

# Azerbaijan and the United Nations: Going through the motions



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## Introduction

Through its membership in the United Nations (UN) since 1992, and its accession to a number of international treaties, Azerbaijan has undertaken extensive commitments to respect and protect human rights. In practice, however, the Azerbaijani government is failing to uphold many of these commitments.

At the time of publication, Azerbaijan was in a leadership position at the UN, as President of the Security Council for the month of October 2013. Azerbaijan has served a two-year term as a non-permanent member of the Security Council, which expires at the end of 2013.

This year, Azerbaijan also underwent its second Universal Periodic Review by the UN Human Rights Council.<sup>1</sup>The UN Committee on Economic, Social and Cultural Rights,<sup>2</sup> and the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families<sup>3</sup> also reviewed Azerbaijan this year. These reviews pointed to serious shortcomings in Azerbaijan's implementation of its UN human rights commitments.

On the surface, the Azerbaijani government has generally taken care to tick all the main boxes when it comes to the UN, and to maintain an active involvement in UN decision-making processes.

However, when examining the Azerbaijani government's implementation of the core human rights treaties, and its disregard for recommendations made by UN Special Procedures mandate holders, it becomes evident that Azerbaijan has failed to take its human rights commitments to the UN seriously.

This report outlines Azerbaijan's various human rights commitments with the UN, and briefly examines the status of their implementation. Given Azerbaijan's current position of leadership at the UN, it is even more important now than ever to ensure that the Azerbaijani government is living up to and promoting core UN values, including human rights.

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<sup>1</sup><http://bit.ly/164OtG8>

<sup>2</sup><http://bit.ly/19UHYTB>

<sup>3</sup><http://bit.ly/UN2CMZ>

## UN Charter

Azerbaijan adopted the UN Charter on 2 March 1992.<sup>4</sup> The Charter “reaffirmed faith in fundamental human rights, and dignity and worth of the human person,” and contained provisions for “universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.”<sup>5</sup>

The Charter provides the basis for an important part of the UN’s human rights machinery by establishing the Human Rights Council, its Universal Periodic Review process, its Special Procedures, and a complaint mechanism. The Charter also established the UN General Assembly, which debates and issues resolutions of international importance, including human rights issues.

The Universal Declaration of Human Rights (UDHR) is viewed as the foundation of international human rights law.<sup>6</sup> It was adopted by the UN General Assembly on 10 December 1948. While the UDHR, like all General Assembly resolutions, is not legally binding on Member States, it provided essential definitions for the concepts of “fundamental freedoms” and “human rights” included in the UN Charter – which is binding on Member States. It also served as the basis for two binding human rights treaties, the International Covenant on Civil and Political Rights, and the International Economic, Social and Cultural Rights. Further, the UDHR is widely considered to have the force of customary international law, which plays a role in judgments of the International Court of Justice, among other entities.

The Human Rights Council is a body of 47 Member States elected by the General Assembly, responsible for strengthening the promotion and protection of human rights globally, and addressing human rights violations. Created in March 2006, the Human Rights Council replaced the former UN Commission on Human Rights. Azerbaijan is not currently a member of the Human Rights Council.

### ***Universal Periodic Review***

Azerbaijan has undergone two Universal Periodic Reviews (UPR) by the Human Rights Council, one in 2009, and one earlier this year, in April. The UPR is a State-driven process through which the human rights records of all UN Member States are examined by their peers every four and a half years.

As highlighted by IRFS along with the International Partnership Group for Azerbaijan in a coalition NGO submission for this year’s review, Azerbaijan failed to implement a number of recommendations it accepted during the first UPR in 2009.<sup>7</sup> The submission focused on freedom of expression, documenting violations including a failure to protect the right to life of journalists; impunity for violence against journalists; violations of the right to private life; politically motivated arrests and imprisonment; cruel, inhuman or degrading treatment; legislative restrictions on freedom of expression; restrictions on freedom of

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<sup>4</sup><http://bit.ly/16Dq0kg>

<sup>5</sup><http://bit.ly/BXKec>

<sup>6</sup><http://bit.ly/1arHbE>

<sup>7</sup><http://bit.ly/150jwMY>

expression online; and state control of the media.<sup>8</sup>

During the 30 April review, Azerbaijan received a total of 162 recommendations. It rejected four recommendations from Armenia, claiming they were “not within the scope of the UPR.”<sup>9</sup>The final outcome of the review was adopted by the Human Rights Council during its twenty-fourth session from 9 to 27 September. The Azerbaijani government accepted the remaining 158 recommendations.

