



SPOTLIGHT ON AZERBAIJAN

Edited by Adam Hug

The Foreign Policy Centre



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The online version of Spotlight on Azerbaijan contains a section on media freedom by Rashid Hajili, Chairman of the Media Rights Institute, that was not available for the first print edition. For referencing purposes please use this electronic edition as the primary source.

Spotlight on Azerbaijan: Key Recommendations

Spotlight on Azerbaijan contains a broad analysis of some of the key governance and human rights challenges Azerbaijan faces, and explores the role and goals of the international community. The publication argues that the Government of Azerbaijan is pursuing a policy of limited modernisation without democratisation. While some legislation and state processes are being improved, the fundamental nature of power in Azerbaijan has not become more plural and in some key areas of human rights and governance the situation is in fact deteriorating. The report therefore makes a series of recommendations for action.

Recommendations to the Government of Azerbaijan

- Reduce the 450-signature requirement to stand as a parliamentary candidate and end ballot manipulation at elections.
- Re-energise 2011's anti-corruption drive, improving monitoring and enforcement; open tendering for state contracts and prevent politically connected domination of markets. Prevent abuses of tax inspections.
- Reform the Judicial-Legal Council to reduce executive influence, reduce accusatory bias in criminal cases to improve the opportunity for acquittal and end politically motivated cases, verdicts and sentencing.
- Improve the quality of education, qualification and training for defence lawyers, their access to clients, the system of court-appointed defence counsel and the treatment of defenders in political cases.
- Release all political prisoners and allow the entry of the Council of Europe Special Rapporteur.
- Allow political protests within proximity to their target audience by approving new venues in central Baku. End police harassment of legal pickets and other political activity.
- Enforce the statutory timeline for decisions on NGO registration with clear procedures around confirmation or rejection. End bureaucratic harassment and the excessive restrictions on international NGOs.
- Use the opportunity created by the digital switchover to enable independent channels to broadcast in Azerbaijan. Allow Azerbaijani stations to rebroadcast international content or restore national licences for Radio Free Europe/Radio Liberty, the BBC and VOA.
- Reform the structures and activities of the National Television and Radio Council, Press Council and the Public Broadcaster to achieve real independence from the government. Improve economic opportunities for independent titles and journalists. Stop the publication of the Press Council Blacklist and the pressure on independent vendors.
- End politically-motivated harassment or prosecution of independent journalists, bloggers and activists, particularly the use of vague or trumped-up charges such as 'hooliganism'.
- Expand broadband capacity dramatically to improve internet access. End the targeting of bloggers, monitoring of private email accounts and criticism of social networking.
- Speed up progress on equality for women and LGBT Azerbaijanis, while removing intrusive bureaucratic restrictions on freedom of religion.

- Enforce the legal safeguards in the Law on Expropriation of Land for State Needs to end illegal property expropriation and forced eviction. Reform the unfair compensation system.
- Strengthen the independence of the office of the ombudsman and implement the National Human Rights Action Plan.
- Stop using the legacy of the conflict as a means to support authoritarian control and to prevent peace building efforts.
- Renew efforts to join the WTO and thereby facilitate an EU Deep and Comprehensive Free Trade Agreement to improve competition.
- Pursue the prudent long-term management of the State Oil Fund.
- Increase investment in health and education to raise wages and fully fund programmes. Improve employment and skills to stem migration.

Recommendations to the international community

- Ensure that the Government of Azerbaijan delivers reform on the issues set out above and that it fulfils its international obligations on governance and human rights, particularly in the binding commitments it has made to the Council of Europe and European Union.
- Strengthen EU monitoring and advocacy against its agreed human rights commitments. Improve financial and technical assistance to Azerbaijani civil society.
- Insist that Azerbaijan makes clearly defined improvements in its human rights performance ahead of its 2014 Council of Europe Chairmanship or face institutional sanctions.
- Reinvigorate the failing Minsk process and increase awareness of and support for Azerbaijan's IDP problem.
- Use future international political, economic, sporting or cultural events in Azerbaijan as an opportunity to push for political reform. Reconsider the appropriateness of Azerbaijan as an Olympic or European Championship host without further reform.

Contents

Introduction: Spotlight on Azerbaijan Adam Hug, Policy Director, Foreign Policy Centre	6
What our authors say	25
Azerbaijan: From bad to worse Vugar Gojayev, Country Coordinator, Human Rights House-Azerbaijan	27
Rule of Law Monica Martinez, Head Rule of Law, OSCE-Baku	33
Lawyers and advocates in Azerbaijan Michelle Brady, Program Director, American Bar Association Rule of Law Initiative-Azerbaijan	35
Freedom of Media in Azerbaijan Rashid Hajili, Chairman, Media Rights Institute	39
Information and Communication Technology in Azerbaijan Dr Katy E. Pearce, University of Washington	43
Illegal expropriations, forced evictions and house demolitions in Baku Giorgi Gogia, Senior South Caucasus Researcher, Human Rights Watch	50
Nagorno-Karabakh: A traumatic experience that cripples a nation Tabib Huseynov, independent consultant, formerly International Crisis Group	53
Spotlight on the Azerbaijani economy Vugar Bayramov, Chairman, Centre for Economic and Social Development	56
Turkey and Azerbaijan - Friends or foes? Firdevs Robinson, Senior Research Associate, Foreign Policy Centre	64
Britain and Azerbaijan: An important relationship with a lot of potential for growth Dennis Sammut, Director, LINKS	67
EU relations with Azerbaijan under ENP: More for less? Jacqueline Hale, Senior Policy Analyst - EU External Relations, OSI-Brussels	70
Conclusion: Azerbaijan's Choice Adam Hug	75

Introduction: Spotlight on Azerbaijan

Adam Hug

Azerbaijan is a country of facades. Taking a cursory glance at downtown Baku, you could be in any Southern European high street where high-end fashion brands abound. On some of the buildings built the last time Baku experienced an oil boom in the late 19th Century the recently repaired or added stucco is lit up at night to give the city an otherworldly sheen, like a Caspian Riviera. As the result of a dramatic increase in oil exports around the completion of the Baku-Tbilisi-Ceyhan pipeline in 2006, an economic boom has seen Azerbaijani GDP far outstrip those of its Caucasian neighbours. The diggers and cranes have been hard at work transforming the city's appearance¹ to reflect the country's new-found confidence and wealth. But step off the main drag or look closely at the buildings behind and evidence of the Soviet legacy still remains: crumbling masonry and unattractive architecture.

2012 is a very big year for Azerbaijan. It took a place on the UN Security Council and its position as chair of the regional cooperation organisation GUAM in January. There is of course the focal point of international attention provided by its hosting of the Eurovision Song Contest in May and then the international Internet Governance Forum Conference in November. As a result of this increased profile, both Azerbaijan's strengths and its weaknesses have been given an airing on the international stage more than at any time in recent history. It is against this backdrop that the Foreign Policy Centre launches the third publication in its 'Spotlight' series on human rights and governance in the South Caucasus², which seeks to assess some of the main challenges facing Azerbaijan by bringing together some of the leading Azerbaijani and international experts to give their analysis of the situation and ideas for reform.

A very brief history of Azerbaijan

Positioned beside the Caspian Sea, Azerbaijan's main land mass is surrounded by Armenia, Russia (Dagestan), Iran and Georgia, with only the latter of which can it be described as having cordial relations. Its exclave of Nakchivan³ borders Iran and Armenia, with a small land corridor with more amenable Turkey. As discussed later, seven of its western districts and the former autonomous region of Nagorno-Karabakh have lain under Armenian control since the cessation of open conflict in 1994.

Throughout its history, Azerbaijan has been a borderland between competing interests. From the 9th to the early 11th Centuries, Turkic tribes began to settle in the area which passed through the ultimate control of a series of Turko-Persian empires (with Mongol and Timurid interludes). Azerbaijan passed from the Persian sphere to the Russian during the 18th and 19th Centuries, with Baku taken and garrisoned by the Russians in 1736 and from 1805 when it conquered the Shirvan and Karabakh Khanates. The result of two final Russo-Persian Wars in 1812-13 and 1827-28 culminated in the treaties of Gulistan and Turkmanchai that finally divided modern day Azerbaijan and Armenia from Iran⁴.

A century later, as the Tsarist Empire collapsed, the short period of imperial retreat led to the brief flowering of the Azerbaijan Democratic Republic (ADR). It is a matter of great pride in Azerbaijan that for two short years, before the Bolsheviks seized control of the region with the support of the Baku Soviet⁵, the ADR can lay claim to being the first modern Muslim state, with women's suffrage and the rudimentary workings of democracy which some critics of the regime compare favourably to today⁶. By the time of the founding of the USSR in 1922, Azerbaijan was governed under the auspices of the

¹ Some of the problems that this has caused are discussed later in this publication in the chapter by Giorgi Gogia.

² After Spotlight on Georgia in 2009 (<http://fpc.org.uk/publications/SpotlightonGeorgia>) and Spotlight on Armenia in 2011 (<http://fpc.org.uk/publications/spotlightonarmenia>)

³ This report does not focus on the governance and human rights situation within the autonomous region of Nakhchivan where human rights and governance standards are markedly lower than in the rest of Azerbaijan. A good introduction is provided by the Norwegian Helsinki Committee's 2009 Azerbaijan's Dark Island; Human rights violations in Nakhchivan, http://nhc.no/filestore/Publikasjoner/Rapporter/2009/Azerbaijan_final_version.pdf

⁴ Svante Cornell, Azerbaijan since Independence, 2011, Chapter 1, ME Sharp

⁵ Like many of Baku's institutions and much of its economy at the time, the Baku Soviet was dominated by figures from its ethnic Armenian community

⁶ For example as Emin Mili noted in the European Stability Initiative's, Generation Facebook in Baku, March 2011, http://www.esiweb.org/pdf/esi_document_id_128.pdf and from

Transcaucasian Soviet Federated Socialist Republic before its formal separation into its constituent parts (Azerbaijan, Georgia and Armenia) as three full Soviet Socialist Republics in their own right in 1936. After the rule of 'Azerbaijan's Stalin' Jafar Baghirov⁷, and the more mild-mannered Khrushchev-appointed Iman Mustafayev and Vali Akhundov, would come the man who would dominate Azerbaijani politics and its transition to a stable independent state, Heydar Aliyev. After rising through the ranks of the Azerbaijani KGB, Aliyev became First Secretary of the Azerbaijani Communist Party in 1969. He would rise still higher, becoming a full member of the Politburo and Deputy Prime Minister of the Soviet Union in 1982. He would stay in power in Azerbaijan until his falling out with Gorbachev's modernising tendencies in 1987, a setback that would not stop him for long.

Azerbaijan was notably less prepared for the Soviet Union's break-up than its Caucasian neighbours whose nationalist opposition groups that had grown in the Perestroika era were ready to seize the levers of power⁸, so the last Soviet leader Ayaz Mutalibov was able to transition to become the first President of the newly independent Azerbaijan. Indeed, the very movement in Armenia that would take power at independence was formed around the 'Karabakh committee' whose initial goal was the transfer of the Nagorno-Karabakh Autonomous Oblast (a region within the Azerbaijan Soviet Socialist Republic with an Armenian majority and a degree of self-government) from Azerbaijani to Armenian control following a vote by the local Soviet in Karabakh calling for this change in February 1988. Opposition in Azerbaijan was slower to develop⁹, with the 'Popular Front' led by Abulfaz Elchibey gaining momentum later¹⁰.

The conflict between Azerbaijan and Armenia over Karabakh would define their transitions to independence and would transform the demographics of both countries. The conflict itself and the subsequent attempts to find a lasting resolution in its aftermath are not the focus of this publication¹¹, and are dealt with in far greater detail in the work of a number of UK-based NGOs including Conciliation Resources, Saferworld, International Alert and LINKS. Nevertheless, a very brief version of events is worth recounting to explain some of the psychological themes that continue to underpin Azerbaijan today, as addressed by Tabib Huseynov's contribution. Following the vote of the Karabakh Soviet, clashes occurred in the region between its Armenian and Azerbaijani populations; tens of thousands poured onto the streets in protest in Yerevan and a pogrom broke out in the Azerbaijani town of Sumgait against its local Armenian population that would leave many dead¹². This would begin a cycle of communal violence that would drive the transfer of Armenians out of Azerbaijan, Azerbaijanis from Armenia and minority populations from majority areas within Karabakh ahead of all-out war. As the Soviet Union fell apart at the beginning of the 1990s, Soviet units would fight each other in support of local warring factions. Azerbaijan declared its independence in October 1991 and achieved official independence in December 1991. However, President Mutalibov would not last long as Azerbaijan's first President, with military setbacks and unrest at home causing him to be pushed from power in a Parliamentary putsch triggered by the Khojaly massacre¹³. His attempted return in a May Parliamentary counter-coup triggered a revolt by the Popular Front that swept the old guard from power. The first set of free elections in Azerbaijan would bring the Popular Front parties to power in Parliament and give Elchibey the Presidency in the June of that year. Elchibey, a long-time activist, romantic poet and passionate pan-Turkist, would sadly prove as weak a leader in government as he had been powerful on the streets. This brief period in office would

⁷ Cornell, *ibid*

⁸ Zviad Gamsakhurdia took control in Georgia in November 1990 before becoming President in April 1991. Levon Ter-Petrossian became Chairman of the Supreme Council in August 1990 before becoming President in October 1991.

⁹ The Azerbaijani protest movement gathered momentum, in part in reaction to the Armenian agitation around Karabakh. It was given less space by the more conservative-minded authorities in Azerbaijan, whereas the Armenian movement built more firmly on existing movements and had some support from the Armenian Soviet elite that had long wanted Karabakh under its control.

¹⁰ Indeed the Popular Front would explode into the centre ground of public life in Azerbaijan as part of the events of Black January 1990, where popular protests begat attacks on Baku's remaining Armenian community (killing around 90 of them), which was followed by a massive crackdown by the Soviet Army (leaving approx. 130 dead).

¹¹ Those seeking an objective account of the background to the conflict should refer to Tom De Waal's 'The Black Garden: Armenia and Azerbaijan through Peace and War' (New York University Press, 2003) from where the following details of the conflict are sourced unless otherwise stated, while Thomas Goltz's 'Azerbaijan Diary' (M.E Sharpe, 1998) gives a fascinating, if highly Azerbaijani centric, 'gonzo' style account from the frontlines of the conflict.

¹² Official figures initially stated 32 people had died with unofficial estimates running much higher

¹³ The Khojaly massacre involved the killing hundreds of Azerbaijani citizens in the town of Khojaly in Nagorno-Karabakh on 25-26 February. De Waal notes the range of estimates varies from 213 to 636.

end the following June with a, possibly Russian-backed, rebellion by Colonel Surat Huseynov who led a contingent of troops against the government. With Huseynov's troops marching towards Baku, Elchibey turned to the one political figure that had the stature and influence to potentially halt the rebellion, Heydar Aliyev. Aliyev, who had been barred from standing for the Presidency in Azerbaijan due to an age limit of 65 (very much targeted at him), had been licking his wounds and starting his return to power in Nakchivan, becoming leader of the Supreme Soviet there in 1991. Elchibey fled Baku, his Presidency stripped from him by referendum in August 1991, with Aliyev elected Speaker of the Milli Majlis (Parliament) with temporary Presidential powers and then as President of the Republic in an October election, a role he would retain until shortly before his death despite an attempted coup by another disgruntled Colonel in 1995¹⁴.

Despite its numerical advantage, the Azerbaijani war effort was marked by political chaos that fatally undermined the country's chances of military success. The psychological impact of that chaos has strong reverberations today, buttressing the government's narrative for the need for a strong hand while, fairly or unfairly, damaging the credibility of the political parties who participated in the fleeting democratic experiment. The memory of the chaos, the pain of defeat by its smaller neighbour, the trauma of the Khojaly massacre and other deaths in the conflict, the loss of Karabakh and the sting of continued Armenian occupation of the surrounding 7 Rayons (districts- known collectively as the 'Occupied Territories') have left deep psychological scars in Azerbaijan. Furthermore, across both the pre-war civil disorder and the direct conflict, Conciliation Resources estimate that 'Azerbaijan has some 200,000 refugees displaced from Armenia and some 586,000 internally displaced persons from NK and the adjacent occupied territories. Some 360,000 Armenians, mainly refugees from Azerbaijan were also displaced.'¹⁵ The practical and political implications of both the continuing occupation of Azerbaijani territory and the IDP/Refugee population are discussed later in this publication. Also much as Russia's first generation of politicians, who form the core of liberal opposition to the current system, are hamstrung by their involvement in the chaos of post-Soviet collapse, the leaders of Azerbaijan's main opposition groups face a similar challenge over their participation in the short-lived Popular Front Government and the dashed hopes of the Elchibey era.

