible bruises on both men, and said they had pain all over their bodies, particularly in their heads and abdomens.³¹

At the May 12 hearing, Ibrahimov and Mammadov retracted their forced confessions and stated that the police had beaten them and threatened them into confessing. They acknowledged to the judge that they had painted the graffiti. The court ordered their pretrial detention for four months. The authorities have failed to conduct an effective investigation into the alleged ill-treatment. The men's family members allege that the searches of the men's homes, during which the authorities claim large quantities of narcotics were found, were illegal, and the drugs were planted.³² In September, Baku's Khatai District Court extended the pretrial detention of Ibrahimov and Mammadov for another two months. The men remain in pretrial custody at this writing, each facing up to 12 years in prison if convicted.

Tofiq Hasanli

On October 12, 2015, authorities arrested Tofiq Hasanli, 46, a satirical poet, who often criticized the government in his poems, which he posted online. For five days his family

²⁹ Human Rights Watch telephone interview with lawyer Elchin Sadigov, May 13, 2016. See also "Azerbaijan: Activists Face Bogus Drug Charges," Human Rights Watch news release, May 13, 2016, <https://www.hrw.org/news/2016/05/13/azerbaijan-activists-face-bogus-drug-charges>.

³⁰ Human Rights Watch telephone interview with lawyer Elchin Sadigov, May 13, 2016.

³¹ Ibid.

³² Police did not allow Mammadov's family members to be present during the search, and Ibrahimov's mother alleges she saw police plant drugs in her home. Human Rights Watch telephone interview with lawyer Elchin Sadigov, May 13, 2016.

had no knowledge of his whereabouts, and later learned that he was being held in pretrial detention on drug-related charges. Because of financial constraints, his family has not retained a lawyer of their choosing; Hasanli was represented by a state-appointed lawyer at the remand hearing.³³

Hasanli faces up to 12 years in prison for illegal possession of drugs.³⁴ Several days prior to his arrest, Hasanli published a poem criticizing senior government officials and members of Azerbaijan's parliament.³⁵ In a January 2015 media interview, Hasanli stated that officials in Lenkaran province in southern Azerbaijan had threatened to arrest him if he did not stop writing.³⁶ He is in detention awaiting trial.

Mammad Ibrahim and Other Activists of the Azerbaijan Popular Front Party

The authorities have also targeted numerous leading and rank-and-file political activists, in particular APFP activists, at least 12 of whom were either on trial or serving prison terms in 2016. For example, in March, a court convicted Mammad Ibrahim, advisor to APFP chairman Ali Kerimli, on spurious hooliganism charges and sentenced him to three years in prison.³⁷ Other APFP members in prison on politically-motivated charges include Fuad Gahramanli, Seymur Hazi, Faig Amirov, Fuad Ahmadli, Elvin Abdullayev, Jeyhun Isgandarli, Murad Adilov, Zeynalabdin Bagirzade, Mammad Ibrahim, Nazim Mahmudov, and Asif Yusifli.

Use of Administrative Law to Detain Activists

In addition to criminal prosecutions, the authorities have also used the administrative law which covers misdemeanor offenses, such as resisting police or disobeying police orders, to detain activists for up to 90 days. The use of such administrative offences seems to be direct retaliation for their activism, including ahead of the September 26 constitutional referendum and in conjunction with various protests in December 2015 through February 2016 against the country's economic downturn. Unless otherwise noted, the

³³ Human Rights Watch telephone interview with Tofiq Hasanli's brother Faig Hasanov, April 9, 2016.

³⁴ Criminal Code of Azerbaijan, art. 234.4.3.

³⁵ "Kidnapped satirical poet Tofiq Hasanli," *Human Rights Freedoms*, October 16, 2015, <http://hrf.report/kidnapped-satirical-poet-tofig-hasanli/> (accessed August 29, 2016).

³⁶ "Satirist Tofiq Hasanli Says He is Being Threatened" [in Azeri], *Radio Azadliq*, January 1, 2015, <http://www.azadliq.org/content/article/26983149.html> (accessed September 1, 2016).

³⁷ "Azerbaijani Opposition Figure Gets Three Years in Prison," *Radio Azadliq*, March 15, 2016, <http://www.rferl.org/content/azerbaijan-opposition-figure-three-years-in-prison/27612365.html> (accessed July 14, 2016).

administrative trials that led to the sentences were perfunctory, rarely lasting longer than 15 minutes, and the judicial decisions on which the detentions are based relied almost exclusively on police testimonies. In all cases documented by Human Rights Watch, the activists could not retain a lawyer of their choosing or mount an effective defense. Human Rights Watch documented 30 cases in which authorities used administrative law offences to jail political and civil activists in 2016.

Detentions in Advance of The September 2016 Constitutional Referendum

September 8-10, 2016

From September 8 to 10, 2016, authorities detained several activists ahead of a September 11 protest in Baku against the constitutional referendum and the economic downturn. The protest had been sanctioned by the city authorities. According to Mehman Huseynov, a 26-year-old well-known blogger, on September 10 plainclothes policemen forced him into a police car and took him to the Baku main police department. He described to Human Rights Watch what happened at the station:

I was taken to the chief, who told me that I should kneel in front of him and that it was the only way for me to talk to him. I said, 'No.' Then he tried to kick me and physically force me to kneel. I told him that his actions were illegal and anything he or they would do to harm me, President Aliyev will be held accountable for.

He then retreated and changed his tactics... He was trying to give me "friendly" advice to quit my activism. He said, 'Aren't you afraid that someone might kill you? Or throw you out your window?'

Then they changed the tactics again...threatening to rape me, unless I stopped my activism....³⁸

After about four or five hours, officials told Huseynov that this was their last warning and that he was free to go home. They encouraged him to write about what happened to him in the police station. "I realized that this was a tactic to intimidate others who were planning

³⁸ Human Rights Watch telephone interview with Mehman Huseynov, September 16, 2016.

to go to the protest [on September 11], so I did not write about what happened, but I told my friends,” he said.³⁹

September 16, 2016

In advance of similar protests planned for September 17 and 18, which were officially authorized, police in nine cities detained or issued summons to at least 38 political activists. Most of those detained are from the Popular Front Party of Azerbaijan and the youth opposition group, NIDA. One NIDA activist told Human Rights Watch that he went to Baku’s Narimanov district police department on the morning of September 16 at the request of a neighborhood police officer. Police searched him, confiscated his phone and other belongings, kept him for over 12 hours, and threatened him with criminal drug charges if he continued to participate in opposition protests. He explained:

I was taken to the station chief’s room, who told me that I’ll get 10 days of administrative detention for participation in the demonstration. ...Then they took me to another room. There were six or seven police officers there, who started calling me Ali Kerimli’s [opposition leader] agent. Then one officer ordered me to do push-ups. I refused. Then they threw me on the floor, punched me several times and forced me to do push-ups.

Then another officer told me, ‘do you see what I have in my pocket?’ He said it was heroin, which could be “discovered” in my pockets if I continued to participate in opposition protests.⁴⁰

He was released around 9 p.m. after giving a statement that he would not participate in the next day’s protest and would appear in the police precinct next morning.

When the September 17 demonstration in Baku ended, police clashed with protesters and detained dozens.⁴¹ Numerous video clips available online show police rounding up the demonstrators, roughing them up, and taking them away. Protesters in videos reviewed by

³⁹ Ibid.

⁴⁰ Human Rights Watch telephone interview with activist, name withheld, September 17, 2016.

⁴¹ “Azerbaijani Police Clash with Activists after Baku Rally,” *RFE/RL*, September 17, 2016, <http://www.rferl.org/content/azerbaijan-opposition-rally-baku-aliyev/27997157.html> (accessed September 21, 2016).

Human Rights Watch were not seen resisting police or using violence.⁴² At least 12 activists, mostly APFP members, were sentenced to eight days' detention on misdemeanor charges of resisting police orders and at least one person was fined.⁴³

Detentions in August 2016

Elshan Gasimov and Togrul Ismayilov

On August 15 in Baku, plainclothes policemen detained two REAL youth activists, Elshan Gasimov and Togrul Ismayilov, as they distributed fliers calling for no votes in the constitutional referendum. At Baku's Sabayil district police station, officials denied them access to a lawyer or to speak to their families. Police questioned them about REAL finances, including the source of the financing for the fliers, as well as REAL movement's future plans. The next day a court sentenced them each to seven days' detention, allegedly for disobeying police orders to stop distributing the leaflets.⁴⁴

Mesud Rzali

On August 12, 2016, police detained Mesud Rzali, 36, a member of the Azerbaijan Popular Front Party (APFP) and a social media activist. Rzali actively discussed political issues, including prosecutions of political activists and government corruption on Facebook. He was sentenced to 30 days' detention on misdemeanor charges of resisting police. During police questioning, he was asked about his Facebook posts and warned to stop his activism. He was released early on August 29 without explanation.⁴⁵

Detentions Related to Economic Protests

Between December 2015 and February 2016, the authorities sentenced numerous political party members and other political activists to detention on questionable misdemeanor charges. In this period people in cities throughout the country organized public protests against the currency devaluation, increased prices for food and other essential goods, and growing unemployment. Protests usually attracted a few hundred people.⁴⁶ Police broke up

⁴² Ibid.

⁴³ Human Rights Watch telephone interview with APFP members, names withheld, September 22, 2016.

⁴⁴ Human Rights Watch telephone interview with Elshan Gasimov, September 17, 2016.

⁴⁵ Human Rights Watch telephone interview with lawyer Natig Adilov, September 16, 2016.

⁴⁶ Protests of a few hundred people gathered throughout the country, including in Siyazan, Lankaran, Fizuli, Ajabedi, Agsu, Mingechevir and other towns and districts. "Azerbaijan Blames Protests on Everything but Economy," *EurasiaNet.org*, January 14, 2016, <http://www.eurasianet.org/node/76831> (accessed September 27, 2016).

many demonstrations, and arrested some protesters.⁴⁷ Though the gatherings were largely peaceful, in some cases protestors clashed with police. For example, demonstrators in Siyazan, a town 115 kilometers north of Baku, clashed with riot police equipped with tear gas and rubber bullets. Police detained 55 people.⁴⁸

Official statements claimed “religious extremists” and political opposition stirred up popular discontent against the government.⁴⁹ Opposition parties rejected the allegations and accused the government of using them as scapegoats in the face of broad public anger over government mismanagement of the economy.⁵⁰

Human Rights Watch documented five arrests of political and social media activists in January 2016 after activists denounced the government’s currency devaluation and price increases. None of these individuals participated in the protests. They were each sentenced to detention ranging from 10 to 30 days.⁵¹ Three of these cases are described below.

Turan Ibrahim

Baku police arrested social media activist and APFP member Turan Ibrahim on January 13, 2016. Ibrahim, who is the son of imprisoned opposition politician Mammad Ibrahim (*see above*), served one week in detention for allegedly “disobeying police.” According to Ibrahim, seven or eight police officers, who appeared to be waiting for him in front of his house, detained him and took him to a local police station.⁵² He told Human Rights Watch that police threatened him with serious criminal drug charges if he did not sign a false statement that he had resisted police.⁵³

⁴⁷ “Жители регионов Азербайджана протестуют (Видео и фото) [Residents in Azerbaijan’s regions are protesting (Video and photos)],” *Radio Azadlyg*, January 14, 2016, <http://www.radioazadlyg.org/a/aksiya-blgeler-rayonlar-bahalasma-polis/27485077.html> (accessed August 15, 2016).

⁴⁸ “Official information released on protests in Siyazan and other districts,” *APA News Agency*, January 13, 2016, <http://en.apa.az/azerbaijani-news/developments/official-information-released-on-protests-in-siyazan-and-other-districts.html> (accessed August 15, 2016).

⁴⁹ *Ibid.*

⁵⁰ “Authorities in Azerbaijan crackdown on protests, arrested 200 people,” *Human Rights Freedoms*, January 15, 2016, <http://hrf.report/authorities-in-azerbaijan-crack-down-on-protests/> (accessed August 15, 2016).

⁵¹ The activists were Yusif Latifov (20 days), Mammad Balamammadov (10 days), Shahin Alizade (30 days), Imanverdi Aliyev (30 days), and Nazim Hasanli (30 days). Human Rights Watch telephone interview with Natig Adilov, September 16, 2016.

⁵² “The court arrested the son of oppositioner for seven days (UPDATED),” *Contact.az*, January 14, 2016, <http://www.contact.az/docs/2016/Social/011300143354en.htm#.VwY1jfl9600> (accessed August 30, 2016).

⁵³ Human Rights Watch telephone interview with Turan Ibrahim, August 10, 2016.

Rail Rustamov

On February 17, 2016, Baku's Sabirabad District Court sentenced APFP member and Facebook activist Rail Rustamov to 20 days' detention for resisting police.⁵⁴ According to local police, Rustamov was speeding, was a threat to pedestrians, and disobeyed police.⁵⁵

Rustamov's father, Sahib Rustamov, is a senior member of the APFP leadership council. He told Human Rights Watch that he believes his son's detention was in retaliation for his public criticism online; police have threatened and harassed the family in the past for their political activism.⁵⁶ Sahib Rustamov said:

The same day my son was detained, I was also brought to the Sabirabad police department. The police chief himself threatened and warned me about my Facebook activism. I was released after three hours. But they kept my son, for nothing else but his Facebook posts. We did not know when and how he was tried. We just heard that he is already in the isolator and sentenced for 20 days.⁵⁷

Khalid Khanlarov

Blogger Khalid Khanlarov, 23, frequently criticized the authorities through a satirical Facebook page called "Ditdili" (Mosquito), and in January 2016 actively commented on the economic situation about public protests related to the economy. On January 23, 2016 a Baku court sentenced him to 25 days' detention for resisting police. Khanlarov told Human Rights Watch:

I was invited to [Baku's] Binagadi police station about three days before [my] detention, and warned about my activism on social media. For the next three days, I did not access the internet or share anything on Facebook, but [on January 23] I was invited to the Interior Ministry and from there I was taken to a police station and then to court....and I was sent to

⁵⁴ "PFPA Activist Arrested in Sabirabad," *Contact.az*, February 17, 2016, <http://69.195.75.124/docs/2016/Social/021700147143en.htm#.Vtoz2fkrKoo> (accessed August 30, 2016).

⁵⁵ "Sabirabad district police hunting Facebookers" [in Azeri], *Europe Without Political Prisoners*, February 22, 2016, <http://nopoliticalprisoners.org/az/hesabat-v-x-b-rl-r/x-b-r/628-sabirabad-polisinin-facebook-ov.html> (accessed August 30, 2016).

⁵⁶ Human Rights Watch telephone interview with Sahib Rustamli, April 9, 2016.

⁵⁷ *Ibid.*

administrative detention for 25 days. I got to meet my own lawyer only after I was already in detention.⁵⁸

Other Detentions of Political Activists and Critics

Ruslan Garayev

On June 20, 2016 police detained Ruslan Garayev, the head of the APFP youth committee's Sumgayit branch, in front of his house. He was sentenced to 20 days' detention on charges of petty hooliganism and resisting police, based on allegations that he had shouted profanities in the street violating public order and did not obey the police order to stop.⁵⁹ Garayev frequently writes blogs and social media posts critical of the government. For two days following his detention, police did not inform Garayev's family about his location. His lawyer told Human Rights Watch that he could not access his client for five days and was not allowed to represent Garayev at the administrative hearing.⁶⁰ Garayev stated that police questioned him about his political and social media activism, including a satirical photo he took of himself holding an energy drink in front of the statue of the late Azerbaijani President Heydar Aliyev. Garayev was released on August 10.⁶¹

Relevant Legal Standards

Azerbaijan is a party to both the International Covenant on Civil and Political Rights (ICCPR) and the European Convention on Human Rights (ECHR), which guarantee fair trial rights and protection against arbitrary detention.⁶² For the purposes of international human rights law, the application of standards for rights protection depends not on whether a defendant is facing charges based in the criminal code or in the administrative code, but rather on the substance of the charge against the defendant and the severity of the punishment faced by the defendant. The European Court of Human Rights has in past years ruled that states with a system where individuals can face sanctions such as detention and heavy fines for administrative offences have an obligation to provide adequate due

⁵⁸ Human Rights Watch telephone interview with Khalid Khanlarov, April 10, 2016.

⁵⁹ Code of Administrative Offenses of Azerbaijan, arts. 510 (minor hooliganism) and 535 (resisting police). Human Rights Watch telephone interview with Asabali Mustafayev, August 11, 2016.

⁶⁰ Ibid.

⁶¹ Human Rights Watch telephone interview with Ruslan Garayev, August 12, 2016.