The recommendations put forward during the second UPR included important steps needed to improve the situation for freedom of expression, assembly and association, including the following, as outlined in the Report of the Working Group on the Universal Periodic Review:<sup>10</sup>

109.79. Take adequate measures for the safety of civil society, including political activists and journalists; conduct impartial, thorough and effective investigations into all cases of attacks, harassment, and intimidation against them and bring perpetrators of such offenses to justice (Canada); (...)

109.105. Ensure the full enjoyment of the right to freedom of expression in line with country’s international commitments (Slovakia);

109.106. Guarantee the rights to freedom of expression, association and peaceful assembly particularly by allowing peaceful demonstrations in line with the obligations stemming from the International Covenant on Civil and Political Rights (Switzerland);

109.107. Put in place additional and fitting measures to ensure respect for freedom of expression and of the media (Cyprus);

109.108. Ensure that Azerbaijani media regulations uphold diversity among media outlets, as per international standards and best practices (Cyprus);

109.109. Expand media freedoms across print, online and, in particular, broadcast platforms, notably by ending its ban on foreign broadcasts on FM radio frequencies and eliminating new restrictions on the broadcast of foreign language television programs (Canada);

109.110. Take effective measures to ensure the full realization of the right to freedom of expression, including on the Internet, of assembly and of association as well as to ensure that all human rights defenders, lawyers and other civil society actors are able to carry out their legitimate activities without fear or threat of reprisal (Czech Republic);

109.111. Ensure that human rights defenders, lawyers and other civil society actors are able to carry out their legitimate activities without fear or threat of reprisal, obstruction or legal and administrative harassment (Sweden);

109.112. Put an end to direct and indirect restrictions on freedom of expression and

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<sup>8</sup><http://bit.ly/11SM7UQ>

<sup>9</sup><http://bit.ly/11CX65F>

<sup>10</sup><http://bit.ly/14atLBd>

take effective measures to ensure the full realization of the right to freedom of expression and of assembly (Poland);

109.113. Ensure the full exercise of freedom of expression for independent journalists and media, inter alia, by taking into due consideration the recommendations of the Council of Europe Commissioner for Human Rights (Italy);

109.114. Ensure that journalists and media workers are able to work freely and without governmental intimidation (Germany);

109.115. Ensure that journalists and writers may work freely and without fear of retribution for expressing critical opinions or covering topics that the Government may find sensitive (Slovenia);

109.116. Protect and guarantee freedoms of expression and association in order to enable human rights defenders, NGOs and other civil society actors to be able to conduct their activities without fear of being endangered or harassed (France);

109.117. Strengthen measures to guarantee a safe and conducive environment for the free expression of civil society (Chile);

109.118. Remove all legislative and practical obstacles for the registration, funding and work of NGOs in Azerbaijan (Norway);

109.119. Ensure that all human rights violations against human rights defenders and journalists are investigated effectively and transparently, with perpetrators being promptly brought to justice, including pending unresolved cases requiring urgent attention (United Kingdom);

109.120. Ensure prompt, transparent and impartial investigation and prosecution of all alleged attacks against independent journalists, ensuring that the media workers do not face reprisals for their publications (Slovakia);

109.121. Review legal and administrative requirements for the registration of NGOs, which would simplify the process and encourage the independence of civil society representatives (Mexico);

109.122. Eliminate the practice of unlawful postponement and of refusal to register NGOs, including international NGOs and those critical of the Government and defending human rights (Germany);

109.123. Lift administrative restrictions on NGOs and peaceful demonstrators; refrain from imposing charges on peaceful demonstrators; refrain from acts leading to the closure of NGOs or the suspension of their peaceful activities, and instead promote a meaningful political dialogue that allows and embraces diverging views, including those of human rights defenders, NGOs, journalists, political activists and others (Netherlands);