While there may be some nostalgia mixed in with the impact of a long-standing PR campaign to cement him as a 'father of the nation' figure, nevertheless there is a very real recognition that the elder Aliyev saved the new-born state from the abyss, bringing order to the chaos of coups, counter-coups and street violence. Heydar Aliyev would stabilise politics in Azerbaijan, chilling both democratic and revolutionary movements, build the platform for its current economy and develop a network of international relationships that would help bolster the country's stability despite poor relations with most of its neighbours. Central to the latter two objectives was the signing in 1994 of the so-called 'Contract of the Century', giving access to Azerbaijan's resource wealth to a consortium of international companies¹⁶, thereby giving the UK, US, Norway, Russia and Turkey a strategic stake in supporting Azerbaijani stability, accessing Caspian reserves that would be brought to market in part by the new Baku-Tbilisi-Ceyhan pipeline, further cementing ties with Georgia, Turkey and the project's international backers, most notably the UK's BP.

¹⁴ Colonel Rovshan Javadov's attempted coup was interestingly alleged to have had the involvement of the Turkish government of Tansu Ciller. For the more conspiratorially minded if true this could be seen as a response to the removal of the Pan-Turkist Elchibey in a coup with alleged Russian backing that ended in the restoration of a figure with long-standing ties to Moscow. For this author however, the internal dynamics of the situation seem enough, certainly in 1993, to explain the transition without the influences and preferences of the regional powers deciding who would rule in Baku.

¹⁵ Conciliation Resources, 'Individual rights, societal choices: Confronting legacies of displacement in the Nagorno Karabakh conflict', November 2011, http://www.c-r.org/our-work/caucasus/documents/NK_201111_web.pdf. Tom DeWaal's *The Caucasus An Introduction* puts the figures for Azerbaijan at 550,000 for NK and the territories and 190,000 for refugees from Armenia. The Institute for War and Peace reporting gave a lower figure in February for Armenian refugees at around 300,000. What CR rightly make clear is that the data is both unreliable and contested.

¹⁶ BP (UK), Amoco (U.S.), LUKoil (Russia), Pennzoil, (U.S.), UNOCAL (U.S.), Statoil (Norway), McDermott (U.S.), Ramco (UK), TPAO (Turkey), Delta Nimir (U.S.), and SOCAR (Azerbaijan).

Azerbaijan today

Despite the numerous complaints and concerns raised in this publication, it is worth acknowledging that Azerbaijan has come a long way since the trauma of the early 90s. Azerbaijan has both the highest GDP per capita and, on most measures, the worst human rights record of the three South Caucasus states studied in the FPC's 'Spotlight' series¹⁷. Over the last year or so, political pressure has been increasing with crackdowns in the streets and increasing pressure on opposition members, human rights activists and journalists, as will be discussed later. Freedom House's most recent Freedom in the World report¹⁸ noted a downward trend in its overall rankings, retaining the status of Not Free. In the same organisation's Freedom of the Press rankings, Azerbaijan sits alongside Russia at 179th place out of 197, ahead of Iran at 192nd but behind Armenia (149th), Georgia (111th) and Turkey (117th).¹⁹ Similarly, the UNDP Human Development Index 2011 places Azerbaijan in 91st place behind Georgia (75) and Armenia (86), though interestingly, one place ahead of Turkey (92)²⁰.

On certain business rankings, Azerbaijan performs much more competitively, with the World Bank's Doing Business Report²¹ ranking the country a competitive 66th out of 183 states, ahead of the regional average position of 77th in the overall standings. Areas where Azerbaijan does well include Starting a Business (18th) and, interestingly, Registering Property (9th), Protecting Investors (24th) and Enforcing Contracts (25th). Areas of weakness include Trading Across Borders (170th), Dealing with Construction Permits (172) and Getting Electricity (173). As with other countries in the region the formal processes on paper, and sometimes in practice, can be fine but blockages emerge when process meets the economic or political interests of the elite in the form of corruption and arbitrary or influenced bureaucratic behaviour. Transparency International continues to rank Azerbaijan as one of the poorer performers in its Corruption Perceptions Index where it sits at joint 143rd alongside Russia, Nigeria and Belarus with a score of 2.4 out of 10²². It is worth noting that Azerbaijan was the first country to become compliant with the Extractive Industries Transparency Initiative (EITI), no small feat given the prevarications of some other governments around the process. However EITI standards only apply to how the revenue from the oil sector is collected by the government and oil fund, not how efficiently and cleanly this money is spent.

Corruption and political influence are a key part of perhaps the biggest problem in the Azerbaijani state, the weakness of formal institutions of government compared to the powerful behind-the-scenes interests that dominate both the politics and economy of Azerbaijan, a shadow state dominated by political influence. It is worth briefly outlining the three main factions, sometimes known as clans, which have dominated influence in Azerbaijan since the collapse of the Popular Front Government. The Aliyev family hails from the exclave of Nakchivan, and upon Heydar's transition to the Presidency; Nachivani allies would form the core of the initial governing elite. Second only to the Nakchivanis in the initial stages of the Aliyev government were another group of outsiders, the Yeraz clan, whose background lay in Armenia (Yeraz being a contraction of 'Yerevan Azerbaijanis'), some of whom were displaced in the civil strife, prior to and during the war. The Yeraz star has started to wane under Ilham Aliyev, particularly when its unofficial leader, and founder of the President's Yeni Azerbaijan Party (YAP), Ali Insanov was sacked and accused of plotting a coup in 2005 and then sentenced to 11 years in jail for corruption²³ in 2007. Nevertheless, Ramiz Mehtiev, head of the Presidential Administration and President Aliyev's uncle, Jalal Aliyev, remain influential members of this group. As Yeraz influence has waned, their place has been partially taken by Pashaevs, a Baku-based family whose most prominent member is Mehriban Aliyeva (nee Pashayeva), First Lady of Azerbaijan, head of the Heydar Aliyev Foundation and now an MP in her

¹⁷ Spotlight on Georgia in 2009 and Spotlight on Armenia in 2011

¹⁸ (Where 7 is the worst ranking, Azerbaijan holds a 6 for Political Rights and 5 for Civil Rights compared to 6 & 4 for Armenia and 4 & 3 for Georgia respectively). Freedom House, Freedom in the World 2012,

http://freedomhouse.org/sites/default/files/inline_images/Table%20of%20Independent%20Countries%2C%20FIW%202012%20draft.pdf

¹⁹ Freedom House, Freedom of the Press 2012, April 2012

<http://www.freedomhouse.org/sites/default/files/Global%20and%20Regional%20Press%20Freedom%20Rankings.pdf>

²⁰ UNDP, International Human Development Indicators, 2011, <http://hdrstats.undp.org/en/indicators/103106.html>

²¹ World Bank, Doing Business 2012- Economy profile: Azerbaijan, 2012

<http://www.doingbusiness.org/~media/fpdkm/doing%20business/documents/profiles/country/AZE.pdf>

²² Transparency International, Corruptions Perceptions Index, 2011, <http://cpi.transparency.org/cpi2011/results/>

²³ That Insanov was widely believed to be one of Azerbaijan's most corrupt politicians is not under dispute, so this is more a question of selective prosecution rather than anything else.

own right²⁴. The International Crisis Group note that under Ilham Aliyev the balance has somewhat shifted from regional affiliation to personal loyalty to the President²⁵ and the rise of the First Lady's family can be seen in this context.

Nevertheless, this background helps to explain today's power structures as many members of the current Cabinet have held posts since the early days of Heydar Aliyev's government, turning ministries into personal fiefdoms, where rents are extracted and monopolies protected. For example, Prime Minister Artur Razadze has been in post since 1996 (with a brief interlude to allow Ilham to assume the post after Heydar's final departure for the U.S.) and Deputy Prime Minister Ali Hasanov has been in post since 1998 with responsibility for the well-resourced budget for supporting Azerbaijan's IDP population. Kemaleddin Heydarov, headed the customs system under Heydar from 1995, before in 2006 taking over a roving brief as Minister for Emergency Situations, with influence over a wider range of areas in the Azerbaijani economy and society (including his former role at Customs) that have made him²⁶ one of the most influential figures in Azerbaijan.

Democracy in Azerbaijan

Azerbaijani democracy flowered all too briefly in the aftermath of Ayaz Mutalibov's ouster. Heydar Aliyev may have brought order from chaos but as one would expect from Brezhnev's protégé, Azerbaijan's increasing stability coincided with a reduction in pluralism and political freedoms from their early 90s highpoint. Nevertheless, the elder Aliyev's Presidency is often looked back on with some nostalgia for its comparative degree of openness. While for the opening years of his Presidency he was a leader who had not yet fully re-established his grip on power, Heydar Aliyev was someone who had the political confidence born of ruling Azerbaijan for decades prior to his return and genuine popularity given his role in stabilising the country, and therefore was seen to tolerate some opposition to his rule. Since his election in October 2003, shortly before his father's death in December 2003²⁷, Ilham Aliyev has maintained and strengthened the ruling elite's control over the levers of power, marginalising opposing voices and reaping the windfalls provided by increased oil production. In 2009, by means of a constitutional referendum, the two-term limit to the Presidency was lifted, making it extremely likely that President Aliyev will stand for a third term in 2013.

With the main opposition parties boycotting the October 2008 Presidential election²⁸, the most effective snapshot of the state of Azerbaijani democracy is provided by the most recent Parliamentary election in November 2010. These elections have been described by a respected observer as one of the worst elections they had monitored²⁹. While technical compliance in a number of areas was improved, being less chaotic is not the same as being more democratic. The performance across a range of fundamental democratic areas regarding registration, use of official resources, the right to public assembly, media coverage and the broader environment of intimidation did not noticeably improve and in many cases deteriorated.

The final OSCE election observation report noted that 'certain conditions necessary for a meaningful and competitive election were lacking in these elections. The fundamental freedoms of peaceful assembly and expression were limited and a vibrant political discourse facilitated by free and independent media was almost impossible...' They listed 'a deficient candidate registration process, a restrictive political environment, unbalanced and biased media coverage, disparity in access to resources to mount an effective campaign, misuse of administrative resources as well as interference by local authorities in

²⁴ The Guardian, The US Embassy Cables, December 2010, <http://www.guardian.co.uk/world/us-embassy-cables-documents/245758>. See also Cornell, Chapter 8, Politics and Power in Azerbaijan

²⁵ International Crisis Group, Azerbaijan: Vulnerable Stability, September 2010,

<http://www.crisisgroup.org/~media/Files/europe/caucasus/azerbaijan/207%20Azerbaijan%20-%20Vulnerable%20Stability.ashx>

²⁶ The Guardian, US Embassy Cables, December 2010, <http://www.guardian.co.uk/world/us-embassy-cables-documents/250614>

²⁷ Heydar Aliyev's health had been in decline since the late 1990s. Having collapsed live on TV in the April of 2003, he moved to the Cleveland Clinic in the US in August 2003, standing down in the October to enable the election of his son as his replacement.

²⁸ The ODIHR Final Report of the Presidential election is accessible here: <http://www.osce.org/odihr/elections/azerbaijan/35625>. It showed some signs of technical improvement but continuing institutional problems.

²⁹ In conversation with the editor.

favour of candidates from the ruling party, creating an uneven playing field for candidates. Not all electoral contestants were able to compete on a basis of equal treatment by the authorities as called for in paragraph 7.6 of the OSCE Copenhagen Document.’ The conclusion was that ‘overall, these elections failed to meet a number of key OSCE commitments for democratic elections and important elements of Azerbaijani domestic legislation.’³⁰

As with a number of flawed electoral processes in the former Soviet Union³¹, the registration process is one of the key ways in which pluralism is restricted. In order to stand for election in a constituency, a candidate requires 450 eligible voters³² to sign their nomination papers. Each signatory is required to give ‘his/her surname, name, patronymic, date of birth, address of residence, serial number of ID card or its substitute document, date of issue and date of sign in the signature sheet’. The forms do not provide much space to write this information clearly, and it is of relevance that the OSCE argue ‘further measures are necessary’ (despite some effort pre-2010) to improve voter registration lists and property registers as ‘in some cases, signatures were invalidated due to incomplete addresses, despite the fact that villages in which the signatories are registered often do not have street addresses’.

The 450 signatures threshold is too high, even were it free from bureaucratic manipulation. To run a nationwide slate of candidates for the 125 seats in the Milli Majlis, a party would need to receive at least 56,250 valid signatures, 1.14% of the total eligible electorate or 2.3% of those who cast a vote. For example, to become a candidate in a UK parliamentary constituency requires 10 valid signatories and a deposit of £500 (620 manat as of March 2012). It is worth noting that previously Azerbaijan allowed candidates to provide a deposit in order to waive the requirement for a large number of signatures. If there is to be scope for meaningful pluralism in Azerbaijan, there is a clear need to reduce the number of signatures required to a more manageable figure and checks should be concluded more swiftly so that where legitimate mistakes are made in the collection of signatures, parties and candidates have an opportunity to address this before the close of the registration period. Under the present system, there were numerous complaints that local officials would reject candidates’ registrations on the basis of both imaginary and real minor form-filling errors, while in other cases it is argued that signatories, particularly public employees, faced pressure to claim that their signatures had been wrongly obtained³³. As a result of the current registration requirements, the OSCE pointed out that over half the candidates nominated by opposition parties had their registration rejected. ‘The APFP–Musavat bloc had 38 registered candidates, out of 88 initially nominated, followed by the ‘Karabakh’ and ‘Reform’ blocs, with 34 and 31 registered candidates, out of 95 and 97 initially nominated, respectively.’³⁴

Until now, Azerbaijan has avoided the barriers to obtaining registration for an opposition political party in the first place that can be found in countries such as Kazakhstan or Russia. However, government amendments to the Law on Political Parties, being debated in the Majlis at the time of writing, include measures to increase the number of members required to register as a party from 1,000 to 5,000³⁵, suggesting that this may not be the case (equivalent to raising the threshold from 6,850 to 34,500 members when scaled to the UK population). The proposed amendments also include the requirement that ‘Political parties which have not undergone state registration may not speak in public or act on behalf of a political party which has undergone state registration’. This may be an attempt to restrict the activities of REAL, the nascent political movement of Baku intellectuals that may develop into a future

³⁰ OSCE Republic of Azerbaijan Parliamentary Election 7 November 2010, OSCE/ODIHR Election Observation Mission Final Report, January 2011, <http://www.osce.org/odihr/elections/azerbaijan/75073>

³¹ See the FPC’s ‘Kazakhstan at a Crossroads’ for examples of Parties being prevented from registering <http://fpc.org.uk/publications/kazakhstanatacrossroads>

³² Azerbaijan Central Election Commission, Instruction on the rules for collecting voters signatures in support of the approved candidate and their submission to the Constituency Election Commission in Elections to the Milli Majlis of the Republic of Azerbaijan, July 2010, <http://www.cec.gov.az/en/parliamentary2010/instruction/instruction7.htm>

³³ This is of course not to suggest that all claims of inaccurate or fraudulently obtained signatures are necessarily false or the result of official pressure, particularly given the pressure placed on candidates by the scale of the threshold.

³⁴ OSCE 2010 Final Report *ibid*.

³⁵ Venice Commission, Law on Political Parties of the Republic of Azerbaijan, [http://www.venice.coe.int/docs/2011/CDL-REF\(2011\)035-e.pdf](http://www.venice.coe.int/docs/2011/CDL-REF(2011)035-e.pdf). It is worth noting that this new higher limit, while unreasonable, still remains 10 times lower than in Kazakhstan despite only having half the population.

political party, as well as tackling a number of small 'one man band' parties. These new restrictions have the potential to overshadow some of the positive elements including a state funding mechanism³⁶ and improved measures on transparency. Taken together, the measures seem designed to strengthen opposition parties within the system and make it more difficult for new parties and external forces to develop.

