

Joint declaration on freedom of expression

Representatives of Azerbaijani media, civil society, academia and other stakeholders

Having met on May 2, 2013 in Baku to discuss the current state of freedom of expression, freedom of information and freedom of the media in our country, with the assistance of International Media Support, IREX Azerbaijan, Institute for Reporters' Freedom of Safety and Media Rights Institute;

Emphasizing, once again, the fundamental importance of freedom of expression both in its own right and as an essential tool for the defense of all other rights, as a core element of democracy and for advancing development goals;

Stressing that, the Azerbaijan's Constitution protects human rights and fundamental freedoms, including *inter alia* the right to freedom of thought and expression (Article 47), the right to freedom of assembly (Article 49), the right to access information (Article 50), and the right to freedom of association (Article 58).

Recalling that, through its membership in the United Nations, the Council of Europe, and the Organization for Security and Co-operation in Europe (OSCE), and through its accession to major international and regional human rights treaties, Azerbaijan is committed to respect and protect the rights to freedom of expression and information;

Declaring, once again, that media freedom is particularly crucial during elections and pre-election periods. Acts of censorship, intimidation, imprisonment and other forms of silencing critical voices are completely incompatible with a free election.

Expressing, once again, our grave concern over the doubled number of incidents of violence and other crimes against freedom of expression in Azerbaijan, including killings, death-threats, sexual blackmail, abductions, arbitrary arrests, prosecutions and imprisonments, ill-treatment, harassment, intimidation, deportation, and confiscation of and damage to equipment and property;

Noting that violence and other crimes against those exercising their right to freedom of expression, including journalists, bloggers, civil journalists, online activists and other media actors, as well as human rights defenders, constitute not only attacks against individual victims, but also represent an attack on the broader right to freely receive and share information;

Condemning the atmosphere of impunity in which assassinations of, and physical and moral attacks on journalists encroaching on powerful interests are commonly practiced as a way to silence a critical voice;

Denouncing the crimes against freedom of expression including *inter alia* introduction of regressive pieces of legislation, prosecutions and imprisonments of critical voices, impunity for violence against the journalists, and the apparent lack of political will to address these violations, which has a chilling effect on freedom of expression;

Noting that independent, speedy and effective investigations into and prosecutions of crimes against freedom of expression are essential to addressing impunity and ensuring the respect for the rule of law;

Aware of the enormous potential of the Internet as a tool for realizing the right to freedom of expression and to information;

Cognizant of a number of international standards that are relevant to this issue, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Geneva Conventions of 1949 and their Additional Protocols, the International Convention for the Protection of All Persons from Enforced Disappearance, UN Security Council Resolution 1738 (2006), UN Human Rights Council Resolution 12/16: Freedom of opinion and expression, the 2007 UNESCO Medellin Declaration and the 2010 UNESCO Decision on the Safety of Journalists and the Issue of Impunity;

Adopt, in Baku, Azerbaijan, on May 02, 2013 the following Joint Declaration on Freedom of Expression:

I. Media and Election

In order for the upcoming presidential election to be considered fair and free in accordance with international standards, the government must provide for a 'level playing field' and respect and protect the rights to freedom of association and freedom of expression of all candidates and their supporters. To promote fair, safe and professional media election coverage, the government must create conditions to encourage full, fair and efficient disclosure of information to journalists covering the elections; ensure safety of journalists and their right to work without threat; and produce and distribute election guidelines outlining principles of professional reporting during elections, journalists' rights, election processes and safety information, as well as briefing notes on international human rights law with an emphasis on freedom of expression.

II. Violence Against Journalists

- A. Government must recognize publicly that journalists are vulnerable to violence specifically because of the work they do. This should always from the outset be considered a possibility in any investigation of an attack, a death or a blackmailing campaign
- B. Authorities must end all forms of impunity for those who attack or kill journalists and ensure that all cases of violence against journalists are resolved and all guilty parties are punished in accordance with the law. Azerbaijani government must detain and prosecute the masterminds who ordered the killings of **Elmar Huseynov** in March 2005 and **Rafiq Tagi** in November 2011, as well as those who carried out the attacks.
- C. Government must detain and prosecute those responsible for the blackmail attempt and violation of privacy of outspoken female journalist **Khadija Ismayilova** in March 2012.
- D. Government should fully investigate all threats against journalists and establish adequate protection mechanisms. Government should reflect in the legal framework and practical arrangements the fact that crimes against freedom of expression are particularly serious inasmuch as they represent a direct attack on all fundamental rights.
- E. Authorities should adopt all necessary political and legal measures to protect journalists and defend the right to freedom of expression in their societies, in accordance with their international responsibilities;
- F. The state should take the lead in designing and implementing an effective policy to

promote and protect journalists, enabling them to work in a free and safe environment;

