



Institute for Reporters' Freedom and Safety

Azerbaijan's Free Expression Crackdown Intensifies in Run-up to Election

2013 Biannual Report on Freedom of Expression in Azerbaijan



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Cover photo:

Obyektiv TV reporter, Rasim Aliyev was attacked by a police officer while filming a peaceful Baku protest in support of the Occupy Gezi protests in Turkey. June 03, Baku. © IRFS

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Introduction

1.1. Background

This report is a publication of the Institute for Reporters' Freedom and Safety (IRFS), an independent, non-profit organization dedicated to promoting freedom of expression in Azerbaijan. IRFS was founded on World Press Freedom Day in 2006 by two Azerbaijani journalists in response to growing restrictions by the government on freedom of expression and media freedom.

The organization's reporting has been instrumental in bringing freedom of expression issues in Azerbaijan to the attention of relevant organizations and officials in the United States and Europe. IRFS has been a member of the International Freedom of Expression Exchange (IFEX) since October 2007 and became a member of the Global Network Initiative in November 2012. In May 2013, IRFS' online television channel, Obyektiv TV, was awarded a prestigious One World Media Award for its "outstanding media content which has made a real impact on people's lives."¹

IRFS' broad freedom of expression approach and its ability to respond rapidly to even the most outrageous actions against press freedom are the defining factors of IRFS' activities in Azerbaijan. This report is part of IRFS' broader efforts to safeguard and promote freedom of expression in Azerbaijan. The publication of this report has been made possible thanks to support from International Media Support (IMS).

IRFS monitors and reports on violations of freedom of expression in Azerbaijan, producing statements, appeals, analyses, and daily news reports, conducting press conferences, and raising awareness of journalists' rights locally and internationally. As part of this commitment, IRFS has been regularly producing comprehensive reports on the state of freedom of expression in Azerbaijan.

In the first half of 2013, the authorities engaged in an unprecedented crackdown to silence the few remaining critical voices in the country. International attention has faded, following an increased period of interest surrounding the Eurovision Song Contest and the Internet Governance Forum, which were held in Baku in 2012, and those who exposed unsavory truths about the country in connection with these events faced acts of retaliation. Now, as the October presidential election approaches, the authorities seem more determined than ever to stifle dissent.

¹ <http://bit.ly/10i8HCm>

This report examines the freedom of expression situation in Azerbaijan from 1 January to 30 June 2013. During this period, the government used excessive force to disperse peaceful protests, adopted a slew of regressive legislation – including extending criminal defamation provisions to the Internet – and continued to imprison journalists, bloggers, and human rights defenders who expressed critical opinions. By the end of June, 26 journalists had been attacked, and there were seven journalists, one blogger, and two human rights defenders behind bars in connection with exercising their right to freedom of expression.

1.2. Objectives and focus

In developing this report, IRFS sought to:

- Assess the true state of freedom of expression, press freedom, and the right to access information in the country;
- Raise awareness among local and international stakeholders about freedom of expression violations and engage them in the need for reforms; and
- Advocate international best practices and provide recommendations for concrete steps to address violations and improve the freedom of expression situation in the country.

1.3. Methodology and structure

This report was prepared on the basis of desk-based research, field investigations, interviews, monitoring of court proceedings, media-monitoring, analysis of enquiries and complaints submitted to IRFS, IRFS safety hotline statistics, and other legally obtained information. IRFS staff compiled this report in close consultation with local and international freedom of expression experts.

The report contains six chapters covering the key areas on which IRFS focuses: the constitutional, policy and legal environment for free expression; impunity for attacks against journalists; and the working environment for journalists and other media workers. For the first time, this report contains a chapter on the issue of restriction of privacy, in particular surveillance of journalists, as violations of the right to privacy are increasingly used as a means to pressure critical journalists.

Following the introduction, the report contains IRFS' recommendations to the Azerbaijani authorities to address the deteriorating freedom of expression situation in the country. Chapter One examines cases of violence, blackmail, and other forms of pressure against journalists. Chapter Two looks at restrictions on privacy. Chapter Three outlines legal means of repressing free expression. Chapter Four covers the detention of government critics, providing information on current and recent cases of detention and

imprisonment in connection with freedom of expression. Chapter Five covers the ways in which the state controls both broadcast and print media. Chapter Six examines the situation of freedom of expression in the last largely free space in Azerbaijan: the Internet. IRFS' conclusions on the free expression situation in the country are provided at the end of the report.

Recommendations

As this report shows, freedom of expression is under serious threat in Azerbaijan. The authorities must cease violations and take immediate action to improve the situation in accordance with the country's international human rights obligations. To that end, IRFS has developed a set of recommendations outlining steps needed to protect the right to freedom of expression.

IRFS calls on the **Azerbaijani authorities** to undertake the following steps:

Put a stop to violence, blackmail, threats, and other forms of pressure against journalists:

- Conduct thorough and transparent investigations into all cases of violence against journalists and prosecute those responsible in accordance with the law.
- Redouble efforts to identify and prosecute those responsible for the murders of Elmar Huseynov and Rafiq Tagi.
- Make public all information related to the investigations into Huseynov and Tagi's murders.
- Fully investigate all reports of blackmail and threats against journalists, and establish adequate protection mechanisms to ensure their safety.
- Cease illegal practices of surveillance of journalists and other critical individuals; take action to stop the dissemination of illegally obtained materials used against them; and conduct thorough investigations into all violations of the right to privacy of journalists, prosecuting those responsible in accordance with the law.

Cease the use of detention and imprisonment to silence critical voices:

- Immediately and unconditionally release the currently detained and imprisoned journalists, bloggers, and human rights defenders behind bars in connection with exercising their right to freedom of expression: Nijat Aliyev; Ilham Amiraslanov; Araz Guliyev; Fuad Huseynov; Hilal Mamedov; Bakhtiyar Mammadov; Faramaz Novruzoglu; Rashad Ramazanov; Tofiq Yagublu; and Avaz Zeynalli.
- Immediately and unconditionally release others in detention or prison in connection with exercising their right to freedom of expression, including the young activists affiliated with the Azad Genclik (Free Youth) Organization, the N!DA civic movement, and the Popular Front Party youth movement.
- Drop the charges against all those who face jail time in connection with exercising their right to freedom of expression, including Ogtay Gulaliyev and Mehman Huseynov.

Improve media legislation and policies:

- Reverse regressive amendments extending criminalized defamation to online content, and abolish all criminal defamation provisions.
- Reverse regressive amendments to the NGO law and other laws restricting the ability of independent NGOs to operate.
- Reverse regressive amendments to the freedom of assembly law providing for steep fines for organizers and protesters of unsanctioned protests.
- Reverse regressive amendments to the administrative code increasing the maximum period of administrative detention.
- Cease the excessive use of defamation lawsuits to hinder the ability of critical newspapers to operate.
- Reverse the ban prohibiting foreign broadcasters from accessing national frequencies.
- Establish an independent Press Ombudsman in line with international standards and empower that position with the authority of Press Ombudsman that currently belongs to the Human Rights Ombudswoman.
- Set up an independent broadcasting regulatory body to ensure the fair and transparent distribution of television and radio frequencies through a simplified licensing procedure.
- 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.
- Allow for the creation of an independent self-regulatory body, comprised of media professionals, to ensure media accountability.
- Ensure transparency in media-ownership structures.
- Establish an independent oversight body to ensure that state-funded advertising is distributed to media outlets in a fair and transparent manner.

IRFS also calls for **media organizations** to take full responsibility to care for their workers who may face attack by initiating preventive measures and providing adequate insurance cover for medical treatment.

IRFS recommends that individual **journalists** and **media workers** always abide by the code of professional ethics, and in the case of threats to personal safety, immediately call the IRFS hotline (+99412 4087530 or +994 50 398 4838) and inform IRFS, other civil society organizations, the media, and representatives of foreign and international diplomatic missions.

Finally, IRFS calls on the **international community** not to turn a blind eye to the freedom of expression situation in Azerbaijan. Specifically, IRFS calls on the international community to:

- Increase pressure on Azerbaijan to fulfill its international human rights and freedom of expression obligations at all possible bilateral and multilateral opportunities, particularly in the pre-election period.
- Call upon the Azerbaijani authorities to end all forms of impunity for violence against journalists and ensure that all cases are adequately investigated and those responsible are brought to justice.
- Call upon the Azerbaijani government to immediately and unconditionally release all journalists, bloggers, human rights defenders, and civic and political activists in prison or detention in connection with exercising their right to freedom of expression.

Executive Summary

With Azerbaijan's October presidential election rapidly approaching, the authorities were busy in the first half of 2013, taking steps to silence critical voices and eliminate dissent. Critical journalists, bloggers, human rights defenders, and civic and political activists faced an unprecedented crackdown on their fundamental rights to freedom of expression, assembly and association.

The reporting period – January through June 2013 – was marked by an onslaught of repression. Seven journalists, one blogger, and two human rights defenders remained behind bars in connection with freedom of expression, among the more than 80 political prisoners in the country. Impunity reigned, with 26 new attacks against journalists and a lack of progress in any of the previous hundreds of attacks, including two murders. One of the country's highest circulation newspapers – and staunchest government critics – *Azadliq*, teetered on the brink of closure, its finances in a state of crisis due in large part to exorbitant fines imposed on it from excessive defamation lawsuits.

The first half of 2013 was also marked by the adoption of a series of regressive legislation. Rather than fulfill Azerbaijan's stated commitment to decriminalize defamation in 2012, on 4 June, President Aliyev signed into law a series of amendments that will extend criminal defamation provisions to online content. The law on freedom of assembly was again amended, further increasing already harsh penalties for organizing or participating in unsanctioned protests, and the maximum period of administrative detention was sharply increased. The NGO law was also amended, further restricting the ability of independent NGOs to operate, and making it easier for the government to shut down unwelcome organizations.

Public officials stepped up their rhetoric against independent NGOs and media during the reporting period. In March, Presidential Chief of Staff Ramiz Mehdiyev gave a disturbing interview to state media, accusing foreign donors of "unlawfully" financing Azerbaijani NGOs.² In May, Baku Metro head Tagi Ahmadov shouted at a journalist, saying journalists were "narrow-minded" and exclaiming "Know your place!" Two days later, Baku Mayor Hajibala Abutalibov told a reporter "When I see a journalist, I feel as if I see a dead man in the grave."³ Senior Presidential Adviser Ali Hasanov also gave a number of worrisome statements during the reporting period.

During this six-month period, there was also a notable shift in Azerbaijan's

² <http://bit.ly/ZPTyJW>

³ <http://bit.ly/18HNjRs>

relations with the international community. The defeat in January of a key resolution at the Parliamentary Assembly of the Council of Europe on political prisoners in Azerbaijan, combined with the failure of top European Union officials to prioritize human rights during their talks with President Aliyev in Brussels in June – left the government feeling confident, while Azerbaijani civil society became further disillusioned with these bodies.

The second Universal Periodic Review of Azerbaijan by the UN Human Rights Council took place in May, and contained many strong recommendations to improve the human rights situation in the country – although it remains up to Azerbaijan which recommendations to accept at the next Human Rights Council meeting in September.⁴ Azerbaijan continued to push for a downgrade in mandate of the OSCE Office-in-Baku, and as of the end of the reporting period, had not yet extended an invitation to the OSCE’s Office for Democratic Institutions and Human Rights to monitor October’s presidential election.