Another challenge for smaller parties seeking to raise their profile are the restrictions parties face campaigning outside the designated pre-election campaign period that commences 23 days prior to Election Day and finishes 24 hours prior to it³⁷, five days shorter than for the Presidential elections and previous parliamentary elections in 2005³⁸. Clause 12.1 of the Law on Political Parties states that parties should be allowed to 'disseminate freely the information about their aims and activities'³⁹ at all times but opposition parties argue that attempts to engage in political activity, such as doorstep canvassing or flyering, targeted at the general public outside the election period can be clamped down on by police. Greater clarity as to what does and does not comprise prohibited campaigning activity needs to be provided to parties and police alike, with a general presumption in favour of freedom of action to encourage parties to engage in a more sustained way with the electorate, beyond a focus on mobilising supporters for rallies and other forms of protest.

While the restrictions on party activity, registration and assembly⁴⁰ fall short of democratic standards and are set against a biased media environment⁴¹, some of the measures taken to ensure the defeat of opposition candidates fall into the area of retail politics, albeit within a deeply flawed political system. For example, ruling party candidates running against senior opposition figures found themselves able to claim credit for convincing local and national government to deliver improvements in the constituencies where they were standing, measures that ranged from fixing pavements and potholes to investment in new infrastructure. This compounded the perception amongst some that sitting opposition MPs were not active on constituency matters or directly engaging with their local electorates⁴². As of 2007, MPs were provided with the opportunity to set up constituency offices with one member of staff funded by Parliament to undertake constituency casework and the perception was that opposition MPs did not use this resource as effectively for the purposes of attempting to resolve individual constituent problems as some of the YAP MPs who re-stood in 2010 (with some of the older YAP MPs deciding that this direct accountability to their constituents was not to their liking⁴³). In a number of seats in the 2010 election, the ruling Yeni Azerbaijan Party (YAP) ran sitting MPs against senior opposition figures such as the Speaker of the Parliament Ogtay Asadov MP, standing against leading Musavat MP Arzu Samadbeyli, while YAP MP Gular Ahmadova challenged Musavat's Nasib Nasibli MP. Furthermore, years of intra-opposition bickering had not helped strengthen party credibility (with the 2008 election boycott in part the result of their inability to unite around one candidate). It has also been argued that some within the opposition movement opposed their MPs from taking their seats in 2005, as a protest, and were less well disposed to support them in 2010, with the focus of their activities supporting the candidacies of party

³⁶ 10% of funding divided proportionately to the vote at the previous parliamentary elections between parties which obtained at least 3% of the vote but are not represented in the parliament. 40% is divided equally between those parties which are represented, and a further 50% to represented parties proportionately to the number of deputies.

³⁷ Azerbaijan Central Election Commission, Election Code: http://www.cec.gov.az/en/cec/election_code_eng.pdf

³⁸ Radio Free Europe/ Radio Liberty (RFE/RL), Azerbaijani Parliament Amends Election Law, June 2010, http://www.rferl.org/content/Azerbaijani_Parliament_Amends_Election_Law/2076084.html

³⁹ Venice Commission, Law on Political Parties of the Republic of Azerbaijan, ibid

⁴⁰ As discussed later in this publication.

⁴¹ A topic that will be discussed in more detail later but the OSCE election report notes that 'the general media situation is characterized by the deterioration of the freedom of expression, including pressure on and detention of journalists. While a broad range of media exists in Azerbaijan, the lack of independent and objective reporting in broadcast media and scarcity of critical newspapers limit voters' access to pluralistic views and impartial information. In news broadcasts, coverage of the campaign was limited, with all main channels providing extensive and mostly positive coverage of the authorities and the ruling party, while opposition views were largely absent.'

⁴² There are a number of possible reasons for this, combining understandable scepticism around the likelihood of state institutions to respond to their requests for action, a perception that they should focus on overturning the system and perceptions that as party leaders, in some cases, senior members of the previous Popular Front Government, such activity was beneath them.

⁴³ An advocate for the constituency office system in Azerbaijan sees the potential for MPs, in time, to become an alternative local power centre that can influence the actions of the local ExComs in the way UK MPs or US Congressmen are able to influence the behaviour of their local councils.

leaders Isa Gambar and Ali Karimli, who were beaten (in controversial circumstances) by high profile TV journalist Etibar Huseynov and nationalist former political prisoner Faraj Guliyev of the loyal opposition National Revival Movement Party.

On polling day itself, the OSCE stated that 'international observers assessed voting positively in 89 per cent of polling stations visited, while voting was assessed negatively in a considerable 11 per cent of the 1,247 polling stations visited (127 polling stations), indicating systemic irregularities.' During the vote counting stage, '105 of the 152 counts observed were evaluated positively; observers assessed the vote count negatively in a 47 instances (32 per cent)' which included 14 cases where the number of ballots exceeded the number of voters registered as participating and 31 ballot boxes containing evidence of ballot-stuffing. The tabulation and announcement process was assessed negatively in 20% of observed cases, with the OSCE identifying that in a number of cases, differences of hundreds of votes between the preliminary results announced for a number of polling stations and the certified results protocols published the following day that confirmed the final results⁴⁴. For one polling station, in advance of the election, the OSCE received a copy of an unsigned draft results protocol with figures for the candidates already entered in. The official results for that polling station after the vote count had taken place showed minor differences in the votes for opposition candidates but gave the exact same number of votes as 'predicted' for the winning YAP candidate. While the problems highlighted by the OSCE are bad enough on their own, a number of national and independent NGOs noted further violations, while groups more sympathetic to the government provided more positive analysis.

When the dust settled on a 49.56% turnout across Azerbaijan, the Musavat-Popular Front alliance had lost all of its seats, leaving a situation in the current parliament where analysts are divided over whether there are any opposition voices left at all. Igbal Agazade, runner-up in the 2008 Presidential election, leader of the Umit Party and its sole MP elected in the Karabakh block, certainly comes closest to fitting that description of the current Parliamentary intake⁴⁵. He has managed to hold a position that remains openly critical of the political system, but takes a more sanguine or pragmatic approach than many in the extra-parliamentary opposition believe to be appropriate given the scale of political repression. Umit sits outside the Public Chamber that a number of parties and organisations led by Musavat and the Popular Front have formed since the elections to provide a platform for the opposition, something that adds to the degree of distrust. Yet building up any form of Parliamentary scrutiny is an important step if there is to be any hope for reform from within the current frameworks.

The composition of the 2010 Majlis is dominated by a mix of 69 YAP MPs, three loyal opposition groupings - the Democracy bloc, Civic Solidarity (who ran as part of the 'Reform' bloc) and 'Motherland' with 4, 3 and 2 seats respectively - the one Umit representative and 46 self-nominated independents who are all believed to be sympathetic to the ruling elite. A significant number of these independent candidates tended to be people with a significant local or institutional profile such as academics or senior members of professional representative bodies. Given such a composition, public expectations for robust Parliamentary scrutiny are not set high; nevertheless there can be some benefit in strengthening the Parliamentary process and improving its transparency and accountability, even if it were only to enable greater public scrutiny of the standard of parliamentary scrutiny.

At present there is a long lag time between parliamentary debates taking place and the record of the debate being published. At time of writing, the Milli Majlis, the most recent verbatim report of a

⁴⁴ The OSCE note that 'For example, in (Constituency Election Committee) 79, (Precinct Election Commission) 16, the results protocol shows the winning candidate having received 511 votes and the second place candidate 45. However, the winning candidate on the results protocol had only 65 votes on the CEC website. The second place candidate on the Protocol had 526 votes on the website. Also in ConEC 79, in PEC 15 the results protocol show the winning candidate having received 395 votes and the second place candidate 114. However the winning candidate on the results protocol had only 14 votes on the CEC website. The second place candidate on the protocol had 495 votes on the website. The number of unused ballot papers also dropped by over 500, from 875 to 367.' This seat was being contested by sitting Musavat MP Iltizam Akbarli, albeit someone who had a troubled relationship with the central party, see: Azerbaijan Press Association, MP Iltizam Akbarli: I did not expect such attitude from Musavat, June 2008, <http://en.apa.az/news.php?id=41836>

⁴⁵Khadija Ismayilova, Eurasianet, Azerbaijan: Parliamentary Elections Yield a Lone Opposition Voice, November 2010, <http://www.eurasianet.org/node/62335>

Parliamentary session, is three and a half months old, while other information is patchily displayed. Verbatim reports of the proceedings of the Parliament's committees that scrutinise legislation are not available. Given the political balance of the Majlis and its relatively low position within Azerbaijan's real power structures, journalists are not believed to give proceedings comparable weight in their coverage, reporting primarily on pieces of Parliamentary grandstanding, particularly on international issues. Nevertheless, it is important to ensure that all journalists are able to monitor proceedings, including those less supportive of the government. In terms of promoting direct public scrutiny of proceedings, the Majlis should look to develop live video streaming of debates, both online and potentially via digital TV along the lines of BBC Parliament or CSPAN. At present it is believed plans are under way to facilitate audio-streaming of debates.

At a local level, power resides primarily with the Executive Committee (Ex Com) or executive power in the 76 Rayons, whose chairmen are in effect local governors appointed by central government. It is the Ex Coms that are primarily responsible for the provision of local services and delivering national government programmes. The Ex Coms wield considerable power and lack accountability to the local public⁴⁶, something that was briefly highlighted by the public protests and rioting in Quba⁴⁷, that led to the firing of the Ex Com Chairman Rauf Habibov, and the jailing of the journalists who posted the YouTube video of the Chairman berating residents who had sold agricultural land that sparked the protests⁴⁸. Around 3,000 elected municipal councils do exist in tandem with the Ex Coms but they lack a defined remit or real political power. Their budgets are small – 5.1 million manats in 2006 (0.2% of total state budget revenues) – mostly derived from the sale and rent of municipal property⁴⁹. As part of a longer-term strategy to improve governance and accountability in Azerbaijan, strengthening the role of the elected municipal councils compared to the Ex Com would have some potential to increase local accountability, albeit limited by the nature of political power in the country.

Rule of law

As both Monica Martinez and Michelle Brady highlight later in this publication, there have been some positive developments in the area of rule of law in recent years. Both draw attention to the gradual transition from Soviet-style practices to more modern ways of working with recent improvements in training, infrastructure investment and decentralisation. Furthermore, the issue found in a number of other post-Soviet Countries around low pay and the status of judges that acts to increase the risk of corruption does not apply in Azerbaijan. The general view from those working with the legal system in Azerbaijan is that the civil system offers the opportunity for a fair trial, except in certain situations where one of the parties in the case is closely connected to major local or national political power brokers. In the first few months after reforms to the area of Administrative Law, German experts GIZ note that around 80% of cases brought to court find against the state, showing both progress in judicial independence and the extent of work required to improve official competence.

The situation is not as positive in the criminal system. Of a total of 13,407 criminal cases in 2010, only 34 ended in a not-guilty verdict; 0.25% compared to 7.17% in UK Crown Courts.⁵⁰ There are a number of procedural problems noted by Brady and Martinez later and the situation is exacerbated in politically sensitive cases.

⁴⁶ See Jerome Gallagher, Urban Institute, Local Government Transparency in Azerbaijan: Does Decentralization matter?, April 2007, http://www.nispa.org/conf_paper_detail.php?cid=15&p=1003&pid=4082

⁴⁷ RFE/RL, Uneasy Calm Descends Over Azerbaijani City After Unrest, March 2012 http://www.rferl.org/content/azerbaijan_protests_clashes_rioting/24501167.html

⁴⁸ RFE/RL, HRW Slams Detention Of Azerbaijani Journalists, March 2012 http://www.rferl.org/content/hrw_slams_detention_of_azerbaijani_journalists_/24530076.html

⁴⁹ UNICEF, Budget investments in health and education of Azerbaijani children, July 2008 <http://www.un-az.org/doc/Budget%20investments%20in%20health%20and%20education%20of%20Azerbaijani%20children%20ENG.pdf>

⁵⁰ OSCE Trial Monitoring Report 2010. <http://www.osce.org/baku/88211>. A further 1668 (12.44%) cases were terminated during the trial. In UK Crown Courts in 2010 19% of all cases ended in the defendant being found not guilty, this however includes 13,037 (11.85%) of cases that are discharged, leaving 7884 (7.17%)⁵⁰ to be found not-guilty at the verdict stage. <http://www.justice.gov.uk/downloads/publications/statistics-and-data/courts-and-sentencing/judicial-court-stats.pdf> comparable data for Magistrates courts are hard to come by.

The number of political prisoners in Azerbaijan has fluctuated over the last few years with crackdowns followed by periodic pardons after international pressure, albeit often with strings attached that can be used to limit the freedom of action. High profile cases such as the release of Eynulla Fatulayev⁵¹ took 13 months after a European Court of Human Rights ruling ordered his release. As of April 2012, Amnesty counted 14 detainees as ‘prisoners of conscience’ who met their exacting standards of proof, while concurring that a considerable number more would be likely to fit a broader definition of political prisoner with Vugar Gojayev in this publication suggesting a figure of around 70. Christopher Strässer, the German MP designated by the Council of Europe as the Special Rapporteur for Political Prisoners in Azerbaijan, has been consistently denied entry to Azerbaijan with the authorities rejecting the principle behind his mandate. Pressure is increasingly being applied to human rights defenders, with lawyers defending protesters being disbarred⁵².

Structurally, the judiciary does not have much autonomy from the executive, or indeed from the undercurrents of patronage that run throughout Azerbaijani society and as such is open to political influence in sensitive cases. The Judicial Legal Council⁵³ is comprised of ‘15 members, 9 of whom are senior judges and the rest are representatives of the President, Parliament, General Prosecutor’s Office and the Bar Association’⁵⁴, with the Minister of Justice as the JLC’s President. Although notionally independent, the majority of the Committee’s members are appointed by the executive, the others by the legislature and in one case the Bar Council. Its functions include the selection of the pool of approved judicial candidates and the dissemination of ethics. Judges are then appointed from the pool of approved candidates to specific candidates by the President, with the exception of the Supreme Court, the judges for which are confirmed by the Majlis after Presidential recommendation⁵⁵. The Judicial Legal Council could benefit from the presence of independent-minded lay members, at least in the area of judicial selection. This could include a senior representative of the Office of the Ombudsman or a representative of opposition parties in Majlis in the event of a more plural chamber following the 2015 Parliamentary elections. Similarly, removing presidential appointment of judges⁵⁶ might eventually prove beneficial if the pool of approved candidates was diversified by the JLC and greater transparency in disciplinary measures could encourage judges to make fairer judgements.

One area of legislation and practice that is in urgent need of reform is the use of the vaguely worded but liberally applied charge of hooliganism⁵⁷. It has been applied by judges in a range of cases from a band insulting President Aliyev’s mother, political activists advertising a rally, on numerous political protestors and journalists and perhaps most famously bloggers Emin Milli and Adnan Hajizade, who themselves were victims of an attack.

Policing

Policing in Azerbaijan remains a work in very gradual progress. Longstanding complaints include petty bribe taking, especially by the traffic police, aggressive conduct and the mistreatment of suspects held in custody. Cracking down on petty, persistent police corruption was one of the primary targets of the February 2011 anti-corruption drive, fortuitously announced just after the outbreak of the Arab Spring. This initiative did initially have some impact in changing police behaviour, bringing a pause to overt

⁵¹ The full ECHR ruling can be found at <http://cmiskp.echr.coe.int/tkp197/view.asp?item=1&portal=hbkm&action=html&highlight=AZERBA%CFDJAN%20%7C%2040984/07&sessionId=91730943&skin=hudoc-en>

⁵² Karl Rahder, Azerbaijan: yet another opposition lawyer disbarred, Foreign Policy Association, September 2011 <http://foreignpolicyblogs.com/2011/09/22/azerbaijan-yet-another-opposition-lawyer-disbarred/>

⁵³ Judicial Legal Council of Azerbaijan, Information of Judges Selection Committee, March 2012 http://www.judicialcouncil.gov.az/e_index.php

⁵⁴ Comments of the Azerbaijani authorities on the Report of the visit of the Commissioner for Human Rights of the Council of Europe to Azerbaijan on 1-5 March 2010, Council of Europe, <https://wed.coe.in/wed/ViewDoc.jsp?id=1642017>

⁵⁵ Council of Europe, Law of the Republic of Azerbaijan on Courts and Judges, March 2007 http://www.coe.int/t/dlapi/codexter/Source/country_profiles/legislation/CT%20Legislation%20-%20Azerbaijan%20courts%20and%20judges.pdf

⁵⁶ Particularly at the court of first instance and high court level.