⁶² European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), 213 U.N.T.S. 222, entered into force September 3, 1953, as amended by Protocols No. 3, 5, 8, and 11 which entered into force on September 21, 1970, December 20, 1971, January 1, 1990, and November 1, 1998, respectively, arts. 5, 6, 9, and 14.

process and fair trial protections in the administrative proceedings in order to comply with the European Convention of Human Rights.

Activists and Journalists Remaining in Prison

Numerous activists convicted in politically motivated trials from 2013 to 2015 remain unjustly imprisoned, including Ilgar Mammadov, whom the European Court of Human Rights found in 2014 had been imprisoned in retaliation for his criticism of the government, and whose immediate release has been repeatedly called for by the Committee of Ministers. Mammadov and others have alleged physical abuse, arbitrary use of solitary confinement, and other abuses by prison staff. This section details Mammadov's case and several other cases, but is not exhaustive.

Ilgar Mammadov

Ilgar Mammadov, a prominent political analyst and chairman of the opposition group REAL (Republican Alternative), has been in detention since February 4, 2013. The authorities arrested him on charges stemming from anti-government riots in Ismayilli, 200 kilometers from Baku, in January 2013.⁶³ He was accused of inciting violence and resisting police arrest, and in March 2014, a court sentenced Mammadov to seven years in prison after a politically motivated trial that violated due process and other fair trial protections.⁶⁴ Serious procedural violations during the trial included denying the defence the ability to cross examine, including where contradictory testimony was presented, and the exclusion of exculpatory evidence.

In May 2014, the European Court of Human Rights concluded, in a strongly worded judgment, that the actual purpose of Mammadov's detention "was to silence or punish [him] for criticizing the Government."⁶⁵ Citing that ruling, the Committee of Ministers of the Council of Europe has called for Mammadov's immediate release nine times, most recently in September 2016, in order for the government to remedy the violation found by the Court.⁶⁶

⁶³ "Azerbaijan: Government Detains Outspoken Critics," Human Rights Watch news release, February 6, 2013, <https://www.hrw.org/news/2013/02/06/azerbaijan-government-detains-outspoken-critics>.

⁶⁴ Human Rights Watch, "Dispatches: Azerbaijan's Too Predictable Crackdown," March 18, 2014, <https://www.hrw.org/news/2014/03/18/dispatches-azerbaijans-too-predictable-crackdown>.

⁶⁵ *Ilgar Mammadov v. Azerbaijan*, Judgement of May 22, 2014, para. 143.

⁶⁶ Council of Europe, Committee of Ministers, Supervision of the execution of the Court's judgments, September 22, 2016, https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016806a6doa (accessed September 26, 2016).

However, Mammadov remains imprisoned and has repeatedly come under pressure from the authorities to apologize to and pledge support for President Aliyev in exchange for release.⁶⁷ Mammadov twice publicly alleged that he had been attacked in prison for refusing to sign a letter of remorse to President Aliyev—once by a cellmate and once by prison officials. On July 29, 2015 Mammadov’s cellmate attacked him, striking him on the head several times. One of Mammadov’s lawyers, Javad Javadov, said that the attack was meant to pressure Mammadov to write an apology letter. In August, prison officials placed Mammadov in solitary confinement, which his lawyer believes was in retaliation for speaking out about the attack.⁶⁸ Council of Europe Secretary General Thorbjørn Jagland sent a letter to Azerbaijan’s Minister of Justice urging a thorough investigation of the attacks and pressure on Mammadov.⁶⁹

A few months later, on October 16, 2015, after a meeting with his lawyer, prison officials took Mammadov to the prison’s administration offices. According to Javadov, two deputy prison directors beat Mammadov on the head and chest and then dragged him to the office of the prison director Eyvaz Asgarov, where they also punched and kicked him. Asgarov threatened Mammadov that he would never be released from prison alive.⁷⁰

Mammadov’s lawyer, who was only allowed to see him on October 19, said that there were visible injuries on Mammadov’s neck and head and that he suffered severe headaches after the beating. After the meeting, his lawyer filed written appeals to the Minister of Justice, the General Prosecutor, and the Ombudsman to investigate the incident and Mammadov’s treatment. Soon thereafter, prison officials, without explanation, refused to allow Mammadov to speak with his family or make telephone calls for one month.⁷¹

A prison doctor only examined Mammadov five days after the beating and has not made his findings available to his family.⁷² A representative of the Ombudsman’s office visited

⁶⁷ Human Rights Watch telephone interview with lawyer Javad Javadov, April 2, 2016. See also: “Azerbaijan: Release Outspoken Critics,” Human Rights Watch news release, November 4, 2013, <https://www.hrw.org/news/2013/11/04/azerbaijan-release-outspoken-critics>.

⁶⁸ “Ilgar Mamedov Put in Punishment Cell (UPDATED),” *Contact.az*, August 14, 2015, <http://contact.az/docs/2015/Social/081400126241en.htm#.VwDhYvlg600> (accessed August 26, 2016).

⁶⁹ Council of Europe, Letter from Thorbjørn Jagland, Council of Europe Secretary General, to Azerbaijani Minister of Justice Mr. Fikrat Mammadov, August 3, 2015, <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168045f816> (accessed August 24, 2016).

⁷⁰ Human Rights Watch telephone interview with lawyer Javad Javadov, April 9, 2016.

⁷¹ Human Rights Watch telephone interviews with lawyer Javad Javadov, April 9 and 12, 2016.

⁷² *Ibid.*

Mammadov ten days after the beating and claimed that since he could not see any visible marks on Mammadov he was not beaten.⁷³ Mammadov's wife visited him in late October 2015 and said that one of his teeth was broken and that he continued to have persistent pain in his head.⁷⁴ The authorities have failed to effectively investigate the alleged ill-treatment. On April 29, 2016 a court rejected Mammadov's motion for acquittal.⁷⁵ Mammadov appealed the decision and the Supreme Court will hear the case on November 18, 2016.

Ilkin Rustamzade

The authorities arrested blogger and member of NIDA youth group Ilkin Rustamzade in May 2013 on hooliganism charges for alleged involvement in filming a comedy video, but later charged him with inciting violence and organizing mass disorder. In 2014 a court sentenced him to eight years in prison.⁷⁶ He is currently being held in prison no. 13. Prior to his arrest, Rustamzade frequently posted criticism about alleged government corruption and human rights abuses on social media, including Facebook and Twitter. He had also created online events in Facebook in 2013 calling attention to the deaths of soldiers in non-combat situations and organizing mass protests in Baku.⁷⁷

The December 2014 Appeal Court and October 2015 Supreme Court decisions left Rustamzade's sentence unchanged. Prison authorities placed Rustamzade in solitary confinement twice in December 2014 as apparent retribution for his letters from prison critical of the government and his statement at the appeal hearing, in which he reported ill-treatment and abuses against other inmates in prison.⁷⁸

⁷³ "They Met with Ilgar Mammadov" [in Azeri], *Azadliq Radiosu*, October 27, 2016, <http://www.azadliq.org/a/27329348.html> (accessed September 20, 2016).

⁷⁴ "Submission to the UN Committee Against Torture on Azerbaijan," Human Rights Watch submission, November 2, 2015, <https://www.hrw.org/news/2015/11/02/hrw-submission-un-committee-against-torture-azerbaijan>.

⁷⁵ "Court Rejects Petition for Ilgar Mammadov's Release," *APA News Agency*, April 29, 2016, <http://en.apa.az/azerbaijani-news/social-news/court-rejects-petition-for-ilgar-mammadov-s-release.html> (accessed August 19, 2016).

⁷⁶ "Azerbaijan: Government Repression Tarnishes Chairmanship," Human Rights Watch news release, September 29, 2014, <https://www.hrw.org/news/2014/09/29/azerbaijan-government-repression-tarnishes-chairmanship>

⁷⁷ "Harlem Shakedown in Azerbaijan," *Institute for War and Peace Reporting (IWPR)*, May 22, 2013, <https://iwpr.net/global-voices/harlem-shakedown-azerbaijan> (accessed August 30, 2016).

⁷⁸ Human Rights Watch telephone interviews with lawyers Fariz Namazli and Nemet Karimli, April 5, 2016. See also: "Ilkin Rustamzade put into dungeon of Baku SIZO for second time within month," *Caucasian Knot*, December 20, 2014, <http://eng.kavkaz-uzel.ru/articles/30299/> (accessed August 19, 2016); "With love from Kurdekhani to the Working Group," [in Azeri], *Meydan TV*, November 25, 2014, <https://www.meydan.tv/az/site/authors/3816/%C4%B0%C5%9F%C3%A7i-qrupuna-K%C3%BCrd%C9%99xan%C4%B1dan-sevgil%C9%99rl%C9%99.htm> (accessed August 19, 2016); and "Ilkin Rustamzade has again been placed in solitary confinement," [in Azeri], *Meydan TV*, December 19, 2014, <https://www.meydan.tv/az/site/politics/4104/> (accessed August 30, 2016).

Seymour Hazi

Seymour Hazi, a leading columnist with the opposition paper *Azadlig* (Liberty) and an anchor for the France-based pro-opposition television channel *Azerbaijan Saat* (Azerbaijan Hour), has been in detention since August 2014 after an unknown man assaulted him near his home. Hazi defended himself by striking the man with the glass bottle he was holding; the bottle did not break. The police quickly appeared and arrested the journalist. He was charged with “hooliganism committed with a weapon or an object used as a weapon.” On January 29, 2015, a court convicted Hazi to five years in prison.⁷⁹ He lost all appeals against his conviction.⁸⁰

Faraj and Siraj Karimov

In July 2014 police arrested Faraj Karimov, 29, a well-known blogger and administrator of the “Basta!” (“Enough!”) and “Istefa” (“Resign”) Facebook pages, which had thousands of followers and served as platforms for criticism about human rights violations, social problems, and corruption in Azerbaijan. Police had detained his brother Siraj Karimov, 30, six days earlier. Both were arrested on dubious drug-related charges. Both Faraj Karimov and his father are the members of the opposition Musavat party and prominent political activists. Faraj Karimov also administered the Musavat Party website.

According to the Karimovs’ lawyer, neither brother had access to a lawyer of their choosing for several days following their respective arrests. Siraj Karimov alleged that Ministry of Interior Organized Crime Unit officials pressured him, under threat of physical harm to his family, to sign a confession to drug-related charges and that police questioned him about Faraj’s activities. A court sentenced Siraj to six years’ imprisonment for drug possession in March 2015. His family and lawyer believe that Siraj was targeted for his brother’s political and social media activism.⁸¹ He was released on March 17, 2016 under a presidential pardon.

⁷⁹ Human Rights Watch, “Dispatch: Jail Beckons for Azerbaijani Journalist,” January 30, 2015, <https://www.hrw.org/news/2015/01/30/dispatches-jail-beckons-azerbaijani-journalist> (accessed July 11, 2016).

⁸⁰ “The Court of Appeal upheld the arrest of the journalist Seymour Hazy,” *Contact.az*, September 29, 2015, http://www.contact.az/docs/2015/Social/092900131107en.htm#.VwExH_l9600 (accessed August 12, 2016).

⁸¹ Azerbaijan’s Supreme Court reduced the charge from Criminal Code art. 234.4.3 (illegal manufacture, production, acquisition and possession of drugs) to a lesser charge under article 234.1 (illegal purchase or possession of drugs for personal consumption). Azerbaijan Free Expression Platform, <http://azerbaijanfreexpression.org/campaigns/impunity/imprisoned-2015-siraj-karimov/> (accessed August 16, 2016).

Faraj Karimov said the police questioned him exclusively about his Facebook posts.⁸² Nevertheless, on May 6, 2015 a court sentenced Faraj Karimov to six-and-a-half-years in prison for drug possession. On May 24, 2016, the Supreme Court reduced his sentence to three years.⁸³ On October 4 Faraj Karimov was released under an amnesty.⁸⁴ Amnesty International had deemed the Karimovs “prisoners of conscience.”⁸⁵

⁸² Human Rights Watch telephone interview with Nemet Karimli, April 9, 2016.

⁸³ Human Rights House Foundation, “Supreme Court Commuted Faraj Karimli,” May 24, 2016, <http://hrf.report/supreme-court-commuted-faraj-karimli/> (accessed August 16, 2016).

⁸⁴ “Deputy Chairman of Musavat Faraj Kerimli Released,” *Contact.az*, October 4, 2016, <http://contact.az/docs/2016/Politics/100400170576en.htm#.Vi6LP196Um> (accessed October 8, 2016).

⁸⁵ Amnesty International, “Azerbaijan: Jail sentence for brother of opposition politician ‘another nail in the coffin of freedom of expression’,” March 17, 2015, <https://www.amnesty.org.uk/press-releases/azerbaijan-jail-sentence-brother-opposition-politician-another-nail-coffin-freedom> (accessed September 20, 2016).

II. Restrictions on Non-Governmental Organizations

Numerous amendments to laws and new regulations put into effect in 2014 and 2015 have severely impacted the ability of NGOs to operate independently in Azerbaijan, further constricting what had already been a difficult operational environment for NGOs.⁸⁶ Changes to NGO registration requirements in 2013 and frequent and arbitrary denials of registration to NGOs critical of government policies, meant that many groups operated without registration for many years. The more recent changes curtailed the ability of both unregistered and registered NGOs to seek and receive foreign grants, the primary source of funding for many groups. Only registered NGOs may secure grants through a process in which the Ministry of Justice has wide discretion to deny approval.

Requirements on foreign donors to conduct grant-making activity in Azerbaijan also became more stringent, with donors now required to register a presence in Azerbaijan in a complicated procedure and subject to approval by the Ministry of Justice. To fund local groups, a registered foreign donor must apply to the Ministry of Finance for an opinion confirming that each grant is financially and economically “expedient.”

In 2014, the authorities opened a sweeping criminal investigation into several large donors and their grantees and levied tax penalties on unregistered grants, paralyzing the work of many groups for at least a year. Many groups, including numerous leading human rights groups, have not been able to operate since. Most international donor agencies and organizations left Azerbaijan in the wake of the investigation and expanded government regulation.

In 2014, the authorities also criminally prosecuted and sentenced dozens of NGOs and their leaders, including prominent activists, as well as journalists and others. Although many were released in 2016, as noted above, none have been able to fully resume their work due to the restrictive operational environment for NGOs. Some activists face restrictions, including travel bans, as part of their conditional sentences. Others have felt compelled to leave Azerbaijan out of fears of further persecution.

⁸⁶ See: “Tightening the Screws.”

Cumulatively, these changes have criminalized independent, critical civil society and have made it virtually impossible for independent groups to operate freely. The authorities' wide discretion to deny or approve registration of domestic and foreign groups and all foreign grants allows them to control which groups and individuals can meaningfully exercise their right to freedom of association, in violation of Azerbaijan's international legal obligations. The legislative environment and prosecutions of activists and groups have been consistently criticized by authoritative international human rights bodies, yet Azerbaijan has taken no steps to amend laws or revise its punitive practices.

Restrictive Legislation and Regulations to Control NGOs

Arbitrary Denial of Registration and Vulnerability of Unregistered NGOs

NGOs in Azerbaijan are required to register as legal entities with the Ministry of Justice in an excessively bureaucratic process with almost unlimited discretion granted to the authorities to deny registration.⁸⁷ In some instances, the authorities have denied NGOs registration multiple times, including for minor errors. For example, the Election Monitoring and Democracy Studies Center (EMDS) has been unsuccessfully trying to register since 2008 after the authorities liquidated its predecessor.⁸⁸ In one instance Ministry of Justice officials denied the registration because the organization's charter contained a one letter error in the spelling of the NGO law. EMDS unsuccessfully appealed the refusal through the courts and have applied to the European Court of Human Rights.⁸⁹

The EMDS worked without registration from 2008 to 2013. Previously individuals affiliated with EMDS could sign grant agreements with donors, register them with the Ministry of Justice, and pay taxes on them; or EMDS conducted joint projects with a registered organization, and relied on this organization for funding. EMDS monitored elections and produced numerous critical reports from 2008 to 2014.

⁸⁷ The Ministry of Justice often imposes arbitrary requirements, some of which can be difficult to meet. For example, officials often ask for a letter of recommendation from a relevant state agency. See: USAID Bureau for Europe and Eurasia, "The 2015 CSO Sustainability Index for Central and Eastern Europe and Eurasia," https://www.usaid.gov/sites/default/files/documents/1861/Europe_Eurasia_CSOSIRReport_2015_Update8-29-16.pdf (accessed October 6, 2016). Published since 1997, the CSO Sustainability Index for Central and Eastern Europe and Eurasia studies the sustainability of SCO sector in 27 countries in the region and assesses the following seven dimensions: legal environment, organizational capacity, financial viability, advocacy, service provision, infrastructure, and public image.