109.124. Thoroughly and transparently investigate and prosecute all alleged incidents of pressure in the form of harassment and lawsuits of journalists, editors and human rights defenders (Norway);

109.125. Release individuals incarcerated for publicly expressing their opinions and ensure due process for other detainees (United States of America);

109.126. Reform its defamation legislation in conformity with article 19 of the International Covenant on Civil and Political Rights (ICCPR), investigate all incidents of intimidation and violence against journalists and bring perpetrators to justice (Austria);

109.127. Abolish relevant articles of the criminal code which effectively serve as defamation provisions (Norway);

109.128. Refrain from initiating defamation lawsuits against civil society activists and journalists, and put an end to the practice of detaining these individuals engaging in the exercise of their legal civil and political rights (Canada);

109.129. Refrain from imposing excessive fines on media outlets for defamation, while working to adopt the law on defamation, which abolishes criminal liability for defamation and insult (Netherlands);

109.130. Ensure that obligations regarding freedom of assembly and freedom of expression, to which Azerbaijan committed on becoming a member of the Council of Europe, are implemented consistently and transparently (Australia);

109.131. Redouble its efforts to guarantee the freedom of association, also by improving the environment for NGOs to freely carry out their activities (Italy);

109.132. Review regulations, policies and practices in accordance with article 21 of the ICCPR (Uruguay);

109.133. Respect in law and in practice international standards for freedom of peaceful assembly, and open a dialogue with civil society representatives to establish a list of sites, in particular in the centre of Baku, where demonstrations can take place freely (France);

109.134. Alleviate administrative procedure for peaceful assemblies and adopt effective measures to prevent use of force against peaceful protestors by the law enforcement personnel (Slovakia);

109.135. Guarantee the freedom of assembly and work with organizers to ensure that peaceful protests and demonstrations are allowed to take place within central Baku (United Kingdom);

109.136. Permit peaceful protests to occur throughout the country, including in Baku city centre, and fully investigate the allegations of harassment of legal professionals representing peaceful demonstrators (United States of America);

109.137. Allow protest actions in Baku city in accordance with Resolution 1917 of January 2013 of the Parliamentary Assembly of the Council of Europe (Germany);

109.138. That any sanctions for violations be proportionate and not create undue

obstacles to freedom of assembly (Hungary); (...)

IRFS calls on the Azerbaijani government to accept these recommendations, and to take concrete steps to ensure their implementation, unlike with similar recommendations from the 2009 UPR, which were not implemented.

### ***Re-election to the Human Rights Council: a humiliating defeat for Azerbaijan***

In 2009, the NGO Coalition for an Effective Human Rights Council publicly opposed the re-election of five states as members of the UN Human Rights Council: Azerbaijan; China; Cuba; Russia; and Saudi Arabia. On its website, the NGO Coalition highlighted human rights concerns in these countries, stating that each fell far short of the “highest” standards of human rights practices required for Council membership.

The NGO Coalition particularly focused on Azerbaijan, in particular, practices of harassment and intimidation of journalists and human rights defenders, torture and ill treatment in police custody, and cases of politically motivated detention and imprisonment.

A month before the Human Rights Council elections, a group of 20 Azerbaijani human rights and democracy advocates, professors, lawyers, and journalists, wrote to UN Member States, urging them to refrain from voting for Azerbaijan.<sup>11</sup> In the three years that Azerbaijan had served on the Human Rights Council, they said, “the human rights situation has gotten worse, not better.” They addressed the risks they faced: “We, as journalists and human rights defenders, face a constant risk that the government will bring politically motivated criminal or civil charges against [us]. Harassment, intimidation, and physical attacks on civil society have become common. Torture in detention is widespread. The government’s unwillingness to address and prevent these abuses means near-total impunity for the perpetrators and lack of justice for us.”

A week before the election, on 5 May 2009, members of the NGO Coalition wrote to UN Member States,<sup>12</sup> highlighting Azerbaijan’s attacks on press freedom, harassment and intimidation of human rights defenders and trade unionists, cases of politically motivated detention and imprisonment, and the widespread use of torture in police facilities and prisons.