IRFS considers the current freedom of expression situation in Azerbaijan alarming, and fears it will continue to worsen in the run-up to October’s election, as the newly adopted regressive legislation takes effect, and as the authorities work to quash any remaining criticism and dissent in the country.

IRFS calls upon the international community to pay careful attention to developments in the country during this crucial period and to increase pressure on Azerbaijan to fulfill its international human rights obligations. Now, more than ever, actions are needed, not just words.

⁴ <http://bit.ly/131ne9I>

Chapter One: Violence, blackmail and pressure against journalists

One of the most significant obstacles to freedom of expression in Azerbaijan remains the high frequency of violent attacks against journalists and media workers and impunity for their attackers. Azerbaijan is facing a crisis of impunity, which continues to worsen in the run-up to the October presidential election.

It is increasingly difficult, in fact nearly impossible, for journalists and media workers who have suffered serious violations of their human rights to obtain justice and accountability. This pervasive climate of impunity has resulted in widespread practices of self-censorship in the country. Many journalists fear crossing certain lines in writing about taboo topics, such as corruption and the business interests of the president's family.

In the pre-election period, the government has been engaging in a campaign to silence and discredit critical journalists, bloggers, human rights defenders, political activists and NGOs. Journalists covering protests and riots have increasingly faced police brutality and mistreatment over the past six months, even while wearing press jackets clearly identifying them as journalists. Authorities frequently interfered with the work of journalists attempting to cover protests, trials, and other events of public interest. This deliberate mistreatment of journalists performing their professional activities clearly evidences the regime's intolerance to freedom of expression.

The authorities have failed to respond to dozens of official complaints of police brutality towards journalists. No police officers have faced discipline for interfering with the professional activities of journalists. Such actions constitute violations of the right to access information guaranteed under Article 50 of the Azerbaijani Constitution (freedom of information) and Article 10 of the European Convention on Human Rights (freedom of expression). At a minimum, impeding the professional activities of a journalist creates a liability under Article 163 of the Constitution.

The ruling regime bears responsibility for the atmosphere of impunity in which assassinations of, and physical and moral attacks against journalists encroaching on powerful interests are commonly practiced as a way to silence critical voices.

On 2 March, journalists in Azerbaijan and around the world marked the eighth anniversary of the unsolved murder of *Monitor* editor-in-chief **Elmar Huseynov**, who was fatally gunned down in his apartment building in a well-

organized attack in 2005. With Huseynov's death, the Azerbaijani people lost a voice that courageously sought to report the truth. His case has become deeply symbolic, reminding the Azerbaijani media community of the courage needed to pursue investigative journalism and of the inherent risks associated with this work.

Since Huseynov's murder, there have been more than 200 violent attacks against journalists in Azerbaijan, including the murder of prominent journalist and writer **Rafiq Tagi** in November 2011. So far in 2013, there have been at least 26 reports of violent attacks against journalists, 24 of which happened on the job. In addition, there were numerous reports of pressure from authorities and other forms of interference with journalists' work, as well as threats of violence against journalists.

In the cases mentioned below, and indeed in virtually no case of violence against a journalist since Huseynov's murder, have the authorities undertaken serious investigations into the attacks and brought the true perpetrators to justice. This has created a climate of fear for the media community and impunity for those who wish to use violence to silence criticism.

On 12 January, authorities used excessive force to disperse an unsanctioned protest in the Baku city center in response to deaths of conscripts in non-combat situations. Police used violence against up to 10 journalists who were clearly identifiable because of their press jackets and cameras. IRFS Chairman **Emin Huseynov** was among those injured during the protest. A police officer deliberately pushed Huseynov to the ground, where he hit his head on a large rock and sustained a minor head injury. The incident was captured on film.⁵ During the reporting period, the European Court of Human Rights started communication in a case related to a previous attack against Huseynov by police in 2008.

On 22 January, *Azadliq* newspaper correspondent for the Ganja region **Arshad Ibrahimli** reported that he received a phone call from a person claiming to be an employee of the Ganja City Police Office, who told Ibrahimli he was under surveillance. The next day, Ibrahimli noticed a plain-clothed man following him. He said police might have suspected him of publicizing information about a conflict between a former police chief and the Ganja City Mayor.

On 24 January, musavat.com news portal reporter **Araz Bayramov**, faced violence from police while covering a riot in the Ismayilli region. Bayramov was filming police officers using excessive force against citizens, when he was stopped by a policeman. Bayramov was forcibly taken to the police office, held for an hour, and released after police confirmed his employment with his

⁵ <http://bit.ly/1aNA5QA>

editorial office. Bayramov was later detained for a second time, again while filming the riot, at which point he was slapped by a policeman. He was held for 20 minutes and then released.

On 26 January, authorities used excessive force to disperse an unsanctioned opposition protest in the Baku city center. Police and plain-clothed officials used force to remove journalists with and without press jackets from the demonstration location. Yurd TV reporter **Emin Shahverdizadeh** was deliberately pushed from behind by a plain-clothed official into Obyektiv TV reporter **Rashad Aliyev**. Both journalists fell to the ground, resulting in Aliyev sustaining a leg injury and Shahverdizadeh's video camera being broken. Several media representatives were taken to police offices, including 1news.az reporter **Zaur Rasulzadeh** and blogger **Fuad Hajiyev**, who was filming the protest. Ministry of Internal Affairs officer Orkhan Akhundzadeh, dressed in plain clothes, was particularly active in ordering the detention of journalists who were not wearing press jackets.

On 31 January, *Azadliq* newspaper regional correspondent for Ismayilli **Elchin Ismayilli** reported being followed by taxis without number plates and intimidated for several days. Ismayilli said he was repeatedly intimidated by the District Prosecutor, local government employees, and Deputy Chief of Police Shohrat Karimov, who claimed he had leaked news to the media about the 23-24 January riot in Ismayilli and organized visits by journalists and human rights defenders to the region. The officials told him to stop. He also received threatening phone calls and SMS messages. On 8 February, Ismayilli was summoned to the police office to give a statement. He reported that the intimidation stopped after he went public.

On 4 February, Obyektiv TV employee **Javid Gurbanov** faced interference from security police while he was performing his professional duties in front of the Department for the Investigation of Grave Crimes of the Prosecutor General's Office. Security police officers confiscated Gurbanov's camera and took him to the police office while he was filming REAL movement head Ilgar Mammadov and Musavat Party deputy chairman Tofiq Yagublu, who had been invited for interrogation in connection with the Ismayilli riot. Gurbanov was released after 30 minutes, and his camera was returned 15 minutes later. He was told that he must get permission before filming government buildings, which is not provided for in Azerbaijani law.

On 5 February, deputy editor of *Azadliq* newspaper **Rahim Hajiyev** was summoned to the Prosecutor General's Office in connection with an article titled 'Shamakhi residents prepare to protest.' Hajiyev reported that First Deputy Prosecutor General Rustam Usubov told him the information was incorrect and required him to refute it, warning that administrative or criminal proceedings could be initiated. Hajiyev stated that the warning was

unfounded, as it was the newspaper's duty to spread the information.

On 15 February, *Unikal* newspaper editor-in-chief **Asef Rzayev** reported that he was being intimidated. After the newspaper published articles stating that the Ag Hotel in the Absheron district functioned as a house of ill repute, Rzayev said a man called Elchin called him and threatened him, saying if he did not stop publishing articles about the hotel, he would regret it. Rzayev has reported the issue to the Ministry of Internal Affairs' 102 hotline, and the newspaper has appealed to the Ministry and the Prosecutor General's Office.

On 19 February, IRFS regional correspondent for Nakhchivan **Hakimeldostu Mehdiyev** reported that his wife had been refused medical treatment by both hospitals both in Sharur and Nakhchivan City. She suffers from a severe condition requiring surgery, which had been scheduled at the Nakhchivan City hospital. However, the surgeons refused to start the operation, on the grounds that Mehdiyev had problems with "the top." Mehdiyev and his family have faced years of persecution in connection with his journalistic activities.

On 20 February, freelance journalist **Fuad Huseynov** received a death threat in Prison #12, where he is serving a six and a half year sentence on politically motivated hooliganism charges. His mother, Susana Huseynova, reported that prison management suspected Huseynov of complaining to local media about illegal activities in the prison, complaints of which Huseynov was not aware.

On 21 February, Obyektiv TV reporter **Albufat Namazov** was attacked while performing his professional duties. Namazov was attempting to film outside the Sumgayit Court of Appeals where youth activist Nigar Yagublu's trial was taking place, as plain-clothed men were preventing media workers and political party activists from entering the courtroom. Plain-clothed men pushed Namazov and forcibly prevented him from filming.

On 24 February, opposition Musavat party council member **Jahangir Amirkhanli** was summoned by police in the region of Ganja in connection with an article he had published in *Yeni Musavat* newspaper, titled "Ganja – beautiful land, poor town." Amirkhanli reported that he was called to the Kapaz District Police Office, from where he was taken to the Ganja City Police Department. He met with Deputy Police Chief Ilgar Balakishiyev, who expressed objection to what was written in the article and accused the journalist of being biased. Amirkhanli was then released.

On 27 February, **Natig Gulahmadoglu** (Adilov), a journalist with Azadliq newspaper and Media TV as well as press attaché for the opposition Popular Front Party, reported that two of his relatives had been arrested in connection with his journalistic activities. Adilov's brother, Murad Adilov, and cousin, Sabuhi Nadirov, were arrested by officers of the Sabirabad District Police

Department on drug trafficking charges. Adilov believes the men were targeted because of his criticism of the government.

On 2 March, *Zerkalo* newspaper reporter **Rashad Rustamov** was beaten by a village municipality chief and six other men while carrying out his professional duties. Rustamov reported that he was investigating a complaint from residents of the Chovdar village in the Dashkesen region, who claimed their lands had been illegally seized by the Azerbaijan International Mineral Resources Operating Company. When he arrived, a man identifying himself as the municipality head took him to a schoolyard, where he and six other men beat Rustamov and took his voice recorder. The newspaper's management has appealed to the Ministry of Internal Affairs and the Prosecutor General's Office in connection with the case.

On 14 March, *Gundalik Baku* newspaper editor **Habil Valiyev** was attacked by two men in Baku. Valiyev reported he had received a call from unknown people who asked to meet him near his house. When he arrived, he discovered there were 10 men armed with pistols and knives. Two of them beat Valiyev on his ear and temple with the handle of a knife. He has identified one of the men as Baku resident Emil Zeynalov; the second attacker was a passenger in Zeynalov's Mercedes Benz. Valiyev said the men attacked him as they knew he was the editor of *Gundalik Baku*, he believes in connection with a series of recent articles exposing trafficking in persons and other crimes. Valiyev reported the attack to the Ministry of Internal Affairs' 102 hotline, and an investigation has been opened by the Yasamal District Police.

Yafez Akramoglu

RFE/RL Nakhchivan correspondent Yafez Akramoglu received a series of threats and blackmail attempts during the reporting period.

On 6 April, Akramoglu reported that he had been subjected to a blackmail attempt. He said he had received a letter containing photographs of a naked woman, text from a Facebook chat, and a CD, all of an intimate nature. The next day, Akramoglu said a representative of Nakhchivan's Ministry of National Security (MNS) contacted him, acknowledged the package was sent by the Ministry, and demanded that he stop publishing negative materials about Nakhchivan. Akramoglu said the official also offered him money, which he refused to take.