⁵⁷ Criminal Code of Azerbaijan, Article 221.1 <http://www.legislationline.org/download/action/download/id/1658/file/4b3ff87c005675cfd74058077132.htm/preview>

displays of bribe-taking⁵⁸. Nevertheless, for the most part previously corrupt officers remain in post, unlike Georgia's much-praised big-bang replacement of the entire traffic police. As the official pressure began to decline in the latter half of 2011, so some bad habits returned, albeit not so far to the same extent as before. Police behaviour towards opposition activists remains a source of criticism with activists accusing the police of acting beyond their remit in law to break up lawful small demonstrations, stop political activity, harass journalists and otherwise defend the interests of the government against the public. A well-placed institutional observer⁵⁹ argued that Azerbaijan's police force show little real signs of embracing institutional change or public accountability.

Freedom of assembly

Official and unofficial barriers to freedom of assembly persist in Azerbaijan that make it very difficult for dissident voices to make themselves publically heard in proximity to centres of power or where they would reach a maximum audience. The somewhat onerous formal restrictions are set out in the Law on Freedom of Assembly, with Clause 9 (III) setting out a long list of building and areas where any protest is prohibited within a radius of 200 meters⁶⁰. Having avoided this fairly expansive list of no-go areas, one of the following sub clauses states 'the number of picketers shall not be more than 50 persons and they shall not be located closer than 10 meters to the entrance of a picketed object'. Human rights activists allege that these legal pickets are routinely disrupted and dispersed by the police, if they happen to disagree with its political content⁶¹.

Anything larger than a 50 person 'picket' is required to be held at a designated site and at a time approved by the local authorities⁶². In the case of Baku, the authorities take a very strict interpretation of these rules and the requirements in Article 5 in the law which requires, as a rule, notification to be submitted to the city authorities 5 days prior to the event, setting out time, venue, the form and purpose of the event, the expected numbers and route of any procession.

In practice, the dispute about permission for an assembly boils down to a row between the organisers and the city authorities about where the event can be held under section 9 VII. This is because the list of approved 'special areas' for public gatherings consists of a number of sites a considerable distance out of

⁵⁸ For background to the anti-corruption drive see Shahin Abbasov, Fighting Corruption in Azerbaijan: A Mission with Teeth?, February 2011, <http://www.eurasianet.org/node/62947>.

⁵⁹ In conversation with the author.

⁶⁰ Legislation online, The Law of the Republic of Azerbaijan, on Freedom of Assembly, May 2008, <http://legislationline.org/documents/action/popup/id/7941> Article 9 (III) Conducting of gatherings, meetings, demonstrations and street processions in the following places can be prohibited:

1. in a radius of 200 meters around buildings of Milli Madjlis of the Republic of Azerbaijan, Ali Madjlis of the Nakhchivan Autonomous Republic; Presidential Palace, Presidential residence, Cabinet of Ministers of the Republic of Azerbaijan, Cabinet of Ministers of the Nakhchivan Autonomous Republic, bodies of central, city and regional executive power, the list of which shall be defined by the relevant executive authority; the Constitutional Court, the Supreme Court, Courts of Appeal of the Republic of Azerbaijan, and the Supreme Court of the Nakhchivan Autonomous Republic;
2. on bridges, in tunnels, at construction areas, hazardous production facilities and other enterprises the operation of which requires observance of special safety rules, strictly protected environmental areas, and protection zones of trunk pipelines, electric wires of a tension more than 1000 V, airports, subway, railway constrictions, defence units, technical constrictions of water supply and sewerage systems, oil wells, water conservation zones;
3. in places allocated by relevant body of executive power for conducting special state events;
4. on the territory used for military purposes and in places located closer than on the territory used for military purposes and in places located closer than 150 meters to the boundaries of these territories, or, where necessary, within the security distance;
5. At the territory of penitentiaries, pre-trial detention and psychiatric medical institutions as well as in places located closer than 150 meters to the boundaries of these territories.

⁶¹ From discussion with a number of activists in Baku. Such cases are set out in greater detail than can be explained here in reports including Human Rights Watch's 'Beaten, Blacklisted and Behind Bars', October 2010, <http://www.hrw.org/reports/2010/10/26/beaten-blacklisted-and-behind-bars>, Amnesty International, 'The Spring that Never Blossomed: Freedoms' suppressed in Azerbaijan, November 2011, <http://www.amnesty.org/en/library/info/EUR55/011/2011/en>

⁶² Law on Freedom of Assembly 9 V. Relevant bodies of executive power shall provide a special area for conducting gatherings, meetings and demonstrations in each city and region. A list of places proposed for gatherings, meetings and demonstrations shall be published in a press and shall be brought to the population by other means. Organizers can choose one of the places proposed for gatherings, meetings and demonstrations. Upon petitions a relevant body of executive power can change the list of proposed venue of gatherings, meetings and demonstrations.

9VI. The time of holding of an assembly can be restricted by the relevant body of executive power, in accordance with the requirements of Article 7 of this Law.

the centre of Baku, away from key political buildings⁶³. The US Embassy, in one of the Wikileaks cables⁶⁴, conducted an assessment of five of the 12 approved sites (listed below), concluding that while one of these was suitable for holding a protest (although it was still 30 minutes from downtown Baku), the others were too small, contained buildings that restricted their use or were otherwise inappropriate for the task.

The OSCE rightly argued that the sheer breadth of the articles in the Law on Freedom of Assembly 'could have the effect of preventing any public assemblies from taking place within sight and sound of their target audience' with potential for a 'highly detrimental impact on the enjoyment of the right to freedom of peaceful assembly' and that it had called for a number of these provisions to be removed 'as neither reasonable nor necessary'.⁶⁵

For the first time in seven years⁶⁶ the opposition Public Chamber, agreed to hold an officially sanctioned rally at one of the sites approved by the Baku Municipality. The rally took place in the in the Baku suburb, the 20th District of Sabail. This site is closer to central Baku than some of other protest sites at roughly 3.2 miles (5.2km) from the Presidential Administration building, equivalent to the distance by car between Downing Street and City Hall in London, although protestors complained that buses were not running their usual routes past the site from the central bus station and that taxi drivers unwilling to take people out to the site. The police presence was significant and they searched protesters on their entry to the site⁶⁷. The Public Chamber claimed a turnout of 12,000, while the police claimed 1,200. Independent estimates suggest a figure somewhere in between, around the 5,000-6,000 mark that would tally with the some of the wide-angle photos of the protest this author has seen. Following the rally, YAP officials and MPs have been vocal in the media to argue that there was a low turnout, showing the weakness of the opposition, for example Siyavus Novruzov MP argued that 'Even the funeral of a reputable person is attended by more people than the rally of the Public Chamber. This is just a picket not a rally.'⁶⁸

That this protest took place and passed off broadly peacefully is to be welcomed but it needs to be the basis for international pressure to enable protests to take place in venues more suitable for political protest, or as the Venice Commission puts it, authorities 'should always aim to facilitate the assembly *within sight and sound* of its object/target audience'. It should be noted that seven activists who were handing out flyers promoting the rally were sentenced to administrative detention ranging from 3-15 days⁶⁹. This followed a police clampdown on April 2nd 2012 on the convergence of a number of (legal) pickets to create an unsanctioned rally of around 350 people in Fountain Square in Central Baku, a much more central venue⁷⁰ close to political buildings.

⁶³ List of approved political protest sites in Baku. (these range from a distance of around 5km-45km from key buildings such as the Presidential Administration building)

1. Binagadi district- *Binagadi* Sports and Fitness Centre Stadium (between
2. Sabail district - 20th settlement, *Bibiheybet Stadium*
3. Nasimi district - 20 Yanvar Street, 21, Stadium
4. Khatai district - Small square at Naximov settlement and small square in front of 29th/22nd neighbourhood
5. Garadagh district - *Sahil Stadium*, Sahil settlement, E. Guliyev str.
6. Sabunchu district - Sports stadium in front of *Azneftgeofizika*, Yaver Aliyev str.
7. Surakhani district - T.Ismailov Stadium of *Neftchi* Sports and Fitness Centre, S.Bahlulzade str.24
8. Yasamal district - *Yasamal* Sports and Fitness Centre Stadium, M.Seyidov str.
9. Azizbeyov district - Square near *Turkan Park*, Khanlar str. Turkan settlement
10. Nizami district - Square in front of Tabriz cinema, G. Garayev str.
11. Narimanov district - Square in front of *Ulduz* underground station, Araz str.4

⁶⁴ Guardian Gate, Reference: 08BAKU882, <http://leaks.hohesc.us/?view=08BAKU882>

⁶⁵ OSCE, Guidelines on the Implementation of the law on Freedom of Assembly in the Republic of Azerbaijan, September 2008, <http://www.osce.org/odihr/34311>

⁶⁶ LINKS, Opposition rallies in Baku in first sanctioned event in seven years, April 2012, <http://links-dar.org/2012/04/08/opposition-rallies-in-baku-in-first-sanctioned-event-in-seven-years/>

⁶⁷ Radio Azadliq, <http://bambuser.com/v/2536835>

⁶⁸ APA, Siyavush Novruzov: "Even funeral of a reputable person is attended by more people than the rally of the Public Chamber", April 2012, <http://en.apa.az/news.php?id=169200>

⁶⁹ Contact.Az, Seven activists arrested for distributing leaflets, April 2012, <http://contact.az/docs/2012/Social/04104078en.htm>

⁷⁰ Trend, Interior Ministry, Prosecutor office publish official statement on attempts for rally in Baku, April 2011, <http://en.trend.az/news/politics/1854943.html>

NGOs

The picture for the 2,600 or so NGOs⁷¹ in Azerbaijan is a mixed one. Overall the perception is that those which do not choose to directly confront the government or are engaged in partnership working with it are broadly able to operate, while those that are more likely to challenge the government (or are perceived to) face greater problems.

NGO registration is managed by the Ministry of Justice and there are a number of official measures set out in the 2009 Law on NGOs that can cause problems for some organisations. Amongst a number of bureaucratic procedures, NGOs are expected to inform the Ministry of Justice of any changes to its organisational structure or details following a mandatory annual general meeting within 30 days and if the organisation changes address it is required to inform the Ministry of Justice within 7 days⁷², as well as keeping them informed about changes to the information required to be compliant with the law on registered entities⁷³ within 40 days. If an NGO is found to have made two procedural errors within a year, the Ministry of Justice can have its activities suspended or the organisation liquidated. This ‘two strikes and you’re out’ rule can be a real threat, not only to small NGOs struggling with the bureaucratic burden, but to politically active ones that can trigger administrative wrath on spurious grounds. For example, the Media Rights Institute faced one warning on the basis that it had not informed the Ministry of Justice about appointment of a new chairman when in fact the same chairman had been re-elected⁷⁴.

New NGO grant reporting requirements mean that NGOs must inform the Ministry of Justice within one month of the receipt of a grant from an international body. While so far no NGOs have reported having grants rejected, this does place a burden on the organisation. Given that registered NGOs are eligible for tax relief⁷⁵ insistence on reporting grants and other financial information is not of itself an undue imposition but there is a strong case to move from monthly to annual grant reporting as part of their broader accounting requirements. Amnesty draws attention to Article 13.3 of the law on NGOs that states, ‘The charters of NGOs shall not provide for appropriation of state or local self-governed bodies, interference to the powers, as well as implying of functions of state control and revision’⁷⁶. Its vague wording leaves its interpretation wide open which could lead to arbitrary action against NGOs.

International NGOs are required to get approval from the Cabinet of Ministers, in practice approval from all the ministries that may have a direct or indirect interest in the areas of activity. The new registration requirements for international NGOs are more onerous than for their domestic counterparts. International NGOs are required to agree with the Ministry of Justice that their future activity will ‘respect national-moral values of Azerbaijani people’ and that they will not engage in ‘political and religious propaganda’⁷⁷, very vague requirements that leave the door open to future potential challenge.

There are a number of well-respected international organisations that operate in Azerbaijan, some of which are engaged in the training of government officials or other forms of official engagement, although they seem to have adopted a more cautious approach to criticising the authorities than their equivalent branches in other states. Part of the reason for this could be the government’s treatment of two high profile international NGOs, Human Rights House and the National Democratic Institute (NDI) following

⁷¹NGO Monitor: Azerbaijan, International Centre for Not for Profit Law <http://www.icnl.org/research/monitor/azerbaijan.html>

⁷² Venice Commission, Law on Non-governmental Organisations (public associations and funds) <http://www.venice.coe.int/docs/2011/CDL-REF%282011%29049-e.pdf>

⁷³ Law on the registration of legal entities, http://www.azpromo.az/domains/azpromo/assets/file/Law_on_registration_of_legal_entities-eng.pdf

⁷⁴In conversation but also noted in Article 19, Running Scared: Azerbaijan’s silenced voices International Partnership Group for Azerbaijan <http://www.article19.org/resources.php/resource/3003/en/running-scared-azerbaijan-s-silenced-voices>

⁷⁵ NGOs are exempt from Profit tax on grant income, membership fees and other donations. Any organisation (NGO and commercial) needs to be registered in-order to access rebates on their VAT. Further tax advantages are available for NGOs that qualify as Charitable organisations but the legislation seems very vague about how to qualify for this relief. See the Revised Assessment of the Legal Framework for NGOs in the Republic of Azerbaijan 2010, International Center for Not-For-Profit law, <http://www.icnl.org/>

⁷⁶ Venice Commission, Law on Non-governmental Organisations (public associations and funds) *ibid*

⁷⁷ DECISION # 430f the Cabinet of Ministers Of the Republic of Azerbaijan, On approving the ‘Rules on conducting negotiations for preparation and signing of an agreement for the state registration of branches or representations of foreign non-governmental organizations in the Republic of Azerbaijan’ March 2011

the changes in procedure in 2009. An independent NGO, Human Rights House acted as a meeting point for activists as well as an advocacy organisation and its reregistration process remains stuck over failure to agree a bi-lateral agreement, with the authorities in some way seeking to bring in the government of Norway into proceedings. Unlike Human Rights House, NDI do have clear institutional (albeit arms length) linkages to the US government, yet despite, or perhaps indeed because of this, it has struggled unsuccessfully since the law change in 2009 to achieve official registration, despite making four attempts to register and being in almost daily contact with the Ministry of Justice to find out the status of its application. In March 2010 it was formally requested by the Ministry of Justice to halt its activity until the registration process was completed and although informal progress was made by late 2010, the situation is still not yet officially resolved.

It is critical that pressure is brought to bear on the Ministry of Justice to comply with the timetable for registrations set out in Article 8 of the Law on Registration of Legal Entities⁷⁸ that states the process should be complete within 30 days, with the option of a further 30 day extension in exceptional circumstances if detailed checking is required by the authorities. The Venice Commission note that that in many cases 'many NGOs, especially human rights NGOs, are for some reasons or even without any reasons treated as exceptional'. From discussions with NGOs whose registration attempts have extended indefinitely beyond even this timeline (in one case for over 4 years), even 60 day registration would be a major step forward. Under the law, in the event of finding errors in the application that do not form the basis for refusal, the authorities are supposed to inform the applicant of all deficiencies and allow 20 days to resolve them. The authorities are then supposed to respond with a decision either way within 10 days otherwise they are deemed registered by the state. As the Venice Commission point out, overall if the system was to work efficiently within the confines of the law, the bureaucratic burden, though tricky for smaller NGOs, is not in and of itself overwhelming.

Media Environment

Television remains the primary source of news and information for the Azerbaijani public and as a result content is heavily influenced by the government. At a national level there are 9 channels, comprising three state channels, the public broadcaster ITV and a number of commercial channels all of which broadly follow the government line. As with both Imedi and A1+ in Georgia and Armenia respectively, one of Azerbaijan's commercial stations (ANS) used to be able to give an independent editorial line. However since the 2005 elections pressure against the channel and the wider business interests of its owner have succeed in subduing much of its previous editorial independence. Public perceptions of TV independence though of course without having seen independent television it is somewhat difficult to perceive what coverage could consist of-show that 6% of Azerbaijanis thought TV was completely independent from government and 24% somewhat independent; 32% somewhat disagreed and 11% completely disagreed⁷⁹.

