

44th session, UPR 4th cycle, November 2023:
Norwegian Helsinki Committee (NHC) submission on Azerbaijan

Summary

Azerbaijan's human rights record has remained poor since its UPR in 2018, leaving many of the accepted recommendations unfulfilled, casting serious doubts on the government's willingness to abide by its commitments.

Over the reporting period of five years, the government released many human rights defenders, journalists, opposition activists, religious believers and other perceived critics imprisoned on politically motivated charges. But dozens of others remained wrongfully imprisoned, while authorities continued to target its critics and other dissenting voices.

Civil society groups operate under tight restrictions. While dozens of independent human rights organizations have been arbitrarily denied from registration, the existing legislation impeded the civic groups' work by restricting their activities and ability to access foreign funding.

Impunity for torture and ill-treatment in detention continues to be persisted. Free speech was suppressed, opposition and independent journalists and opposition party activists harassed or prosecuted for their legitimate activities. Lesbian, gay, bisexual, and transgender (LGBT) people continued to face discrimination.

The government limited freedom of assembly by dispersing peaceful protests in central Baku, and detaining protesters who demanded freedom for political prisoners and end the impunity for abuse and corruption. Courts sentenced dozens of protesters in pro forma hearings to fines and administrative detentions. The snap parliamentary elections on 9 February 2020 were flawed by credible claims of election violations by international observers.

In this submission, NHC evaluates the implementation of recommendations made to Azerbaijan during its previous UPR, including in relation to the ***rights to freedom of expression, gender-based discrimination and women's rights, and concerns on the bogus and politically motivated charges against the government critics.***¹

1. Bogus Drug Charges to Silence Critics

1.1. Azerbaijan has a sad history of fabricating drug charges against its critics to punish and intimidate them and deter others from following suit. Over the past five years Azerbaijani authorities continued to use spurious drug possession charges to lock up political activists or others critical of the government. NHC had documented several cases, where police arrested dozens of critics on questionable or no evidence and accused them of drug

¹ This submission does not report on the issues related to the conflict over Nagorno-Karabakh between Azerbaijan and Armenia.

possession charges.

- 1.2. Many of these detainees had also alleged ill-treatment in police custody where the interrogators beat them to extract a confession on the procession of drugs. On many occasions, the detainees did not access the lawyers of their choosing, instead state-appointed lawyers participated in the hearings. In 2022, authorities brought spurious drug charges against at least 3 individuals who were deported to Azerbaijan in 2021 after failing to gain asylum in Germany and, in some cases, for publicly criticizing Azerbaijani authorities.²
- 1.3. In several cases, members of two major political opposition parties, *Musavat* and *Azerbaijan Popular Front Party*, (APFP) have faced bogus drug charges. For instance, **Pasha Umudov**, a member of the APFP, was sentenced to 4.5 years on drug charges in August 2020.³ Police detained Umudov ahead of the opposition parties' unsanctioned rally in October 2019 and for several days his detention place was unknown as his lawyer and family could not access him. During the trial, Umudov rejected the charges, saying the drugs was planted on him by the police, who beat him to force to confess when he was in detention.⁴
- 1.4. In 2021, police arrested Musavat party member, **Lachin Valiyev**, on bogus drugs-related charges and allegedly coerced him to give incriminating statements against the leader of his opposition party. According to his lawyer, Valiyev confessed the drug charges under the duress.⁵
- 1.5. In 2022, opposition activist **Shahin Hajiyev** was sentenced to 6 years in prison on spurious drug trafficking charges. Hajiyev had often criticized the government corruption and police arbitrariness on his Facebook posts. Authorities did not effectively investigate his allegations of torture in police custody.⁶

1.6. Recommendations:

- End the use of trumped-up drug charges to prosecute and imprison those who criticize the government.
- Immediately and unconditionally release critics, arrested on bogus and politically motivated charges, and signed false confessions under duress and torture.
- Thoroughly investigate all allegations of torture and ill-treatment of detainees and hold perpetrators accountable. Make a statement at the highest-level condemning torture and ill-treatment.