On 19 April, pro-government online television station Ses (Voice) aired recordings of mobile phone conversations between Hasanov and residents of Nakhchivan, which was believed to have been orchestrated by the MNS.

On 10 May, Akramoglu reported that he had received a death threat from an employee of the Nakhchivan MNS while he was in Istanbul working on a story

about Nakhchivan is living in Turkey. He said the official had come to his apartment with a group of five men, demanding the reporting he had prepared about. They threatened to kill him if he did not hand it over. With the help of his flat-mates, Akramoglu was able to force the men to leave.

On 12 June, Akramoglu requested police protection for himself and his family in Baku, as he found out one of the men involved in the incident, Khano Amayev, was in Baku. The police called Akramoglu to the police office to take his statement, then told him that Amayev's number, which Akramoglu had provided, was out of reach, and there was nothing more they could do. Amayev later gave a statement to musavat.com, saying he did not intend to intimidate Akramoglu.

Akramoglu has reported receiving other threatening phone calls and messages, demanding that he stop his investigations. He believes he has been targeted for his stories exposing human rights violations and other abuses of power by local government officials, in particular the case of Nakhchivan Resident Turaj Zeynalov, who died in August 2012, allegedly after being tortured in custody of the Nakhchivan MNS. Akramoglu and RFE/RL have appealed to the Ministry of Internal Affairs, the MNS, and the Prosecutor General's Office, in connection with the case. Akramoglu said the Ministry of Internal Affairs had promised to investigate the matter.

On 25 April, RFE/RL correspondent **Khadija Ismayilova** was subjected to another provocation, when a pro-government website posted a fabricated pornographic video purporting to depict Ismayilova. Ismayilova previously faced serious violations of her privacy in March 2012, when a sex video of her was posted to the Internet after she refused to be silenced following a blackmail attempt.

On 27 April, *Azadliq* newspaper journalist **Khalid Garayev** was attacked by a group of Ministry of Transportation employees. On his way to work, near the 20 January metro station, Garayev saw the officials beating a taxi driver. When he approached the group and inquired about the situation, they pushed and hit him, made derogatory comments about the media, and seized his camera, saying they could do what they wanted to, before driving off. The head of *Azadliq* newspaper's policy department, **Seymur Hazi**, who happened upon the scene, was also mistreated by the officials when he attempted to help his colleague. The Ministry of Transportation and the Press Council failed to provide any assistance, despite Garayev's multiple phone calls to them.

On 28 April, *Azadliq* newspaper Ismayilli region correspondent **Elchin Ismayilli** received another threatening phone call, this time from the former first deputy of the Ismayilli city mayor, Rafael Ahmadov. According to the

journalist, Ahmadov insulted him and threatened to hire someone to beat and kill him in connection with his posts on social media networks, which were critical of local officials. Ahmadov refuted the allegation, claiming he had only called to express his dissatisfaction over being insulted, and had not threatened him.

On 9 May, *Bizim Yol* newspaper correspondent **Javid Gurbanov** was subjected to pressure by police while performing his job. He was stopped by police while filming in front of the Heydar Aliyev Palace in Baku for a report on the Flower Day festival. He was then stopped while taking still photos from further away. They required him to accompany them to the police station, and threatened to arrest him if he did not delete the photos. Gurbanov was released after he deleted the photos.

On 10 May, *Hurriyet* newspaper reporter **Azer Sadikhov** reported being pressured by police while covering the Flower Day festival in Baku. According to Sadikhov, several uniformed and plain-clothed police officers confronted him, took his camera and forced him into a patrol car, where he was held for several hours. They released him once the event was over, after they deleted everything he had filmed.

On 10 May, RFE/RL correspondent **Azer Ali** was detained while performing his job in the city of Imishli. Ali was covering a protest by a group of Imishli residents in front of a local government building, when police intervened, beating and detaining some of the protesters. Ali was detained while filming the beating, and held for five hours before being released. On 11 May, Ali was charged with insubordination and fined 200 AZN by the Imishli District Court.

On 12 May, first deputy editor of *Yeni Musavat* newspaper **Azer Aykhan** received threatening calls from two mobile numbers. Aykhan believed the calls might have been connected to his recent publication of several articles exposing illegal activities of Ganja city mayor Elmar Veliyev. On 15 May, Aykhan was invited to the Ministry of Internal Affairs' Department for Combating Organized Crime to give information about the incident. The Ministry promised to work to identify the men who had made the calls.

On 14 May, employees of SalamNews Information Agency and InterAz TV **Rauf Ahmadov** and **Baba Khalafov** were attacked by the police while performing their job. They had filmed a car chase by Ministry of Transportation employees in the Qusar district. After the officials failed to stop the car they had been pursuing, they blocked the road, refusing to allow the journalists to pass. When they asked why they had been stopped, the officials attacked the journalists and tried to seize their equipment. They reported the incident to the Qusar branch of the Ministry of Transportation's State Road Transport Service, and the chief of the branch said the incident was

unacceptable and that the officials had no authority to stop cars. Ahmadov and Khalafov have filed a complaint with the Qusar District Police Office, which claimed not to be aware of the incident when IRFS called them for comment.

On 14 May, freelance journalist **Idrak Abbasov** reported being threatened by residents of Lankaran city. The threats followed Abbasov's interview with the father of a girl who had been subjected to misconduct by a teacher at a local school. The man Abbasov had interviewed was arrested on drug charges in February.

On 16 May, *Hafta Ichi* newspaper journalist **Qalandar Khachinchayli** was pressured by police while performing his job. He was filming a conflict between a group of people and the police near the Elmlar Akademiyasi metro station. The group had been on a bus coming back from the Ministry of Justice, where they had filed a complaint. The police stopped the bus, forced the passengers to get off, and questioned them about the complaint they had filed. Khachinchayli was taking photos of the incident when a police officer seized his press ID card and shoved him into a car. Police officers deleted the photos he had taken and took him to the Yasamal District Police Department, where he was told he had been detained as a suspect for not wearing a press jacket, although he had presented an ID. They then apologized and released him.

On 17 May, police forced Obyektiv TV reporter **Farida Aliyeva** to stop covering a demonstration outside the Presidential Administration building in Baku. Residents of the Sabirabad district were protesting the arrest of three of their relatives, when a conflict broke out between them and the police. Aliyeva was covering the event when police officers detained her, forced her to give an explanation, and deleted the photos she had taken before releasing her.

On 17 May, editor of moderator.az **Zulfugar Huseynzadeh** was detained in front of the Ministry of Internal Affairs' Department for Combating Organized Crime. He was there to attend a press conference called by lawyer Aslan Ismayilov in connection with the arrest of blogger Rashad Ramazanov. When Ismayilov started to speak about Ramazanov's case to Huseynzadeh and a few other journalists, police began to push the lawyer towards a police car. When Huseynzadeh advised Ismayilov not to go with the police, he was also detained and taken to the Narimanov District Police Office, where he was held for two hours. No explanation was given for his detention.

On 23 May, *Yeni Musavat* newspaper journalist **Araz Bayramov** faced pressure by police while filming the funeral of soldier Togrul Abdullazadeh in Lankaran city. He was mistreated by some of the funeral attendees; one man grabbed his arm and pulled him away, and two other men attempted to seize his camera. The police arrived shortly afterwards and demanded Bayramov present his press ID card, then detained him until the deceased soldier's

relatives arrived.

On 30 May, RFE/RL correspondent **Elchin Ismayil** reported that he was attacked by a functionary while performing his job in the region of Ismayilli. He was filming some flood damage in the area when Samad Kamilov, the assistant chief executive of Ismayilli punched him and tore his shirt. Kamilov injured Ismayil's neck with a key and shouted at him, saying "Why do you think you are? Why do you film all of this and create problems?" He then got in his car and drove away. Ismayil reported the incident to the Ministry of Internal Affairs' 102 hotline, and appealed for a medical examination. Kamilov rejected the accusations in a statement to RFE/RL.

On 2 June, ANS TV correspondent **Elnara Mammadova** and cameraman **Firuz Aghayev** were attacked by police officers while they were covering a peaceful Baku protest in support of the Occupy Gezi protests in Turkey.⁶ The two journalists sustained injuries in the attack and underwent a medical examination. The police claimed they did not recognize the ANS correspondents as they were not wearing clothing identifying them as journalists, although they had the station's logo on their microphones.

On 3 June, IRFS photojournalists **Rasim Aliyev** and **Mehman Huseynov** were attacked by police while filming a peaceful Baku protest in support of the Occupy Gezi protests in Turkey.⁷ Aliyev was punched by a police officer, who also seized his mobile phone. Huseynov was violently pushed and threatened with arrest for filming the police officer punching Aliyev. The police officers who were filmed attacking Aliyev – Mais Aliyev and Zahid Dashdamirov – were later fired.

On 3 June, gundemxeber.az reported that police carried out a raid in the Nasimi district of Baku, where they detained several newspaper vendors and took them to Police Station #22. The police confiscated their newspapers and forcibly took the vendors to the police office. The Ministry of Internal Affairs' press service denied reports of the detentions.

On 11 June, unknown intruders broke into the car of well-known journalist **Tapdig Farhadoglu**, correspondent of Voice of America and Turan News Agency, and presenter of Obyektiv TV online television. The incident happened in front of the Caspian Plaza Business Center. One of the car's windows was broken and a bag was stolen, containing a microphone. Farhadoglu reported the incident to the Ministry of Internal Affairs' 102 hotline and filed a complaint with Yasamal District Police Office #27.

On 12 June, freelance journalist **Idrak Abbasov** was subjected to pressure by

⁶ <http://bit.ly/1e0QhOf>

⁷ <http://bit.ly/14SbH0a>

a public official in Lerik city. Abbasov had visited the Lerik city administrative-territorial unit several times, attempting to get a document. After several visits, during which the head of the unit, Atamali Najafov was out of the office, Abbasov called the mobile number posted on the door of Najafov's office. Najafov answered and invited Abbasov to a nearby teahouse, where he was playing dominoes during working hours. Abbasov inquired when Najafov would return to work, resulting in Najafov shouting and swearing at him and attempting to seize Abbasov's camera, as he was filming the incident. Abbasov has filed a complaint with the Lerik District Police Office.

On 14 June RFE/RL correspondent **Azer Ali**, was pressured by an employee of the Ministry of Emergency Situations during Minister Kamaladdin Heydarov's meeting with local residents in the Salyan district. The employee did not allow Ali into the meeting and forced him to leave the area, using abusive language. The Ministry of Emergency Situations failed to answer IRFS' many phone calls attempting to look into the matter.

On 14 June, presenter of Space TV's program 'Etibar Edin' (Rely On Us) **Ilham Mirzayev** was attacked by a group of four men as he left the Space TV studio. The men, who had disguised their faces, threatened to kill the TV host and his family. Mirzayev was reportedly assaulted for providing assistance to a person who had turned to his program for help. He has filed complaints with the prosecutor's offices of the Narimanov district and Baku city.

On 15 June, avropa.info website reporter **Saleh Gafarli** was attacked while performing his job. After Gafarli had secretly filmed a café-brothel located on the Imishli-Bilesuvar highway, he was severely beaten by the brothel owner and a group of 13 other men. The men took his mobile phone, watch, and ID card, and threatened him, stating "Do you know who you are messing with? Do you know whose café this is?" Gafarli was released after two hours of physical and mental abuse, following the intervention by a group of guests, but they kept his belongings. The people who helped get Gafarli released took him to the hospital, where he was examined and provided with medical care. Gafarli reported the incident to the Ministry of Internal Affairs' 102 hotline. Imishli District Police Department officers took his statement and organized a medical examination, which provided evidence of the attack.