Although the regulators have not published the list of available frequencies as they are legally required to do, most independent analysts have argued that there is ample space available on existing spectrum to host additional channels and claim that regulators instead argue that Azerbaijan's lack of advertising market development is the main reason for capping the number of channels. Either way as Azerbaijan makes the transition from analogue to digital television over 2012-13, this should banish any spectrum-based arguments around restrictions on channel numbers, and the international community should redouble their efforts to enable licenses to be granted to a more diverse range of channels. One potential bidder could be Objective TV, an independent web-based news service, whose previous bids for a license have been rejected.

Consideration also needs to be given to supporting the use of the Turksat satellite broadcasting platform to allow independent channels to reach the many Azerbaijani families who have a dish to access Turkish television. This is a mechanism that could access a much wider network of people than can be achieved

⁷⁸ Article 8, Law on the registration of legal entities *ibid*.

⁷⁹ Caucasus Research Resource Centers, Caucasus 20 years On: Survey Overview. November 2011, <http://www.carnegieendowment.org/files/CEIPCaucasus20Years.pdf>

through online option, though both the previous short-lived attempt of Azadlig TV to stay on the air, and the expansion of Azerbaijan's cable network that aims to reduce the use of foreign satellite options, should be born in mind.

The radio environment has also lacked an independent voice since RFE/RL (Radio Azadliq), the BBC World Service and Voice of America were prevented from renewing their national licenses in 2009. The Government of Azerbaijan argues in defence of its decision to that 'none of the Council of Europe Member States authorises foreign companies to broadcast on its national frequencies'⁸⁰, a statement that is deeply misleading. For example RFE/RL broadcasts on FM in the ten other CoE states (including Armenia and Georgia) through local affiliates, via a series of affiliations with local and national broadcasters, with Azerbaijan the only CoE member where it broadcasts that does not allow it to do so via the airwaves⁸¹. A similar arrangement existed in Azerbaijan until 2006 when the Television and Radio Council banned local stations from 're-transmitting programs from the BBC, VOA, and RFE/RL'⁸² and instead offered these international channels special, temporary licenses to broadcast directly on Azerbaijan's spectrum until January 1st 2009. While the BBC's coverage in the region has since been scaled back, RFE/RL has built up a following as a web-based station but the relatively low levels of internet penetration have restricted its reach; however through broadcasting on Turksat they estimate that they have been able to regain around 25% of their initial audience. These channels should either have their national licences restored or allow local channels to use their content, including through Azerbaijan's cable TV network.

The broadcast media is regulated by the nine members of the National Television and Radio Council⁸³ appointed by the President of Azerbaijan, albeit with a nominally independent remit. In practice the council is loyal to the objectives of the government of Azerbaijan so there is a clear need to increase the organisation's independence. While replacing Presidential with Parliamentary nomination would only become an effective mechanism in the event of a more competitively comprised Majlis, there should be pressure to include independent civil society representatives and the official ombudsman could potentially play a role. Similar attention should be paid to the development of the public broadcaster ITV to help develop its independence.

The print media has a greater diversity of opinions but low levels of circulation and significant economic and regulatory challenges. As of October 2010 Azerbaijani official statistics⁸⁴ noted that the average salary for Journalists was 166.7 manat per month, roughly half the average Azerbaijani wage. What limited advertising revenue is generated in the print media is cornered by the official publications with advertisers facing pressure not to use independent papers. State institutions subscribe to government supportive papers which can cover up to 80% of their print run⁸⁵. Independent print kiosks that provide the bulk of non-subscription sales can face pressure for distributing opposition papers and some are under threat as part of urban renewal.

The nominally independent Press Council oversees the activities of the sector although membership is not compulsory. Although initially showing some independence over time it has been increasingly seen to be dominated by the government. Given the difficult financial state of the print media in Azerbaijan the government has provided money from the oil fund to set up the 'State Fund for Support to Mass Media', receiving 2.4 million manat in 2011⁸⁶, funds that are targeted towards those more positive to the status

⁸⁰ Comments of the Azerbaijani authorities on the Report of the visit of the Commissioner for Human Rights of the Council of Europe to Azerbaijan on 1-5 March 2010, Council of Europe, <https://wed.coe.in/wed/ViewDoc.jsp?id=1642017>

⁸¹ Belarus, not a member of the CoE also bans the broadcast of RFE/RL and other stations on national airwaves, something ameliorated by the presence of a large Medium Wave transmitter safely the other side of the Lithuanian border.

⁸² Radio Free Europe/ Radio Liberty, Azerbaijan Bans RFE/RL, Other Foreign Radio From Airwaves http://www.rferl.org/content/Azerbaijan_Bans_RFERL_Other_Foreign_Radio/1364986.html

⁸³ National Television and Radio Council of Azerbaijan, <http://www.ntrc.gov.az/?/en/>

⁸⁴ The State Statistical Committee of the Republic of Azerbaijan, 4.11 Average monthly salary of works worked fully by occupation and positions in 2010 www.azstat.org/statinfo/labour/en/4_7en.xls

⁸⁵ Dominique Thierry in Article 19's Running Scared: Azerbaijan's Silenced voices. <http://www.article19.org/resources.php/resource/3003/en/running-scared:-azerbaijan-s-silenced-voices>

⁸⁶ From discussions with media rights representatives but figures from Thierry *ibid*.

quo. For those with a less positive take on events the Press Council operates a rolling blacklist of journalists and outlets that are alleged to have breached the ethical code. Whilst there are clearly some journalists who are providing poor-quality output, in part due to lack of training and financial pressures, this is a tool that is used to attack those critical of the authorities.

There is a clear need to find alternative funding streams for independent media. However it is not just the economic and regulatory environment that is challenging for independent journalists, but also the significant pressures they face from the authorities. While journalists had faced such pressures throughout Azerbaijan's history, the unresolved murder of high profile editor Elmar Hüseynov in 2005 was seen to mark the start of a downward trajectory in the treatment of independent journalists, followed as it soon was by the arrest and imprisonment of his friend and colleague Enyulla Fatulayev. International media freedom organisations⁸⁷ have documented a significant number of cases where journalists have been obstructed from doing their work by police and subject to dubious criminal charges such as drug possession and the ubiquitous accusation of hooliganism. In 2011 Azerbaijan's leading independent journalist Khadija Ismaylova⁸⁸ faced an outrageous invasion of privacy when sources unknown secretly filmed her in an intimate manner at her home. After failing to blackmail her into silence, these images appeared on the internet on a series of fake news sites and she was subject to personal attack in the pro-government *Yeni Azerbaijan* and *Iki Səhki* papers. Unsurprisingly the public prosecutor's investigations so far have apparently involved publishing details of her friends and associates without making progress towards an arrest.

Equal rights: LGBT rights

Given the LGBT focused nature of the Eurovision song contest, Azerbaijan's record on gay rights has been the subject of increasing scrutiny. Although consensual sex between men was legalised in 2001, for the most part Azerbaijan's LGBT community lives in the shadows, with sexual identity remaining a private matter in a predominantly socially conservative cultural environment.

The social and cultural stigma against LGBT people is still widespread in society, with pressure particularly within families and in rural areas. At present there are no openly LGBT bars and clubs in Azerbaijan, though informally there are a number of establishments that are widely known to be hangouts for LGBT people. Gender and Development, one of the few Azerbaijani organisations to address LGBT issues, argues that some progress has been made in recent years, particularly in Baku, with a handful of out gay celebrities making some impression on social attitudes. Nevertheless, the overwhelming societal opinion remains that it is acceptable to broadly 'tolerate' homosexuality as long as it is out of the family and out of sight.

Denis Van der Veur's 'Forced Out' report for the Council of Europe argues that police have charged 'gay men with hooliganism, disturbance of public order and resistance to public officers in order to extort money from them' with threats to inform family and employers⁸⁹. Gender and Development, however, noted that relations between police and the LGBT community were improving with the recent drive against low-level corruption in the police having some impact.

Significant problems persist in terms of discrimination in the workplace and in the provision of goods and services, with some LGBT Azerbaijanis dismissed from their jobs on the basis of the disapproval of their employers. The constitution⁹⁰ of Azerbaijan does not include the protection against discrimination on

⁸⁷ Article 19, Index on Censorship, Reporters without Borders and a number of others including the general human rights advocacy organisations Amnesty and Human Rights watch have the case histories, with the Running Scared publication above a strong introductory document.

⁸⁸ Khadija had been due to provide a chapter on broadcast media for this publication but was unable to participate due to the pressures of the situation.

⁸⁹ Denis Van der Veur, Forced Out LGBT People in Azerbaijan, August 2007, http://www.hirschfeld-eddy-stiftung.de/fileadmin/images/dokumente/virtuelle_bibliothek/Forced_Out_LGBT_People_in_Azerbaijan_August_2007.pdf

⁹⁰ Article 25 (III) The state guarantees equality of rights and liberties of everyone, irrespective of race, nationality, religion, language, sex, origin, financial position, occupation, political convictions, membership in political parties, trade unions and other public organizations. Rights and liberties of a person, citizen cannot be restricted due to race, nationality, religion, language, sex, origin, conviction, political and social belonging www.un-az.org/doc/constitution.doc

grounds of sexual orientation that it does for gender, race or religion. There is some way to go until Western-style anti-discrimination law is achievable, with even some activists this author has spoken to showing some confusion as to how it could be proved that someone was fired on the grounds of their sexuality if the prejudice was unspoken. Newz Az carried an unattributed quote that seemed indicative of the cultural challenge: 'when a gay person talks about his discrimination, I often ask: "Have you led the situation to the point that it becomes so evident?"'⁹¹i.e. that it is the responsibility of the LGBT individual to keep their identity private (requirement not insisted upon for their straight colleagues) rather than responsibility of co-workers or society not to discriminate against them. Being left alone is understandably preferable to being openly harassed, but the urge not to risk the tentative gains that have been made in recent years means that moves towards challenging this second class status will be gradual and incremental.

Equal Rights: Women's rights

On the issue of women's rights, Turkic social conservatism is mixed with the outwardly egalitarian influence of the Soviet legacy to create a mixed picture. According to the ILO⁹²in 2008, women made up 49% of the labour force but they were 10% less likely to work for defined wages than men and they earn 44% of the average male salary. 40% of the female workforce is involved in agriculture but they also make up 'the majority of workers in the public health and social services areas (73.8%), public education (69.7%) and communal, social and personal services (57.1%)' As with many other countries however, they are under-represented in the higher echelons of most professions.

Hicran Huseynova is the sole woman to sit in the Cabinet⁹³ in her position as head of the State Committee for Family, Women and Children's Affairs. Women's representation in Parliament has increased from 14 in the 2005-10 Majlis to 19 (out of 125) following the 2010 election⁹⁴, although it still sits well below the 40% rate achieved in Soviet times⁹⁵ through quotas. There is currently one female Ambassador, Mrs Eleonora Husseinova the Permanent representative to UNESCO and only around 10 women in mid-level positions within the MFA⁹⁶. As already mentioned the President's wife Mehriban Aliyeva, who now sits in Parliament, is one of the most influential people in the country.

Surveys show that traditional/patriarchal gender roles are still prevalent, with the man seen as head of the household. According to a UN-backed report, while 59.1% of men and 78.2% of women thought that women's opinions should be taken into consideration by men, 68.2% of women and 72.8% of men thought that women could express their opinions in the family but never in public⁹⁷.

A number of leading women's rights activists argue that the biggest problem facing Azerbaijani women is the incidence of early marriage, particularly in rural areas in the south of the country. Azerbaijan's marital age (and age of consent) is 17 for girls and 18 for boys, though this can be reduced by a year if official permission is given⁹⁸. Official statistics show an average marital age of 28 for men and 24 for women; however NGOs estimate that more than 10,000 unregistered marriages of girls aged between 12 and 16 take place in Azerbaijan each year. These marriages are conducted by local religious figures and knowledge of their existence are kept within the families, with poor economic conditions⁹⁹ as much a

⁹¹News Az, Gay Parade in Baku: to be or not to be, January 2012, <http://www.news.az/articles/52533> Whether a real member of the LGBT community or an example of words being put in an imaginary person's mouth it nevertheless puts across a common societal view and the position of the article's author

⁹² International Labour Organisation, Women and the economy in Azerbaijan, http://www.ilo.org/public/english/region/eurpro/moscow/info/publ/indd_aze_en.pdf

⁹³ Heads of Administrative Agencies are represented in cabinet alongside ministers. <http://www.cabmin.gov.az/?az/content/127/>

⁹⁴ <http://az.apa.az/news.php?id=204351> This is 7.4% behind the European average that sits at a shockingly low 22.6% according to the IPU. For reference the UK registers a depressing 21% of MPs who are women.

⁹⁵ <http://www.un-az.org/doc/nhdr2007gendereng.pdf>

⁹⁶ <http://community.eldis.org/?2333@@.59c345a5!enclosure=.59c345a6&ad=1>

⁹⁷ <http://www.un-az.org/doc/nhdr2007gendereng.pdf>

⁹⁸ Public Union for Gender Equality and Women's initiatives, Monitoring the Implementation of the Convention on Elimination of All Types of Discrimination Against Women (CEDAW) in Azerbaijan: Alternative Report http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/Monitoring_Azerbaijan44.pdf

⁹⁹ 39.7% of respondents to a survey by the Public Union believed that family financial problems compel them to give daughters into marriage at an early age. Only 22.4% identified reasons of tradition or religion as the explanation.

driver as issues of traditional religion and culture. The girls involved are often not believed to possess more than a primary education and will often drop out of the system upon getting 'married'. There is also some evidence of early marriage, especially when between members of an extended family, leading to a birth complications and defects. Local activists argue that many of these marriages breakdown before the woman reaches legal marriage age or shortly afterwards, often due to the husband moving¹⁰⁰ to Baku or Russia for work and forming new relationships, leaving their unregistered Azerbaijani wives without legal recourse to claim alimony or other property rights.

Equal Rights: Religious freedom

Azerbaijan's approach to religion is one conditioned by its history and geography. Firstly, Azerbaijan retains a desire to control and regulate religious activity, a legacy both of its Soviet heritage and the government's current approach to alternative sources of power and legitimacy. This leads to there being a number of similarities between the way in which it deals with freedom of religion and the way it approaches freedom of expression and association, with the state setting out to regulate and control the limits of the activity. Secondly, Azerbaijan, as befits the influence of 70 years of Soviet rule, is an avowedly secular Shia Muslim majority state. However, the majority of ethnic Azerbaijanis do not live in a secular state; they live in its theocratic neighbour¹⁰¹. Fear of radicalisation from Iran¹⁰² is a genuine concern of the government of Azerbaijan but it is a reasoning that can be extended to restrict freedom of religion more broadly.

Religion is managed by the State Committee on Work with Religious Associations (SCRWA) and Islamic organisations are also required to be members of the Caucasian Muslim board, the official Muftiate that covers the wider region. Like NGOs, religious communities faced a re-registration process that concluded at the end of 2009. Many communities have not received a response while others have been informed of errors in the paperwork submission¹⁰³. According to the Government of Azerbaijan, there are 574 religious communities that have managed to register¹⁰⁴, of which 20 are non-Islamic. As well as registration, the Law on Freedom of Religion requires all communal forms of religious activity to be officially sanctioned as part of a registered group, operating only at the registered address, only using literature and materials approved by SCRWA and sold from specifically licensed vendors (only 16 of which have been licensed with a waiting list reaching 100¹⁰⁵). Such restrictions have hit minority Protestant Communities such as the Baptist Union and hampered the activities of the spiritually government averse Jehovah's Witnesses. In the case of Islamic rituals and worship, these must only be led by Azerbaijani citizens who have received their education within Azerbaijan. Forum 18 argue that Azerbaijan has not yet complied with Council of Europe requirements to provide alternative service options for those conscientiously objecting to its compulsory military service for men aged between 17 and 35. International Human Rights organisations believe that a significant number of Azerbaijanis are jailed in part for their beliefs but find it very difficult to assess to what extent the imprisonment is more to do with to related political activity or actual improper influence by Iran, a conundrum highlighted by the range of convictions against Movsum Samadov and leading members of the Islamic party of Azerbaijan in 2011.¹⁰⁶

Institutional mechanisms for reform: Ombudsman

The creation of an independent Office of the Ombudsman can become an important institutional bulwark against executive or elite malpractice. However, the Ombudsman's office in Azerbaijan has yet to fully

¹⁰⁰ This migration from rural areas is identified by 37.9% of respondents to a survey by the Public Union as a driver behind early marriage, in order to get daughters married before the available men move away.