On the day of elections, Azerbaijan suffered a humiliating defeat. With only 89 votes, it failed to reach the 97-vote threshold that was necessary for membership.

### ***Special Procedures***

Azerbaijan generally cooperates with the Special Procedures of the Human Rights Council, which are mandate holders tasked with examining specific thematic human rights issues, or the human rights situation in specific countries. There are currently 36 thematic and 13 country rapporteurs.<sup>13</sup>

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<sup>13</sup><http://bit.ly/OZssNR>



On 15 April 2013 – just two weeks before Azerbaijan’s UPR by the Human Rights Council – Azerbaijan extended a standing invitation to all thematic special procedures, meaning that all requests for visits should be accepted.<sup>14</sup>

To date, the following Special Procedures mandate holders have visited Azerbaijan: the Representative of the Secretary General on internally displaced persons (in 1998, 2007, and 2010); the Special Rapporteur on Human Rights on the question of torture (in 2000); the Special Rapporteur on freedom of religion (in 2006); the Special Rapporteur on freedom of opinion and expression (in 2007); and the Special Rapporteur on health (in 2012).<sup>15</sup>

It is not possible here to examine the findings from all of these missions; however, as the focus of this report is primarily on those rights most under attack in Azerbaijan – the fundamental freedoms of expression, assembly and association, it is worth mentioning the findings of the then-Special Rapporteur on freedom of opinion and expression, Ambeyi Ligabo, following his April 2007 visit to Azerbaijan.

In the report following his visit,<sup>16</sup> Ligabo noted serious concern regarding many aspects of the media situation in Azerbaijan. Among other issues, he noted “some sectors of the Ministry of Internal Affairs and of the judiciary appear to exert considerable pressure on the media. In addition to cases of physical violence, the use of defamation trials severely penalized press and media freedom through the imposition of prison terms and heavy fines. Publishers, editors and journalists reported that they practised self-censorship owing to various pressures, including the threat of expensive libel suits.”

He also stated “Other categories, including trade unionists, writers, students and in general human rights defenders are also under severe stress; in an oppressing atmosphere of conformism, they are often depicted as traitors and proxies of hostile forces.”

Ligabo issued a number of recommendations for measures needed to improve the freedom of expression climate in the country, including urging the government “to regard action against impunity of crimes targeting media professionals and opinion makers as one of the main priorities of democratic evolution. In particular, the judiciary should ensure impartial, comprehensive investigations and judgements when law enforcement agencies appear to be involved in crimes against the exercise of freedom of expression and good governance.”

IRFS notes that these recommendations have remain unheeded, and the freedom of expression situation in Azerbaijan has drastically deteriorated since Ligabo’s visit, as highlighted in the introduction to this report, IRFS’ many other publications, and publications of a wide range of other Azerbaijani and international human rights organizations. The current mandate holder, Frank La Rue, acknowledged this deterioration, noting in a forward for a 2012 report for the International Partnership Group in Azerbaijan:

“In the nearly five years since my predecessor’s visit to Azerbaijan, the freedom of expression situation in the country has changed in both nuanced and dramatic ways. Although there are not currently as many journalists in prison as there were

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<sup>14</sup><http://bit.ly/14GyY0L>

<sup>15</sup><http://bit.ly/13tnAru>

<sup>16</sup><http://bit.ly/193w34S>

in 2007, there are now more persons overall imprisoned in connection with exercising their right to free expression. Although criminal defamation provisions are no longer as frequently used as in 2007, the misuse of other laws has now taken their place.

It is unfortunate to note that a number of the recommendations my predecessor issued to the Azerbaijani authorities following his visit have thus far gone unheeded, in particular in regards to impunity. The authorities should take steps now to ensure that the cycle of violence against journalists and impunity for their attackers goes no further.”<sup>17</sup>

Azerbaijan has failed to cooperate readily with the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya. As of the last update in March 2013, the Azerbaijani government had not replied to outstanding communications related to “Alleged grave challenges for NGOs to freely conduct their activities within the context of the provisions contained in the 2009 Law on Non-Governmental Organizations; as well as alleged de facto ban on peaceful assemblies;” “Alleged violent attack on journalists;” and “Alleged detention and sentencing of a photo-journalist and human rights defender.”<sup>18</sup> There has also not yet been an official response to Sekaggya’s request to undertake a visit to Azerbaijan.<sup>19</sup>