⁸⁸ The Election Monitoring Center, founded in 2001. Human Rights Watch interview with Anar Mammadli, Warsaw, September 18, 2016.

⁸⁹ Ibid.

However, the lack of registration made the EMDS vulnerable. In 2014, the prosecutor's office deemed all of the group's activities "illegal entrepreneurship" on grounds the group was unregistered. The group's director, Anar Mammadli, was convicted of illegal entrepreneurship and other charges in May 2014 and spent almost two years in prison before being pardoned in March 2016.⁹⁰

Mammadli described the EMDS's current situation:

We can't work. ... Since the government refuses to recognize us as a legal entity, we can't do anything. We also can't get any grants or implement any projects without registration, as [the authorities would consider it] "illegal entrepreneurship." I can't even speak on behalf of the group, use the NGO name, as that would be illegal, since officially there is no such group for the authorities. I can only speak as an individual.⁹¹

In addition to initial registration, NGOs are required to register with the Ministry of Justice every change to any founding documents or changes in leadership, and obtain a renewed registration certificate in order to continue operation.⁹² Registration renewal is required within 40 days for changes of address, number of members, phone numbers, chairperson, and other minor changes. Only after confirmation of the ministry's registration of changes, can an NGO continue enjoying the benefits of legal entities, like the use of bank accounts or concluding grant agreements. Failure to register such minor organizational changes may result in administrative fines or be the basis for criminal charges of "illegal entrepreneurship."

In one case the Ministry of Justice refused to register changes to its founding documents requested by the Public Association for Assistance to Free Economy (PAAFE) seven times over eight months in 2014. According to PAAFE's director, Zohrab Ismayil, the ministry claimed that the request to register the change was erroneously signed by the founder of the

⁹⁰ Together with Mammadli, the court convicted Bashir Suleymanli, executive director of EMDS, and Elnur Mammadov, head of a partner group, International Organization of Volunteers, which EMDS partnered with in joint projects. Mammadli and Suleymanli were sentenced to five years and six months and three years and six months, respectively, while Mammadov was sentenced to two years on probation. "Dispatch: High Price of Activism in Azerbaijan," Human Rights Watch, May 27, 2014, <https://www.hrw.org/news/2014/05/27/dispatches-high-price-activism-azerbaijan>. Anar Mammadli is the winner of the 2014 Vaclav Havel Human Rights Prize awarded by the Council of Europe.

⁹¹ Human Rights Watch interview with Anar Mammadli, Warsaw, September 18, 2016.

⁹² Law on State Registration and State Registry of Legal Entities, as amended on December 17, 2013, arts. 9.3 and 9.4.

organization rather than by the chairperson. The ministry refused to recognize the power of attorney given to the founder. This absence of registration prevents Ismayil from using the group's bank accounts, forcing PAAFE to stop their work.⁹³ (*See more on PAAFE below*).

Intrusive Investigations and Disproportionate Penalties for Registered NGOs

Amendments from 2014 to the Law on Grants, the Law on NGOs, and Code of Administrative Offenses expanded the authorities' legal grounds to prosecute nongovernmental groups, including registered groups, and provided for higher financial and criminal penalties for minor infractions. The 2014 amendments gave extensive powers to the Ministry of Justice to monitor an NGO's compliance with the law and impose harsh penalties for any breaches, including a power to petition a court to close down an NGO following two warnings by the ministry within any given year.

In December 2015 the Ministry of Justice adopted new rules on studying the activities of NGOs, which went into force in February 2016.⁹⁴ These rules grant the ministry broad powers to conduct intrusive "regular" as well as "extraordinary" inspections on NGOs for up to two months, with very few guarantees for protecting the rights of NGOs.⁹⁵ The rules do not set any restrictions on the frequency of inspections or the total number annually.⁹⁶ The ministry may conduct inspections to assess the compliance of the NGO's activities with its own charter and Azerbaijani law. During the inspection it can require the NGO to submit a wide range of documents, including financial documents, budgets, and official correspondence. Failure to cooperate or provision of incorrect information could result in prohibitive fines.⁹⁷

Control Over Resources

The 2014 legislative amendments to the Law on Grants and subsequent government regulations, building on restrictions introduced in 2013 and coupled with strict regulation

⁹³ Human Rights Watch interview with Zohrab Ismayil, Warsaw, September 18, 2016.

⁹⁴ "Rules on Studying the Activities of Non-Governmental Organizations, Branches or Representative Offices of Foreign Non-Governmental Organizations," adopted by the Ministry of Justice on December 28, 2015, signed into the law on February 13, 2016.

⁹⁵ The International Center for Not-for-Profit Law (ICNL), "Civic Freedom Monitor: Azerbaijan," updated August 24, 2016, <http://www.icnl.org/research/monitor/azerbaijan.html> (accessed September 9, 2016).

⁹⁶ Human Rights Watch interview with an Azerbaijani NGO activist, name withheld, Warsaw, September 18, 2016.

⁹⁷ ICNL, "Civic Freedom Monitor: Azerbaijan," updated, August 24, 2016. For example, the government can impose fines from 2,500 AZN to 15,000 AZN (US\$1,600 to \$10,000). See also: "The 2015 CSO Sustainability Index for Central and Eastern Europe and Eurasia."

of foreign donors (described below), have virtually eliminated possibilities for NGOs to receive grants from foreign donors, the only source of funding for most human rights and other NGOs frequently critical of government policies.⁹⁸ NGOs and individuals must register all grants with the Ministry of Justice in an onerous process, requiring groups to prepare and submit extensive documentation. The rules on grants provide the authorities 10 different grounds on which they can refuse to register grants.⁹⁹ An NGO cannot access funds or implement the grant until it receives notification of grant registration from the ministry.¹⁰⁰ Using funds without the ministry's approval constitutes illegal entrepreneurship, a criminal offense. Banks cannot release funds to an NGO without a formal letter of registration of the grant funds from the Ministry of Justice. Without access to funds, many NGOs have been forced to suspend activities, dismiss staff, move abroad, or even close.¹⁰¹

Legal changes implemented in 2014 also require NGOs to report to the authorities all donations of any amount and the identity of the donor. Cash donations over 200 Azerbaijani manat (US\$125) are prohibited and can only be completed by a bank transfer.¹⁰² Failure to report a donation could result in a fine, ranging from 5,000 to 8,000

⁹⁸ On February 15, 2013, the Azerbaijani parliament adopted a set of amendments to the Law on Grants, the Law on Nongovernmental Organizations, and the Code of Administrative Offenses, introducing stiffer administrative sanctions for NGOs that accept financial or other material assistance without a formal grant agreement with the donor. The amendments significantly increased fines for failure to file a proper grant agreement with the Ministry of Justice, which could also lead to confiscation of property. In addition, the amendments established prohibitive fines for giving and accepting cash donations higher than 200 AZN. Human Rights Watch, "Tightening the Screws."

⁹⁹ "Rules on Registration of Grant Agreements," adopted by the Cabinet of Ministers, June 5, 2015, arts. 3.1.1. through 3.1.10. If in the past filing a notarized copy of a grant agreement was sufficient, the new regulations require a person or NGO to submit the following documents: a copy of an original agreement, copy of the ID of a person acting as a donor, copy of the charter and registration certificate of a legal entity, copy of a power of attorney if the agreement is signed by a person other than a legal representative, copy of a document confirming a foreign donors' authorization to issue grants in Azerbaijan, and a document confirming that the NGO or a branch or a representative office of a foreign NGO has submitted a financial statement to the Ministry of Finance.

¹⁰⁰ Although the requirement to register grants with the Ministry of Justice has been in place since 2009, it was largely a formality and had mostly a notification character until 2014. NGOs could access the grants even prior to the Ministry's formal approval of the grant. For its September 2013 report, "Tightening the Screws," Human Rights Watch was not aware of any instances in which the ministry refused to register an NGO grant agreement. In an official reply to Human Rights Watch's inquiry, dated August 27, 2013, the ministry responded that "during the whole period of application of the law there has been no rejection of registration [of a grant agreement]."

¹⁰¹ According to the 2015 CSO Sustainability Index, over 50 large domestic NGOs and a number of international organizations, including OSCE, Oxfam, Counterpart International, World Vision, and Save the Children, were forced to completely stop their work in Azerbaijan in 2015. "The 2015 CSO Sustainability Index for Central and Eastern Europe and Eurasia."

¹⁰² "Law of the Republic of Azerbaijan on Nongovernmental Organizations, Public Unions and Foundations," as amended October 17, 2014, art. 24.

manat (\$3,000 to \$5,000).¹⁰³ All consultancy or service contracts must also be registered with the Ministry of Justice in onerous process.¹⁰⁴

These limitations prevent groups like EMDS, which cannot secure foreign funding, from seeking funds from alternative donors. EMDS Director Anar Mammadli told Human Rights Watch that the requirement to notify the authorities of small donors could put those donors in danger, as it could lead to their harassment by the authorities. “For example,” he said, “I could easily crowd source few hundred manat to hold a workshop or roundtable, just by posting a request on social media, but I’ll have to report every small donation and that could put people in harm’s way.”¹⁰⁵

Mammadli also explained other obstacles the law has brought to EMDS’s work, such as the inability to engage volunteers. “Another impediment to doing any work is that I can’t even have volunteers. As an election monitoring organization, we depended on volunteers. Now, after the changes in the law, [EMDS] needs to sign individual contracts with each volunteer and in order to be able to do that [EMDS] need to be registered.”¹⁰⁶

Nigar N., whose organization was investigated in 2015 and 2016 (*see below*), explained that her organization cannot receive or register grants due to the new restrictive registration requirements, forcing the group to severely curtail its work. In a September 2016 interview with Human Rights Watch Nigar N. explained that the organization previously had 10 full-time and over 30 part-time employees. Currently the organization has only four full-time and six part-time staff. Nigar N. said, “Our NGO shrunk more than four times in a bit over a year. Prior to the crackdown our budget was about \$300,000 a year. Now, zero. Not \$10,000 or 5,000, but zero.”¹⁰⁷

Nigar N. further described the precariousness of her group’s situation and the vulnerability of NGOs should they not meet all the demanding technical requirements in the reporting.

¹⁰³ “The 2015 CSO Sustainability Index for Central and Eastern Europe and Eurasia.”

¹⁰⁴ Cabinet of Ministers Decree “On Registration of Contract on Provision of Services and Works at the Expense of Foreign Financial Sources by Non-Governmental Organizations, as well as Branched or Representative Offices of Foreign Non-Governmental Organizations,” adopted on October 21, 2015. Rules on registration of grant agreements (decisions), 2015, on file with Human Rights Watch. See also, ICNL, “Civic Freedom Monitor: Azerbaijan,” updated August 24, 2016, <http://www.icnl.org/research/monitor/azerbaijan.html> (accessed September 9, 2016).

¹⁰⁵ Human Rights Watch interview with Anar Mammadli, Warsaw, September 18, 2016.

¹⁰⁶ *Ibid.*

¹⁰⁷ Human Rights Watch interview with Nigar N. (pseudonym), location withheld for security reasons, September 18, 2016.

“It’s impossible to plan anything as you never know what will happen tomorrow,” she said. “There’s so much gratuitous paperwork needed for the extensive reporting to the authorities. We are all stressed and afraid of making mistakes [vis-à-vis the authorities].”¹⁰⁸

Nigar N.’s experience is not unique. About one-third of active civil society organizations in Azerbaijan suspended their activities in 2015, as they were unable to maintain their staff and offices, while another third had to close their offices and work from the homes of their staff. Significant time and resources were spent fulfilling state requirements on registration, operation, and reporting, as well as addressing inspections and inquiries from state agencies.¹⁰⁹

Restrictions on Foreign Donors

The 2014 laws and subsequent regulations also dramatically increased government control over foreign organizations’ ability to give grants to NGOs in Azerbaijan. All potential foreign donors must register a branch or office in the country and then receive permission from the Ministry of Justice to act as a grant maker for a specific period of time.¹¹⁰ Even after meeting these requirements, a donor must seek an opinion from the Ministry of Finance on the “financial-economic expediency” of each grant.¹¹¹ The rules on foreign donors also give the Ministry of Finance broad discretion, including nine different grounds, to deny grants, including on the grounds that there is “sufficient state funding” for an issue.¹¹²

The regulations do not provide for an appeals process in the event the ministry denies registration of a donation, grant, or service contract, except in cases of procedural

¹⁰⁸ Ibid.

¹⁰⁹ “The 2015 CSO Sustainability Index for Central and Eastern Europe and Eurasia.”

¹¹⁰ “Law of the Republic of Azerbaijan on Grants,” as amended October 17, 2014, art. 2; and “Resolution No. 339 of the Cabinet of Ministers of the Republic of Azerbaijan on Approval of the Procedure for Foreign Donors to Obtain the Right for Provision of Grants in the Territory of the Republic of Azerbaijan,” December 4, 2015.

¹¹¹ “Cabinet of Ministers of Azerbaijan Resolution 339,” and “Rules on obtaining the right to provide grants in the territory of the Republic of Azerbaijan by foreign donors,” October 22, 2015. Obtaining a Ministry of Finance opinion is a complicated process and requires a donor to submit a grant agreement, the project duration, information about the recipient, financial and economic rationale for the grant, founding documents of the foreign donor, including translated, notarized, and legalized copies of its founding statute and registration. A donor must go through this complex process for each grant it wishes to issue.

¹¹² Cabinet of Ministers of Azerbaijan Resolution No. 339, art. 3.3.

violations, which can be administratively appealed.¹¹³ The Ministry of Justice registered few grants in 2015. The list of approvals is not made public.¹¹⁴

Criminal Investigation into Foreign Donors and their Local Partners

In April 2014, the General Prosecutor's Office initiated criminal investigations against several major international donors, including the National Endowment for Democracy, the Open Society Foundations, Oxfam, the European Endowment for Democracy, and others operating in Azerbaijan on charges of abuse of power and service forgery.¹¹⁵ In October the investigation expanded into the activities of dozens of individuals and NGOs who had received grants from these donors, leading to repeated interrogation of NGO leaders and staff, prosecutions of some NGO leaders, and seizure of their bank accounts. In the course of 2015 the authorities froze the bank accounts of over 29 NGOs and numerous NGO leaders' accounts.¹¹⁶ The authorities also conducted extensive tax inspections into those NGOs, imposed travel bans on some individuals, and subjected some to intrusive physical checks at borders. The authorities suspended but did not close the investigations in early 2016.

Most large international donor organizations and agencies left Azerbaijan following the criminal investigation or because they have been unable to register in the country (*see below*), further obstructing opportunities for NGOs to engage with potential donors and secure funding. According to Mammadli of the EMDS, "We can't access donor funds, as all donors working on sensitive issues, like good governance or rule of law, left the country."¹¹⁷

IRFS

One of the organizations that was forced to close in the wake of the investigation was the Institute for Reporters' Freedom and Safety (IRFS), an NGO registered in 2006 and dedicated to monitoring and promoting media rights and freedom of expression in Azerbaijan. By 2014, IRFS had 35 full-time staff members, five volunteers and two offices in Baku. IRFS documented and exposed violations of freedom of expression and access to information and

¹¹³ "The 2015 CSO Sustainability Index for Central and Eastern Europe and Eurasia."

¹¹⁴ Ibid.

¹¹⁵ Criminal Code of Azerbaijan, arts. 308.1 (abuse of power), and 313 (service forgery).

¹¹⁶ Zohrab Ismayil and Ramute Remezaitė, independent experts, "Shrinking Space for Civil Society in Azerbaijan," June 2016, Annex 1.