² "Azerbaijan imprisons another activist deported from Germany," Eurasianet, <https://eurasianet.org/azerbaijan-imprisons-another-activist-deported-from-germany> ; <https://jam-news.net/oppositionist-convicted-in-azerbaijan/>

³ NHC launched a campaign for his release in 2021 and denounced the charges brought against him as being politically motivated.

<https://www.facebook.com/profile/100064421060677/search/?q=Pasha%20Umudov>

⁴ Forensic exam results also showed no signs of illicit drug use. He was released following the presidential pardon decree in May 2022. <https://oc-media.org/opposition-figures-among-213-people-pardoned-in-azerbaijan/>

⁵ <https://www.amerikaninsesi.org/a/h%C9%99bsd%C9%99-acl%C4%B1q-ed%C9%99n-siyasi-f%C9%99al-m%C3%BCalic%C9%99-m%C3%BC%C9%99ssis%C9%99sin%C9%99-k%C3%B6%C3%A7%C3%BCr%C3%BCl%C3%BCb-5994948.html> (in Azerbaijani)

⁶ "The prosecutor asked to sentence the oppositionist to 7.5 years in prison". Turan agency, https://www.turan.az/ext/news/2022/3/free/politics_news/en/3090.htm

2. Freedom of Expression

- 2.1. Despite Azerbaijan's acceptance of UPR recommendations "to review administrative and legislative provisions and projects, including on defamation, to fully guarantee the enjoyment of freedom of expression", authorities have failed to act on these recommendations.⁷
- 2.2. NHC has documented restrictions on freedom of expression in Azerbaijan for many years and has identified since 2018 an increasingly narrow space for journalists and others who criticize the government or seek to expose human rights abuses. For instance, a set of new legislative amendments in 2022 have further restricted freedom of expression in Azerbaijan.⁸ The Council of Europe (CoE) commissioner for human rights, **Dunja Mijatović**, said the new law "overregulates the media ... and grants discretionary powers to authorities ... including through licensing, excessively restricting journalists' work, and introducing several limitations to ... media companies and entities."⁹
- 2.3. Although as of this writing there are at least two imprisoned journalists in Azerbaijan, this hardly speaks of an improved media climate, as social media activists and journalists often resort to self-censorship to avoid repercussions for reporting critical of the government. Social media activist **Rashad Ramazanov** and journalist **Polad Aslanov**, remain in detention on questionable charges in what appears to be retaliation for their voicing of criticism. While, at this writing, Ramazanov is awaiting his trial on bogus drug charges,¹⁰ Aslanov has been sentenced to 16 years in prison since 2020 on controversial charges of treason.¹¹
- 2.4. Several major independent and pro-opposition websites, including that of the **RFE/RL's Azerbaijani Service (Azadliq radiosu)**, the Berlin based **Meydan TV**, the opposition newspaper **Azadliq**, as well as the website for the **Organized Crime and Corruption**

⁷ "141.42: Review administrative and legislative provisions and projects, including on defamation, to fully guarantee the enjoyment of freedom of expression, assembly and association (Austria)"; 141.40: Take the necessary measures to guarantee that all persons can exercise peacefully their right to freedom of expression in conformity with international standards, in particular regarding human rights defenders (Argentina); Source of position: A/HRC/39/14/Add.1 - Para. 20 See more: <https://www.ohchr.org/en/hr-bodies/upr/az-index> *Matrice Recommendations Azerbaijan*.

⁸ Norwegian Helsinki Committee, "Azerbaijan's new media law is a violation of human rights," 2022 February. https://www.nhc.no/en/azerbajjans-new-media-law-is-a-violation-of-human-rights/?fbclid=IwAR0F8wDqh73w_H8xrUsW-upW2Sea5qejPYEqteuZqNNmhkuKKvwLsfRIEdQ

⁹ <https://www.coe.int/en/web/commissioner/-/azerbaijan-new-media-law-raises-serious-human-rights-concerns-and-should-be-changed>; Another Council of Europe body, the Venice Commission, an expert body of the Council of Europe, concluded in June 2022 that the new Media Law has "a problematic focus on restricting the activities of the media rather than creating the necessary conditions enabling the media to fulfil their 'public watchdog' role."