A number of other mandate holders are planning visits to Azerbaijan in the near future: the Working Group on arbitrary detention (in December 2013); the Special Rapporteur on freedom of association and assembly (dates to be agreed); the Special Rapporteur on violence against women (proposed from 26 November to 6 December 2013); and the Special Rapporteur on independence of judges and lawyers.<sup>20</sup>

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<sup>17</sup><http://bit.ly/QLHoPi>

<sup>18</sup><http://bit.ly/13tnAru>

<sup>19</sup><http://bit.ly/1a15bTN>

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## UN Treaties

In addition to their Charter-based obligations, UN Member States undertake human rights commitments by ratifying or acceding to international human rights treaties. Azerbaijan is party to eight of the nine core UN human rights treaties, each of which has a corresponding body responsible for monitoring Member States' implementation of these treaties. These include the International Covenant on Civil and Political Rights, and the International Economic, Social and Cultural Rights, which together with the Universal Declaration of Human Rights, form what is known as the International Bill of Human Rights.

In addition, Azerbaijan has ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which is monitored by a subcommittee under the Committee Against Torture. Azerbaijan has not yet acceded to or ratified the remaining core human rights treaty, the International Convention on the Protection of All Persons from Enforced Disappearance.

### *Accession to core UN human rights treaties*

Azerbaijan has acceded to or ratified the following core UN human rights treaties:

- Azerbaijan acceded to the International Covenant on Civil and Political Rights (ICCPR)<sup>21</sup> on 13 August 1992.<sup>22</sup> Azerbaijan acceded to the Optional Protocol to the ICCPR on 27 November 2001,<sup>23</sup> and the Second Optional Protocol to the ICCPR, aiming at the abolition of the death penalty on 22 January 1999.<sup>24</sup>
- Azerbaijan acceded to the International Economic, Social and Cultural Rights (ICESCR)<sup>25</sup> on 13 August 1992.<sup>26</sup> Azerbaijan signed the Optional Protocol to the ICESCR on 25 September 2009, but has not yet acceded to or ratified the Optional Protocol.<sup>27</sup>
- Azerbaijan acceded to the International Convention on the Elimination of All Forms of Racial Discrimination<sup>28</sup> on 16 August 1996.<sup>29</sup>
- Azerbaijan acceded to the Convention on the Elimination of All Forms of Discrimination against Women<sup>30</sup> on 10 July 1995.<sup>31</sup> Azerbaijan acceded to the Optional Protocol to the Convention on 1 June 2001.<sup>32</sup>

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<sup>21</sup><http://bit.ly/YZIZSM>

<sup>22</sup><http://bit.ly/RNE8e>

<sup>23</sup><http://bit.ly/jyhef2>

<sup>24</sup><http://bit.ly/URkbQz>

<sup>25</sup><http://bit.ly/XIL09z>

<sup>26</sup><http://bit.ly/64bPHA>

<sup>27</sup><http://bit.ly/cB0HKq>

<sup>28</sup><http://bit.ly/11H7Um0>

<sup>29</sup><http://bit.ly/sZQzxm>

<sup>30</sup><http://bit.ly/198DbOl>

<sup>31</sup><http://bit.ly/15bHyKQ>

<sup>32</sup><http://bit.ly/lnt8On>

- Azerbaijan acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment<sup>33</sup> on 16 August 1996.<sup>34</sup> Azerbaijan ratified the Optional Protocol to the Convention<sup>35</sup> on 28 January 2009.
- Azerbaijan acceded to the Convention on the Rights of the Child (CRC)<sup>36</sup> on 13 August 1992.<sup>37</sup> Azerbaijan ratified the Optional Protocol to the CRC on the Involvement of Children in Armed Conflict<sup>38</sup> on 3 July 2002,<sup>39</sup> and the Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography<sup>40</sup> on 3 July 2002,<sup>41</sup> but it has not ratified the Optional Protocol to the CRC on a communications procedure.<sup>42</sup>
- Azerbaijan acceded to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families<sup>43</sup> on 11 January 1999.<sup>44</sup>
- Azerbaijan ratified the Convention on the Rights of Persons with Disabilities<sup>45</sup> on 28 January 2009.<sup>46</sup> Azerbaijan also ratified the Optional Protocol to the Convention<sup>47</sup> on 28 January 2009.<sup>48</sup>