¹¹⁷ Human Rights Watch interview with Anar Mammadli, Warsaw, September 18, 2016.

produced the online TV channel Objective TV dedicated to providing an alternative news source “to counter the increasing government control of traditional news sources.”¹¹⁸

According to IRFS Director Emin Huseynov, “Our offices were sealed shut in August 2014, and everything, including our equipment, documents, and all we had, was sealed with it. We had multimedia equipment valued at about \$200,000. Our bank accounts were also frozen with about \$40,000 in them and they remain frozen until now.”¹¹⁹ Fearing politically motivated arrest in conjunction with the investigation, Huseynov sought shelter in Baku’s Swiss embassy. He remained at the embassy for 10 months, until the Swiss foreign minister flew him out of the country in June 2015. As described below, Huseynov’s brother remains in Baku and faces harassment and criminal prosecution.¹²⁰

Public Association for Assistance to Free Economy

Another organization forced to cease its activities as a result of the investigation was the Public Association for Assistance to Free Economy (PAAFE). Registered in 2006, the group promoted transparency, accountability, property rights, and good governance, including through publishing research and strategic litigation before the European Court. According to the group’s director, Zohrab Ismayil, by 2014 the organization had 25 staff members including permanent employees and those on short contracts, with an annual budget of about \$200,000. The group has been a member of the Extractive Industries Transparency Initiative (EITI) since its founding. Ismayil was chairperson and then coordinator of Azerbaijan’s EITI civil society platform.¹²¹

In July 2014, the authorities froze all of the organization’s and Ismayil’s personal bank accounts. The authorities repeatedly interrogated Ismayil and other employees. Ismayil believes he and his organization were targeted in part because he serves on the board of

¹¹⁸ Human Rights Watch interview with Emin Huseynov, Warsaw, September 18, 2016. See also: www.irfs.org.

¹¹⁹ Ibid.

¹²⁰ Rasim Aliyev, 30, a journalist and human rights activist replaced Emin as chairman of IRFS. Aliyev died on August 9, 2015 after being attacked the day before following his criticism of a famous Azerbaijani football player. In May 2016, five people were convicted in relation to the death, and received lengthy prison sentences. IRFS stated that Aliyev had received threats in the past and believes that the attack on Aliyev was in retaliation for his activism. Human Rights Watch interview with Emin Huseynov, Warsaw, September 18, 2016, and IRFS, “The Unsolved Murder of Rasim Aliyev,” August 2016, <https://www.irfs.org/wp-content/uploads/2016/08/The-Unsolved-Murder-of-Rasim-Aliyev.pdf> (accessed September 28, 2016).

¹²¹ Human Rights Watch interview with Zohrab Ismayil, Warsaw, September 18, 2016.

REAL. Ismayil fled the country on August 14, 2014 fearing arrest. In September 2014 the prosecutor's office opened a criminal investigation against him on charges of illegal entrepreneurship, tax evasion, and abuse of office, and issued a warrant for his immediate detention. Despite Ismayil's numerous requests, the prosecutor's office has refused to confirm in writing whether the investigation remains ongoing.¹²²

Nigar N.'s Organization

One activist remaining in Baku, Nigar N., told Human Rights Watch that from August 2015 to January 2016 the prosecutor's office conducted an investigation into the registered organization she directs on charges of illegal entrepreneurship and tax evasion. While the investigation and audit were ongoing, Nigar N.'s personal bank account and the NGO's accounts were frozen and she faced a travel ban. Nigar N. told Human Rights Watch, "During those four months of investigation, they took our computer and all documents. I was under a travel ban. They interrogated everyone who had anything to do with our organization. They even questioned a [colleague at a partner organization]. I felt really bad, as our partners should not have been harassed in such a way."¹²³

Inability to Access Existing Funds

In April 2016, following the suspension of the criminal investigation into numerous foreign donors and their grantees, the authorities released bank accounts of several NGOs and their leaders. However, at least several of these groups are unable to use the funds in their accounts because they cannot register the grants connected to these funds. In several cases this is because investigative authorities seized documents required for grant registration during inspections and criminal investigations, and have not returned them, or because of punishing tax fines.¹²⁴

According to the CSO Sustainability Index, in 2015, following lengthy audits, the Azerbaijani tax authorities levied disproportionate and paralyzing penalties against NGOs working on—and engaged in international advocacy on—topics such as human rights, the rule of law, transparency, and other issues. According to one report, tax authorities issued

¹²² Ibid.

¹²³ Human Rights Watch interview with Nigar N. (pseudonym), location withheld for security reasons, September 18, 2016.

¹²⁴ "Background Briefing: Closing Civic Space in Azerbaijan," prepared by Publish What You Pay, CIVICUS, and ARTICLE 19 and submitted to the Open Governance Partnership Steering Committee, March 2, 2015.

financial penalties against at least 31 organizations ranging from 70 manat to 797,000 manat (\$47 to \$531,000).¹²⁵ In some cases NGOs could not access grant funds in unfrozen bank accounts because tax authorities automatically confiscated the unfrozen funds in payment for alleged tax penalties.

For example, in August 2014, in conjunction with the investigation into international donors and their grantees, the authorities froze the bank accounts of the Economic Research Centre (ERC) and its director, Gubad Ibadoghlu. ERC is a think tank that conducts research on economic policy, including public finance management, good governance, and budget transparency at national and local levels. In March 2016, a court ruled to unblock the group's bank accounts. However, the government's refusal to register a grant the ERC received in 2014 has paralyzed the organization's work. Ibadoghlu told Human Rights Watch that he has twice attempted to register the grant, but that the Ministry of Justice refused, claiming that a requirement of the grant contract signed with the donor—that unused portions of the grant should be returned to the donor—was not consistent with Azerbaijani legislation.¹²⁶

Since the grant is not registered, the authorities consider the funds taxable income, and in August 2015 levied a fine of 134,960.22 manat (\$82,284) against the ERC. According to the Tax Code, interest accrues at a daily rate of 0.1 percent, in this case by 134.90 manat (\$82). As of September 27, 2016 the outstanding fine was 171,077 manat (\$106,925).¹²⁷

When the ERC bank account was unfrozen, 7,121 manat (\$4,341) remained in the account related to an ERC project that concluded in 2014. Because the grant period had ended, the ERC planned to return the funds to two donors: the United States Agency for International Development (USAID) and Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), a German government donor agency. However, the tax authorities withdrew the funds to pay the tax fine as soon as the bank account was unfrozen. According to Ibadoghlu, the authorities did not inform him of the withdrawal, despite a legal obligation to do so.¹²⁸

¹²⁵ "The 2015 CSO Sustainability Index for Central and Eastern Europe and Eurasia."

¹²⁶ Human Rights Watch telephone interview with Gubad Ibadoghlu, July 18, 2016.

¹²⁷ Human Rights Watch email correspondence with Gubad Ibadoghlu, October 10, 2016.

¹²⁸ About 5,000 manat is owed to USAID and about 2,000 manat to GIZ. Human Rights Watch telephone interview with Gubad Ibadoghlu, July 18, 2016.

Ibadoghlu explained that in addition to the restrictive rules regarding registering grants and seeking foreign funding, “The tax fines create problems with other donors. We have this huge tax fine to pay. Any grant funding we get can be seized to pay the tax penalty.”¹²⁹

The unpaid tax penalty poses further threats to the ERC and Ibadoghlu as ERC director. In the absence of payment, the authorities can seize the organization’s property or Ibadoghlu’s property and place a travel ban on him. A court could sentence him for two to seven years’ imprisonment for non-payment. Ibadoghlu concluded, “Our future is gloomy. Largely because of the tax fines.”¹³⁰

In conjunction with criminal investigations into the Public Association for Assistance to Free Economy and its director Zohrab Ismayil, in October 2014 tax authorities alleged the organization owed 16,300 manat (\$9,755) in tax arrears. The bank accounts were unfrozen on April 14, 2016. Four days later, the tax authorities seized 11,097 manat (\$6,765), all of the funds remaining in the group’s manat account, to pay a portion of the alleged arrears.

In addition, because the Ministry of Justice refuses to confirm the changes in the group’s registration documents, the organization cannot conduct bank operations and access its remaining grant funds. Thus, despite the fact that the organization’s accounts were unfrozen, the organization cannot operate. Ismayil told Human Rights Watch:

We can’t use the funds remaining in the organization’s account. Since we could not work anymore, we officially suspended the work of the NGO indefinitely. Otherwise, we still had to submit quarterly reports to the authorities, even if we can’t get funding and operate in the country.¹³¹

State Financial Support for NGOs

In parallel with concerted government efforts to restrict foreign funding, the authorities invested in strengthening the State Council for Support to NGOs under the Auspices of the President of Azerbaijan, established in 2007 to provide a domestic source of financial

¹²⁹ Ibid.

¹³⁰ Ibid.

¹³¹ Human Rights Watch interview with Zohrab Ismayil, Warsaw, September 18, 2016.

assistance to NGOs.¹³² However, many NGOs have not applied for grants from this body because they say receiving government funding would undermine their independence. Gubad Ibadoghlu, director of the Economic Research Centre, which cannot secure foreign grants, as described above, told Human Rights Watch, “There is only access to state funding. We have not applied because we don’t want to be a 100 percent state funded organization. This will damage our reputation and independence.”¹³³

Other state supported funding sources include the National Fund for Science, the Youth Fund, and several ministries, who disburse grants to finance projects related to art and culture, development of entrepreneurship, sports, and environment.¹³⁴

Prosecution and Releases of NGO Leaders

In 2014 the authorities convicted a number of human rights defenders, NGO leaders, political activists, and critical journalists on bogus criminal charges, including for alleged illegal entrepreneurship, tax evasion, other economic crimes, and abuse of authority. Among those prosecuted were: Intigam Aliyev of the Legal Education Society, Rasul Jafarov from the Human Rights Club, prominent investigative journalist Khadija Ismayilova, veteran human rights defender Leyla Yunus and her husband Arif Yunus, and election monitor Anar Mammadli. Many other activists fled the country fearing prosecution.

Although Azerbaijani authorities released these and other human rights defenders and activists in late 2015 and early 2016, they have not quashed their convictions, and some face travel bans and impediments to continue their work. Two of those released, Intigam Aliyev and Khadija Ismayilova, cannot travel outside of the country under the terms of their conditional release.¹³⁵ The authorities allowed Leyla and Arif Yunus to leave Azerbaijan in April 2016 to seek medical assistance after their health significantly deteriorated in prison.¹³⁶

¹³² The Council on State Support to NGOs under the Auspices of the President of the Republic of Azerbaijan, 2016, <http://www.ccsn.gov.az/en/> (accessed September 9, 2016).

¹³³ Human Rights Watch telephone interview with Gubad Ibadoghlu, July 18, 2016.

¹³⁴ “The 2015 CSO Sustainability Index for Central and Eastern Europe and Eurasia.”

¹³⁵ The authorities allowed Intigam Aliyev to travel for a short visit to Strasbourg, France, at the invitation of the Council of Europe, but have refused to lift the ban, even temporarily, for Khadija Ismayilova.

¹³⁶ “Dispatches: Free from Baku’s Grip, Reunited with Family,” Human Rights Watch, April 19, 2016, <https://www.hrw.org/news/2016/04/19/dispatches-free-bakus-grip-reunited-family>.

Those NGO leaders released but remaining in the country, such as Aliyev, Jafarov, and Mammadli have been unable to fully resume their work. Prosecutors have not unsealed the office of Aliyev’s Legal Education Society or returned most of the organization’s legal case files confiscated during the investigation into the group. (*see Investigations into Litigation Organizations below*). The Ministry of Justice refused to register Jafarov’s Human Rights Club and Mammadli’s Election Monitoring and Democracy Studies Center, thus depriving the center of even a theoretical chance to seek funding and sign a grant agreement.

Several NGO leaders also stressed their inability to hold public events in conference spaces without the prior consent of the authorities. Although it is an unwritten ban, it is strictly implemented, and severely hinders the constituency-building efforts of NGOs.¹³⁷ “I can’t even find a place to hold a meeting,” Anar Mammadli explained to Human Rights Watch. “In April and then in June we tried to hold a meeting of former political prisoners, but no hotel would rent us space.”¹³⁸

Mammadli grimly summarized the situation for his work since his release under a presidential pardon in March 2016: “So, yes, we are free, but what can we do?! The only space for us now is on social media, Facebook or Twitter, or else, leave the country.”¹³⁹ Zohrab Ismayil, director of the Public Association for Assistance to Free Economy, who fled Azerbaijan in 2014, expressed his pessimism about the ability of his organization to work without interference in the future, given the criminal prosecutions and heavy tax fines they have faced in recent years. “Even if we were to start operating tomorrow, there’s no guarantee that we won’t be harassed again,” he told Human Rights Watch.¹⁴⁰

Human Rights Bodies’ Criticism of Restrictions on NGOs

Several authoritative international human rights bodies criticized and condemned Azerbaijani authorities for their concerted efforts to silence critical NGO leaders. For example, in its March 2016 judgement, the European Court of Human Rights found Rasul Jafarov’s conviction on illegal entrepreneurship and tax evasion charges were in violation of Article 18 of the European Convention on Human Rights, and that “the actual purpose of

¹³⁷ “The 2015 CSO Sustainability Index for Central and Eastern Europe and Eurasia.”

¹³⁸ Human Rights Watch interview with Anar Mammadli, Warsaw, September 18, 2016.

¹³⁹ *Ibid.*

¹⁴⁰ Human Rights Watch interview with Zohrab Ismayil, Warsaw, September 18, 2016.

the impugned measures was to silence and punish the applicant for his activities in the area of human rights.”

The Court also highlighted the context of Jafarov’s conviction:

[T]he Court agrees that in recent years the legislative environment regarding the operation of non-governmental, non-commercial organisations, including the regulation of matters relating to their State registration, funding and reporting requirements, has grown increasingly harsh and restrictive. A number of recent amendments to various legislative instruments introduced additional registration and reporting procedures and heavy penalties. There have been long-standing problems with the State registration of NGOs in Azerbaijan.¹⁴¹

In a report adopted in December 2014 the Venice Commission, the Council of Europe’s expert body on constitutional matters, stated: “The amendments raise barriers to the establishment of NGOs; introduce additional administrative requirements and increased checks as well as more problematic registration procedures; raise barriers to activities and operations; and restrict access to resources. More severe sanctions and penalties are also introduced for those acting in contravention of such or other legal obligations. ... [T]he procedure of registration of NGOs in Azerbaijan has been criticised for its lengthy and cumbersome nature.”¹⁴²

During his September 2016 visit to Azerbaijan, UN Special Rapporteur on the Situation of Human Rights Defenders Michel Forst found that “over the last two [to] three years, the civil society in Azerbaijan has faced the worst situation since the independence of the country,” and noted many of the same concerns identified in this report including: “the drastic impediments to the right to freedom of association, caused by the 2013-2015 legislative amendments to laws regulating civil society operations;” and the “persecution of human rights defenders through administrative and legal persecution.” Forst also noted

¹⁴¹ European Court of Human Rights, *Rasul Jafarov v. Azerbaijan*, Judgment of March 17, 2016.

¹⁴² European Commission for Democracy Through Law (Venice Commission), “Opinion On the Law On Non-Governmental Organizations (Public Associations and Funds) as Amended of the Republic of Azerbaijan,” adopted at its 101 Plenary Session, Venice, December 12-13, 2014, [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2014\)043-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2014)043-e) (accessed September 9, 2016).

that numerous other international organizations had made “the same assessment of the worsening situation of human rights defenders in Azerbaijan,” but that “most if not all of the recommendations by the international and regional mechanisms have yet to be implemented.”¹⁴³

Following a May 2016 visit by the UN Working Group on Arbitrary Detention, its chairperson concluded: “While fully taking into account the pardon decree signed by the President of Azerbaijan on 17 March 2016 which resulted in the release of political prisoners and prisoners of conscious, the Working Group was unable to observe any significant change in the country with respect to this situation regarding other persons deprived of liberty for apparently the same reasons. The Working Group holds the view that human rights defenders, journalists, political and religious leaders continue to be detained under criminal or administrative charges as a way to impair the exercise of their basic human rights and fundamental freedoms and to silence them.”¹⁴⁴

Azerbaijan’s Legal Obligations on Freedom of Association

As a member of the Council of Europe since 2001 and party to the European Convention on Human Rights (ECHR) since 2002, Azerbaijan has strict and clear obligations to respect freedoms of association and expression, obligations that it seems to be selectively disregarding in its current strategy towards human rights NGOs and social activists. Article 11 of the ECHR states that everyone has the right to freedom of association. The only permissible restrictions to this right are those that are “prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others.”¹⁴⁵

¹⁴³ Office of the United Nations High Commissioner for Human Rights (OHCHR), “End of mission statement by Special Rapporteur on the situation of human rights defenders: Visit to Azerbaijan,” September 22, 2016, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20544&LangID=E> (accessed September 22, 2016).

¹⁴⁴ “Working Group on Arbitrary Detention Statement upon the Conclusion of its Visit to Azerbaijan, May 16-25, 2016,” <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=20021&LangID=E#sthash.oRPWNYEw.dpuf> (accessed September 26, 2016).

¹⁴⁵ ECHR, art. 11. Article 22 of the International Covenant on Civil and Political Rights (ICCPR) also sets out that the only restrictions permissible on freedom of association are those “which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.”