Chapter Two: Restrictions on privacy

In recent years, illegal forms of surveillance have increasingly been used as a means to pressure critical journalists. Data gleaned through illegal surveillance has been used in blackmail attempts against journalists, or to publicly humiliate and potentially discredit them, should they choose not to cooperate with the would-be blackmailers.

Both the act of illegal surveillance itself, and the public dissemination of data gathered from illegal surveillance practices, constitutes a serious violation of the right to privacy, which is a fundamental human rights provided for in a number of international and regional treaties which Azerbaijan has ratified. Violations of the right to privacy have implications for the exercise of other human rights, such as the right to freedom of expression and freedom of association.

Digital surveillance is a particularly growing threat to freedom of expression, as journalists, bloggers, social media activists, and human rights defenders are increasingly finding themselves the targets of monitoring by the authorities, who are working to eliminate criticism and dissent and prevent the distribution of unwelcome information.

Hidden cameras

The use of hidden cameras in journalists' places of residence has been a particularly egregious violation of privacy in several cases. Hidden cameras have been used to film intimate acts of critical journalists, which are then disseminated online, and/or broadcast via state-controlled television stations.

In October 2010, just two weeks ahead of the November 2010 parliamentary elections, opposition *Azadliq* newspaper editor **Azer Ahmedov** was targeted in this way. A video of him engaged in an intimate act, taken by a hidden camera, was first distributed via social media networks, and then broadcast via nationwide Lider TV on its evening news program "Seda." The segment was labeled "The Naked Truth of the Opposition."

In April 2011, in the midst of a series of protests in Baku inspired by the Arab Spring, *Azadliq* newspaper employees **Natiq Adilov** and **Qan Turali** were secretly filmed in their rooms at the Afra hotel in the Oguz region. The video was broadcast on Lider TV. The journalists filed a lawsuit against Lider TV, but it has been denied up through the Supreme Court. They are now preparing a submission for the European Court of Human Rights.

It should be noted that in these cases, the National Television and Radio Council (NTRC) did nothing to stop the broadcasts, despite the fact that they were illegal. The NTRC's lack of independence and transparency is examined in Chapter 5 of this report.

Khadija Ismayilova

In March 2012, prominent investigative journalist and RFE/RL correspondent Khadija Ismayilova was subjected to a blackmail attempt and subsequent gross violation of her right to privacy. She received a letter containing intimate photos of her and a note reading "Whore, behave. Or you will be defamed." Rather than be silenced, Ismayilova went public about the blackmail attempt. As a result, a sex video of her filmed by a hidden camera was posted to a number of websites.

During the reporting period, a fake pornographic video purporting to depict Ismayilova, was posted online, which has been included in greater detail in Chapter 1 of this report. Despite these violations and many other forms of pressure against her, Ismayilova has continued her investigative journalism, exposing issues the authorities would rather keep hidden, such as corruption and human rights abuses.

Mobile network surveillance

In April 2012, Swedish Public Service Broadcaster SVT released an investigative documentary, revealing in depth the extent to which Swedish-Finnish telecommunications firm TeliaSonera cooperates with intelligence services in Azerbaijan, Georgia, Kazakhstan, Tajikistan, and Uzbekistan.

The documentary exposed how TeliaSonera's subsidiaries – including in Azerbaijan – allowed "black boxes" to be installed into their telecommunications networks, allowing for surveillance of all communications passing through the networks, including phone calls, texts, Internet usage, and billing data. According to SVT, such practices are ongoing.

During the reporting period, mobile phone surveillance was evident in one instance of pressure against RFE/RL Nakhchivan correspondent Yafez Akramoglu, which has been included in greater detail in Chapter 1 of this report.

Surveillance in public places

Azerbaijanis are being subjected to intrusive surveillance and data collection, often without their knowledge or consent. Actions that could constitute violations of the right to privacy are now being legalized by the government.

For example, since 2012, license plates assigned to vehicles sold within the country have been fitted with radio frequency identification (RFID) tags, allowing for special streetlights to determine vehicles' location and direction. RFID is the wireless, non-contact use of radio frequency electromagnetic fields to transfer data for the purposes of automatically identifying and tracking tags attached to an object. RFID tags mounted onto license plates identify the owner, identification number and type of vehicle.

The Ministry of Internal Affairs has installed an urban security system with thousands of cameras that can recognize and track vehicles, and can detect people's faces, using smart video technology. The Ministry of Transportation has set up security cameras throughout the country.

Despite the pervasive presence of security cameras, the authorities have failed to use the videos obtained by these cameras in investigations into violence against journalists, such as the November 2011 murder of Rafiq Tagi. This calls into question the true purpose of such surveillance measures.

Mandatory registration of IMEI numbers

On 1 May, it became a mandatory requirement that every phone brought into Azerbaijan for personal use and operating on the SIM cards of the country's mobile operators must be registered no more than 30 days after the phone begins operating on a local network. The International Mobile Equipment Identity (IMEI) code of each device must be registered with the Central Post Office. A further worrisome requirement is that identification cards must be presented to register mobile devices, although mobile operators already must record individuals' passport data when they buy a phone. If a phone owner fails to comply with this procedure, his or her phone will automatically be switched off from the local network.

One main justification for this strict requirement is that it is claimed to be a measure against phone theft. The IMEI number is used by a GSM network to identify valid devices, and can be used as a kill-switch that would render smartphones inoperable in the event that they are stolen. Other reasons provided for this requirement are to prevent mobile phones that do not meet certain technical standards from being brought into the country; and ensuring competition among manufacturers.

IRFS considers these measures a violation of the right to privacy, and believes such measures should be voluntary, not compulsory.

Chapter Three: Legal repression of freedom of expression

While the Azerbaijani Constitution provides for the rights to freedom of expression and media freedom, the ruling regime has increasingly restricted these rights in practice, particularly related to sensitive issues such as criticism of the president and government corruption.

During the first half of 2013, a slew of regressive legislation was adopted, restricting the operations of NGOs, significantly increasing the maximum period of administrative detention, and extending criminal defamation provisions to online content. Previous regressive legislation sharply increasing penalties for organizing or participating in unsanctioned protests took effect during the reporting period, and began to be used. These changes will negatively impact the chances of the October presidential election being conducted in a fair and free manner in accordance with international standards.

In addition, the idea of an alarming draft law was floated, that would criminalize cooperation of Azerbaijani citizens with any Armenian organization or their representatives. Parliament's press service denied the existence of such legislation, but MP Gudrat Hasanguliyev confirmed that he had submitted the draft for consideration. If adopted, the bill would have serious negative consequences for freedom of expression in Azerbaijan.

Restrictions on NGOs

On 11 March, President Aliyev signed into law a series of regressive amendments that severely restrict the ability of independent NGOs to operate.⁸ The changes to the law on NGOs, law on grants, and law on freedom of religion, which were adopted by Parliament on 15 February, stipulate that NGOs receiving donations of a value greater than 200 AZN without a formal agreement could face massive fines and confiscation of property. The amendments make it possible for the government to quickly and easily shut down critical NGOs. The changes took effect in early May.

During the reporting period, the authorities also stepped up other forms of pressure on independent NGOs. Critical NGOs continued to be denied registration, including the Public Union "Center to Protect the Interests of Society," which had its appeal denied on 29 January by the Baku Court of Appeals, and the Human Rights Club, which was denied registration on 19

⁸ <http://bit.ly/10zUraz>

February by the Baku Administrative-Economic Court #1, after attempting to register for three years.

On 10 April, employees of the Prosecutor General's office illegally inspected and sealed the office of Azad Fikir (Free Thought) University (AFU). AFU is an alternative education project implemented by the OL! Movement, which provides a forum for youth to learn about and discuss topics that are not possible elsewhere. The explanation was later given that the office had been sealed in connection with the arrests of activists of the NIDA civic movement and the lack of registration of the OL! Movement. On 30 April, AFU was evicted from its office at the AF Mall Shopping Center with two hours' notice, in violation of their contract – which the AF Mall falsely accused AFU of violating.

In a statement made on 14 March, Head of the Presidential Administration Ramiz Mehdiyev accused foreign donors of “unlawfully” financing Azerbaijani NGOs.⁹ IRFS believes the authorities are setting the stage for a larger clampdown on independent NGOs by claiming they are part of a foreign plot to destabilize the country.

Restrictions on freedom of assembly

During the reporting period, the authorities began imposing steep fines on protest organizers and participants under new amendments to the law on freedom of assembly. In November 2012, Parliament dramatically increased the penalties for organizing or participating in unsanctioned protests.¹⁰ Protest participants can now be fined between 500 and 1,000 AZN, and organizers can be fined between 1,500 and 3,000 AZN if they are ordinary citizens, or between 3,000 and 6,000 AZN if they are officials. If the organizer is a legal entity – such as a political party or an NGO – it can be fined between 15,000 and 30,000 AZN.¹¹

Many of those fined so far have refused to pay, as part of a civil disobedience campaign. As a result, court bailiffs seized property belonging to these individuals and their families, and some of the activists have been ordered to carry out community service in lieu of paying the fines. In light of the financial hardships faced by many activists and NGOs, as well as the fact that critical groups are rarely granted permission to hold demonstrations, these provisions could have a serious chilling effect on freedom of assembly in the country. This is a particularly ominous move in light of the upcoming presidential election in October.

⁹ <http://bit.ly/ZPTyJW>

¹⁰ <http://bit.ly/Z8ZFrR>

¹¹ <http://bit.ly/ZeMtkA>

On 14 May, parliament also adopted amendments increasing the maximum period of administrative detention for many offences, including organizing or participating in unsanctioned protests, which will be punishable by up to 60 days of administrative detention (increased from 15 days). This means that activists participating in protests in the run-up to October's election face the risk of being locked up for the entire campaign and election period.

Criminalized defamation extended to the Internet

Among the most longstanding legal provisions problematic to freedom of expression are the defamation provisions that remain in Azerbaijan's criminal code. The government failed to implement the provision of the "National Action Program for increasing the efficiency of human rights and freedoms in the Republic of Azerbaijan"¹² for the adoption in 2012 of a new defamation law which would decriminalize defamation.

In perhaps the most worrisome legal development during the reporting period, on 4 June, President Aliyev signed into law a series of draconian amendments to the Criminal Code that make online defamation a criminal offense punishable by imprisonment for up to three years.¹³ The amendments had been adopted by parliament on 14 May. The changes will take effect in late July.

It should be noted that government had developed a better version of the Draft Law on Protection from Defamation in cooperation with civil society organizations. That version did not contain some of the problematic provisions that were added later, and contained important clauses guaranteeing freedom of expression. However, the problematic version, which contradicts international freedom of expression standards, was submitted to the Council of Europe's Venice Commission for technical review.¹⁴

Civil defamation provisions are also widely used to restrict the ability of independent and opposition newspapers to operate. Highly critical newspapers such as *Azadliq*, *Yeni Musavat* and *Khural* are the most frequent targets of defamation lawsuits, many of which are based on complaints filed by Members of Parliament (MPs) and other public officials. The heavy damages awarded as a result of these lawsuits contribute to the already dire financial situation of these newspapers, making continued operations difficult.