Azerbaijan has not acceded to or ratified the International Convention on the Protection of All Persons from Enforced Disappearance, although it signed the convention on 6 February 2007.<sup>49</sup>

It is worth noting that Azerbaijan has acceded to other UN treaties related to human rights, including the Convention on the Prevention and Punishment of the Crime of Genocide,<sup>50</sup> and the Convention on the non-applicability of statutory limitations to war crimes and crimes against humanity.<sup>51</sup> Assessing the country's implementation of these treaties remains difficult, however, in the absence of relevant treaty-monitoring bodies.

### ***Implementation of core UN human rights treaties***

It is not possible to examine here the status of Azerbaijan's implementation of all of the core UN human rights treaties; however, this information can be found on the website of the UN Office of the High Commissioner for Human Rights.<sup>52</sup>

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<sup>33</sup><http://bit.ly/10dyOMq>

<sup>34</sup><http://bit.ly/9GiL8D>

<sup>35</sup><http://bit.ly/18ry6n0>

<sup>36</sup><http://bit.ly/15iCJuH>

<sup>37</sup><http://bit.ly/6HJCW>

<sup>38</sup><http://bit.ly/18lM9dA>

<sup>39</sup><http://bit.ly/axlLXV>

<sup>40</sup><http://bit.ly/17WRVjZ>

<sup>41</sup><http://bit.ly/bx6BH4>

<sup>42</sup><http://bit.ly/QwDHj9>

<sup>43</sup><http://bit.ly/180wNcD>

<sup>44</sup><http://bit.ly/o3gZQm>

<sup>45</sup><http://bit.ly/VDOA5A>

<sup>46</sup><http://bit.ly/327lZl>

<sup>47</sup><http://bit.ly/1aNK7F0>

<sup>48</sup><http://bit.ly/1fe44Bn>

<sup>49</sup><http://bit.ly/dfpdbZ>

<sup>50</sup><http://bit.ly/RQWBkB>

<sup>51</sup><http://bit.ly/cGopKy>

<sup>52</sup><http://bit.ly/15v1zKk>

The ICCPR is the treaty most relevant to the focus of this report, as it covers many of the rights most under attack in Azerbaijan. The Human Rights Committee, the treaty body responsible for monitoring implementation of countries' ICCPR obligations, last examined Azerbaijan in July 2009.

In its concluding observations,<sup>53</sup> the Human Rights Committee noted a number of serious concerns and issued recommendations related to violations of the rights to freedom of expression and assembly, among many other violations of rights. Among the key observations and conclusions were the following:

15. The Committee remains concerned at the extensive limitations to the right to freedom of expression of the media, the closure of independent newspapers, and the removal of licences to broadcast locally for a number of foreign radio stations. It also remains concerned at reports of a pattern of harassment and criminal libel suits or hooliganism charges against journalists. Furthermore, the Committee is concerned at reports of killings or beatings of journalists which have not been elucidated. Finally, the Committee is concerned at the recent arrest and detention on remand of individuals who had expressed opinions in non-conventional media, especially since no explanation was provided as to why the arrest took place after the individuals had reported to the police attacks on themselves and why the judicial proceedings against them for hooliganism were not held in public (art. 19).

The Committee urges the State party to take the necessary measures to put an end to direct and indirect restrictions on freedom of expression. Legislation on defamation should be brought into line with article 19 by ensuring a proper balance between the protection of a person's reputation and freedom of expression. In this respect, the State party is urged to consider finding a balance between information on the acts of so called "public figures", and the right of a democratic society to be informed on issues of public interest. The State party is also urged to effectively protect media workers against attempts on their integrity and life, and to pay special attention and react vigorously if such acts occur. The State party should not unreasonably restrain independent newspapers, as well as local broadcasting of radio stations. Finally, the State party should treat users of non-conventional media in strict compliance with article 19 of the Covenant.