The European Court of Human Rights has consistently made clear that the right “to form a legal entity in order to act collectively in a field of mutual interest is one of the most important aspects of the right to freedom of association, without which that right would be deprived of any meaning.”¹⁴⁶ While a state has a right to regulate an association’s aims and activities, it must do so in a manner compatible with its obligations under the Convention.¹⁴⁷ This includes an obligation to recognize the legal status of associations, and not to impose unnecessary delays or administrative burdens on any registration procedure in a way that would interfere with the right of association.¹⁴⁸

Azerbaijan has already been found to have violated the right to freedom of association in five cases since its ratification of the ECHR in 2002.¹⁴⁹ In its 2007 judgment *Ramzanova v. Azerbaijan*, the European Court concluded that “the significant delays in its state registration, which resulted in its prolonged inability to acquire the status of a legal entity, amounted to an interference by the authorities with the applicant’s exercise of their right to freedom of association.”¹⁵⁰ The court also noted that even if the association had a theoretical right to exist without the state registration, the domestic legal regulation, which prevented the association from receiving any “grants” or financial donations, has effectively prevented the association from performing its work, thus interfering with the right to association.¹⁵¹ The court also stressed that “significant delays in the registration procedure, if attributable to the Ministry of Justice, amounted to an interference with the right of the association’s founders to freedom of association.”¹⁵²

¹⁴⁶ See for example, *Sidiropoulos and Others v. Greece*, Judgment of July 10, 1998, Reports of Judgments and Decisions 1998-IV, para. 40; *Gorzelik and Others v. Poland [GC]*, Judgment of February 17, 2004; and most recently *Ramzanova and Others v. Azerbaijan*, Judgment of February 1, 2007, para. 54, *Zhechev v. Bulgaria*, Judgment of June 21, 2007, para. 34, and *Ismayilov v. Azerbaijan*, Judgment of January 17, 2008.

¹⁴⁷ *Ibid.*

¹⁴⁸ For example, *Tsonev v. Bulgaria*, Judgment of April 13, 2006, para. 55.

¹⁴⁹ *Tebieti Muhafize Cemiyeti and Israfilov v. Azerbaijan*, Judgment of October 8, 2009; *Aliyev and others v. Azerbaijan*, Judgment of December 18, 2008; *Ismailov v. Azerbaijan*, Judgment of January 17, 2008; *Nasibova v. Azerbaijan*, Judgment of October 18, 2007; and *Ramzanova and Others v. Azerbaijan*, Judgment of February 1, 2007.

¹⁵⁰ *Ramzanova and Others v. Azerbaijan*, Judgment of February 1, 2007, para. 59. In April 2001, four Azerbaijani residents founded a public association “Assistance to the Human Rights Protection of the Homeless and Vulnerable Residents of Baku,” a non-profit group aimed at providing aid to the homeless and defending their interests. Between April 2001 and July 2002 the founders submitted four unsuccessful applications to the Ministry of Justice. The ministry returned the application documents four times without registering the group, each time claiming the group’s charter did not comply with the requirements of domestic law.

¹⁵¹ *Ibid.*

¹⁵² *Ibid.*, paras 54-60.

The punitive and invasive elements of the existing NGO law in Azerbaijan, as well as the recent amendments adopted by the parliament, are contradictory to Azerbaijan's obligations under international and regional law to respect freedom of expression and association, and have a choking effect on the exercise of those rights.

III. Harassment of Activists' and Journalists' Family Members

In addition to using criminal and administrative sanctions against human rights defenders, journalists, and activists, the Azerbaijani authorities have also subjected activists' family members to arrest, prosecution, and harassment, with the apparent aim of compelling the activists to stop their work. As the cases documented here reflect, the authorities have targeted the relatives of outspoken journalists and activists who have fled abroad out of fear of persecution and continued their vocal activism in exile. In some cases, relatives in Azerbaijan have publicly disowned or renounced their relationships with their close relatives abroad, possibly as a means to avoid retaliation by the authorities for their relatives' vocal criticism.

Emin Milli

Emin Milli is a dissident and exiled journalist, who is the founder and the director of Meydan TV, based in Berlin. Operating since 2013, Meydan TV is one of Azerbaijan's last surviving independent media outlets and is only able to operate out of Germany, cooperating with freelance journalists based in Azerbaijan and neighboring countries. Meydan TV carries material critical of the Azerbaijani government and its policies related to human rights, corruption, and similar issues. Several journalists cooperating with Meydan TV have faced criminal investigations.¹⁵³

Milli was imprisoned in 2009 for two-and-a-half years on criminal hooliganism charges, in retaliation for his criticism of the government.¹⁵⁴ In June 2015, authorities arrested Milli's brother-in-law, Nazim Agabeyov, on drug charges. In April 2016 a court sentenced Agabeyov to a three-year suspended sentence, which includes a travel ban. Milli considers the charges against Agabeyov to be "bogus and absurd," intended to punish his relatives

¹⁵³ Afgan Mukhtarli, "Azerbaijan: Campaign against Meydan TV Continues," *IWPR*, November 3, 2015, <https://iwpr.net/global-voices/azerbaijan-campaign-against-meydan-tv> (accessed August 26, 2016).

¹⁵⁴ For more on Milli's detention and conviction in 2010, see: "Azerbaijan: Young Bloggers Jailed," Human Rights Watch news release, November 12, 2009, <https://www.hrw.org/news/2009/11/12/azerbaijan-young-bloggers-jailed>; and "Azerbaijan: Appeal Court Leaves Bloggers in Jail," Human Rights Watch news release, March 10, 2010, <https://www.hrw.org/news/2010/03/10/azerbaijan-appeal-court-leaves-bloggers-jail>

for his critical reporting.¹⁵⁵ A week after Agabeyov's arrest, 23 of Milli's relatives sent a letter to President Aliyev calling Milli a traitor, hostile to Azerbaijan's "great success, development, prosperity, and integration with foreign countries."¹⁵⁶

On April 20, 2016, the Azerbaijani authorities launched a criminal investigation into "alleged illegal practice and profit-making in an especially large amount, large-scale tax evasion and abuse of power resulting in falsification of elections and/or referendum results" involving 15 journalists who cooperate with Meydan TV.¹⁵⁷ The journalists are all at liberty pending the investigation, but at least seven of them face travel bans.¹⁵⁸

The authorities began questioning several freelance journalists cooperating with Meydan TV in September 2015, after the journalists had reported on large-scale protests in Azerbaijan's fourth largest city, Mingechevir, where a young man died in police custody in August 2015, allegedly from ill-treatment by police.¹⁵⁹ Officials invited the journalists for questioning, claiming to be investigating the Mingechevir incidents. However, the questions related almost exclusively to Meydan TV, its payroll practices, staff, and funding. The authorities placed a number of the journalists under travel bans.¹⁶⁰

Mehman Huseynov

Mehman Huseynov is a photo and video journalist and social media activist, who police have been harassing since 2012, when he photographed and publicized police violence as Azerbaijan prepared to host the Eurovision Song Contest.¹⁶¹ Huseynov is the brother of Emin Huseynov, director of the Institute for Reporters' Freedom and Safety, who now resides in Switzerland since his offices were sealed shut by the authorities in 2014, as described above.¹⁶²

¹⁵⁵ Milli published this statement on July 27, 2015:

<https://www.facebook.com/emin.milli.3/posts/795862850533139?fref=fb&pnref=story> (accessed July 15, 2016).

¹⁵⁶ "Relatives disown Emin Milli," *Meydan TV*, July 31, 2015, <https://www.meydan.tv/en/site/news/7234/Relatives-disown-Emin-Milli.htm> (accessed July 15, 2016).

¹⁵⁷ "Meydan TV under criminal investigation," *Meydan TV*, April 20, 2016, <https://www.meydan.tv/en/site/news/13800/> (accessed September 20, 2016).

¹⁵⁸ Human Rights Watch telephone interviews with lawyer Elchin Sadigov, August 14 and 17, 2016.

¹⁵⁹ "Street Protest After Death in Azerbaijan Police Custody," *IWPR*, August 27, 2015, <https://iwpr.net/global-voices/street-protest-after-death-azerbaijan-police> (accessed September 20, 2016).

¹⁶⁰ Human Rights Watch interviews with lawyer Elchin Sadigov, August 14 and 17, 2016.

¹⁶¹ "Azerbaijan: Retribution Against Photographer," Human Rights Watch news release, June 14, 2012, <https://www.hrw.org/news/2012/06/14/azerbaijan-retribution-against-photographer>

¹⁶² "Swiss fly out opposition journalist hiding at its embassy," *The Guardian*, June 14, 2015, <https://www.theguardian.com/world/2015/jun/14/swiss-fly-out-opposition-journalist-hiding-at-its-azerbaijan-embassy> (accessed August 29, 2016).

The authorities initiated a criminal case against Mehman Huseynov in June 2012, detained him for a day, charged him with hooliganism “committed with resistance to a representative of the authority”, and released him on his own recognizance, but the criminal investigation is ongoing. Huseynov told Human Rights Watch that there have not been any significant developments in the investigation in the past three years, but the case is still pending. Police detained and interrogated him on numerous occasions since then.¹⁶³

According to Huseynov, after his brother Emin left the country, the investigator has not hidden from him the motives for keeping the 2012 criminal investigation open. Huseynov told Human Rights Watch:

The investigator said, ‘We could not arrest your brother, but we control whatever happens to you and your family.’ They cancelled my ID card and passport and I cannot get new ones, and couldn’t travel anywhere, even if I wanted. I received response this week about my most recent request to travel abroad. They say that I am not allowed, claiming there is a risk that I would abscond because of pending criminal investigation.¹⁶⁴

Officials have never questioned Huseynov about the incident with the police officer and he is not aware of any meaningful investigative steps. Without identification documents, Huseynov cannot authorize power of attorney to a legal representative and thus is also not able to file a lawsuit against any official actions. The absence of identification also prohibits him from formal employment and education.”¹⁶⁵

Ganimat Zahidov

Ganimat Zahidov is the editor-in-chief of the major opposition daily newspaper *Azadlig* and the pro-opposition television program *Azerbaijan Saat* [Azerbaijan Hour] which is broadcast by satellite for a few hours every week from abroad. The authorities have often jammed transmission and removed the channel from satellite broadcasts, but *Azerbaijan*

¹⁶³ Criminal Code of Azerbaijan, art. 221.2.2. Human Rights Watch telephone interview with Mehman Huseynov, September 16, 2016.

¹⁶⁴ Human Rights Watch telephone interview with Mehman Huseynov, September 16, 2016.

¹⁶⁵ Human Rights Watch telephone interview with Mehman Huseynov, April 10, 2016.

Saat has continued to broadcast by frequently identifying new host channels.¹⁶⁶ Arrested after publishing articles critical of the government, Zahidov was sentenced to four years in prison in 2008 on dubious hooliganism charges. He was released under a 2010 presidential pardon, but in 2011 fled to France after officials threatened him and his family.¹⁶⁷

Zahidov told Human Rights Watch that several of his family members remaining in Azerbaijan have been targeted in retaliation for his continued critical journalism.¹⁶⁸ The authorities detained two of Zahidov's nephews as well as a cousin in June 2015. A court sentenced the nephews to detention for allegedly disobeying police orders, and immediately brought criminal drug charges against the cousin, Rovshan Zahidov. One nephew was released after serving his sentence, but the authorities brought drug charges against the other nephew, Rufat Zahidov. Both Rovshan Zahidov and Rufat Zahidov were convicted in 2016 on criminal drug charges and are serving six-year prison terms. Both had spent nearly a year in pretrial detention prior to their convictions.¹⁶⁹ Both have denied the charges and said they never used drugs. Forensic exams also could not prove any drug history.¹⁷⁰

In recent years, the authorities have also targeted other journalists affiliated with *Azerbaijan Saat*. Its anchor, the well-known journalist Seymour Hazi was arrested in August 2014.¹⁷¹ On the same month, the brother of the program's other anchor, Natig Adilov, was arrested on trumped-up drug charges, which Adilov said was in retaliation for his own journalism.¹⁷² Their colleague Khalid Garayev was arrested in late October 2014, when police accused him of hooliganism for "swearing in public," after which he was sentenced to one month in detention.¹⁷³

¹⁶⁶ Reporters Without Borders, "Ganimat Zahid," 2016, <https://rsf.org/en/hero/ganimat-zahid> (accessed September 20, 2016).

¹⁶⁷ Frontline Defenders, "Case history of Ganimat Zahidov," 2016, <https://www.frontlinedefenders.org/en/case/case-history-ganimat-zahidov> (accessed September 21, 2016).

¹⁶⁸ Human Rights Watch telephone interview with Ganimat Zahidov, April 11, 2016.

¹⁶⁹ IRFS, "Critical journalist Ganimat Zahid's relatives sentenced to 6 years in prison," June 28, 2016, <https://www.irfs.org/news-feed/critical-journalist-ganimat-zahids-relatives-sentenced-to-6-years-in-prison/> (accessed September 21, 2016).

¹⁷⁰ Human Rights Watch telephone interviews with Ganimat Zahidov and Natig Adilov, April 10 and 11, 2016.

¹⁷¹ "Azerbaijan sentences opposition journalist to 5 years in jail," *Reuters*, <http://www.reuters.com/article/us-azerbaijan-journalist-prison-idUSKBN0L21VD20150129> (accessed September 20, 2016).

¹⁷² IRFS, "Opposition activist Murod Adilov sentenced to 6 years in prison," May 16, 2015, <https://www.irfs.org/news-feed/opposition-activist-murod-adilov-sentenced-to-6-years-in-prison/> (accessed September 20, 2016).

¹⁷³ "Journalist Khalid Garayev arrested for 25 days (UPDATED)," *Contact.az*, October 30, 2014, <http://www.contact.az/docs/2014/Social/102900094881en.htm> (accessed September 20, 2016).

Tural Sadigli

Tural Sadigli, a blogger and political activist fled Azerbaijan in January 2013 fearing arrest. He continued to author the popular pro-opposition “Azad Soz” website and Facebook page, where he often posts articles and videos on political prisoners and corruption. In January 2015, Sadigli participated in a protest outside the offices of German Chancellor Angela Merkel in Berlin, during a visit by President Aliyev. Sadigli told Human Rights Watch that his Berlin protest prompted authorities in Azerbaijan to retaliate against his family members.¹⁷⁴

On February 13, 2015 police in Baku detained Sadigli’s brother, Elgiz Sadigli, on spurious drug charges. According to Tural Sadigli, his brother alleged that police planted drugs on him in the police station and in his car. He was initially held in pretrial detention for two months on charges of allegedly possessing 1.5 kilograms of marijuana, but then released to house arrest. In November 2015 an Azerbaijani court convicted Elgiz Sadigli, sentenced him to two years’ probation, and banned him from traveling outside of the country. He was interrogated twice during the seven-month investigation into the drug charges, but police focused questions on Tural’s activities in Germany.¹⁷⁵ He appealed the conviction but in January 2016, the appeals court left the verdict standing.

Also on February 13, 2015 police called in Sadigli’s father for questioning and held him overnight on allegations of swearing in public. Tural Sadigli told Human Rights Watch that the police informed his father that his and Elgiz’s detentions were in response to his son’s political activities in Berlin.¹⁷⁶

The relatives of at least three other exiled activists who joined the Berlin protest had also been called in for questioning, according to information gathered by Sadigli. Police in Sumgayit and Baku had invited their relatives to the police station, kept them for several hours, and questioned them about their relatives’ political activities and who organized the Berlin protest. In one case, police showed one of the relatives a picture of the Berlin protest. Police warned them that they would be in trouble if their relatives in Germany

¹⁷⁴ “Dispatches: Jailed in Azerbaijan for Protest in Berlin,” Human Rights Watch, February 17, 2015, <https://www.hrw.org/news/2015/02/17/dispatches-jailed-azerbaijan-protest-berlin>.

¹⁷⁵ Human Rights Watch telephone interviews with Sadigli’s family members, names withheld, and Tural Sadigli, September 15, 2016.

¹⁷⁶ Human Rights Watch telephone interviews with Tural Sadigli, April 24 and 27, 2016.

continue their anti-government activities. In two cases relatives lost their jobs apparently as retaliation.¹⁷⁷

Rasul Murselov

Rasul Murselov is an activist with the opposition APFP and is active on social media. In August 2014, Murselov participated in a workshop in Georgia, which included participants from Armenia, a neighboring country locked in a protracted conflict with Azerbaijan. Upon return to Azerbaijan, authorities questioned Murselov about his contact with Armenians. Fearing arrest Murselov fled and sought asylum in a European country.¹⁷⁸

In September 2015, Murselov's parents and five other relatives renounced all connections to Murselov in an appeal to President Aliyev and several government agencies.¹⁷⁹ Murselov told Human Rights Watch about the authorities' pressure on parents in retaliation for his work:

My parents were repeatedly summoned to the police station and questioned about my activities. They were under pressure and threatened with dismissals from their jobs. Their decision to disown me was the only way for them to deflect the constant harassment from the police and other officials.¹⁸⁰

¹⁷⁷ Human Rights Watch telephone interviews with Tural Sadigli and protest participants, names withheld, August 16, 2016.