There were a number of significant developments in civil defamation cases against critical media outlets in the first half of 2013.

¹²<http://bit.ly/PxH3Tw>

¹³ <http://bit.ly/14gKMce>

¹⁴ <http://bit.ly/13Pa0ym>

Azadliq newspaper on the brink of closure

As a result of steep fines imposed on *Azadliq* newspaper through defamation lawsuits and other economic factors, the newspaper remains in a critical financial situation and has announced several times it might be forced to close. *Azadliq* is among the highest circulation newspapers in the country and is well known for its criticism of the authorities, which makes it a frequent target for defamation lawsuits, many filed by public officials or their relatives.

During the first half of 2013, steep fines were imposed on *Azadliq* in two separate defamation lawsuits. The newspaper also retained debts from previous defamation lawsuits from 2012.

On 14 February, the Supreme Court, presided over by judge Tatyana Goldman, denied a cassation appeal filed by *Azadliq* newspaper. The court upheld the 30,000 AZN fine imposed on the newspaper by a ruling of the Yasamal District Court on 14 June 2012, which was upheld by the Baku Court of Appeals on 13 September. Head of the Baku Metro, Tagi Ahmadov, had filed the lawsuit, claiming that his dignity, honor, and business reputation were insulted in an article titled “Tagi Ahmadov appropriated 5 kopecks,” which noted that after metro fares had been raised to 20 kopecks, it became impossible to use 5 kopecks previously loaded onto metro cards.

The Yasamal District Department for the Execution of Judgments sent a notice to *Azadliq*'s editorial office on 5 April, stating that the 30,000 AZN fine must be paid within 10 days, after which mandatory execution of the judgment would be applied. *Azadliq* was unable to pay the fine, resulting in the Yasamal District Court freezing the newspaper's bank account on 16 April. *Azadliq* applied to the Yasamal District Court, requesting the option of paying the fine in installments. On 19 June, the Nasimi District Court unfroze the account after *Azadliq* reached an agreement with Ahmadov, that the newspaper would pay 400 AZN per month to a children's home.

On 19 February, the Baku Court of Appeals, under presiding judge Ilgar Damirov, denied an appeal filed by *Azadliq* newspaper against a fine imposed on the newspaper by a ruling of the Yasamal District Court on 22 October 2012. Bina shopping center owner Kabira Mammadova had filed the lawsuit against *Azadliq* newspaper and its employee, Ramin Deko, for defamation. The newspaper and Deko were ordered to pay Mammadova 30,000AZN and 2,000AZN in compensation respectively. Mammadova claimed that her business reputation was damaged by the articles “Kabira Mammadova's Eurovision Operation” and “Kabira Mammadova's New Title Deed Operation” published by *Azadliq* newspaper.

In addition, a new defamation lawsuit was filed against *Azadliq* in April. Deputy Defense Minister and Lieutenant General Chingiz Mammadov filed a lawsuit against the paper, based on an article titled “Army or a place for trade in human lives?,” published in the 20-24 March 2013 edition of the paper. Mammadov claimed that the article contained untrue and libelous information about the Ministry of Defense, damaging the reputation of the Ministry and the honor and dignity of Ministry officials. Mammadov requested a retraction and 100,000 AZN in compensation, to be transferred to the Armed Forces Assistance Fund.

Besides the defamation lawsuits, a major cause for *Azadliq*'s financial difficulties was the inability of the Qasid Press Distribution Company to pay the 40,000 AZN debt it owed the newspaper for papers it had sold.

In March, Minister of Internal Affairs Ramil Usubov, and Minister of Emergency Situations Kamaladdin Heydarov, filed two parallel defamation lawsuits against *Azadliq* newspaper editor-in-chief Ganimat Zahid. The two ministers appealed to the court over the article “Ramil Usubov gets angry at Kamaladdin Heydarov” that was published in the 1 March issue of the newspaper. They requested that the court punish Zahid under articles 147.1 and 147.2 of the Criminal Code (defamation). On 18 March, the ministers withdrew the lawsuits, following *Azadliq*'s publishing of a refutation and an apology on 12 March.

Yeni Musavat newspaper also under pressure

Two new lawsuits were brought against *Yeni Musavat* newspaper during the reporting period, one of which was later dropped. One of the suits was filed by Baku Steel Casting JSC and the Baku Steel Company, over the article “Industrial plant of the Zulfugarli brothers plundered and closed” published in the newspaper on 23 November 2012. The plaintiffs claimed that the article is damaging their business reputation, and has asked the court to order the newspaper to provide a retraction and pay one million AZN in compensation.

On 26 February, *Yeni Musavat* newspaper editor-in-chief Rauf Arifoglu told IRFS that such a huge claim is aimed at “eliminating the newspaper.” “Those who file defamation lawsuits against *Yeni Musavat* are either government officials or commercial entities affiliated with them. The total amount of compensation demanded from our newspaper by plaintiffs in 2012 has come to two million 950 thousand AZN. In total, a 55,600 AZN fine was imposed on us on the basis of these claims” said Arifoglu.

In April, the ANS Independent Broadcasting Media Company withdrew its lawsuits against *Yeni Musavat* newspaper and the aznews.az portal. The lawsuits were based on the article “Two magazines of ANS closed” published

on 15 January in *Yeni Musavat*, with reference to aznews.az. ANS demanded that *Yeni Musavat* provide a retraction and pay 20,000 AZN in compensation, and that aznews.az pay 100,000 AZN in compensation. ANS agreed to drop the lawsuits after the media outlets admitted mistakes and announced they would publish ANS's comments on the matter. *Yeni Musavat's* lawyer, Vagif Huseyn, told IRFS he believed ANS had done this in a collegial gesture as *Yeni Musavat* would face potential closure if a large fine were imposed on it.

Also during the reporting period, on 3 April, the Supreme Court denied a cassation appeal filed by *Yeni Musavat* against the Court of Appeals' decision to uphold a 50,000 AZN fine imposed on the newspaper from a defamation lawsuit filed by Gilan Gabala Cannery LLC. The lawsuit was based on an article titled "Jale is not 100% pure and natural juice" published in the newspaper in 2009. On 31 July 2011, the Baku Administrative-Economic Court #2 partially granted the case, imposing the 50,000 AZN fine. The decision was upheld by the Baku Court of Appeals on 14 November 2012.

On 12 April, the head of the Imishli District Executive Power, Vilyam Hajiyev, filed a defamation lawsuit with the Sabail District Court against the online newspaper venteninfo.az. The lawsuit was based on the article titled "Businessman arrested because of Vilyam Hajiyev," published on the website on 11 April. In the lawsuit, Hajiyev stated that the article damages his business reputation as it may create mistrust from the local community, staff of the Executive Power, and the leadership of the Presidential Administration. He has requested 100,000 AZN in damages for humiliation of his honor and dignity, and retraction of the information. Hajiyev has stated that if he wins the lawsuit, the money would be donated to a kindergarten in Baku.

On 15 April, Vilyam Hajiyev filed another defamation lawsuit, this time against the website mia.az, based on an article titled "700,000 AZN debt scandal of the chief executive: Vilyam Hajiyev questioned at the Department for Combating Organized Crime." Hajiyev is demanding a retraction and a payment of 100,000 AZN in compensation.

On 19 April, the Baku Court of Appeals upheld its decision of 28 June 2012, which ordered *Khural* newspaper to pay a 25,000 AZN fine in a defamation lawsuit filed by Baltika-Baku Brewery Director Adam Tlekhuray against *Khural* newspaper. The lawsuit was based on two articles published by the newspaper, entitled "What is Going on in Khirdalan Brewery?" and "Legendary Khirdalan Beer Goes Sour." Tlekhuray requested a retraction and 150,000 AZN in compensation. On 23 January 2012, the Narimanov District Court partially granted the lawsuit, ordering *Khural* to pay 50,000 AZN; the Baku Court of Appeals halved that amount. A cassation appeal against this

decision was granted by the Supreme Court in December 2012, and the case was sent back to the Court of Appeals for reconsideration.

Cases filed by journalists

On 23 January, Baku Administrative-Economic Court #1 heard the lawsuit of Turan News Agency against the Baku City Executive Power. Judge Vusala Bakhishova presided over the hearing. The court partially granted the lawsuit by requiring the Executive Power to pay 10 AZN in court costs and respond to the plaintiff's request for information regarding the number and owners of newspaper kiosks. Turan Information Agency director Mehman Aliyev said he intends to appeal against the ruling of the court for delaying the consideration of the lawsuit and serving the interests of the Executive Power.

On 18 March, the Yasamal District Court of Baku, presided over by judge Tahir Ismayilov, denied journalist Khadija Ismayilova's lawsuit against *Iki Sahil* newspaper. Ismayilova had filed the lawsuit in connection with the article "What is Khadija's fault" published on 15 March, considering this article to be libelous and damaging to her good name and business reputation. The journalist demanded that the newspaper publish an apology and refutation, and pay her 2,000 AZN in compensation for psychological damage. Ismayilova plans to appeal the decision.

On 9 April, the Yasamal District Court of Baku denied a lawsuit filed by elitar.az information portal founder, journalist Elmin Bedelov, against the State Support Fund for Mass Media. Judge Fuad Talishinski presided over the hearing. The lawsuit was based on the fund's failure to respond to Bedelov's requests for information regarding its finances; the requests the disclosure of this information. According to the court decision, the reason for the refusal was Bedelov's failure to present proof of his identity when filing the complaint, which Bedelov argued is not required by law. He has resubmitted the lawsuit with identification documents enclosed.

In May, *Azadliq* newspaper journalist filed lawsuits against Baku State University and the Ministry of Finance for failing to respond to his requests for information. He had requested information regarding state allocations to the university in 2011, the number of students paying fees, and the total fee revenue of the university that year, as well as a copy of the financial report for 2011 that the university had submitted to the Ministry of Finance. Neither body provided a response.

Also in May, imprisoned *Khural* newspaper editor Avaz Zeynalli filed a defamation lawsuit with the Administrative Economic Court #1 against the Express Service LLC publishing company, over alleged non-fulfillment of contractual obligations resulting in financial damage to the newspaper. Zeynalli has requested 150,000 AZN to be paid to *Khural* for financial damage

due to the company's refusal to print the newspaper, and another 200,000 AZN for moral damages. In the lawsuit, Zeynalli stated that Express Service and other publishing companies refused to print *Khural* due to political pressure; therefore he requested the court to issue a resolution considering this case as interference with the right to freedom of expression.

Chapter Four: Detention of journalists, bloggers, and human rights defenders

The Azerbaijani authorities have a proven track record of using detention as a means of pressure to stifle dissent and protest. Recent years have seen a shift of imprisonment on charges clearly linked with journalists' professional activities – such as defamation – to imprisonment on a wide range of other charges that seem at first glance to be unconnected with their work, but are intended to make an example of critical journalists, bloggers, and human rights defenders. These charges have included hooliganism, drug possession, weapons possession, inciting hatred, supporting terrorism, tax evasion, extortion, and appealing for mass disorder.