- G. State officials should unequivocally condemn attacks committed in reprisal for the exercise of freedom of expression and should refrain from making statements that are likely to increase the vulnerability of those who are targeted for exercising their right to freedom of expression.
- H. In close cooperation with the civil society, the government should train their public officials, especially those working in law enforcement, on how to offer an effective and rapid response when a journalist is threatened, including emergency measures to protect him or her from even greater harm;

III. Mechanisms of Government Control over the Media

- A. Authorities should put an end to politically motivated legal cases being brought against the independent media. As such, government must immediately release the currently detained and imprisoned journalists, bloggers, human rights defenders and political activists behind bars in connection with exercising their right to freedom of expression. Authorities must drop the charges against journalists and human rights defenders who face jail time in connection with exercising their right to freedom of expression.
- B. Authorities must stop exercise of the political influence or control over public media, so that they serve as government mouthpieces instead of as independent bodies operating in the public interest.
- C. Direct government control over licensing or regulation of broadcasters, i.e. oversight of these processes by the National TV and Radio Council which is not independent of government in practice has a chilling effect on freedom of the media. Authorities should set up an independent broadcasting regulatory body to ensure the fair and transparent distribution of television and radio frequencies through a simplified licensing procedure.
- D. Ownership and significant control of the media by political leaders or parties is not acceptable, therefore government must ensure transparency in media-ownership structures.
- E. Government should ensure that the public service broadcaster, Ictimai, complies with international standards for public service broadcasting and provides balanced and varied programming for all sectors of the population.

IV. Criminal and Civil Defamation

- A. Government must remove defamation provisions from the Criminal Code.
- B. Public officials must cease the excessive use of defamation lawsuits to hinder the ability of critical newspapers to operate.

V. Freedom of expression-related legislation and policy

- A. Authorities must immediately reverse regressive amendments to freedom of information legislation aimed at limiting the activities of journalists and media outlets.
- B. Reverse the ban prohibiting foreign broadcasters from accessing national frequencies.
- C. Review and amend other media legislation to ensure it complies with international standards for press freedom.

VI. Commercial Pressures

- A. A number of commercial pressures pose a threat to the ability of the media to disseminate public interest content, such as growing concentration of ownership of the media and state control over the advertising market, with serious potential implications for content diversity which is often costly to produce. Authorities therefore must ensure transparency in media-ownership structures and employ a range of activities to improve advertising market e.g. establish an independent oversight body to ensure that government-funded advertising is distributed to media outlets in a fair and transparent manner.
- B. Authorities should address the risk that the benefits from the switchover to digital frequencies will go largely to existing broadcasters, and other uses such as telecommunications, to the detriment of greater diversity and access, and public interest media. Authorities must therefore ensure fairness and maximum transparency in this regard.

VII. Freedom of Expression on the Internet

- A. Authorities should cease practices of targeting social media users who express opinions critical of the authorities or use the Internet to call for or organize protests;
- B. Government should immediately and unconditionally release all journalists, bloggers and activists in detention or in prison in connection with exercising their right to freedom of expression online;
- C. Government should reinforce Azerbaijan's international obligations by aligning its Internet policy with the requirements of international law and principles, ensuring that the Internet remains an open and public forum for freedom of expression;
- D. Authorities must ensure that any interferences with Internet users' enjoyment of their rights have a legitimate aim and are proportional to that aim, in accordance with international standards.
- E. The National Press Council should abolish the newly-established Commission on regulation of online media and stop making efforts to gain control over online media outlets;
- F. The government should abandon the plans to license online televisions and radios.
- G. Authorities must ensure that no online surveillance is applied to observe online communications of internet users;
- H. Government should take necessary steps to prevent hacker attacks on web portal that are valuable sources of alternative information for citizens.

VIII. Access to Information and Communications Technologies

- A. Government should revisit pricing structures which render the poor unable to access the Internet;
- B. Government should continue to work with the civil society to provide better support for community-based ICT centers and other public access options;
- C. Authorities should continue its cooperation with civil society for Internet literacy training/ education efforts, especially among poor, rural and elderly populations.