¹⁷⁸ Details withheld for security reasons. Human Rights Watch interviews with Rasul Murselov, April 8 and 9, 2016.

¹⁷⁹ "Parents disown their political prisoner son," *Musavat Daily*, September 9, 2015, http://musavat.com/news/son-xeber/valideynleri-azerbaycanli-siyasi-mehbusdan-imtina-etdi_291051.html (accessed September 21, 2016).

¹⁸⁰ Human Rights Watch telephone interviews with Rasul Murselov, April 8 and 9, 2016.

IV. Proceedings Against Independent Lawyers

Azerbaijan has a small number of lawyers prepared to defend government critics in politically motivated trials. In recent years, the authorities have targeted these lawyers in a number of ways. These include arrests and prosecutions, investigations into lawyers' organizations, imposition of travel bans, and questionable disciplinary proceedings which resulted in disbarments or threats of disbarment. Once disbarred, lawyers cannot represent clients in criminal proceedings. Travel bans prevent lawyers from representing clients at the European Court of Human Rights, receiving further education or training abroad, and participating in international events.

Investigations into Litigation Organizations

Intigam Aliyev

Intigam Aliyev, a leading human rights lawyer and head of the Legal Education Society (LES), was arrested in August 2014 under the joint criminal case against domestic and international NGOs described above and in April 2015 sentenced to seven and a half years' imprisonment on charges of tax evasion, illegal entrepreneurship, and other crimes. In March 2016, the Supreme Court ordered Aliyev's conditional release from prison. Aliyev faces travel restrictions for five years and cannot travel abroad without special permission. He is prohibited from holding public office for three years and his conviction has not been quashed.¹⁸¹

From 1999, the LES conducted strategic litigation, supported lawyers involved in strategic litigation, wrote reports related to different human rights issues, submitted complaints to the European Court of Human Rights, and organized trainings for lawyers, human rights defenders, youth activists, journalists, and others. As of this writing, the authorities have not returned the equipment and documents seized from LES following Aliyev's arrest, including numerous case files, which Aliyev told Human Rights Watch compromises lawyer-client confidentiality and prevents continuing litigation on those cases. The

¹⁸¹ Human Rights Watch email correspondence with Intigam Aliyev, September 23, 2016. See also, "Azerbaijan: Human Rights Lawyer Convicted," Human Rights Watch news release, April 22, 2015, <https://www.hrw.org/news/2015/04/22/azerbaijan-human-rights-lawyer-convicted>; and "Dispatches: Top Rights Lawyer Freed in Azerbaijan," Human Rights Watch, March 28, 2016, <https://www.hrw.org/news/2016/03/28/dispatches-top-rights-lawyer-freed-azerbaijan>.

materials still seized by the authorities include over 100 cases which Aliyev had submitted on behalf of applicants to the European Court of Human Rights. The criminal investigation into the Legal Education Society has been suspended but has not been closed, and Aliyev's personal and the LES's bank accounts remain frozen and the office sealed. Aliyev's own case is pending before the European Court of Human Rights.¹⁸²

Asabali Mustafayev

In 2014 the authorities opened an investigation into the Resource Center for Democracy and Human Rights, headed by lawyer Asabali Mustafayev. In conjunction with the investigation, the organization's bank accounts were frozen, impeding the group's work, and Mustafayev remains under a travel ban. Mustafayev does remain a member of the Bar Association and represents several individuals facing politically motivated charges, as well as at least numerous cases before the European Court of Human Rights.¹⁸³

Annagi Hajibeyli

Annagi Hajibeyli, head of the Azerbaijan Lawyers' Association, a nongovernmental human rights organization which worked on strategic litigation, lawyers' training and human rights education, told Human Rights Watch that his personal bank account and the organization's bank account were seized by the authorities in July 2014, in conjunction with the large criminal investigation into international and domestic NGOs. Officials interrogated Hajibeyli several times as part of the investigation. Although the prosecutor's office told Hajibeyli in October 2015 that his bank accounts would be unfrozen and the travel ban lifted, when Hajibeyli attempted to travel later that year for urgent medical treatment that he could only receive abroad, border officials told him he was under a travel ban. Hajibeyli's travel ban was lifted in August 2016 and he received the medical treatment. The organization's bank accounts remain frozen, inhibiting their work.¹⁸⁴

¹⁸² Human Rights Watch email correspondence with Intigam Aliyev, September 23, 2016.

¹⁸³ Human Rights Watch telephone interview with Asabali Mustafayev, August 12, 2016.

¹⁸⁴ Human Rights Watch telephone interview with Annagi Hajibeyli, April 19, 2016.

Other lawyers

Yalchin Imanov

Yalchin Imanov, 43, is a practicing lawyer and a member of the Collegium of Advocates, Azerbaijan's bar association, since 2007. In recent years Imanov represented several prominent government critics including investigative journalist Khadija Ismayilova, political opposition members Mammad Ibrahim and Fuad Gahramanli, and others. On February 12, 2016 a judge of Baku's Narimanov District Court filed a complaint with the Collegium of Advocates requesting disciplinary action against Imanov for his "unethical behaviour" towards the court. According to Imanov, in his statements during the trial of opposition politician Mammad Ibrahim he referred to "the judge's negligent approach to the [defense] motions," and "non-objective consideration of motions," which the judge considered impolite and disrespectful, prompting the complaint.¹⁸⁵ The Collegium of Advocates' Disciplinary Committee is expected to launch a review of Imanov's conduct. At this writing, the committee has not set a date for the review. Imanov continues to practice.

Khalid Bagirov

In September 2014 an appeals court judge wrote to the Collegium of Advocates, asking it to take appropriate disciplinary measures against Khalid Bagirov, after he had a brief argument with the judge who upheld the first instance court decision not to release Ilgar Mammadov. In the course of the argument Bagirov questioned the independence of Azerbaijan's judiciary, which the judge claimed was an insult to the court, and alleged that Bagirov acted "as if he were above the law," and that he did not show the court due respect, for example by standing up only reluctantly while addressing the court and failing to wear a professional gown.¹⁸⁶

Bagirov's license to practice law was suspended on December 10, 2014 and he was unable to continue his practice. The Collegium of Advocates successfully appealed to court with a request to disbar him. Bagirov has taken his case to the European Court of Human Rights. In addition to Mammadov, Bagirov had represented human rights defender Leyla Yunus and several NIDA movement youth activists in politically motivated cases.

¹⁸⁵ Human Rights Watch telephone interview with Yalchin Imanov, April 16 and August 9, 2016.

¹⁸⁶ Human Rights Watch letter to Azer Tagiev, Chairman, Collegium of Advocates, January 27, 2015; and Human Rights Watch interview with Khalid Bagirov, Tbilisi, April 8, 2016.

Bahrüz Bayramov and Elchin Sadigov

In April, the Collegium of Advocates took disciplinary action against two lawyers, Bahrüz Bayramov and Elchin Sadigov, who were representing the journalist Parvis Hashimli. Hashimli had been sentenced in 2014 on trumped-up, politically motivated charges of possessing and smuggling firearms, and was pardoned in mid-March 2016. Before Hashimli's pardon, at his Supreme Court appeal hearing in November 2015, the judge declined to release him on appeal. In a media interview shortly thereafter, Bayramov criticized the judge's decision, saying he believed that the Ministry of National Security, who had detained Hashimli, had influenced the decision.

The judge filed a complaint with the Collegium in November 2015 asking for disciplinary measures against both Bayramov and Sadigov. The judge claimed that Bayramov had used abusive language about him in media interviews and that both lawyers had failed to provide a quality defense for Hashimli. Bayramov defended himself saying that he never made any personal verbal attacks on the judge, but rather criticized the decision to uphold the verdict against Hashimli.¹⁸⁷ The Collegium's Disciplinary Committee questioned both lawyers in late 2015 and recommended that the Bar Association debar them.

On April 1, 2016, the Bar Association reprimanded Bayramov and warned Sadigov. Both lawyers told Human Rights Watch that neither the reprimand nor warning affects their professional activities. However, they believe the punishment creates ground for easy dismissal anytime.¹⁸⁸

Alaif Hasanov

Lawyer Alaif Hasanov represented a veteran human rights defender Leyla Yunus who was arrested in July 2014 and convicted in August 2015 to eight-and-a-half years on bogus tax-related offences. In September 2014, he publicized a complaint by Yunus about harassment and pressure put on her by one of her cellmates. In response to the accusations, the cellmate filed a criminal defamation lawsuit against Hasanov, claiming he insulted her when he called her "a criminal and a recidivist" in an interview with *Azadlig*

¹⁸⁷ Human Rights Watch telephone interviews with Bahrüz Bayramov and Elchin Sadigov, September 22, 2016.

¹⁸⁸ Human Rights Watch telephone interviews with Bahrüz Bayramov and Elchin Sadigov, April 16, 2016.

newspaper.¹⁸⁹ In November 2014, a court found Hasanov guilty of insult and sentenced him to 240 hours of public service.¹⁹⁰ On July 3, 2015 in connection with the defamation conviction, the Collegium of Advocates disbarred Hasanov, but did not inform him of the hearing.¹⁹¹ In September 2016, the Baku appeals court rejected Hasanov's appeal against the decision.¹⁹² Hasanov is prohibited from practicing criminal law.

Relevant International Legal Standards

Malicious prosecution or disbarment of an attorney threatens the independence of the legal profession and thereby undermines the right to counsel as set forth in the International Covenant on Civil and Political Rights (ICCPR) and the European Convention on Human Rights (ECHR). Azerbaijan is party to both treaties.

The United Nations Basic Principles on the Role of Lawyers, adopted in 1990, provide guarantees for the unimpeded functioning of lawyers. Principle 16 states:

Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidations, hindrance, harassment or improper interference; (b) are able to travel and consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.¹⁹³

¹⁸⁹ "Azerbaijan: Leyla Yunus' Cellmate Demands to Punish Leyla's Advocate," *Caucasian Knot*, September 30, 2014, <http://www.eng.kavkaz-uzel.eu/articles/29488/> (accessed September 27, 2016).

¹⁹⁰ "Azerbaijan: Alif Hasanov, Leyla Yunus' Advocate, Sentenced to Public Works," *Caucasian Knot*, November 6, 2014, <http://www.eng.kavkaz-uzel.eu/articles/29855/> (accessed September 27, 2016).

¹⁹¹ "Azerbaijani Bar Association Suspends Powers of Alaif Hasanov," *Caucasian Knot*, July 4, 2015, <http://www.eng.kavkaz-uzel.eu/articles/32253/> (accessed September 27, 2016).

¹⁹² "Azerbaijan court rejects lawyer Alaif Hasanov's appeal against disbarment," Human Rights House Network, September 7, 2016, <http://humanrightshouse.org/Articles/21864.html> (accessed September 27, 2016).

¹⁹³ Although the Basic Principles are not, in themselves, legally binding instruments, they contain certain principles and rights that are based on human rights standards enshrined in the ICCPR and ECHR.

V. International Response to Azerbaijan's Civil Society Crackdown

In recent years, the international community has responded to Azerbaijan's lack of respect for human rights in a disjointed and inconsistent manner, hindering the possibility of a clear, unified policy response to the civil society crackdown. Throughout 2015 and 2016 the European Union (EU), the United States (US), and Azerbaijan's other bilateral and multilateral partners have issued statements deploring the arrests and convictions of activists and journalists and welcoming releases, but failed to impose consequences for Azerbaijan's human rights crackdown.

The only clear setback for Baku came in April 2015, when the Extractive Industries Transparency Initiative (EITI), a prominent international multi-stakeholder initiative that promotes government openness in natural resource management, downgraded Azerbaijan's status in the group due to the government's failure to adhere to EITI standards on civil society.

The severe drop in global oil prices in 2015 took a significant toll on Azerbaijan's petroleum export-dependent economy. Low economic performance and depletion of oil revenue reserves prompted Azerbaijani leadership to seek loans from multilateral development banks.¹⁹⁴ This provides additional opportunities for these institutions to insist on institutional reforms, including fostering an enabling environment for civil society as a precondition for certain assistance.

The EU and Azerbaijan are about to embark on negotiating a new framework document to replace the 1999 Partnership and Cooperation Agreement, which provided the legal framework for EU-Azerbaijan bilateral relations in the areas of political dialogue, trade, investment, and economic, legislative, and cultural cooperation. The new agreement is designed to foster closer political and economic ties between Brussels and Baku, but the lengthy talks on the new partnership will also provide the EU with an invaluable opportunity to press Azerbaijan for concrete improvements in the area of human rights.

¹⁹⁴ Jack Farchy, "IMF, World Bank Move to Forestall Oil-Led Defaults," *Financial Times*, January 30, 2016, <https://www.ft.com/content/9759f42a-c51b-11e5-b3b1-7b2481276e45> (accessed October 12, 2016).

Azerbaijan's other international partners, including the Council of Europe, the UN, and the US should also continue to use bilateral and multilateral engagement to raise human rights concerns, including those described in this report. Efforts should include urging the authorities to release journalists, political activists, and human rights defenders imprisoned on bogus charges; to stop the harassment of journalists, activists, and other government critics, as well as independent lawyers; to end the crackdown on civil society; and to bring legislation related to freedom of association into line with international norms.

Economic Downturn and the Role of Multilateral Development Banks

The economic downturn following the 2015 global oil price drop prompted the government to devalue the national currency, the manat, in February and December 2015, resulting in significant price increases.¹⁹⁵ By mid-January 2016, the price of some food items had doubled.¹⁹⁶ Protests against price hikes and high unemployment took place across Azerbaijan.¹⁹⁷ Even as energy prices rebounded by mid-2016, the manat remained weak. More than two-thirds of the country's currency reserves had been depleted by July.¹⁹⁸ In response, the government has more actively sought financing from multilateral development banks, including the Asian Development Bank and the World Bank.

Extractive Industries Transparency Initiative (EITI)

Azerbaijan was the first state to become compliant in the Extractive Industries Transparency Initiative (EITI), a multi-stakeholder effort to promote better governance of resource-rich countries by fostering open public debate about how oil, gas, and mining revenues are used.¹⁹⁹ In April 2015, the EITI board voted to downgrade Azerbaijan's status from a compliant to a candidate country recognizing that the government's crackdown on

¹⁹⁵ From a peak above \$100 per barrel in mid-2014, global oil prices fell as low as \$30 per barrel near the end of 2015. Ninety percent of Azerbaijan's exports in 2014 consisted of petroleum, and the oil sector comprised 37 percent of the country's GDP. Ivana Kottasova and John Defterios, "This oil producing country may need a bailout," *CNN Money*, January 28, 2016, <http://money.cnn.com/2016/01/28/news/economy/oil-default-azerbaijan-bailout/> (accessed September 14, 2016).

¹⁹⁶ Arzu Geybullayeva and Tony Wesolowsky, "Azerbaijan Suffers From Currency Crash, Low Oil Prices," *RFE/RL*, January 10, 2016, <http://www.rferl.org/content/azerbaijan-suffers-currency-crash-oil-prices/27479606.html> (accessed September 14, 2016).

¹⁹⁷ Zulfugar Agayev, "Azeris Protest Price Increases as Currency Slumps to Record," *Bloomberg*, January 13, 2016, <http://www.bloomberg.com/news/articles/2016-01-13/azeris-protest-against-price-increases-as-manat-drops-to-record> (accessed January 13, 2016).

¹⁹⁸ Zulfugar, Agayev, "Oil Currency Breaks Ranks as Azeris Can't Quench Dollar Need," *Bloomberg*, July 7, 2016, <http://www.bloomberg.com/news/articles/2016-07-07/oil-currency-breaks-ranks-as-azeris-can-t-quench-dollar-cravings> (accessed September 14, 2016).

¹⁹⁹ Extractive Industries Transparency Initiative, 2016, <https://eiti.org/about/who-we-are> (accessed September 13, 2016).

civil society contravened the EITI civil society protocol.²⁰⁰ The protocol requires governments to ensure “an enabling environment for civil society participation with regard to relevant laws, regulations, and administrative rules as well as actual practice in implementation of the EITI” and “refrain from actions which result in narrowing or restricting public debate in relation to implementation of the EITI.”²⁰¹ This was the first instance in which EITI downgraded a country’s status for non-compliance with the civil society protocol.