¹⁰¹ According to the CIA World Factbook approximately 12.6 million ethnic Azerbaijanis live in Iran (<https://www.cia.gov/library/publications/the-world-factbook/geos/ir.html#People>) compared to Azerbaijan. 9.49 million)

¹⁰² It also has concern about Wahhabi radicalisation of its smaller Sunni population, and to a lesser extent there have been tensions surrounding the role of Turkey's Gulen movement, in this case more around influence than radicalisation.

¹⁰³ Forum 18, Azerbaijan: Religious freedom survey, April 2012 http://www.forum18.org/Archive.php?article_id=1690&pdf=Y

¹⁰⁴ State Committee on Work with Religious Associations, List of Approved Religious Organisations <http://scwra.gov.az/view.php?lang=az&menu=211&id=579>, as of May 2012

¹⁰⁵ Felix Corley, Azerbaijan: Waiting for state approval to sell religious books, Forum 18, April 2012 http://www.forum18.org/Archive.php?article_id=1693

¹⁰⁶ Vladic Ravich, Azerbaijan: Islamic Party Trial Brings Fresh Scrutiny to Religious Hamlet, Eurasianet, August 2011 <http://www.eurasianet.org/node/64068>. See also Cornell Chapter 10

develop into such an organisation according to activists, some of whom described the institution described as ‘an instrument of the government’. The Council of Europe’s Commissioner for Human Rights also noted that ‘the Ombudsman’s office is not permitted by its founding documents to monitor all state organs¹⁰⁷. Concerns had been raised over giving the Ombudsman’s office the role of information commissioner rather than creating a separate office as initial planned.

However it is worth noting that the Ombudsman’s office has recently successfully completed a special review process by the UN’s International Coordinating Committee of National Human Rights Institutions, who had raised concerns over its independence¹⁰⁸. The Ombudsman’s office does make tentative criticisms of state bodies in its 2010 Annual Report¹⁰⁹, it argued against ‘police-prosecutor-judge’ solidarity when attempting to get redress for those accusing the police and security services of mistreatment, while criticising their coercive tactics. However, on freedom of expression in the same annual report it argued in favour of the blacklist and that ‘for avoiding reasonable discontent of people the journalists should not insult them and should respect the right to honor and dignity while writing any material’, often a formulation that unfairly restricts press freedom. Unlike the OSCE, the ombudsman also concluded that ‘in general the elections to the Milli Majlis were conducted in democratic, free, transparent and fair manner as well as in compliance with the legislation and discipline’. While clearly not the combative and dynamic national human rights institution that activists want it to be, there are signs that it can make some difference through its cooperative approach with state bodies. The international community should support the Ombudsman to develop its independence and confidence so that it can build the civil society trust it needs.

Institutional mechanisms for reform: National Program for Action

In December 2011 the President officially approved the National Programme for Action to Raise Effectiveness of the Protection of Human Rights and Freedoms in the Republic of Azerbaijan¹¹⁰. This sets out a programme of legislative reform and government agency action, including the long awaited proposals for the decriminalisation of libel, that if fully and effectively implemented would provide a major step forward in Azerbaijan’s human rights and governance. However there is understandable concern that there may be greater improvement on paper than in practice.

¹⁰⁷ <https://wcd.coe.int/ViewDoc.jsp?id=1642017>

¹⁰⁸ Supporting Ombudsman Cooperation in the Eastern Partnership Countries

<http://www.europarl.europa.eu/committees/fr/studiesdownload.html?languageDocument=EN&file=67131>

¹⁰⁹ Ombudsman, Annual Report on the provision and protection of human rights and freedoms in the Republic of Azerbaijan,

<http://www.ombudsman.gov.az/view.php?lang=en&menu=73>

¹¹⁰ President of Azerbaijan, National Program for Action to Raise Effectiveness of the Protection of Human Rights and Freedoms in the Republic of Azerbaijan, December 2012, <http://en.president.az/articles/4017>

What our authors say

Vugar Gojayev gives a wide-ranging report of the key human rights challenges in Azerbaijan today. He argues that human rights standards have declined since the election of Ilham Aliyev as President in 2003. He argues that Azerbaijan's oil wealth has limited the influence of the international community on these issues and strengthened the hand of the ruling elite.

Michelle Brady sets out some of the main challenges facing lawyers and advocates in Azerbaijan. She draws attention to problems with the university course and the erratic administration of the bar exam and oral interview which leads to only a small number of applicants completing the process. While there is some progress around continuing legal education further work must be done around the ethics code and state appointed defenders. She also notes both the subtle and overt pressure on advocates representing human rights defenders.

Monica Martinez argues that judicial and legal reforms are on a good path towards a modern system, noting improvements in the material conditions of the system, training and the legislation. However she notes insufficient compliance with the right to fair trial, particularly in political cases due to external influence, and the system's accusatory bias.

Rashid Hajili sets out the recent history of restrictions on media freedom. He notes some of the key cases where journalists have been arrested or pressured by the authorities, and sets out some of the practical and economic challenges facing independent newspapers. He also assesses the government domination of the broadcast media in Azerbaijan and attempts to extend control and pressure onto the internet.

Dr Katy Pearce sets out some of the main restrictions on the potential of the internet as a source of social transformation in Azerbaijan. She notes the low level of household PC internet ownership, stating that up to 80% of Azerbaijanis have never used the internet and only 13% use it at least once a week. She argues that the government mixes 'third generation' internet controls such as demonising social network users and monitoring their activity with 'second generation' arrests of online activists, which are increasingly being publicised.

Giorgi Gogia gives an overview of the darker side of the regeneration of Baku, including the illegal expropriation of property, evictions and house demolitions. He notes that current practices fail to comply with the limited basis in Azerbaijani law for property expropriation, with justifications outside the law and the length of notification far less than the year required. He notes that demolitions have been conducted with the owners and neighbours still resident and that the compensation regime is not fit for purpose.

Tabib Huseynov explains how the Nagorno-Karabakh conflict has shaped Azerbaijan's political development. He highlights how political instability during the war led has been misused by ruling elites to maintain tight control over the country. These policies have made the state both reliant on strong personalities and institutionally weak, arguing that democratisation and conflict resolution are mutually reinforcing processes.

Vugar Bayramov gives a detailed history of developments in the Azerbaijani economy since independence. He draws attention to the falling oil revenues that impact the state budget, the proportion of earnings saved in the State Oil Fund and the impact this change is having on the Azerbaijani economy. Although Azerbaijan achieved the highest non-oil sector growth rate in years, the economy needs to go much further to diversify and will need WTO membership, along with greater anti-monopoly and corruption efforts, the development of SMEs and removal of existing barriers to trade.

Firdevs Robinson analyses the current state of the Turkey-Azerbaijan relationship as both sides seek to improve relations after the tensions around Ankara's attempted reconciliation with Armenia. She notes the renewed energy and cultural ties but lingering concerns.

Dennis Sammut gives an upbeat assessment of the current UK-Azerbaijan relationship. Noting the historical context he points out the constructive role the UK has played since independence with BP forming a critically important partner in the development of Azerbaijan's energy reserves and the BTC pipeline. He notes the challenges and opportunities for other UK companies operating in Azerbaijan and argues that it has focused on private rather than public admonition of Azerbaijan's democratic problems.

Jacqui Hale argues that despite its rhetoric, the EU has not delivered its agenda in Azerbaijan as energy security has regularly trumped human rights concerns. She argues against EU policy makers perceptions of a lack of leverage and for a more robust EU policy towards Azerbaijan which incorporates human rights goals as a strategic – as well as moral – imperative.

Azerbaijan: From bad to worse

Vugar Gojayev

Democracy promotion in oil-rich Azerbaijan has become more difficult after 2003, when Ilham Aliyev jumped to power in controversial presidential elections, through which he succeeded his ailing father, President Heydar Aliyev.

Under the presidency of the junior Aliyev, Azerbaijan has entered into a spiral of continually degrading political atmosphere and the country has gained a reputation as one of the most authoritarian states in the post-Soviet region. Following in his father's political footsteps, Ilham Aliyev deepened his authoritarian grip on the country and governed with increasing impunity for the repression of and using political violence against his critics. Civil and political freedoms have been further severely curtailed and eventually the country has gone from a semi-authoritarian to a fully authoritarian state. His government has enacted serious restrictions on the political opposition, NGOs and the independent media. Though some constitutional, social and legal reforms have been adopted, they have been mostly decorative, self-serving, tentative or meant to concentrate resources in yet fewer hands, giving almost unlimited power to the regime and closing off avenues of advancement for most people.

Various international decision-makers and institutions have taken a mild stand towards the significant frauds in polls that characterised Ilham Aliyev's presidency, as they feared that the criticism could otherwise put oil contracts and energy exploration deals in Azerbaijan at risk.

Several Western democracies naively hoped that Ilham Aliyev would prove to be a modernising and liberalising force in the country, embracing democracy and launching significant political and economical reforms while guaranteeing stability, which is the necessity for the safe transportation of oil to international markets. These hopes were dashed, as the situation further deteriorated and his authoritarian rule took Azerbaijan increasingly away from democracy and more acceptable human rights standards. By destroying the already weak political opposition and civil society institutions and creating, in effect, a one-party state controlled by a narrow group of relatives, cronies and trusted aides, the Aliyev administration has failed to deliver the anticipated reforms. His government is criticised of nepotism, vast corruption and growing authoritarianism. Yet today, the government continues to retain many of the Soviet legacies in the system of management and guaranteeing civil and political rights.

Father and son

Unlike his late father, Ilham Aliyev feels less incentivised and willing to pretend that Azerbaijan is a progressing democracy and implementer of international obligations. The already weak political opposition and small outspoken media continue to face tremendous challenges under the presidency of Aliyev, who has become even more hostile to and intolerant of the regime's critics. Once in office, young Aliyev quickly abandoned all semblances of a small democracy and created a narrow-based political structure run by his own family for their profit. Now in Azerbaijan, many dissidents and radical opposition activists look back on his father's reign as 'a golden age of freedom'. For instance, if opposition parties were able to hold rallies and manifestations in certain central parts of the capital Baku during the senior Aliyev's reign (1993-2003), that luxury has now become but a distant dream.

Curse of oil

Gigantic oil revenues have further entrenched a stagnant political system, making it even more opposed to reforms. Azerbaijan has become a country greatly afflicted with the 'resource curse'. The state has remained in control of the petroleum-dominated economy.

The inflow of giant oil revenues has a marked correlation with a consistent trend toward greater restriction of human rights, especially during the presidency of Ilham Aliyev. Each year, political freedoms become more restricted than they were during the previous years. Although his administration has worked hard to raise its international image as a reliable energy exporter and stable partner, its democratic credentials have deteriorated and human rights continue to be increasingly under threat. The

government continues largely resistant to international pressures for reform, particularly in the area of human rights.

The massive oil boom was enough to boost the Aliyev administration's self-confidence to shun international criticism and to ensure domestic political control by any means and any form necessary. Official Baku's lack of concern over the international community's democratisation messages has been crystal clear during the past several years. While energy has been the most successful cooperation area in EU-Azerbaijan relations, the poor human rights record of Azerbaijan has been a key obstacle in raising bilateral relations with the EU to a new strategic level. The international community, including the EU, has practically no policy sticks left to use on oil-rich Azerbaijan, which does not need the EU's cheap financial credits.

Just as political power has been tightly concentrated in Azerbaijan around the Aliyev family since 1993, so too are economic resources almost entirely under the family's personal control, through an opaque network of corrupted state institutions and powerful officials. He has effectively tightened his grip on society while prospering from skyrocketing oil revenues. The increasing inflow of oil revenues allowed the new leader to strengthen the system of patronage. Massive revenue from oil exports further facilitated the consolidation of the president's power and increased the dominance of oligarchs and business networks.

Corruption remains widespread throughout Azerbaijan's bureaucracy. The ruling elite seem driven by one overwhelming motive: self-enrichment. Access to state funds, including through plundering the budgetary allocations, the competition to misappropriate substantial funds skimming from the lucrative oil business and controlling grandiose multi-million dollar construction projects of questionable necessity are all key sources of enrichment. It is no coincidence that the country's wealthiest people are all in the higher echelons of the government.

The toothless parliament stacked with Aliyev family cronies and loyal MPs, who have little or no public support and have been elected with marred votes, naturally fail to hold the executive accountable. In order to fend off the criticism that political opposition has been suppressed and swept away, the government has created pocket-opposition or 'constructive' parties and given them seats in the parliament. All these parties lack popular support and enjoy no credibility among the public at large.

Stability

Azerbaijani authorities continued to crack down on critics of the regime and sought to control all spheres of public life. Today, Ilham Aliyev enjoys a level of control over society that his late father never possessed.

The ruling elite strengthened their authoritarian grip on power, maintaining relative stability at the expense of basic rights and civil liberties, and harassing critics with impunity. The authorities effectively managed to discourage meaningful citizen participation in political and decision-making processes, while putting a lid on genuine public debate on issues of wider public interest – be they elections, gross human rights abuses or even the transparency of oil and gas revenue expenditures.

Azerbaijan then, having showed a dramatic downtrend trajectory in international freedom indexes, primarily since 2003, is cause for great concern. Political space for alternative voices has continued to shrink further, with the considerable restriction of freedom of expression and assembly in past 9 years, and with the government virtually controlling all influential media outlets and arbitrarily arresting government critics and political rivals on obvious politically motivated charges and putting a de-facto ban on public assemblies.

Despite the relative stability over recent years, the already limited powers of political institutions such as parliament, the judiciary, and political parties have been increasingly eroded, while President Aliyev has focused on strengthening the presidency and the role of his family. He has reinforced his family's

monopolies in major trade and industrial sectors and his cronies continue to occupy senior state positions. The whole political system revolves around him: his presidential administration is the source of all power in the country, while the parliament is a rubber stamp and toothless institution and most ministers are implementers of his will. Like his father, he has consistently removed anyone who poses a threat to him. For instance, two highly influential and relatively outspoken ministers – the Minister of Economic Development and Minister of Health – were put in jail suddenly in 2005 under coup attempt charges, which were politically motivated acts to sweep away anyone posing a danger to Aliyev's rule.

Media

Journalists who express critical opinions often become targets of persecution and violence by the authorities, whose extensive use of defamation, drug possession, hooliganism and other politically-motivated charges muzzle voices of dissent in society. At least half of the journalists imprisoned in Azerbaijan since 2006 were convicted on charges of criminal libel or defamation. There is a growing environment of state hostility towards independent and opposition media. Freedom of expression has become a serious source of concern under the reign of President Ilham Aliyev. Since then, there has been a sharp increase in violent attacks, politically motivated arrests and harassment aimed at silencing opposition and independent journalists. There is no single recorded case where vicious physical assaults against journalists have ever been fairly inspected by the authorities.

The ruling regime effectively uses Soviet-style methods or defamation provisions to obstruct investigative journalism, prevent public debate and stifle open criticism of the government. As the country has a long history of deep corruption, investigative journalism that seeks to expose cases of corruption is always hampered by the authorities. Therefore, the more the journalists dig into these corruption cases, the greater the risk of facing smear campaigns, violence or ending up in the courts for publishing 'defamatory' articles.

Investigating government corruption at the highest level and the businesses of the ruling Aliyev family are among the taboos, which many journalists refrain to research. The Radio Free Europe reporter and the country's well-known investigative journalist Khadija Ismayilova was the target of a blackmail attempt after she received written threats and an intimate video of her was published on the internet in mid-March 2012. Ms Ismayilova was recently working on a story linking members of the President's family to a huge construction project, and she suspects that it was this story that the blackmailers were hoping to block. These types of smear campaigns to intimidate outspoken journalists have also been used against the chief editor and director of the newspaper 'Azadlig Ganimat', Zahid and Azer Akhmedov, while journalist Agil Khalil was also implicated as having had a homosexual partner in an attempt to harass him. The government has deliberately promoted a sense of impunity for violence against journalists so as to ingrain self-censorship in the opposition media. Though seven years have passed since the murder of country's well-known investigative journalist Elmar Huseynov of Monitor journal, the perpetrators have yet to be apprehended. The killing of another well-known journalist, Rafiq Tagi, in November 2012 shows that the situation of freedom of expression in Azerbaijan has deteriorated to a terrible and dangerous extent. Thus far, nobody has been charged with Tagi's murder. Human Rights Watch has documented the cases of nine journalists, who fled Azerbaijan in recent years, fearing repercussions for their journalism work.