On 23 January, the Azerbaijani delegation was successful in defeating a key resolution at the Parliamentary Assembly of the Council of Europe on “The follow-up to the issue of political prisoners in Azerbaijan.”¹⁵ The resolution failed to pass with a vote of 79 in favor and 125 against. Human rights defenders viewed the defeat of the resolution as a failure by the Council of Europe to hold Azerbaijan accountable for its obligations as a member state. The Azerbaijani authorities appeared to view it as *carte blanche* to continue arresting persons for politically motivated reasons, including in connection with freedom of expression.

In June, President Aliyev traveled to Brussels for meetings with European Council President Herman Van Rompuy and European Commission President José Manuel Barroso.¹⁶ In their statements following the meetings, both EU officials addressed human rights issues only in vague, weak terms. In a press conference alongside Barroso on 21 June, President Aliyev claimed that there were no political prisoners in Azerbaijan, and that media freedom was fully provided for. Barroso did not comment. The failure by these EU officials to prioritize human rights in their discussions with Aliyev contributed to further disillusionment about the EU's commitment to democracy promotion in Azerbaijan among local civil society.

In the first half of the year, in the run-up to Azerbaijan's October presidential election, politically motivated arrests increased. Youth activists were particularly targeted, in particular those affiliated with the N!DA civic movement and the Azad Genclik (Free Youth) Organization. By the end of June, the Human Rights Club estimated that there were more than 80 political prisoners in Azerbaijan.

¹⁵<http://bit.ly/W8aE6d>

¹⁶<http://bit.ly/16kdA2v>

At the end of the reporting period, there were seven journalists and one blogger in detention or prison for politically motivated charges in connection with freedom of expression:

1. **Nijat Aliyev**, editor-in-chief, www.azadxeber.net
2. **Araz Guliyev**, editor, xeber44.com
3. **Fuad Huseynov**, freelance journalist
4. **Hilal Mamedov**, editor-in-chief “Tolishi Sado”
5. **Faramaz Novruzoglu**, freelance journalist
6. **Rashad Ramazanov**, blogger
7. **Tofiq Yagublu**, correspondent, *Yeni Musavat* newspaper
8. **Avaz Zeynalli**, editor-in-chief, *Khural* newspaper

In addition to the cases involving journalists, at the end of the quarter, two human rights defenders remained in prison on politically motivated charges in connection with freedom of expression. **Ilham Amirasanov**, an activist with Kur Civil Society, is serving a two-year prison sentence on weapons possession charges after he accused local officials of misappropriating funding intended for victims of the 2010 Kura river floods.

Human rights lawyer **Bakhtiyar Mammadov** is serving an eight-year prison sentence on charges of large-scale extortion, combined with a previous fraud conviction. He was targeted after he represented families who were forcibly evicted from their homes to make way for the construction of Crystal Hall, the venue for the 2012 Eurovision Song Contest.

Due process violations were rampant in these cases, and court officials sometimes prevented journalists from critical media outlets from accessing the courtroom to cover the trials or from conducting interviews outside the courthouse.

Current cases of detained or imprisoned journalists and bloggers (as of 30/06/2013)

Editor-in-chief of www.azadxeber.net **Nijat Aliyev** was arrested on 20 May 2012 in front of Killer menswear shop near the Memar Ajami metro station, and taken to Yasamal District Police Office #27. He was charged under Article 234.1 of the Criminal Code (illegal manufacture, purchase, possession, transportation, transfer or sale of drugs, and psychotropic substances). It is widely believed that Aliyev was targeted for criticizing the authorities in the run-up to the Eurovision Song Contest, including the government’s high expenditures for the event and policies on LGBT issues.

On 26 January, Aliyev was additionally charged under Article 167.2.2.1 (import, sale and distribution of religious literature, religious items and other informational material of a religious nature with the aim of reproduction, sale and distribution without appropriate authorization), Article 281.2 (appealing for the violent seizure of authority, violent deduction of authority or violent change of constitutional grounds or infringement of territorial integrity of the Republic of Azerbaijan, as well as distribution of materials of such content), and Article 283.2.3 (incitement of national, racial or religious hostility, humiliation of national honor, as well as discrimination of citizens based on their national, racial or religious background committed publicly or with use of mass media). Aliyev is being held at the Kurdakhani investigative detention facility while his trial is ongoing at the Baku Court of Grave Crimes. He has reported being tortured in custody.

On 5 April, editor of fxeber44.com **Araz Guliyev**, was sentenced to eight years in prison. Although Guliyev was originally arrested on hooliganism charges, he was convicted on charges of illegal possession of fire arms (Article 228.1), violation of public order (Article 233), inciting national, racial, ethnic or religious hatred (Article 283.1), resisting a representative of the authority (Article 315.2) and insulting the national flag or emblem of the Azerbaijani Republic (Article 324).

Guliyev was arrested on 8 September 2012 on hooliganism charges after he was accused of attempting to disrupt an international folklore festival in the Masalli region, causing bodily harm to two residents and a policeman, and smashing the windows of a car. Guliyev denies the allegations and believes he has been targeted for his journalistic and religious activities. In December 2012, new charges were brought against Guliyev, of which he was later convicted. Guliyev is being held at the Kurdakhani investigative detention facility while the Shirvan City Court of Appeals considers his case. He has reported being tortured in custody.

Freelance journalist **Fuad Huseynov** was arrested in October 2010 on trumped-up charges of hooliganism after exposing illegal activities of public officials in the Ujar region, in particular, involvement in drug trafficking and trafficking in persons. On 26 September 2011, Huseynov was sentenced to six and a half years in prison under Article 221.3 of the Criminal Code. One of the “victims” who testified against Huseynov later stated that he had been pressured into giving false testimony by a local mafia group. Huseynov had previously served two years of a three and a half year prison sentence on hooliganism charges, after he accused a former Ujar city police chief of drug-related crimes. He remains in custody at Prison #12.

Hilal Mamedov

Tolishi Sado newspaper editor-in-chief and Talysh cultural activist Hilal Mamedov was arrested on 21 June 2012. He was charged under Article 234.4.3 of the Criminal Code (illegal manufacture, purchase, storage, transfer, transport or sale of drugs and psychotropic substances in a large quantity). He was later additionally charged under Articles 274 (treason) and 283.2.2 (inciting national, racial, social and religious hatred, hostility and ethnic discrimination).

Mamedov has been accused of cooperating with Iranian secret services and carrying out activities against the security and territorial integrity of Azerbaijan. The previous editor-in-chief of *Tolishi Sado*, Novruzali Mammadov, was convicted of similar charges in 2008, and died in prison in 2009. Hilal Mamedov denies the allegations and believes he was arrested in connection with a YouTube video that went viral in Russia, in which he sings lyrics such as “Who the hell are you? Why don’t you get lost” to the melody of a traditional Talysh song.¹⁷

Mamedov’s trial is ongoing at the Baku Court of Grave Crimes. The first part of the trial, relating to the treason charges was closed, while the second, ongoing part of the trial, relating to the drug possession charges, is open to observers. Numerous due process violations have been reported during Mamedov’s trial, and he has objected to the composition of the jury. He faces up to 12 years in prison and confiscation of property if convicted. Mamedov is being held at the Kurdakhani investigative detention facility. He reported that he was tortured in the custody of the Department for Combating Drugs.

On 22 August 2012, freelance journalist **Faramaz Novruzoglu** (Allahverdiyev) was sentenced to four and a half years in jail under Criminal Code Article 220.2 (appealing for mass disorders and violence against citizens) and Article 318.1 (crossing protected borders of the Azerbaijani Republic without established documents or outside of a border checkpoint). The Baku Court of Appeals upheld the ruling on 2 April. Novruzoglu was accused of posting calls for riots on Facebook ahead of the 11 March 2011 Great People’s Day protest, and of crossing the border into Turkey and living there illegally from November 2010 to October 2011. Novruzoglu has denied the charges and believes he was targeted for articles about Azerbaijan’s imports and exports, which were critical of the government. He remains in custody at Prison #1.

¹⁷ <http://bit.ly/LeqoAb>

On 9 May, blogger **Rashad Ramazanov** was detained near the “20 January” metro station and taken to the Department for Combating Organized Crime. He was charged with drug possession after police claimed to have found nine grams of heroin on him. Ramazanov denies the allegation. On 17 May, Ramazanov was sentenced to three months of pre-trial detention. Prior to his arrest, Ramazanov used his Facebook page to criticize the authorities and commented on issues related to freedom and justice.¹⁸ If convicted, he faces confiscation of property and up to 12 years in jail. Ramazanov is being held at the Kurdakhani investigative detention facility. He has reported being tortured in custody.

On 4 February, *Yeni Musavat* newspaper journalist and Deputy Chairman of the opposition Musavat party **Tofiq Yagublu** was arrested on charges of organizing public disorder (Criminal Code Article 233) and resisting authorities (Article 315). Yagublu was accused of organizing the 23-24 January riots in Ismayilli, when in fact he arrived in the region the day after the riots started, in his capacity as a journalist to cover the events. REAL movement presidential candidate Ilgar Mammadov travelled to Ismayilli with Yagublu and is in detention on similar charges.

Yagublu was initially sentenced to two months of pre-trial detention, which has been extended twice. In April, the charge of organizing public disorder was replaced by the more serious charge of “organizing or participating in mass disorders accompanied by violence, looting, arson, destruction of property, application of fire-arms or explosives, or armed resistance against a representative of authority (Article 220.1). Yagublu faces up to 12 years’ imprisonment if convicted. He remains in detention at the Kurdakhani investigative detention facility.

Avaz Zeynalli

On 12 March, editor-in-chief of *Khural* newspaper Avaz Zeynalli was sentenced to nine years in prison on charges of taking a large bribe (Criminal Code Article 311.3.3), extortion (Article 311.3.4), and contempt of court (Article 306). He was also convicted of tax evasion (Article 213.1), for which he was fined 4,076 AZN and prohibited from engaging in commercial activity for one year following his release.

At the time of sentencing, Zeynalli had already been detained for 17 months, since his arrest on 28 October 2011. The Baku Court of Appeals upheld the first-instance court’s ruling on 13 May. Zeynalli is serving his sentence at Prison #10. He reports that his health has deteriorated in custody, as he

¹⁸<http://on.fb.me/12G0WJE>

suffers from a number of serious ailments. On 23 May, Zeynalli's lawyer was not permitted access to visit him in prison.

The charges against Zeynalli stemmed from a complaint filed by the now-discredited then-MP Gular Ahmadova, who claimed he attempted to blackmail her. Ahmadova was later involved in a scandal after two videos were posted to YouTube appearing to show her negotiating the price for a parliamentary seat.¹⁹ Ahmadova resigned following the release of the first video, and was later arrested on charges of embezzlement and concealment of a grave crime. Ahmadova is currently in detention at the Kurdakhani investigative detention facility.

Other cases

A number of other journalists, bloggers, and human rights defenders spent time behind bars in the first half of 2013, while others served conditional sentences, and still others faced potential imprisonment if convicted on charges connected with freedom of expression.

Ogtay Gulaliyev

Kur Civil Society staff coordinator and Transparency magazine editor-in-chief Ogtay Gulaliyev was detained on 8 April 2012 in the Minbashi village of Sabirabad, where he was conducting a monitoring. He was sentenced to 12 days of administrative detention. On 17 April 2012, Gulaliyev reported through his lawyer that he had been beaten in detention by several police officers, including Deputy Chief of the Sabirabad District Police Department Rauf Majidov. On 19 April 2012, a criminal case was opened against Gulaliyev under Article 220.2 (active resistance to authorities' legal orders), and the Sabirabad Regional Court sentenced him to two months of pre-trial detention. Gulaliyev is believed to have been targeted for his criticism of local authorities in connection with the 2010 Kura river floods. On 13 June 2012, the Sabirabad Regional Court, under presiding judge Firdovsi Aliyev, ordered Gulaliyev's release. However, the criminal charges against Gulaliyev still stand, and he faces up to three years in prison if convicted.