¹⁰ Blogger Rashad Ramazanov has been detained. <https://www.irfs.org/news-feed/blogger-rashad-ramazanov-has-been-detained/>; <https://www.turan.az/ext/news/2022/5/free/Social/en/5170.htm>

¹¹ Azerbaijani journalist Polad Aslanov sentenced to 16 years on treason charges. <https://cpj.org/2020/11/azerbaijani-journalist-polad-aslanov-sentenced-to-16-years-on-treason-charges/>

Reporting Project (OCCRP), continue to be blocked in the country since 2017.¹²

2.5. The government also failed to implement the previous UPR recommendations¹³ to decriminalize defamation. Despite of the significant drop on the numbers of criminal defamation charges in past years, the authorities have recently begun to use new tactic of short-term arrests for criminal defamation against activists in an attempt to silence non-violent criticism and opposition views.¹⁴ Criminal defamation prosecutions have often resulted in prison sentences or fines despite of the international calls to decriminalize defamation and to bring civil defamation law in line with international standards.

2.6. The case of **Ali Aliyev**, the chairman of the Citizen and Development Party, is emblematic as he had been convicted for slander and libel for the third time in six months. Prior to his arrest, he had told the court that he had been warned that he would be arrested if he did not stop his anti-government criticism. He was first sentenced in January 2022 to 5 months in prison on charges of slander, based on a complaint from an officer of the State Border Service. Three months later, in April, the court increased his sentence by another month, also satisfying the complaint against Aliyev by another officer.¹⁵ In June, Aliyev was again sentenced to another six months in prison on defamation charges, by a former ruling party official.

2.7. Recommendations:

Ensure full respect for freedom of expression in line with Azerbaijan's international commitments, including by:

- Reviewing the new Law on Media with a view to making it compatible with international standards on freedom of the media
- Repealing constitutional and legislative amendments restricting access to information in accordance with the Council of Europe Venice Commission recommendations
- Ensuring that all journalists operate without fear of retribution for
- criticism or coverage of topics that the government may find sensitive;

¹² OCCRP blocked in Azerbaijan,” Meydan TV, September 5, 2017, <https://www.meydan.tv/en/article/occrp-blocked-in-azerbaijan/>; “Azerbaijan keeps blocking access to key independent news platforms – OONI April report,” Azerbaijan Internet Watch, April 27, 2021, <https://www.az-netwatch.org/wp-content/uploads/2021/04/2021-04-Azerbaijan-Internet-Watch-Updates.pdf>

¹³ 141.41: Remove libel and defamation as criminal offences and take further steps to ensure journalists may work freely and without fear of retribution (Australia) See more: <https://www.ohchr.org/en/hr-bodies/upr/az-index> *Matrice Recommendations Azerbaijan*.

¹⁴ In July 2022, journalist **Abid Gafarov**, who ran the YouTube-based news outlet KIM TV, was sent to a one-year prison sentence on bogus charges of defaming and insulting war veterans. In June 2022, the Yevlakh District Court sentenced the human rights activist **Ilham Takhmazov (Aslanoglu)** to 6 months in prison, finding him guilty of insult. Both Gafarov and Aslanoglu were known for their in-depth investigations on the notorious 2017 “Tartar case”, in which several hundred military officers were tortured and at least 10 died of the torture, over fake claims of involvement in espionage. <https://cpj.org/data/people/abid-gafarov/> ; <https://eng.kavkaz-uzel.eu/articles/60403/> ; <https://www.turan.az/ext/news/2022/6/free/Social/en/5944.htm> ; More on *Tartar case* and massive torture: “Azerbaijan: light slowly being shed lights on notorious case”, <https://eurasianet.org/azerbaijan-light-slowly-being-shed-on-notorious-torture-case>