Political prisoners

Releasing political prisoners was one of the key accession commitments of Azerbaijan before the Council of Europe in 2001. With almost 11 years passed, the country still keeps around 70 political prisoners. Though President Aliyev pardoned several of the political prisoners in his terms in the office, the government continues to arrest dozens of opposition supporters over the years on politically motivated and bogus charges. The Council of Europe's Special Rapporteur on political prisoners in Azerbaijan has not been granted an entry visa since March 2009 by the Azeri authorities to visit the country and make his report, as the government refuses to acknowledge the existence of political prisoners and does not want to cooperate with the Rapporteur.

Inspired by the events of the Arab Spring, last March opposition and independent youth groups launched a series of unsanctioned protests in the capital Baku against corruption, the restricted political environment, cronyism and the lack of democratic progress. The government, in paranoia, deployed large numbers of security agents and police to violently suppress the protests, in which dozens of people were arrested and imprisoned, including opposition politicians, youth activists and journalists, on made-up charges.

Though Azerbaijan's legislation guarantees freedom of assembly and the right to organise public rallies, local authorities frequently put severe limitations on those rights, including through the use of excessive force. The de-facto ban on demonstrations and protest actions since late 2005 have effectively been applied to prevent any gatherings of opposition activists in the city centre. Among the political prisoners are those who organised and showed up in the unsanctioned opposition demonstrations against the government.

Civil society

Civil society operates under repressive and dangerous conditions; it has become increasingly difficult to be a human rights defender and to promote and protect human rights. Legislation is frequently used to reduce the space, in which human rights organisations, defenders, youth activists, journalists and human rights lawyers can operate. As youth groups have taken the lead in formulating ideas and advocating for democratic change in governance and societal attitudes, mainly through the internet, including on social networking sites, the authorities increased their effort to stall the development of independent youth groups and to prevent the mobilisation of such independent youth groups. Many activists, including bloggers and social media activists, have been arrested and harassed, and NGOs' offices searched or even closed down, in order to reduce their impact.

The government increasingly interferes with the operation and work of NGOs. Critical and independent organisations are prevented by the authorities from being registered, which makes it difficult for them to operate legally. Current legislation allows the authorities to control the activities of NGOs in an unduly strict manner and therefore limits freedom of association in Azerbaijan. Legal amendments enacted in 2009 require domestic non-governmental organisations (NGOs) to register their grants with the authorities and foreign NGOs to reach agreements with the government before opening offices in the country. NGOs must register with the Ministry of Justice to function as legal entities, and the process has been described as cumbersome and non-transparent.

The Ministry continues to create registration obstacles for several human rights NGOs, mainly those that actively work in the areas the government sees as politically sensitive. On 10 March 2011, Azerbaijan Human Rights House (AHRH), which was the popular place of rights defenders and youth activists, was asked to cease all activities in Azerbaijan until an agreement with the authorities was adopted. Prior to the closure, its office has been searched by police, who also threatened to evict AHRH from its office. Though the Ministry of Justice brought ungrounded and symbolic reasons to close the AHRH, the causes for the closure were a politically motivated decision to restrict the organisation's broader human rights-related activities in Azerbaijan.

The Venice Commission of the Council of Europe, which assessed the country's NGO law, stated in October 2011 that the amendments to the Azerbaijani NGO Law and the March 2011 decree, setting out new requirements for the registration of foreign NGOs, overturn the efforts to meet international standards. According to the Venice Commission, the requirement for a bilateral agreement between a foreign NGO and the national authorities is in itself questionable and the conditions laid down are rather problematic and unclear. The appalling situation with freedom of association means that NGOs often find themselves at the mercy of local authorities and are often denied the right to hold activities outside of the capital Baku.

Elections

The accumulated economic wealth has led the ruling elite to seek to maintain political control by any means and in any form. Fearing for their lavish oil revenues, the regime never allows the conduct of free and fair elections. The authorities still perceive elections as a threat, not an opportunity. To prevent the possible loss of power, the authorities mobilise all administrative resources, including election commission members, local government offices and police to interfere with the electoral process and ensure that the vote comes out in favour of the ruling party. The credibility to the electoral process has long been seriously damaged by traditionally prevalent abuses, massive frauds and significant malpractices, which international observers have routinely denounced. Elections are always marred by the vast pro-government dominance in the election commissions, increasing intimidation and a climate of fear, harassment of opposition candidates, lack of media freedom and restrictions on civil liberties and freedom of assembly. Many Azeris do not see any point in voting because they naturally believe that the authorities will decide the final result.

Pessimism in society

The increasing political apathy holding sway in society makes many ordinary Azeris refrain from political mobilisation. People continue to be harassed and persecuted because of their political views. Imposing fear upon the population is a key instrument for ensuring obedience and limiting public dissent. The regime relies on the security forces and police to prevent and control any signs of public discontent and to crush critics. The high economic dependency of citizens on the state and the lack of jobs militate against public protest. Among the measures used to discourage people from political activity is the arbitrary sacking of critics from their jobs in order to deprive them of stable incomes. Even the representatives of small- and medium-sized business, are vulnerable to having their businesses shut down by the authorities if they are spotted in opposition demonstrations or supporting regime critics. The suppression of dissidents and punitive action against intellectuals and their families for political activities are common in Azerbaijan. In November 2011, well-known scientist Professor Rafiq Aliyev was dismissed as the department chair at Azerbaijan's Oil Academy after speaking publicly about human rights and criticising the repressive actions of the government. Students that are members of the opposition party or show up in opposition demonstrations have experienced political pressure, including reported threats to lower their grades or arbitrary dismissal of from their educational establishments. Some professors and teachers have publicly stated that they were dismissed because of their membership of opposition parties or for political activity for opposition parties.

Conclusion

In the context of developing abundant hydrocarbon resources in the absence of mature democratic institutions, it will be challenging to dismantle the corrupt patronage network that drives the economy and political system by skimming off substantial funds from the oil business. Human rights groups say the oil revenues have given substantial confidence to President Aliyev to do as he pleases in side-lining international human rights norms and defying the country's democracy commitments.

The relative stability in Azerbaijan is misleading at best. The Arab Spring has demonstrated the potential for change that can come from civil society. The relative stability provided by authoritarian or semi-authoritarian states may be at a stake in a period of transformation to democracy and reform. If the stability fails to be built on working democracy and rule of law, it will not be robust and sustainable in the long run and could cause tragic consequences, as we saw in the cases of the countries influenced by the Arab Spring. With institutionalised corruption more rule than exception, the ruling political system is hardly likely to change quickly, unless that willingness to introduce change starts from the top. Unless today's economic mismanagement and corruption can be eliminated, the country seems set to face serious economic and political challenges in the near future, as its energy resources become depleted.

Azerbaijan must move away from its Soviet instincts and practices and stop using its repressive security apparatus while engaging with critics and political opposition. It should reverse its current authoritarian policies. The authorities should treat the critics and political opposition as partners not enemies. To enable this, civil society groups and opposition activists must have their voices heard through uncensored

media and the right of assembly and association should be allowed so they can form groups representing their political interests. The Aliyev government should be urged to open up political space and be made to realise that a transparent political system could prove the best guarantee for the long-term stability of the country. The government should be made to understand that attempts to eliminate all government criticism from reporting are simply not in harmony with a modern state.

Developing the country as a more modern, open, democratic and less corrupt state could help facilitate the resolution of the long-festering conflict with Armenia over Nagorno-Karabakh. Promoting the rule of law, embracing democratic reform and a flourishing economy with equal distribution of oil revenues should be seen as the only way to attract the breakaway Nagorno-Karabakh part of the country back into its fold.

To ease political disappointment in the country, the nearing Eurovision Song Contest in Baku could be a chance for the ruling elite to take a step towards political liberalisation and open up the political space. Sing for Democracy, a group based in Baku, has started a campaign to use this high-profile event to pressure the authoritarian regime to address its abysmal human rights record.

Rule of Law

Monica Martinez¹¹¹

The Government of the Republic of Azerbaijan shows goodwill towards meeting its commitments to the Organization for Security and Co-operation in Europe (OSCE) and related international standards, as agreed by all OSCE participating States for advancing the principles of justice, which form the basis of the rule of law.¹¹² Thus, judicial and legal reforms in Azerbaijan are on a good path, which enables the country's gradual transition from "Soviet inspired" judicial practices, to a modern and efficient administration of justice, ensuring full compliance with international fair trial standards.¹¹³

The ongoing State program for the development of justice in Azerbaijan is designed to increase the efficiency of justice by enhancing the skills and professionalism of justice staff, improving the infrastructure of court buildings and setting up a modern court management system, *inter alia*. The program also refers to the modernisation of the penitentiary services in order to improve the overall conditions of detention throughout the penal system.

In addition to modernizing court infrastructure, the Ministry of Justice established new, specialized Courts and decentralized the court system in order to make justice more accessible to the population in the regions. This is demonstrated by the establishment of Appeal, Grave Crimes and Administrative-Economic courts in the main cities in the regions outside the Baku capital area.

To date, the reforms have focused on improving material conditions, legislation and the skills and professionalism of legal professionals. In addition, the number of judges, prosecutors and defence lawyers is increasing, although the number of lawyers per capita is still low.

The specialization and decentralization of the justice sector requires additional increases in the numbers of qualified judges, prosecutors, defence lawyers and court staff in the regions across the country. In this regard, the lack of a sufficient number of qualified defence lawyers jeopardises access to justice and courts' compliance with fair trial standards, particularly the accused's right to effective legal representation and equality of arms.

Judges, prosecutors and court staff have regular mid-career specialised training courses. Considering the establishment of new specialised jurisdictions, the development of judges' skills through specialised professional training activities, particularly newly appointed judges, assists in enhancing their credibility, integrity and professionalism.

However, the opportunities for defence lawyers to develop their skills and professionalism remain rather limited. The recent establishment of a new training institution,¹¹⁴ which is in charge of facilitating training activities for defence lawyers, *inter alia*, will hopefully enhance the capacity of defence lawyers as well.

Regarding fair trial standards, courts show insufficient compliance with the right of the accused to a trial by an independent and impartial tribunal, especially in politically sensitive cases, where judges are more exposed to external influence. The enforcement of court judgements could not yet be considered consistent.

In connection with judicial independence, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) developed recommendations to strengthen judicial independence for the South Caucasus region, among other regions, which focus on judicial administration, selection processes and

¹¹¹ N.B. The views expressed by the author do not necessarily reflect the opinion of the OSCE Office in Baku.

¹¹² See Copenhagen Document 1990.

¹¹³ See the State Program on the Development of Justice in the Republic of Azerbaijan, 2009-2013, as adopted by Presidential Decree dated 6 February 2009.

¹¹⁴ Justice Academy

accountability.¹¹⁵ Some of these recommendations are particularly relevant for the current situation of the judiciary in Azerbaijan, for instance regarding the assignment of court cases,¹¹⁶ judges' accountability and disciplinary proceedings,¹¹⁷ and on the accusatory bias of justice systems where acquittals are comparable to failure.¹¹⁸

The *Judicial Legal Council* (JLC) is the national institution established to maintain judicial standards and is in charge of governing the work of judges, ensuring high quality judiciary performance. Thus, the JLC is primarily responsible for ensuring fairness and transparency in judges' selection and performance assessment processes, for taking the necessary measures to raise the skills and professionalism of judges and providing for effective, efficient and independent disciplinary proceedings that guarantee accountability.¹¹⁹

In this context, Azerbaijan's justice system would benefit overall if Azerbaijan's Bar Association became more proactive in promoting a consistent increase in the number and quality of defence lawyers. This could be achieved if the Bar Association were to improve the selection process for new members of the Bar and support regular specialised mid-career training and capacity building activities to enhance defence lawyers' skills and professionalism. In addition, given that accused persons' access to quality legal representation is largely inadequate in the case of State appointed lawyers, the Bar Association's development of a functional legal aid system, would also assist in increasing access to justice.

Regarding the rights of detained persons, conditions of detention generally ensure compliance with international standards. Otherwise, the authorities are already addressing shortcomings mostly related to poor infrastructure and lack of qualified personnel.

Other shortcomings, including suspects' immediate access to effective legal representation during interrogations, would be addressed by the authorities' implementation of new specialised legislation regulating the rights of suspects and the accused that Parliament anticipates adopting before the end of 2012.

Indeed, the Parliament continues to adopt new legislation¹²⁰ and amend current laws in line with international standards and good practice. However, the effective implementation of some legislation in compliance with the same international standards that inspired its adoption remains problematic.

The national action plan to raise the effectiveness in the protection of human rights and freedoms, adopted at the end of 2011, includes new steps toward enhancing accountability, transparency and the rule of law, and identifies priority areas in the field of the protection of human rights and fundamental freedoms.¹²¹ Once implemented effectively, the plan would improve the protection of human rights and freedoms as well as the legal framework in Azerbaijan, assisting ultimately in building confidence and capacity in State institutions.

Finally, the rule of law is most functional when based on mutual respect and understanding. An increase in the constructive rapprochement between the authorities, other national actors and civil society members involved in promoting justice, as well as the exercise of fundamental rights and freedoms in practice, would facilitate increased access to justice across Azerbaijan.

¹¹⁵ See Kyiv Recommendations on Judicial Independence in Eastern Europe, South Caucasus and Central Asia (June 2010).

¹¹⁶ Advising on the allocation of court cases either at random or based on predetermined, clear and objective criteria determined by a board of judges of the court.

¹¹⁷ Referring to the necessity to have a special independent body to adjudicate cases of judicial discipline.

¹¹⁸ Recommending changing the system of judges' professional evaluation in order to diminish pressure on the judges to avoid acquittals.

¹¹⁹ See "Bangalore Principles of Judicial Conduct" (2002), according to which, judges are bound by the highest standards of conduct, including judicial independence, which is a pre-requisite to the rule of law and a fundamental guarantee of a fair trial.

¹²⁰ See Law on Freedom of Assembly (26 June 2008) and Law on the Prevention of Domestic Violence (22 June 2010).

¹²¹ See "The National Program for Action to Raise Effectiveness of the Protection of Human Rights and Freedoms in the Republic of Azerbaijan," as adopted by Presidential Decree dated 27 December 2011.

Lawyers and advocates in Azerbaijan

Michelle Brady

Introduction

In Azerbaijan, the state of the legal profession continues towards modernization and reform while grappling with vestiges of the Soviet-era system. Although there have been recent attempts to make small reforms in legal education, there continue to be issues with competencies of lawyers and advocates generally, standardized bar preparatory materials, continuing legal education, and fairness in administration of the Bar exam. Pressures on advocates who represent human rights defenders and others deemed opposition by the State continue to limit the independence and effectiveness of the Bar.

In Azerbaijan, in order to become a lawyer, one must first complete a four year bachelor's degree in law. At this point, if the law graduate goes to work in the legal profession this is enough to be deemed a 'lawyer.' Under the law, lawyers are allowed to give legal advice and to provide consultations to clients under a system of 'legal representatives'¹²². A legal representative is broadly defined and can include someone with a bachelor's degree in law but can also include in practice a non-law trained family member, for instance.

In order to practice criminal law and to appear before the Supreme Court and Constitutional Court (the country's two highest courts) in a civil matter, a person must be admitted to the Bar Association of Azerbaijan (also known as the Collegium of Advocates)¹²³. Under the law, in order to become an advocate, a person must be a citizen of Azerbaijan and possess a University degree in law combined with three years legal experience or work in the area of law with scientific and educational establishments, and must successfully pass the Bar exam¹²⁴. The bar exam includes a written and oral portion. A score of 60 (out of 100) is required to pass the written exam, and a majority vote of 2/3 of the 11 sitting jury panel members is required for a candidate to pass the oral interview stage.