Vugar Gonagov and **Zaur Guliyev**, executive director and editor-in-chief of Guba-based Khayal TV, were arrested on 13 March 2012. They were accused of provoking the mass riots that broke out two weeks earlier on 1 March 2012 by uploading a video to YouTube showing regional governor Rauf Habibov making derogatory remarks about local residents. Thousands of protesters gathered to demand Habibov's resignation; he was later dismissed by President Aliyev.

¹⁹<http://bit.ly/S384Kx>

Gonagov and Guliyev were charged under Criminal Code Article 233 (organization of actions promoting infringement of social order or active participation in such actions) and Article 309 (abuse of power). Their pre-trial detention period, initially for two months, has been extended several times. Gonagov was forced by the investigator to refuse the services of his lawyer, Elchin Sadigov. On 15 March, the Khachmaz District Court convicted the two journalists but released them, giving them each a suspended three-year sentence in lieu of jail time. Gonagov and Guliyev intend to file an appeal against the ruling as they deny the charges.

Mehman Huseynov

IRFS photo-video journalist and Azerbaijan Youth Media Center member Mehman Huseynov was summoned to the Sabayil District Police station on 12 June 2012, questioned for three hours, and taken into police custody for 48 hours. Although Huseynov was released, he was charged with hooliganism under Article 221.1 of the Criminal Code, and faces up to five years in jail if convicted.

The charges against Huseynov stem from a verbal disagreement that he had with police at an unsanctioned protest in front of the Baku Mayor's Office on 21 May 2012 ahead of the Eurovision Song Contest final, which was held in Baku. Huseynov was carrying out his professional duties when police used force against both protesters and journalists, including Huseynov and other IRFS employees, and broke Huseynov's camera. Huseynov may have been targeted in connection with his activism with the Sing for Democracy campaign, or his photographs depicting human rights abuses by the authorities, which are widely used in the local and international media.

The fact that the charges against Huseynov still stand means that he faces travel restrictions, and must get permission from the authorities in order to leave the country. On 17 June, Huseynov attempted to travel to Norway to accept a prestigious Press Prize from the Fritt Ord Foundation and the ZEIT Foundation.²⁰ Although he had submitted the required documentation, he was detained at the airport, then taken to a police station and informed that a travel ban had been placed on him.

IRFS Program Manager and lawyer **Gunay Ismayilova** and Election Monitoring and Democracy Studies Center (EMDS) employee **Javid Nabiye**v were detained by local authorities in the Khachmaz region on 12 February. The two civil society representatives were in Khachmaz to run a workshop on citizen participation in public policy as part of an initiative funded by the European Union and USAID. Police raided the venue just before the workshop

²⁰ <http://bit.ly/ZXDVmE>

started and detained the two trainers. Nabiyeu was beaten by police officers and Ismayilova reported that she was subjected to pressure and kept hungry and thirsty for eight hours before the two were released.

On 20 May, founder of *Gundam Khabar* newspaper **Shirin Jafari** was convicted of tax evasion and abuse of position under Articles 213.2.2 and 308.1 of the Criminal Code, and given a three-year suspended sentence, the first two years of which he must serve on probation. The prosecutor had requested a five-year jail-term for Jafari. A criminal case was opened against Jafari following a request by the Press Council for an investigation into the newspaper's activities. The Press Council accused the newspaper of ignoring citizens' right to privacy, disseminating information insulting citizens' honor and dignity, and regularly violating journalistic ethics. Jafari maintains that the authorities' calculation of the taxes he owes is incorrect, and believes he has been targeted for political reasons.

Chapter Five: State control of the media²¹

The political climate in Azerbaijan remains hostile to the activity of mass media outlets and citizen journalists. Traditional radio and television broadcasters are under particularly tight government control, either directly or through informal means of pressure.

There are very few independent media outlets left in Azerbaijan, as even many traditional opposition voices have been silenced through force or other means of influence (for example, free apartments have been given to some journalists and editors). Similarly, some opposition outlets have recently softened their tones after receiving government grants. In a marked change over the past year, few media outlets in Azerbaijan are now regarded as independent. In this environment, self-censorship has become as great a challenge as imposed censorship.

The four newspapers not sponsored by the state, which seek to disseminate alternative political views, have very low circulation figures, reaching less than three percent of the population. The state economy has been monopolized by a small number of oligarchs, limiting the advertising market and presenting another obstacle to the development of independent media in Azerbaijan. Even medium-sized companies and entrepreneurs refrain from advertising in the independent and opposition media for fear of angering the authorities. Restrictions on advertising revenue and printing and distribution facilities, as well as an acute lack of private investment, serve to suffocate the handful of relatively successful independent publications remaining.

Another tactic to keep the relatively independent media marginalized is limiting their access to decision-makers. Top policy-makers and their press officers do not hold regular public briefings. The presidential administration's press pool is a closed group of trusted and easily manipulated journalists. Those who have access to the ruling elite do not ask unwelcome questions, and those who are more inquisitive simply are not given access.

Control of the broadcast media

Presently, the most controlled segment of the Azerbaijani media is television and radio broadcasting. The country has nine national, 14 regional and 13 cable television stations, and 12 radio stations. Following the authorities' ban on foreign broadcasters from accessing national frequencies in 2009, which took the Azerbaijani services of the BBC, RFE/RL and Voice of America off the air, there has been an absence of diversity of opinion in nationwide

²¹For more information on Azerbaijan's broadcast media climate, see IRFS' March 2013 report, *Media in a Chokehold*, available at <http://bit.ly/14OZV6n>

broadcasting. These stations were the only alternative information sources for Azerbaijani listeners. The 12 radio stations that currently broadcast over nationwide frequencies fail to ensure pluralism.

Three (AzTV, Idman Azerbaijan and Medeniyyet Azerbaijan) of the nine national television channels are state-owned, and in contrast to the international trend of privatizing state media, the government continues to open a new state television station approximately every other year. There are so-called independent television stations in the regions outside of Baku, but they merely broadcast music and entertainment programming and do not provide information about current affairs in the country.

The Azerbaijani public service broadcaster, Ictimai, does not fulfill the functions of public service broadcasting as stipulated by international standards. Ictimai does not serve the public interest or ensure pluralism, failing to provide balanced and varied programming for all sectors of the population as required through its membership in the European Broadcasting Union. Since its formation in 2005, Ictimai has essentially served the needs of the state, largely being used as a propaganda tool of the government with little or no independent reporting. Ictimai gives only brief – and often incorrect – information about significant events in the country, such as the activities of political parties or public associations. It often disseminates incorrect information about individuals and organizations, and refuses to grant them airtime to exercise their right to reply.

The nine national channels work in a top-down manner, with one-way communication between the state and citizens. News coverage on these channels is closely coordinated with the president's office, so that coverage is similar from one channel to the next. This form of control is by no means coercive, as the top television managers are among the country's political elite and are the willing partners of the ruling regime. As far as political coverage is concerned, the message remains consistent: whatever problems Azerbaijan may be facing, President Aliyev is firmly in charge, and any political alternative is inconceivable. These channels serve the government's political goals, shaping public opinion by boosting, playing down, or ignoring certain issues, figures, or groups and instilling sentiments that benefit the ruling regime's political interests.

Just as there is a lack of political competition in the public realm, there is also no competition among the six private television channels as far as political coverage is concerned. When it comes to entertainment programming, however, the competition is fierce. Though all six channels operate as commercial entities that rely on advertising revenues, they remain tightly controlled by the state.

Combining state propaganda with a lucrative business operation works because it generates state-of-the-art television entertainment, sustains audiences, and thus attracts advertisers. The advertising market was more robust in the years preceding the global financial crisis, but even now national television channels remain profitable. To many in Azerbaijan – especially the provincial, older, less-educated, and poorer demographic – free national television is the only affordable form of entertainment. Once people are attracted to a channel by soap operas and other appealing entertainment programs, they also watch the national news on the same channel.

Because the government exercises full control over the broadcast licenses via the National Television and Radio Council (NTRC), the licensing of broadcast media outlets remains highly political, biased, and non-transparent. The NTRC consists of seven acting members appointed directly by the president and is fully funded from the state budget. There is no legal guarantee of its independence. Broadcast media outlets not sponsored by the state are unable to obtain licenses, such as Obyektiv TV, which has been attempting to obtain a license for several years.

The government has recently minimized the number of tenders for new and potential broadcasters to get available frequencies. Until 2010, a lack of empty frequencies was used as an excuse to avoid providing broadcast licenses to unwelcome/uncontrolled media. At that time, the NTRC refused to publicize the list of empty frequencies, in blatant violation of the law on broadcast media. Now, the NTRC states that while there are enough empty frequencies, there is no need for so many television channels in such a small country. The NTRC has also suggested that the appearance of new television channels will negatively affect the advertising incomes of the existing channels, which might have an adverse impact on the quality of their work.²² This argument shows that the NTRC is unwilling to allow new and independent players to enter the broadcast market, in this way hindering media development.

The impossibility of obtaining broadcast licenses has led to the emergence of online television channels. There are presently four online television channels in Azerbaijan, and content produced by three of these reflects alternative opinions. But low-quality and expensive Internet services hinder the development of these channels, as they are highly dependent on the speed and quality of the Internet (considering that video content must be uploaded onto websites). These online channels will only have a chance of becoming popular enough to compete with traditional television channels if fully affordable and accessible fiber optic Internet is ensured in the country.

²²<http://bit.ly/PaLcLA>

During the reporting period, there were a number of developments related to state control of the broadcast media.

In March, reports surfaced that authorities had imposed a ban on Turkish Media TV in all public places in the region of Barda. Turkish Media TV is a satellite television station that broadcasts an Azerbaijani opposition program, Azerbaijan Saati (Hour), into the regions. The program increased public debate on the issue of deaths of military conscripts in non-combat situations. Police reportedly demanded that owners of cafes and teahouses remove their antennas or they would face trouble with the authorities.

At its 2 April meeting, the NTRC granted a six-year license to the Intelligent Transport Management Center, allowing it to broadcast on the radio on the 107.7 MHz frequency. The permit was granted through a non-competitive process, which IRFS considered to be politically motivated.

On 2 April, the NTRC also granted a license to the Caspian International Broadcasting Company LLC for television broadcasting via satellite. In a 10 April press conference, it was revealed that the Caspian Broadcasting Company had been purchased by the State Oil Company of Azerbaijan (SOCAR) – meaning the station would be funded by the state, in violation of the national law on TV and Radio Broadcasting, as well as international law. The NTRC denied that SOCAR had bought the company.

On 23 April, a new Director General of Public Television (ITV) was chosen through a process marred by legal violations. IRFS Chairman Emin Huseynov was among the four candidates for the post. Huseynov noted that the election was held just one day after the names of the candidates were announced, leaving insufficient time for the Broadcasting Board to scrutinize the candidates' experience and skills. In violation of the law on Public TV and Radio Broadcasting, the NTRC organized and hosted the election, and NTRC head Nushiravan Maharramli grossly interfered in the election process. There were also legal violations in the composition of the Broadcasting Board, which included an MP and a ruling Yeni Azerbaijan Party member, who legally had no right to be board members.