¹⁵ The reasons for the officers’ lawsuits were Aliyev’s comment to the media that he doubted that the border guards had in fact survived the helicopter crash on November 30, 2021. He also argued that the crash was a provocation by Russia. In the tragic crash of the State Border Service helicopter in November 2021, 14 officers of this department were killed, and two survived. <https://jam-news.net/azerbajani-opposition-activist-convicted-for-slander-for-the-third-time-in-six-months/> ; <https://www.meydan.tv/en/article/arrested-party-chairman-has-started-a-hunger-strike/>

- Decriminalizing libel and releasing of those imprisoned because of views or opinions expressed.
- Ending the blocking of opposition and independent websites.
- Instructing all government officials to refrain from filing criminal defamation complaints in their capacity as public officials.

3. Gender-based discrimination and women's rights

3.1. Since the previous UPR, the government failed to effectively address its epidemic of domestic violence and protect women from facing abuse. Gender-based violence remained pervasive but largely underreported: in 2019, 1,308 cases of domestic violence were registered¹⁶, followed by another 1,260 cases in 2020¹⁷. However, due to low rates of reporting, these numbers did not represent the actual size and prevalence of the problem.¹⁸ Restrictions related to Covid-19 additionally led to a surge in domestic violence, and shelter managers said they saw increases in the numbers of women seeking shelter.¹⁹

3.2. NHC's report on the gender-based violence in 2021 describes how Azerbaijan's law enforcement, judicial, and social systems do not protect or support women facing abuse at the hands of their partners or former partners, and even relatives.²⁰ While the law enforcement response to domestic violence remains inadequate²¹, police are often reluctant to investigate charges, and it fosters impunity and place the victim in greater danger.²² Serious gaps in Azerbaijan's laws, the lack of protection orders, and inadequate police and judicial responses leave women with little or no protection.

3.3. According to the women's rights activists the services and shelters for victims are scarce and inaccessible to much of the population. As the civil society groups operate under the tight restrictions and are arbitrarily denied registration, there are considerably fewer human rights groups and organizations focusing on the rights of women. As the registration is a precondition for the NGOs to operate legally, registering an organization is highly

¹⁶ <https://apa.az/az/xeber/sosial-xeberler/Azrbaycanda-2019-cu-il-rzind-mist-zorakiligi-il-bagli-1308-cinayt-tordilib-622236> (in Azerbaijani)

¹⁷ <https://www.stat.gov.az/source/crimes/>

¹⁸ Activists say the real number is likely much higher, as social stigma, family rejection, economic dependence on abusers, and lack of awareness prevent women from reporting abuse and getting help. State policies aimed at keeping the family "intact" make it more difficult for women to escape violence. <https://eurasianet.org/living-with-fear-azerbaijans-domestic-abuse-victims-have-nowhere-to-flee>

¹⁹ <https://www.voanews.com/a/azerbaijani-activists-raise-alarm-about-domestic-violence/6350031.html>

²⁰ The report exposes serious gaps in the authorities' response to domestic violence, including inadequate enforcement of existing legislation, and a failure to hold abusers accountable and ensure access to justice for survivors. NHC, "Gender-based Violence in Azerbaijan, 2021". <https://www.nhc.no/en/growing-domestic-violence-endangers-womens-lives-in-azerbaijan/?fbclid=IwAR1awgSH5Kz9LfsITcbavTvLRGiiu0klexwmqXweyvlyqO0b8RyNUalbVxs>

²¹ In many occasions, police fail to respond to domestic violence complaints or refuse to act on them. People often post on social media about deaths from domestic violence that could have been prevented. The weak police response is part of Azerbaijani authorities' systemic failure to address domestic violence properly.