The EITI board issued a list of corrective measures that the Azerbaijani government must take in order to regain its compliant status, including that “civil society substantively engaged in the EITI process are able to freely access and use funding to carry out their activities.” Civil society organizations must also be able “to access their bank accounts and register new grants for the purpose of activities related to the EITI process and natural resource governance.” These corrective measures also require that “civil society representatives substantively engaged in the EITI process are able to speak freely about the EITI process and express views on natural resource governance without fear or threat of reprisal or harassment.”²⁰²

During its October 2016 board meeting in Astana, Kazakhstan, the EITI will assess Azerbaijan’s actions to meet the remedial actions prescribed a year-and-a-half earlier.

Multilateral Development Banks

As noted above, Azerbaijan was hard hit by the fall in oil prices. The International Monetary Fund (IMF) anticipates that Azerbaijan’s economy will contract by 3 percent in 2016, its weakest performance in more than two decades.²⁰³ Low economic performance and depletion of its oil revenue reserves prompted Azerbaijani leadership to seek loans from several multilateral development banks.²⁰⁴ The government is pinning its hopes on gas as its main source of steady income in the future and seeks international financial support for its extractive industries.

²⁰⁰ EITI International Secretariat, “29th EITI Board Meeting Minutes,” April 27, 2015, <https://eiti.org/sites/default/files/documents/BP/Minutes-from-the-29th-EITI-Board-meeting-Congo.pdf> (accessed September 14, 2016).

²⁰¹ EITI, “EITI Civil Society Protocol,” January 2015, <https://eiti.org/node/4865> (accessed September 14, 2016).

²⁰² EITI International Secretariat, “29th EITI Board Meeting Minutes.”

²⁰³ Jack Farchy, “Azerbaijan: Aiming to Please,” *Financial Times*, August 28, 2016, <http://www.ft.com/cms/s/o/d89d55ae-6b73-11e6-a0b1-d87a9feao34f.html?siteedition=intl#axzz4LOUqGG37> (accessed September 27, 2016).

²⁰⁴ Jack Farchy, “IMF, World Bank Move to Forestall Oil-Led Defaults.”

The two largest proposed projects requiring financing are the expansion of the Shah Deniz Gas Field and the development of the Southern Gas Corridor. The Shah Deniz Gas Field entails the construction of 26 subsea wells and two offshore platforms, expansion of the Sangachal Oil and Gas Terminal, and connection to the South Caucasus Pipeline.²⁰⁵ The Southern Gas Corridor is a series of projects and pipelines designed to deliver natural gas from the Caspian Sea and the Middle East to Europe, each pipeline segment partially owned by the government of Azerbaijan either directly or through the State Oil Company of the Azerbaijan Republic (SOCAR) or its subsidiary.²⁰⁶

To meet the needs for new pipeline construction, and partly to offset its budget deficit, Azerbaijan and the co-owners of the pipeline, including Turkey, are seeking loans from the World Bank (WB), the Asian Development Bank (ADB), the European Investment Bank (EIB), and the European Bank for Reconstruction and Development (EBRD). The EBRD, EIB, and the World Bank are financing or considering financing the Trans Anatolian Natural Gas Pipeline (TANAP) in Turkey from the Georgian border to Greece, and the EBRD, EIB, and the International Financial Corporation (the private sector lending arm of the World Bank Group) are financing or considering financing the Trans Adriatic Pipeline (TAP) through Albania and Italy.²⁰⁷ Azerbaijan has received financing from the ADB and EBRD for the Shah Deniz Gas Field and is seeking additional financing from these institutions for its expansion.²⁰⁸

²⁰⁵ ADB, "Azerbaijan: Shah Deniz Gas Field Expansion Project," April 22, 2016, <https://www.adb.org/projects/50117-001/main#project-overview> (accessed September 16, 2016).

²⁰⁶ The Southern Gas Corridor includes: (i) the existing South Caucasus Pipeline (SCP), which will be expanded with a new parallel pipeline across Azerbaijan and Georgia; (ii) the Trans Anatolian Pipeline (TANAP), which will transport Shah Deniz gas across Turkey; and the Trans Adriatic Pipeline (TAP), which will take gas through Greece and Albania into Italy. BP Azerbaijan, "Southern Gas Corridor," 2016, http://www.bp.com/en_az/caspian/operationsprojects/Shahdeniz/SouthernCorridor.html (accessed September 28, 2016); Trans Adriatic Pipeline, "Southern Gas Corridor," 2016, <http://www.tap-ag.com/the-pipeline/the-big-picture/southern-gas-corridor> (accessed September 16, 2016). SOCAR owns 10 percent of the South Caucasus Pipeline (SCP) through its subsidiary, Azerbaijan South Caucasus Pipeline Ltd. (AzSCP). BP Azerbaijan, "South Caucasus Pipeline," 2016, http://www.bp.com/en_az/caspian/operationsprojects/pipelines/SCP.html (accessed September 28, 2016). The government of Azerbaijan and SOCAR own 58 percent of TANAP as shareholders of the Southern Gas Corridor Closed Joint Stock Company. State Oil Fund of the Republic of Azerbaijan (SOCAR), "Financing the Share of the Republic of Azerbaijan in 'South Gas Corridor' CJSC Statutory Capital," undated, http://www.oilfund.az/en_US/layiheler/tanap-project.asp (accessed September 28, 2016); Moody's Investors Service, "Rating Action: Moody's Assigns (P)Ba1 Rating to the Upcoming SGC Notes Guaranteed by the Republic of Azerbaijan; Rating Under Review for Downgrade," March 18, 2016, https://www.moody.com/research/Moodys-assigns-PBa1-rating-to-the-upcoming-SGC-Notes-guaranteed--PR_345544 (accessed September 28, 2016); SOCAR, "TANAP Shareholder Agreement Signed in Ankara," March 16, 2016, <http://www.socar.az/socar/en/news-and-media/news-archives/news-archives/id/8232> (accessed September 28, 2016); TANAP, "Major Shareholder in the Project of the Century!" undated, <http://www.tanap.com/media/press-releases/major-shareholder-in-the-project-of-the-century/> (accessed September 28, 2016). The government of Azerbaijan in partnership with its state-owned company, SOCAR, owns 20 percent of the TAP. TAP, "TAP's Shareholders," 2016, <http://www.tap-ag.com/about-us/our-shareholders> (accessed September 28, 2016).

²⁰⁷ "EBRD in Talks with Azerbaijan, Turkey on Funding Gas Pipeline;" and Natural Gas World, "EBRD Mulls SGC Loan," May 26, 2016, <http://www.naturalgaseurope.com/ebrd-is-considering-providing-a-syndicated-loan-of-up-to-1.5-billion-for-sgc-29795>

Independent groups have raised significant concerns about the environmental and human rights impact of these projects.²⁰⁹ Extractives projects only advance the social and

(accessed September 28, 2016). The World Bank is considering providing direct financial assistance to the Southern Gas Corridor through a \$500 million loan. World Bank, “Combined Project Information Documents/Integrated Safeguards Data Sheet (PID/ISDS) Concept Stage,” January 11, 2016, <http://documents.worldbank.org/curated/en/975071468102266266/pdf/PIDISDS-CON-Print-P157416-02-26-2016-1456494884810.pdf> (accessed September 28, 2016), pg. 2; Kallanish Energy, “World Bank to Issue \$500M Loan to Fund SGC Pipeline Project,” June 3, 2016, <http://www.kallanishenergy.com/2016/06/03/world-bank-loan-southern-gas-corridor-pipeline-project/> (accessed September 28, 2016); “World Bank Says to Lend \$500 Mln to Azerbaijan for Gas Pipeline Project,” *Reuters*, June 1, 2016, <http://www.reuters.com/article/azerbaijan-worldbank-loans-idUSR4N1800oG> (accessed September 28, 2016). The World Bank is also proposing to finance TANAP through a \$1 billion investment in BOTAS, Turkey’s state-owned oil and gas company. Financing of \$1.12 billion is being proposed by the EIB for the same project. World Bank, “Combined Project Information Documents/Integrated Safeguards Data Sheet (PID/ISDS) Concept Stage,” January 11, 2016, <http://documents.worldbank.org/curated/en/975071468102266266/pdf/PIDISDS-CON-Print-P157416-02-26-2016-1456494884810.pdf> (accessed September 28, 2016), pg. 1; EIB, “TANAP Trans-Anatolian Natural Gas Pipeline,” March 23, 2016, <http://www.eib.org/projects/pipeline/2015/20150676.htm> (accessed September 28, 2016). The EIB is independently proposing to finance TAP through a €2 billion construction project. EIB, “Trans Adriatic Pipeline,” August 13, 2015, <http://www.eib.org/projects/pipeline/2014/20140596.htm> (accessed September 29, 2016). The International Financial Corporation has committed \$60 million to finance TAP (\$50 million loan and \$10 million risk management). IFC, “Transatlantic,” April 23, 2014, <http://ifcextapps.ifc.org/ifcext/spiwebsite1.nsf/78e3b305216fcd85257a8b0075079d/7968406bbae7ee4685257c920054d48c?opendocument> (accessed September 29, 2016).

²⁰⁸ The EBRD is financing or proposing to finance Lukoil through a \$110 million senior partially syndicated loan signed on May 27, 2005, the extension of the first stage of the Shah Gas Field Development through a \$200 million loan signed on November 8, 2013, and Lukoil’s share in the second stage development through a \$500 million loan signed on October 6, 2014. EBRD, “Lukoil Shah Deniz Stage II,” undated, <http://www.ebrd.com/work-with-us/projects/psd/lukoil-shah-deniz-stage-ii.html> (accessed September 29, 2016); EBRD, “Lukoil Overseas: Shah Deniz Gas Condensate Field Develop. II,” undated, <http://www.ebrd.com/work-with-us/projects/psd/lukoil-overseas-shah-deniz-gas-condensate-field-develop-ii.html> (accessed September 29, 2016); and EBRD, “Lukoil Overseas: Shah Deniz Gas Condensate Field Development,” undated, <http://www.ebrd.com/work-with-us/projects/psd/lukoil-overseas-shah-deniz-gas-condensate-field-development.html> (accessed September 29, 2016). The ADB has provided a \$1 million loan (approved April 26, 2016) to prepare their proposed construction loan to Lukoil of \$250 million for the second stage expansion of the Shah Deniz Gas Field, approved August 5, 2016. ADB, “Azerbaijan: Shah Deniz Stage II Investment Plan,” 2016, <https://www.adb.org/projects/49451-001/main#project-pds> (accessed September 29, 2016); and ADB, “Azerbaijan: Shah Deniz Stage II Gas Field Expansion Project,” 2015, <https://www.adb.org/projects/48330-001/main#project-pds> (accessed September 29, 2016). Additionally, the ADB has proposed to provide a \$500 million loan to SOCAR and the Ministry of Economy and Industry for the expansion of the gas field, and another \$500 million loan for the second stage development to the Southern Gas Corridor Joint-Stock Company. ADB, “Azerbaijan: Shah Deniz Gas Field Expansion Project,” 2016, <https://www.adb.org/projects/50117-001/main#project-pds> (accessed September 29, 2016); and ADB, “Azerbaijan: Shah Deniz Gas Field Expansion Project (Phase 1),” 2016, <https://www.adb.org/projects/49451-002/main#project-pds> (accessed September 29, 2016). According to news reports, SOCAR is seeking ADB financing to expand the Shah Deniz Gas Field. Natural Gas World, “SOCAR Seeks Shah Deniz 2 Loan,” March 28, 2016, <http://www.naturalgaseurope.com/socar-seeks-loan-for-shah-deniz-2-28822> (accessed September 29, 2016).

²⁰⁹ Rights groups have also voiced concerns about government repression of civil society in Azerbaijan. See Fidanka Bacheva-McGrath, “Europe’s Caspian Gas Dreams—A Nightmare Come True for Human Rights in Azerbaijan,” *Bankwatch*, May 14, 2015, <https://bankwatch.blogactiv.eu/2015/05/14/europes-caspian-gas-dreams-a-nightmare-come-true-for-human-rights-in-azerbaijan/> (accessed September 29, 2016); Platform London, “EBRD Plan Azerbaijan Loan as Regime’s Fiercest Critic is Imprisoned,” December 11, 2014, <http://platformlondon.org/p-pressreleases/ebrd-plan-azerbaijan-loan-as-regimes-fiercest-critic-is-imprisoned/> (accessed September 29, 2016); Jessica Evans, “EBRD: A Bank’s Mission Gone Awry,” *Policy Review*, April 2016, <http://www.policyreview.eu/ebrd-a-banks-mission-gone-awry/> (accessed September 29, 2016); International Media Support, “Human Rights Coalition Urges Rejection of Russia-Azerbaijan Loan,” July 20, 2015, <https://www.mediasupport.org/human-rights-coalition-urges-rejection-russia-azerbaijan-loan/> (accessed September 29, 2016); Xavier Sol, “World Bank to Fund Southern Gas Corridor Mega-Pipeline in Azerbaijan & Turkey Despite Civil Society’s Environmental & “Controversial Regimes” Concerns,” *Business & Human Rights Resource Centre*, July 4, 2016,

economic situations of ordinary people when governments receive revenue from these projects and invest this money in addressing social and economic needs. Multilateral development banks have emphasized transparency of revenue and expenditures and avenues for people to hold the government accountable for spending decisions as essential to sustainable, inclusive development.²¹⁰ In addition to their own commitments to transparency and accountability, the multilateral development banks have each endorsed EITI.²¹¹

As outlined above, through its broad crackdown on civil society, the government has largely eliminated avenues for independent groups and activists to hold it accountable. Development banks should therefore only invest in projects that benefit Azerbaijan's extractive industries once the government both guarantees that civil society can function without undue hindrance and fully implements the corrective measures required by the EITI board.

Azerbaijan is also seeking direct budget financing from the multilateral development banks, particularly the ADB, which has the least stringent requirements for disbursing such funds.²¹² In light of the crucial role that independent civil society plays in exposing

<https://business-humanrights.org/en/world-bank-to-fund-southern-gas-corridor-mega-pipeline-in-azerbaijan-turkey-despite-civil-societys-environmental-controversial-regimes-concerns> (accessed September 29, 2016); and Jessica Evans (Human Rights Watch), "Asian Development Bank's Money vs. Its Mouth" commentary, *Huffington Post*, May 13, 2016, http://www.huffingtonpost.com/jessica-evans/asian-development-banks-m_b_9961464.html (accessed October 12, 2016).

²¹⁰ World Bank, "Bank Policy: Access to Information," 2015, <https://policies.worldbank.org/sites/ppf3/PPFDocuments/Forms/DispPage.aspx?docid=3693> (accessed September 29, 2016); EIB, "EIB Group Transparency Policy," March 10, 2015, <http://www.eib.org/infocentre/publications/all/eib-group-transparency-policy.htm> (accessed September 29, 2016); ADB, "Access to Information," undated, <https://www.adb.org/site/disclosure/overview> (accessed September 29, 2016); EBRD, "Transparency and Accountability," undated, <http://www.ebrd.com/ebd-transparency-and-accountability.html> (accessed September 29, 2016); and IFC, "Transparency and Accountability," undated, http://www.ifc.org/wps/wcm/connect/Topics_Ext_Content/IFC_External_Corporate_Site/IFC+Sustainability/Our+Approach/Transparency+and+Accountability/ (accessed September 29, 2016).

²¹¹ World Bank, "Extractive Industries Transparency Initiative: Results Profile," April 15, 2013, <http://www.worldbank.org/en/results/2013/04/15/extractive-industries-transparency-initiative-results-profile> (accessed September 29, 2016); EIB, "EIB Support for the Extractive Industry Transparency Initiative," February 28, 2008, <http://www.eib.org/infocentre/press/news/all/eib-support-for-the-extractive-industry-transparency-initiative.htm> (accessed September 29, 2016); ADB, "ADB Backs Initiative to Get Countries to Disclose Resource Revenues," February 29, 2008, <https://www.adb.org/news/adb-backs-initiative-get-countries-disclose-resource-revenues> (accessed September 29, 2016); and EBRD, "Promoting Transparency," undated, <http://www.ebrd.com/cs/Satellite?c=Content&cid=1395236704433&pagename=EBRD-DE%2FContent%2FHulet> (accessed September 29, 2016).