On 9 May, former owner of the Khachmaz-based Qutb (Pole) Broadcasting Company Mahir Orujov reported that fraud had taken place in his 2010 sale of the company. According to Orujov, he sold the company to someone using the name of the Heydar Aliyev Foundation, but refusing to disclose the name of an individual owner. Orujov said he was only paid a small portion of what was indicated in the sale contract. He has been unable to pursue the matter in court as a local notary public has refused to provide him with the sale contract.

On 20 June, RFE/RL revealed that it had been experiencing interference with its satellite news broadcasting into Azerbaijan. According to RFE/RL, “The interfering signal carries no content, indicating its sole purpose is to disrupt other programming. When the RFE/RL program moves to other channels and satellites, the interfering signal follows.” Two other projects transmitting alternative news coverage into Azerbaijan, Meydan TV and Azerbaijan Saati (Hour), have also reported interference with their broadcasts into Azerbaijan. Deliberate interference, or jamming, violates international telecommunications regulations as well the right to freedom of expression under international law.

Restrictions on the print media

Both direct political control and economic pressure, combined with a lack of fair rules, are damaging the development of professional journalism in Azerbaijan. This is particularly the case with the print media.

The ruling regime has sought to silence critical newspapers by putting the squeeze on their advertising revenue, limiting their distribution channels, and initiating hundreds of defamation lawsuits against them. The result has been a general decline in criticism and public debate on crucial issues. The concentration of buying power among state-supported publications and a lack of standards providing for impartiality have resulted in a rather uneven playing field for Azerbaijan’s print media.

The state controls print media through economic pressure. State-owned and pro-governmental media are financed through compulsory subscriptions by state institutions, while also gaining revenue from advertising, in a market dominated by state companies. According to Rahim Hajiyev, deputy editor of *Azadliq* newspaper, companies that wish to advertise in critical media outlets are prevented from doing so through intimidation.²³

Control over distribution also facilities also limits the market for critical publications. In 2012, a number of press kiosks were installed in Baku, which are actually booths selling all kinds of food and consumer goods except for newspapers (although there are small newspaper stands beside these booths). Information about the ownership of these booths is kept secret. They were installed in locations previously occupied by newspaper kiosks belonging to the Qasid and Qaya distribution companies.

Qasid and Qaya have also taken a hit in terms of subscription revenue. According to Qaya Distribution Company Director Khanhuseyn Aliyev, all

²³<http://bit.ly/TB4v3d>

state agencies have been unofficially ordered to subscribe to newspapers via the Kaspi Distribution Company.²⁴ Restrictions on press distribution have seriously affected the sales incomes of some high-circulation newspapers such as *Yeni Musavat* and *Azadliq*. This monopolization of all forms of press distribution (mobile sales, kiosks and subscriptions) will allow the government to easily prevent the sale of certain newspapers and magazines.

Distribution problems were not limited to Baku. During the reporting period, there were reports of a ban in Nakhchivan on the sale of newspapers that are critical of the government. Critical newspapers were not sold at kiosks or available via the post in Nakhchivan. In particular, there were reports that *Azadliq* and *Yeni Musavat* newspapers could not be found in the exclave.

²⁴ As stated in June 2012 at a conference of the Azerbaijan Editors' Union: <http://bit.ly/ZaN73d>

Chapter Six: Freedom of expression online²⁵

The last several years have seen a marked increase in Internet use, both globally and within Azerbaijan, as technological developments and a rising consumer demand have made it possible for more and more people to access the Internet. Currently, approximately one third of the population²⁶ has access to the Internet, making it a key platform for information exchange. In parallel to this growth in Internet use, however, have come increased measures to restrict how people can access the Internet and what they can do online.

The Internet in Azerbaijan can be considered partly free; however a number of worrisome developments have occurred in the aftermath of the 2012 Internet Governance Forum, which was held in Baku in November, and in particular, during the first half of 2013 in the run up to October's presidential election.

The adoption of legislation extending criminal defamation provisions to online content was the single biggest blow to freedom of expression online during the reporting period. Once the law comes into effect at the end of July, those who post critical views online could face up to three years in prison.

Targeting of online activists

Targeting by authorities of individuals who used to the Internet to voice critical opinions remained a significant threat. For the most part, Azerbaijanis are technically able to do what they like online, but that does not mean there will not be repercussions. On the contrary, those who cross certain lines in their online postings – such as calling for protest, exposing corruption, or criticizing the president and his family – do so at significant risk.

At the end of June, two journalists remained in detention or prison in connection with expressing critical opinions online: **Nijat Aliyev**, and **Faramaz Novruzoglu**. In addition, **Vugar Gonagov** and **Zaur Guliyev** also spent time in detention this quarter in connection with their online activity.²⁷ Blogger **Elnur Majidli**, who lives abroad, faces arrest if he returns to Azerbaijan, as he has been criminally charged in absentia based on his calls for protest via Facebook.

A number of civic and political activists who used the Internet to express criticism and call for protest also remained in detention or prison at the end of

²⁵For more detailed information on freedom of expression online in Azerbaijan, see the Expression Online Initiative's November 2012 report, *Searching for Freedom: Online Expression in Azerbaijan*, available at <http://bit.ly/10HO18X>

²⁶<http://bit.ly/KsXwTl>

²⁷ More information on these cases is provided in Chapter Three of this report.

the reporting period, in connection with exercising their right to free expression. NIDA civic movement members **Rashadat Akhundov**, **Mahammad Azizov**, **Bakhtiyar Guliyev**, **Zaur Gurbanli**, **Rashad Hasanov**, **Uzeyir Mammadli**, and **Shahin Novruzlu** are in detention, facing serious jail time on a range of charges related to drug and weapon possession. Azad Genclik (Free Youth) Organization member **Ilkin Rustemzade** is in detention, facing up to five years' imprisonment on hooliganism charges connected with a Harlem Shake video filmed in Baku. Popular Front Party youth movement member **Dashgin Malikov** is in prison serving a 2.5-year sentence on drug possession charges.

Activists who use Facebook to organize protests are now facing steep fines under recent changes to the freedom of assembly law. NIDA civic movement board member **Turgut Gambar** has been fined 2,500 AZN for calling for a protest on 26 January via Facebook. Previously imprisoned blogger **Emin Milli** was arrested during the same protest and sentenced to 15 days in administrative detention, in connection with his use of Facebook to call for protest. The court decision stated that the activists placed "illegal" appeals on Facebook, inviting citizens to take part in an illegal protest.

On 27 February, **Turkel Alisoy**, a member of the Popular Front Party's youth movement, was taken from his home by police to the Baku City Main Police Office. There, Head of the Criminal Investigation Department Aliaslan Agayev, showed him printed screenshots of his Facebook posts, accusing him of calling on students not to attend classes that day as part of a protest against problems in the education system. Alisoy was detained for approximately seven hours and threatened with a criminal case if he continued to be active and call for protest on Facebook.

On 8 May, 20 year-old blogger **Nilufer Maharramova** committed suicide by throwing herself over the balcony of her apartment, reportedly following pressure over her critical blog posts. *Yeni Musavat* newspaper reported that Maharramova had been subjected to mistreatment at the Mingechevir Police Department, and she is reported to have had problems with her family related to her political beliefs. The Prosecutor General's Office denied reports that Maharramova had been pressured by police.

Attacks on critical online media

In the first half of 2013, there were also reports of attacks on the websites of independent and opposition news sources. On 11 January, a day before a mass protest in response to the death of young soldiers in non-combat situations, news sites including azadliq.az, azadliq.org, musavat.com, qafqazinfo.az, minval.az, and publika.az reported a series of DDOS (denial of service) attacks, originating in 16 different countries with ostensibly no reason to attack

Azerbaijani news sites. The affected websites were being hit with one million data packets per second, which would cost approximately 900 EUR per day, meaning whoever was behind the attacks was wealthy.

On 15 May, aznews.az website editor **Elchin Zahiroglu** reported that his personal Facebook and e-mail accounts had been hacked. Zahiroglu said the hacker had used his accounts to send abusive and threatening messages to a number of public figures, including RFE/RL journalist Khadija Ismayilova, who reported that she had also been targeted by the same hacking attempt.

Restrictions on Internet freedom

In light of the growing influence of social media in the country, ruling party MPs have stepped up rhetoric suggesting that social networking sites – and Facebook in particular – should be regulated or blocked in Azerbaijan. For example, on 28 March, influential ruling party MP Siyavush Novruzov said Parliament should impose legal regulations on social media in order to protect “citizens’ honor and dignity.” MP Fazail Aghamali, the head of a pro-government party, also called for restrictions on Facebook, stating “The fact that a number of protest actions have recently been organized on social networking websites raise a need for controlling and restricting access to these networks.”

The government has increasingly attempted to exercise greater control over the Internet, though it remains much less restricted than print and broadcast media, which are the main sources of news for most citizens. In the Law on Mass Media of 1999, the Internet was categorized as part of the mass media. Because of this, all rules applied to the traditional media, which are considered to be highly problematic, could also be used for Internet regulation. The Ministry of Communications and Information Technologies is the major body responsible for regulating the Internet, but experts have emphasized the urgent need for this role to be shared with an organization that is not under state control. The ministry imposes restrictions on the assignment of the “.AZ” national domain.

While online media are largely free from government censorship, the authorities have expressed a desire to regulate it.²⁸ There have been numerous statements by top government officials suggesting that further mechanisms of control are forthcoming, including the licensing of online television stations. For example, in a statement issued on 10 January, NTRC Head Nushirevan Maharramov said that online stations should be subject to licensing, just like traditional television stations.

²⁸<http://bit.ly/aITzXs>

On 14 February, a commission was set up under the Press Council, tasked with handling citizens' complaint about ethical violations online, hacker attacks against websites, and other issues related to online media. Head of the commission Elnur Baimov has suggested that the role of the commission is to keep online media under control. He said, "The activity of new media should also be regulated by legislation. Concrete steps must be taken in this direction, because it is necessary to enhance the responsibility of online media. Once online media has a claim to be considered media, it must share the same legal responsibility."

IRFS is also seriously concerned about plans for a new bill that would grant the government broad powers to restrict online content, ostensibly to protect children from pornography and other harmful material. In authoritarian regimes, the introduction of such legislation is often followed by technical censorship of the Internet. For example, government bodies might prepare a blacklist of prohibited sites, resulting in blocked access to these sites.

Conclusion

During the first half of 2013, freedom of expression in Azerbaijan deteriorated on all fronts. Combined with the erosion of the other fundamental freedoms of assembly and association, IRFS believes the human rights situation in the country should be considered a crisis.

IRFS calls for urgent international attention to ongoing violations in the country and for increased international pressure on Azerbaijan to fulfill its international human rights obligations. Stronger pressure is specifically needed from the Council of Europe and the European Union, which failed to hold Azerbaijan accountable for its human rights obligations at key opportunities during the reporting period.

Particular attention should be paid to freedom of expression in the run-up to October's presidential election. The authorities must provide for a level playing field for all candidates and ensure full media freedom in the run-up to, during, and in the aftermath of the election. The widespread and systematic violations that are currently taking place in the country are completely incompatible with democratic standards for fair and free elections, and must be addressed as a matter of urgent priority.