16. The Committee is concerned at persistent reports according to which the State party's authorities unreasonably restrict the right of individuals to freedom of peaceful assembly, by refusing to deliver authorizations, or by dispersing peaceful demonstrations with excessive use of force (art. 21).

The State party should re-examine its regulations, policy and practice, and ensure that all individuals under its jurisdiction fully enjoy their rights under article 21 of the Covenant, and make sure that the exercise of this right is not subjected to restrictions other than the ones permissible under the Covenant.

IRFS notes that these and other issues of concern highlighted in the concluding observations have worsened since the July 2009 review. In particular, cases of violence against journalists have continued, along with complete impunity for those who commit

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<sup>53</sup><http://bit.ly/166Cmb2>

such attacks. Restrictions on freedom of assembly have also increased, with the adoption of regressive legislation imposing steep fines on organizers and participants of unsanctioned protests, and an increase in the maximum period of administrative detention from 15 to 60 days.

In the concluding observations<sup>54</sup> following its review of Azerbaijan's ICESCR obligations in May, the Committee for Economic, Social and Cultural Rights expressed a number of concerns about freedom of association violations, in addition to other rights violations. In particular, the Committee noted:

25. The Committee remains concerned about the information received on the measures taken by the State party to prevent civil society organisations dealing with human right issues from registering with the relevant State authorities. The Committee is also concerned on the new amendments to the Code of Administrative Offences that increase the procedural burden and fines for organizations in receiving external grants.

The Committee recommends that the State party take steps to ensure that all civil society organisations addressing economic, social and cultural rights enjoy the right to register and function freely and without restrictions. The Committee also recommends that the State party lift the financial sanctions and administrative procedures established under the Code of Administrative Offences regarding the reporting and registering of external sources of funding.

IRFS notes that the government's refusal to register human rights NGOs, as well as the imposition of procedural restrictions on NGOs, are presenting increasing obstacles to the ability of independent NGOs to operate. The adoption of a series of regressive legislation affecting NGOs, coupled with increasingly hostile statements by senior government officials,<sup>55</sup> have led IRFS to believe the authorities are poised for an even bigger crackdown against the few remaining critical NGOs in the country.

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<sup>54</sup><http://bit.ly/19UHYTB>

<sup>55</sup><http://bit.ly/ZPTyJW>

## Other UN Involvement

Since becoming a UN member, Azerbaijan has served on a number of UN bodies, including the Economic and Social Council (ECOSOC), from 2003 to 2005; the now-defunct Commission on Human Rights, from 2005 to 2006; the Human Rights Council, from 2006 to 2009; the UN Educational Scientific and Cultural Organization (UNESCO) Executive Board, from 2005 to 2009; the World Health Organization Executive Board, from 2006 to 2009; the International Atomic Energy Agency Executive Board, from 2009 to 2011; the UN Children's Fund (UNICEF), from 1994 to 1997 and 1998 to 2000; and the UN Development Programme and UN Population Fund, from 2008 to 2010.<sup>56</sup>

### ***United Nations Development Assistance Framework***

In July 2010, the Azerbaijani government and the UN in Azerbaijan signed the next United Nations Development Assistance Framework (UNDAF),<sup>57</sup> a five-year collaboration that aligns the UN's plans for development activities with Azerbaijan's State Program for Poverty Reduction and Sustainable Development (from 2008 to 2015).<sup>58</sup>

Good governance is envisaged in the UNDAF as one of the three areas of UN-Azerbaijan cooperation, aiming to achieve by 2015, "more transparent and accountable public institutions staffed by a professional civil service and guided by appropriate laws enforced by a responsive judicial system to ensure the legal protection of the rights of all, including the most vulnerable."

IRFS believes there are two main obstacles for the achievement of this goal: a lack of political will of the Azerbaijani government; and a lack of support by the UN in Azerbaijan for the work of civil society and independent media in the country. For years, the office has turned a blind eye to widespread human rights violations and has ignored efforts by other stakeholders – both local and international – to address them. For instance, the UN in Azerbaijan has never attended civil society events to mark UNESCO's World Press Freedom Day, and has ignored a mounting crackdown on press freedom.