²¹² ADB, "Projects in Azerbaijan," 2016, <https://www.adb.org/projects/azerbaijan> (accessed September 29, 2016); EBRD, "Project Summary Documents," undated, <http://www.ebrd.com/work-with-us/project-finance/project-summary-documents.html?1=1&filterCountry=Azerbaijan> (accessed September 29, 2016); and World Bank, "All Projects," undated, http://www.worldbank.org/en/country/azerbaijan/projects/all?qterm=&lang_exact=English&srt=status&order=asc (accessed September 29, 2016).

corruption and holding the government accountable for its spending decisions, multilateral development banks should not provide direct budget support until the government allows civil society to operate freely. Instead, these banks should finance projects that go directly toward meeting the urgent social and economic needs of the people of Azerbaijan and supporting programs that strengthen the link between the government's allocation of available resources and progressive realization of economic and social rights.

The EBRD is the only multilateral development bank that has a political mandate. Its Articles of Agreement provide:

...the purpose of the Bank shall be to foster the transition towards open market-oriented economies and to promote private and entrepreneurial initiative in the Central and Eastern European countries committed to and applying the principles of multiparty democracy, pluralism and market economics.²¹³

The EBRD understands “multiparty democracy and pluralism” to embrace civil and political rights. In line with this mandate, the EBRD should establish benchmarks that the government of Azerbaijan must meet to show it is committed to adhering to these principles. The degree to which the government meets these benchmarks should have a direct correlation with the EBRD's operations within the country, with any public lending or lending benefiting the extractives industry prohibited until the government has met these benchmarks. The EBRD has limited its lending in this way in Belarus and Turkmenistan, under what it calls a “calibrated approach.”²¹⁴ It should also apply this approach in Azerbaijan, in light of the severe crackdown.

²¹³ EBRD, Articles of Agreement, art. 1, signed May 29, 1990, entered into force March 28, 1991, <http://www.ebrd.com/news/publications/institutional-documents/basic-documents-of-the-ebrd.html> (accessed October 12, 2016).

²¹⁴ EBRD, “EBRD adopts new three-year strategy for Belarus, March 13, 2013, <http://www.ebrd.com/news/2013/ebrd-adopts-new-three-year-strategy-for-belarus.html> (accessed October 12, 2016); and EBRD, “Strategy For Turkmenistan,” May 7, 2014, <http://www.ebrd.com/downloads/country/strategy/turkmenistan.pdf> (accessed October 12, 2016).

Seeking International Recognition and Strategic Partnerships

Azerbaijan has been working to establish itself as a credible player in the international arena, seeking strategic partnerships and leadership roles in various international and regional bodies. It won a nonpermanent seat on the UN Security Council in late 2011, held rotational chairmanship of the Council of Europe Committee of Ministers in 2014, and hosted numerous international mega events, including the Eurovision Song Contest in May 2012, the inaugural European Games in June 2015, and the Formula 1 Grand Prix in June 2016.

Azerbaijan's international partners should use bilateral and multilateral frameworks of engagement to raise human rights concerns, including those described in this report. Sustained pressure and clear benchmarks for remedying human rights violations are needed if the international community is to succeed in persuading the Azerbaijani government to respect fundamental rights and liberties.

European Union

Cooperation between the EU and Azerbaijan in the energy field has flourished over the years, leading to closer economic and political ties between Baku and Brussels but not to improved governance or human rights in Azerbaijan. In September 2015, the Azerbaijani authorities almost entirely disengaged from political dialogue with the EU, in response to a critical European Parliament resolution on Azerbaijan.²¹⁵

In February 2016, the EU's High Representative for Foreign Affairs and Security Policy and Vice-President of the European Commission Federica Mogherini visited Azerbaijan and met with President Aliyev and Foreign Minister Elmar Mammadyarov. They reaffirmed cooperation via the Eastern Partnership, a joint initiative comprised of the EU, its member states, and a number of regional governments, including Azerbaijan, and pledged to look ahead to a potential new bilateral agreement between the EU and Azerbaijan.²¹⁶

The negotiations for the new bilateral agreement are expected to start by the end of 2016 and may take years to finalize. As the European Commission and Azerbaijan embark on

²¹⁵ "European Parliament Resolution on Azerbaijan," adopted on September 10, 2015, <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P8-TA-2015-0316> (accessed September 27, 2016)

²¹⁶ European Union External Action Service (EEAS), "Federica Mogherini visits Azerbaijan," March 1, 2016, http://collections.internetmemory.org/haeu/content/20160313172652/http://eeas.europa.eu/top_stories/2016/010316_vists-azerbaijan_en.htm (accessed September 13, 2016).

negotiating a new partnership agreement, the EU and its member states should make sure that any framework for relations between the EU and Azerbaijan has a strong human rights component. As a minimum requirement for successful talks, the EU should insist on Azerbaijan's implementation of the European Court of Human Rights decision on Ilgar Mammadov and urge the authorities to allow civil society groups to operate without fear of retribution, including by allowing the EU to disburse grants to local groups.

United States

The US and Azerbaijan have emphasized their shared interests in the energy and natural resources sectors, as well as regional security, given Azerbaijan's strategic location relative to Iran, Russia, and other countries. The US and Azerbaijan have a trade agreement and an investment treaty.²¹⁷ On several occasions, the US State Department urged the release of people imprisoned on politically motivated charges and, in an April 2015 a press release, acknowledged "a broad crackdown on human rights activists" in Azerbaijan.²¹⁸

In late March 2016, President Aliyev visited Washington, DC, to attend the Nuclear Security Summit and met bilaterally with US Secretary of State John Kerry. Shortly before the trip, Aliyev announced a pardon that included a number of activists imprisoned on politically motivated charges, as described above. A State Department press release about the Aliyev-Kerry meeting indicated that Secretary Kerry welcomed the releases and urged further progress on human rights.²¹⁹

²¹⁷ From 1993 and 1997, respectively. US Department of State, Bureau of European and Eurasian Affairs, "U.S. Relations with Azerbaijan," June 9, 2016, <http://www.state.gov/r/pa/ei/bgn/2909.htm> (accessed October 12, 2016); US Department of State, "U.S.-Azerbaijan Relations," September 28, 2009, <http://www.state.gov/p/us/rm/2009a/129375.htm> (accessed April 10, 2015); Trade Compliance Center, "Azerbaijan Trade Relations Agreement," April 12, 1993, http://tcc.export.gov/Trade_Agreements/All_Trade_Agreements/exp_002775.asp (accessed September 15, 2016); and US Department of State, "Azerbaijan Bilateral Investment Treaty," signed August 1, 1997 and entered into force August 2, 2001, Treaty Doc. 106-47, <http://2001-2009.state.gov/documents/organization/43478.pdf> (accessed September 15, 2016).

²¹⁸ "The United States Welcomes the Release of Natig Jafarli," US Department of State press release, September 10, 2016, <http://www.state.gov/r/pa/prs/ps/2016/09/261725.htm> (accessed September 14, 2016). See also: "Conviction of Azerbaijani Human Rights Activist Rasul Jafarov," US Department of State press release, April 16, 2015, <http://www.state.gov/r/pa/prs/ps/2015/04/240765.htm> (accessed September 15, 2016).

²¹⁹ "Secretary Kerry's Meeting with Azerbaijani President Ilham Aliyev," US Department of State press release, March 30, 2016, <http://www.state.gov/r/pa/prs/ps/2016/03/255351.htm> (accessed September 13, 2016).

In late 2015, bipartisan legislation was introduced in the US House of Representatives entitled “The Azerbaijan Democracy Act of 2015,” which threatened sanctions against Azerbaijani officials if political prisoners were not released.²²⁰

Council of Europe

A June 2015 resolution from the Parliamentary Assembly of the Council of Europe noted a broad “crackdown on human rights in Azerbaijan,” and condemned the “systemic repression” of those critical of the government. In December 2015 Council of Europe Secretary General Thorbjørn Jagland launched an official inquiry into the implementation of the European Convention of Human Rights in Azerbaijan, with specific reference to Azerbaijan’s failure to release Ilgar Mammadov.²²¹ This procedure had only been used by the Secretary General’s office in a few instances in the past. However, Jagland’s special representative could not carry out a visit to Azerbaijan in 2016, apparently due to the government’s failure to arrange the meetings that would allow the representative to fulfill his mandate.

The Council of Europe Commissioner for Human Rights, Nils Muižnieks, has repeatedly spoken out about the poor human rights situation in Azerbaijan and intervened several times before the European Court of Human Rights on cases brought against Azerbaijan.²²² The European Court of Human Rights found violations in numerous cases involving human rights defenders and activists in Azerbaijan, including Ilgar Mammadov,²²³ Tofiq Yagublu,²²⁴ and Rasul Jafarov.²²⁵ Other cases are pending.

²²⁰ The bill was referred to committees but has not been considered for a vote. H.R.4268 – Azerbaijan Democracy Act of 2015, 114th Congress (2015-2016), <https://www.congress.gov/bill/114th-congress/house-bill/4264/text> (accessed September 27, 2016).

²²¹ Council of Europe (CoE), “Azerbaijan human rights inquiry,” December 16, 2015, <https://www.coe.int/en/web/portal/-/secretary-general-launches-inquiry-into-respect-for-human-rights-in-azerbaijan> (accessed September 14, 2016).

²²² CoE, “Third party intervention by the Commissioner for Human Rights,” undated, <http://www.coe.int/en/web/commissioner/third-party-interventions> (accessed October 12, 2016). On April 20, 2015, the Human Rights Commissioner filed four similar submissions, including regarding Rasul Jafarov, Anar Mammadli, and Leyla and Arif Yunus. See also: CoE, “Country Monitoring: Azerbaijan,” 2016, <http://www.coe.int/en/web/commissioner/country-monitoring-azerbaijan> (accessed September 21, 2016).

²²³ CoE, *Ilgar Mammadov v. Azerbaijan* (Application No. 15172/13, Supervision of the Execution of the European Court’s judgments,” September 20-21, 2016, https://search.coe.int/cm/pages/result_details.aspx?objectid=09000016806a3cc4 (accessed October 12, 2016).

²²⁴ European Court of Human Rights, *Yagublu v. Azerbaijan*, (31709/13), judgment of November 5, 2015.

²²⁵ European Court of Human Rights, *Rasul Jafarov v. Azerbaijan*, (69981/14), judgment of March 17, 2016. See also, European Human Rights Advocacy Centre, “European Court: Rasul Jafarov’s arrest and detention were politically-motivated,” March 17, 2016, <http://ehrac.org.uk/news/european-court-rasul-jafarovs-arrest-and-detention-were-politically-motivated/> (accessed September 15, 2016).

United Nations

In September 2016, the UN Special Rapporteur on human rights defenders, Michel Forst visited Azerbaijan. In addition to Forst's findings related to control over nongovernmental organizations and prosecutions of human rights defenders noted above, Forst condemned the Azerbaijani government's "targeting of independent journalists, newspapers, media outlets and retaliation for views expressed on the Internet," as well as the use of "criminal prosecutions, disciplinary action, and other administrative measures against lawyers."²²⁶

Following his May 2016 visit, the Special Rapporteur on arbitrary detention Sètondji Adjovi condemned prosecutions of human rights defenders and activists, as noted above. He also criticized authorities' refusal to grant some detainees a lawyer of their choosing and the arrest of persons for administrative offenses and their subsequent investigation under criminal charges. Adjovi also criticized "administrative offences defined in broad and imprecise terms which lead to deprivation of liberty on unreasonable grounds" such as hooliganism and refusal to obey public authorities.²²⁷ Other special rapporteurs have visited Azerbaijan in recent years and Azerbaijan has accepted a request for an invitation from the Special Rapporteur on the rights to freedom of peaceful assembly and of association.²²⁸

In June 2015, 25 states issued a joint statement at the UN Human Rights Council condemning the "systematic silencing of critical voices" in Azerbaijan. It was the first time that states had issued such a statement on Azerbaijan at the Human Rights Council.²²⁹ In September 2015 UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein issued a statement deploring the "continuing civil society crackdown in Azerbaijan."²³⁰ A key

²²⁶ "End of Mission Statement by Special Rapporteur on the Situation of Human Rights Defenders," Visit to Azerbaijan, September 22, 2016, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20544&LangID=E> (accessed October 13, 2016).

²²⁷ OHCHR, "Working Group on Arbitrary Detention Statement upon the Conclusion of its Visit to Azerbaijan, May 16-25, 2016," 2016, <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=20021&LangID=E> (accessed 12 October 2016).

²²⁸ OHCHR, "Country visits of the Special Procedures of the Human Rights Council since 1998: Azerbaijan," http://spinternet.ohchr.org/_Layouts/SpecialProceduresInternet/ViewCountryVisits.aspx?Lang=en&country=AZE (accessed September 26, 2016).

²²⁹ Giorgi Gogia, "Dispatches: In Azerbaijan, Enough is Enough!" Human Rights Watch, June 24, 2015, <https://www.hrw.org/news/2015/06/24/dispatches-azerbaijan-enough-enough>

²³⁰ UN News Centre, "UN human rights chief deplores continuing civil society crackdown in Azerbaijan," September 8, 2015, http://www.un.org/apps/news/story.asp?NewsID=51823#.V9h4_igrKUK (accessed September 13, 2016).

concern in both statements was the detention of those expressing independent and critical views.²³¹

²³¹ OHCHR, “The Human Rights Council holds general debate on human rights situations requiring its attention,” June 24, 2015, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16140&LangID=E> (accessed September 14, 2016) and OHCHR, “Zeid condemns civil society crackdown in Azerbaijan,” September 8, 2015, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16393&LangID=E> (accessed September 14, 2016).

Acknowledgements

This report was researched and written by Giorgi Gogia, South Caucasus director at Human Rights Watch, Vugar Gojayev, research assistant at Human Rights Watch, and Jane Buchanan, associate Europe and Central Asia director at Human Rights Watch. Research support was provided by Kathryn Zehr, associate in the Europe and Central Asia division, and Neil Miller, intern in the Europe and Central Asia division, and Emily Gabor and Ishita Petkar, interns in the Business and Human Rights division of Human Rights Watch. Kathryn Zehr and Neil Miller also contributed to the chapter on international responses.

The report was edited by Jane Buchanan. Rachel Denber, deputy director for the Europe and Central Asia division, Aisling Reidy, senior legal advisor, and Tom Porteous, deputy program director, of Human Rights Watch reviewed the report. Phillippe Dam, advocacy director with the Europe and Central Asia division, reviewed the chapter on international actors and the recommendations; Jessica Evans, senior researcher with the Business and Human Rights division of Human Rights Watch wrote portions of and reviewed the section on multilateral development banks and the recommendations; Claire Ivers, senior EU advocate at Human Rights Watch, reviewed the recommendations and text concerning the EU; and Sarah Margon, Washington director at Human Rights Watch, reviewed the recommendations and text concerning the US.

Production assistance was provided by Kathryn Zehr and Amelia Neumayer, Business and Human Rights associate, Olivia Hunter, photo and publications associate, Rafael Jimenez, graphic designer, Fitzroy Hepkins, administrative manager, and José Martínez, senior coordinator.

Human Rights Watch expresses its sincere thanks to the human rights defenders, lawyers, journalists, political activists, and their family members who shared their experiences with us and provided invaluable support for this research.

HARASSED, IMPRISONED, EXILED

Azerbaijan's Continuing Crackdown on Government Critics, Lawyers, and Civil Society

The Azerbaijani authorities are waging a vicious crackdown on critics and dissenting voices. The space for independent activism, critical journalism, and opposition political activity has been virtually extinguished by the arrests and convictions of many activists, human rights defenders, and journalists, as well as by laws and regulations restricting independent groups' activities and ability to secure funding. Independent civil society in Azerbaijan is struggling to survive.

"Harassed, Imprisoned, Exiled" is based on more than 90 interviews and documents the government's concerted efforts to paralyze civil society and punish those who criticize or challenge the government. Although in early 2016 the government released several wrongly imprisoned activists, many remain behind bars and the authorities have arrested others to prevent them from carrying out their legitimate work. None of those released had their convictions lifted, several face travel restrictions, others left the country fearing further politically motivated prosecution, or had to halt their work because of almost insurmountable bureaucratic hurdles to access funding.

The report calls on the Azerbaijani government to immediately and unconditionally release those held on politically motivated charges, end harassment and threats against civil society and media, and ensure the civil society groups can operate without undue hindrance, including by repealing restrictions on access to non-state sources of funding, including foreign grants. It calls on Azerbaijan's international partners to set clear benchmarks for human rights improvements and impose concrete policy consequences should those requirements not be met.



A protestor holds a sign calling for the release of unjustly imprisoned youth activists. Baku, September 18, 2016.

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