²² There is also a lot of victim-blaming, even from people, like policemen, who are supposed to be offering services to help. According to the victims, police often encourage them to drop their complaints and reconcile with their abusers. <https://www.nhc.no/en/growing-domestic-violence-endangers-womens-lives-in-azerbaijan/>

problematic and imposes onerous reporting obligations.²³

3.4. Since the latest UPR, the accounts of horrific, and sometimes fatal, domestic violence cases increasingly became viral in the media.²⁴ In growing crisis of murders of women by their partners or relatives, victims were often unable to escape abuse due to lack of shelter space and inadequate police response.²⁵ In July 2021 alone, 5 women were murdered by their partners.²⁶ The spike in cases of femicide pushed Azerbaijan's General Prosecutor's Office to release the data in August 2021, showing that in the first half of 2021, 33 women in the country had been killed by their husbands, partners, or family members.²⁷

3.5. The government has yet to ratify or even sign the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention).²⁸

3.6. Recommendations:

- Sign and ratify the Istanbul Convention without delay.
- Ensure victims of domestic violence have access to adequate shelters, hotlines, crisis services, rights education, legal aid, and other services in both rural and urban areas.
- Instruct police to examine the reports on domestic violence with particular diligence, thus taking seriously the cases of domestic violence instead of labeling them as "family affairs" attempting to reconcile the perpetrator with the victim.
- Increase cooperation with, and funding for, NGOs that assist domestic violence victims.
- Ensure all reported cases of domestic violence are promptly and thoroughly investigated, criminally prosecuted, and appropriately punished upon conviction.
- Ensure and support free and accessible legal representation for victims of domestic violence in court proceedings.

²³ Complex and burdensome registration procedures present a formidable barrier for those who wish to form and operate NGOs. Since 2015, access to foreign funding for domestic NGOs in Azerbaijan has been seriously impeded, as the Government has introduced restrictive requirements for donor registration, registration of foreign grants, service contracts and donations. As a result, hundreds of NGOs have been left without substantial funding and thousands of skilled professionals have fled the sector. The funding restrictions reflect an often mistrustful and hostile government attitude toward NGOs, which are often referred to as "anti-government," "foreign agents," etc. <https://www.icnl.org/resources/civic-freedom-monitor/azerbaijan>

²⁴ <https://oc-media.org/azerbaijani-mother-of-three-murdered-in-crisis-shelter/>; <https://iwpr.net/global-voices/azerbaijan-half-hearted-state-policy-blamed-gender-violence>; <https://www.voanews.com/a/azerbaijani-activists-raise-alarm-about-domestic-violence/6350031.html>

²⁵ Even people facing severe physical abuse do not get adequate protection and assistance. For inst., in March 2022, a young woman was murdered in a shelter for victims of domestic violence by her abusive husband. <https://oc-media.org/azerbaijani-mother-of-three-murdered-in-crisis-shelter/>; <https://oc-media.org/azerbaijani-woman-murdered-by-husband-despite-appeals-to-police-over-abuse/>

²⁶ "Fifth women murdered in Azerbaijan in 10 days", <https://globalvoices.org/2021/07/28/fifth-woman-murdered-in-azerbaijan-in-10-days/>

²⁷ The prosecutor's office encouraged the survivors of violence to use a government hotline to report violence and seek help. Moreover, the State Committee for Family, Women, and Children Affairs had also established a hotline and a group to monitor and assess progress in the battle against domestic abuse. <https://eurasianet.org/amid-wave-of-femicides-azerbaijans-feminists-come-under-attack>

²⁸ Istanbul Convention, a landmark treaty of the Council of Europe, aims to create "a legal framework level to protect women against all forms of violence, and to prevent, prosecute, and eliminate violence against women and domestic violence." <https://www.coe.int/en/web/istanbul-convention>

- Implement all the recommendations of the CEDAW Committee (2015) concerning gender stereotypes and violence against women, including criminalizing domestic violence, including assaults with light injuries and increasing penalties for repeated offenders.