### ***UN Educational Scientific and Cultural Organization***

There are many UN bodies dealing with specific aspects of human rights, which are not possible to examine here. Particularly relevant to this report, however, is UNESCO, which is the UN agency tasked with defending freedom of expression and press freedom. Article 1 of its Constitution provides for the Organization to "further universal respect for justice, for the rule of law and for the human rights and fundamental freedoms which are affirmed for the peoples of the world, without distinction of race, sex, language or religion, by the Charter of the United Nations."<sup>59</sup>

UNESCO promotes freedom of expression and press freedom as a basic human right, through sensitization and monitoring activities. It also fosters media independence and pluralism as prerequisites and major factors of democratization by providing advisory services on media legislation, and sensitizing governments, parliamentarians and other decision-makers.

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<sup>56</sup><http://bit.ly/iVHqnk>

<sup>57</sup><http://bit.ly/19pi3YS>

<sup>58</sup><http://bit.ly/19pi3YS>

<sup>59</sup><http://bit.ly/pUxFaN>

The office of the Director-General of UNESCO has been held by Irina Bokova (Bulgaria) since 15 November 2009. Along with its headquarters in Paris, UNESCO has a wide network of regional bureaus, institutions and centers in various countries of the world. Azerbaijan is covered by the UNESCO Moscow Office.

Although in the recent years the Azerbaijani government has dramatically clamped down on freedom of expression and freedom of the media, especially on freedom of information and the safety of journalists, Azerbaijan has received nothing but “high marks” from UNESCO. Issues of freedom of expression have never been publicly referred to during Bokova’s meetings with the Azerbaijani government.

For instance, on 30 May this year, Bokova visited Baku and met with President Aliyev. Prior to the visit, Bokova had received several letters from IRFS and other NGOs informing her office about the rapidly deteriorating press freedom situation in Azerbaijan. Despite rights groups’ calls to include freedom of expression on the agenda for her meeting with Aliyev, Bokova failed to do so.

Instead, she highlighted the importance of Azerbaijan's role in supporting UNESCO's objectives, including in promoting quality education for all and in safeguarding the shared cultural heritage of humanity. She pointed to Azerbaijan's commitment to protecting its intangible cultural heritage and supporting UNESCO's actions in this regard.<sup>60</sup> She did not mention freedom of expression, press freedom, independence and pluralism of the media, or democracy, peace and tolerance, values that are recognized by UNESCO as “an essential condition for democracy, development and human dignity.”<sup>61</sup>

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<sup>60</sup><http://bit.ly/H76mbS>

<sup>61</sup><http://bit.ly/GYM1oG>



## Conclusion

As outlined above, Azerbaijan has acceded to most of the core human rights treaties, generally cooperated to a certain extent with Special Procedures mandate holders, and presented the required state reports to the Human Rights Council and the various treaty-monitoring bodies tasked with examining the country. However, when assessing the actual human rights situation on the ground against the commitments Azerbaijan undertaken, it becomes evident that the government is largely going through the motions when it comes to its human rights commitments to the UN.

To that end, IRFS has developed a set of recommendations for specific measures needed to improve Azerbaijan's implementation of its human rights obligations with the UN.

IRFS calls on the UN to take the following steps:

- Ensure effective follow-up on recommendations made by UN bodies related to human rights issues in Azerbaijan, including by the UN Human Rights Council and treaty-monitoring bodies.
- Press for the Azerbaijani government to make concrete plans without delay for visits requested by Special Procedures mandate holders, including the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on freedom of association and assembly.
- Press for the Azerbaijani government to provide timely responses to communications from Special Procedures mandate holders, including the Special Rapporteur on the situation of human rights defenders.
- Strengthen the UN in Azerbaijan's visibility on human rights issues and democracy issues in Azerbaijan, in particular support for the development of independent civil society.
- Ensure that clear human rights benchmarks are included in any future development agreements with Azerbaijan.
- Take immediate steps to ensure that UNESCO prioritizes freedom of expression and press freedom in Azerbaijan, both publicly and privately, and refrain from giving the country unmerited praise.