Legal education and preparation for work as a lawyer/advocate

In Azerbaijan, there are currently only five universities that offer a bachelor's degree in law. They are Baku State University (BSU) (the largest law faculty in the country)¹²⁵, the Aviation Academy, the Police Academy, the Public Administration Academy under the President of Azerbaijan and Nakchivan State University. There are currently no private universities with law faculties. After completing a bachelor's of law, students may go on to study toward an LLM (or Master's of Law) degree, but this is not mandatory. Baku State University, for instance, currently offers a number of LLM degree programs including Commercial Law and European Law. While studying for the bachelor's of law, students are still taught largely in lecture style with little opportunity for interactive, practical experience to develop lawyering skills. Courses in legal research, writing, and analysis exist but are often below international standards. Practical activities such as mock trial, moot court, law journals, and legal clinics are still largely undeveloped although there has been some recent progress in this area¹²⁶. However, there is some progress in other areas. BSU, for instance, this year began its first English-language track for bachelor's students to be taught in English, and all of their LLM programs are taught in English often by professors who have studied in Europe or the United States. The current administration appears committed to improving the level of education within the law faculty.

Upon graduation from the law faculty, there are no further examinations or licensing requirements to prevent a lawyer from engaging in transactional legal work or providing consultations in civil or criminal

¹²² See, for instance, Azerbaijan Civil Procedure Code Articles 69-75.

¹²³ Law of the Azerbaijan Republic on Advocate and Advocate Activities Article 4 Section II.

¹²⁴ Id. at Article 8, Sections I and II.

¹²⁵ According to the law faculty website at the Baku State University, there are currently 1295 bachelor's students studying in the law faculty. http://law.bsu.edu.az/en/content/law_faculty_428 (last visited on February 20, 2012).

¹²⁶ On the issue of legal clinics in particular, it should be noted that in the mid-2000s there were a number of legal clinics developed at the law faculties in the private universities in Azerbaijan. However, due to an order issued by the President in late 2007, the law faculties at the private universities were ordered closed and therefore the clinics closed as well. However, Baku State University, for instance, continues to use concepts of clinical legal education at the Masters Degree level and just this year re-instituted a legal clinic for bachelor's students that had been dormant for a number of years.

cases. A lawyer may go to work for a government body or in the commercial sector for a domestic or international firm. Under the system of legal representation provided for in the Civil Procedure Code, a lawyer can represent at the first instance level in civil cases and in administrative procedures under certain circumstances¹²⁷. However, a lawyer may not represent in any criminal case and may not represent in an upper-level appeal of a civil case to the Supreme or Constitutional Courts of Azerbaijan.

Unfortunately, there are currently no standardized courses or materials offered by the Collegium of Advocates for those wishing to sit for the Bar exam. It is often difficult to gain access to prior exams and candidates must speak with prior test takers for information on what was previously tested. Passage of the exam is made more difficult by the fact that it is not regularly held every year and is often only announced mere weeks before it is administered. Prior to 2011, the last admission exam was offered in 2009.

If a lawyer decides to become an advocate, s/he must first gain three years of legal experience¹²⁸ or have worked in the field of law at an educational/scientific institution. Then, s/he must apply to sit for the advocate's exam and be successful in passing both the written (multiple choice) and oral (short interview) stages. In the most recent round of exams held from June – December 2011, 605 initially applied for the exam, of which 67 were women. Of these, 531 sat for the exam (74 did not show up) and 177 passed the written stage with a score of 60 or higher. As a result of the oral interviews, 130 were invited to attend the inaugural month-long training course for new advocates¹²⁹. The current number of advocates in Azerbaijan now stands at approximately 863 for a population of almost 9.2 million¹³⁰.

The purpose of the oral interview stage is not well defined and its content can vary from person to person. During a recent round of monitoring conducted during October - December 2011, it was noted that there were no set time limits or questions posed consistently to candidates¹³¹. In addition, it was often unclear what the 'right' answer should have been. Candidates were routinely derided for being unprepared and lacking knowledge of the law.

Current state of professional competency

The criminal justice system in Azerbaijan is still undergoing transition from vestiges of the Soviet inquisitorial system to the adversarial system established by the current Criminal Procedure Code which was adopted in 2000. Since this new Code was enacted, there has been little progress in institutionalizing a system of continuing legal education for practicing lawyers and advocates to teach them about the new philosophy and procedures in the Criminal Procedure Code. As a result, the professional competency of advocates remains relatively low¹³². In particular, there remains a need for instruction in all aspects of the Criminal Law and Criminal Procedure Codes as well as practical instruction on legal writing and trial advocacy skills. This lack of competency extends to the larger profession of lawyers due to the rate at which new legislation is passed that affects all areas of the law.

However, in 2006 the President signed a decree on 'Development of Justice Bodies' that led to the opening of the Justice Academy in 2009 at its current site with the mandate to conduct training for all members of the justice sector including new and current members of the Collegium, judges, prosecutors, court staff, and others. Although the Justice Academy remains understaffed and underfunded, it has shown willingness to cooperate with international donors to provide training for various members of the

¹²⁷ See *supra* Note 1.

¹²⁸ Note: the Law on Advocates and Advocate Activities does not currently specifically define what qualifies as 'legal experience.'

¹²⁹ ABA ROLI staff received these statistics directly from the Collegium as a result of a phone call.

¹³⁰ According to a 2010 Council of Europe report entitled 'European Judicial Systems: Efficiency and Quality of Justice,' Azerbaijan had 780 advocates as of 2008. However, ABA ROLI called the Collegium to verify numbers in mid-February 2012 and was informed that the number had decreased to 738 due to retirement, death, etc. and that with the additional advocates from the new class there are currently approximately 863 advocates in Azerbaijan.

¹³¹ ABA ROLI was able to monitor approximately 78 oral interviews conducted during fall 2011.

¹³² This poor quality of advice provided to a criminal accused by advocates is also noted in the most recent 2010 Trial Monitoring Report issued by the Organization for Security and Cooperation in Europe (OSCE) at page 13.

judiciary, and just recently completed hosting, in January-February 2012, the first mandatory 30-day training session for newly admitted members of the Bar.

Ethics and professional conduct

The Law on Advocates and Advocate Activities does include a section related to ethics¹³³, but there does not exist in Azerbaijan a general professional responsibility code governing the activities and ethics of lawyers. Even then, the current law is extremely short and implores the advocate to refrain from such things as interrupting the judge or other persons during court hearings, to avoid using advocate confidentiality in the interests of self or others, and to avoid any actions incompatible with defense. It mentions an advocate Conduct Code, but this Code is considered confidential and is not publicly disseminated¹³⁴. Certain provisions of this Law as well as the Criminal Procedure Code¹³⁵ also outline the rights and responsibilities of advocates, especially as relates to matters of attorney-client confidentiality, but there is no separate comprehensive Ethics Code. Furthermore, this Law clearly applies only to advocates and not to lawyers practicing in other spheres.

Effective pro bono legal assistance

Under the Constitution of Azerbaijan, every citizen is entitled to the assistance of a lawyer and if the accused cannot afford an attorney then one should be appointed by the State¹³⁶. However, problems with ineffective State-appointed defense counsel persist¹³⁷. In part, this may be due to lack of training, systemic problems in when the attorney is appointed (often right before the court hearing), and the related lack of time to adequately prepare the case. It is further exacerbated by the fact that state-appointed counsel are only paid 2 manat (or approximately US\$1.60) per hour to represent a defendant in such a case¹³⁸.

Prosecutors

There are similarities and important differences between prosecutors and advocates in Azerbaijan. In order to become a prosecutor, one must complete a bachelor's degree in law and be less than 30 years old. Unlike the requirements to become an advocate, one does not have to have any legal work experience. Similar to the advocate examination process, an applicant to the prosecutor's office must complete three phases: written examination, oral examination and mandatory month-long training course¹³⁹. As compared to State-appointed advocates in criminal cases, prosecutors receive compensation of approximately four hundred manat during their first year, and then pay increases depending on experience, title and rank. There are also a larger number of prosecutors in Azerbaijan. According to one recent study, there are approximately 13.4 prosecutors per 100,000 inhabitants, or a total of 1160¹⁴⁰. In contrast, there are only approximately 9 advocates per 100,000 inhabitants¹⁴¹.

Pressures on advocates

Some advocates in Azerbaijan continue to face pressures, both subtle and overt. Analysis of the extent of the problem is made more difficult by unspoken but presumed political considerations and media reports thereon. Often the reason for the pressure appears to be tied to the advocate's representation of clients

¹³³ Article 18 states: "In implementation of professional activities the advocate shall in the order established under this Law implement its duties without fault, not to use advocate confidentiality in personal interests or interests of other persons, to avoid any actions incompatible with defense, calls for performance of illegal actions, rough, insulting actions and words, affecting the personal dignity, to avoid the interruption of the judge during court hearing, not to interrupt persons having speech during the hearing, to avoid the breakage of the order of hearing and comply with other maxims of advocate ethics, established under the Instruction of advocate Conduct Code, adopted by the general meeting of the bar."

¹³⁴ In fact, the Law on Advocacy and Advocates Activities mentions the importance of keeping confidential the activities of the Collegium as well. See, for instance, Article 16, which includes under advocate responsibilities "maintain the Bar confidentiality."

¹³⁵ See, for instance, Article 92 of the Criminal Procedure Code of Azerbaijan.

¹³⁶ Constitution of Republic of Azerbaijan, Article 61. See also Azerbaijan Criminal Procedure Code Article 19 and related Article 91.

¹³⁷ OSCE 2009 Trial Monitoring Report for Azerbaijan at pages 40-41, and OSCE 2010 Trial Monitoring Report for Azerbaijan at page 33.

¹³⁸ 2001 Cabinet of Ministers Decree (Azeri language version on file with author).

¹³⁹ The mandatory month-long training course was implemented for advocates for the first time in January-February 2012.

¹⁴⁰ 2010 Council of Europe report entitled 'European Judicial Systems: Efficiency and Quality of Justice' at page 181 (using 2008 data).

¹⁴¹ Id. at pp. 237-38.

deemed opposition or who advocate for human rights. For instance, during August 2011 Elchin Namazov represented four activists charged with crimes stemming from the April 2011 protests in Baku¹⁴². During the trial, the judge expelled the advocate from the courtroom and contacted the Collegium of Advocates to recommend that he be expelled from the Bar¹⁴³. Furthermore, a criminal case was opened charging him with disrespect to court¹⁴⁴. He appealed the Collegium's decision to disbar him, and while that is pending he is suspended from practicing as an advocate. The criminal case is still open and being heard by the same judge who alleged the criminal violation in the first place¹⁴⁵.

Another high profile case involves the advocate Khalid Bagirov¹⁴⁶. On August 24, 2011 the Collegium of Advocates suspended his license to practice as an advocate for one year and the decision was upheld on appeal in November 2011¹⁴⁷. The allegations against Mr Bagirov stem from an alleged incident in January 2011 when Elvin Askerov died as a result of an altercation with police. Mr Bagirov represented the deceased's mother in her administrative case and related push to have criminal charges filed against the police whom she claimed were responsible. She made numerous statements to the media claiming that the police killed her son, and Mr Bagirov when questioned by the media repeated these claims. The head of Baku City Police charged Mr Bagirov criminally with slander and insult (articles 147 and 148 of the Criminal Code)¹⁴⁸. The criminal case was dismissed, but months later the Collegium of Advocates acted upon the factual allegations to suspend Mr Bagirov's license to practice as an advocate¹⁴⁹.

Recommendations

In order for the legal system in Azerbaijan to modernize and be able to cope with the rapid pace of development in the country, its actors must develop their skills and become more informed of the governing laws and procedures. This is especially true for lawyers and advocates who often serve to protect the rights of private individuals in civil and criminal cases. In order to improve the competency of lawyers and advocates in Azerbaijan, there needs to be a concerted effort to improve legal education and follow through with direct links to preparatory courses for the Bar examination and employment as a practicing lawyer. For those already practicing law, institutionalized continuing legal education would aid in keeping lawyers and advocates apprised of the most recent changes to the law so that they could more effectively represent their clients. A formal code of professional responsibility would also help to ensure that all members of the profession are abiding by the highest standards of conduct. Amidst this backdrop, advocates and lawyers must also be allowed to independently practice law without threat or fear of recrimination for representing certain clients. In order for this progress to happen, all relevant actors would need to communicate and coordinate activity. Although this may be a difficult task over a number of years, it is a worthwhile one.

¹⁴² Mr. Namazov was representing Ulvi Guliyev (not affiliated with any party); Ahad Mamedli (Chairman of the youth organization of Musavat, an opposition party); Elnur Medzhidli (a member of the youth organization of Popular Front, an opposition party); and Rufat Hajibeyli. During the course of 2011 (in separate proceedings), he also represented Zulfuqar Mikayilzade, charged with a coup attempt; youth activists Bakhtiyar Hajiyev, Azar Jabiyev and Fakhri Ilyasov, arrested for open calls against the government; and other activists arrested during the March and April 2011 protests. The March and April protests in Baku were largely organized online and sought to express dissatisfaction with the government in the wake of the Arab Spring.

¹⁴³ On September 19 2011, Radio Free Europe/Radio Liberty reported that Mr Namazov had been disbarred for ethics violations stemming from his defense of four opposition activists.

¹⁴⁴ The trial judge referred the case to the prosecutor and he was specifically charged with violation of Criminal Code Article 289.

¹⁴⁵ Allegedly, Mr Namazov spoke rudely to Judge Shahin Abdullayev, the Judge of Nasimi District Court, during the trial of the four activists. This alleged action is the basis for the criminal charge. Mr Namazov denies the allegations.

¹⁴⁶ Mr Bagirov also represented opposition activists involved in the spring 2011 demonstrations in Baku (in separate proceedings) and has previously represented other members of political opposition groups, including Vidadi Iskenderov, a former parliamentary candidate who sought to expose alleged fraud during the last election

¹⁴⁷ Reported by Turan News Agency.

¹⁴⁸ Details of Mr. Bagirov's case were reported by Turan News Agency (and other news outlets) throughout 2011.

¹⁴⁹ Article 22 of the Law on Advocates and Advocate Activities details the disciplinary liability of advocates. At a minimum, the suspension means that he cannot represent clients in any criminal matters nor can he file appeals to the Supreme and Constitution Courts of Azerbaijan.

Freedom of Media in Azerbaijan

Rashid Hajili

Journalist Khadija Ismayilova received a threatening letter on March 7, 2012. Khadija, well-known for her critical articles and investigative reports revealing high-level government corruption, was ordered in the letter to stop this activity. She was threatened that if she did not, videos and photos of her personal life would be made public. After she declared that she would not step back, videos filmed by secret camera, purportedly showing her engaged in sexual activity were posted on a site especially opened for this video. Simultaneously, newspapers under the Azerbaijani government's control published articles full of abusive coverage about the journalist. One of these papers was Yeni Azerbaijan (New Azerbaijan) belonging to the ruling Yeni Azerbaijan Party (YAP) and the others were politically aligned with the ruling political group. She declared that the campaign targeting her was due to her journalistic investigations on the Azerbaijani President's daughters' business activities. The journalist and her lawyer have declared that secret cameras were installed in Ismayilova's apartment by secret service bodies.

Ismayilova is not the only journalist whose private life has been filmed by secret cameras and publicised. Over the past two years Lider TV, which is broadcast throughout the country, has aired secretly filmed videos of a private nature of Azer Ahmadov, editor of Azadliq newspaper, critical of the government, and also Tural Jafarov and Natiq Aliyev, journalists of that paper. All televisions in Azerbaijan are under the authorities' control. Lider TV has a special place in this list as its owner is the Azerbaijani President's cousin.

These are just a few of the numerous cases aimed at restricting freedom of expression in Azerbaijan. The road leading to the suppression of the media started several years ago.

When Russian Communist troops occupied and overthrew the Democratic Republic of Azerbaijan in April 1920 freedom of expression and democratic opportunities in the country were replaced by total censorship and the complete repression of alternative thinking. The 'ice age' in freedom of expression began to melt in the second half of the 1980s, via political warming.

Opportunities for political freedoms appeared at the end of Soviet Communist period, that yielded to the publishing of dozens of independent papers by the early 90s. Despite the fact that the early years of the country's independence were accompanied by the Armenian-Azerbaijani war and an economic crisis as hundreds thousands of Azerbaijanis became refugees; and although the people became poorer the number and circulations of the independent newspapers were much more than today's figures. The Azadliq newspaper, one of the first independent papers of the 90s, was published with a daily circulation of hundreds of thousands. When anti-communist forces and representatives of the independence movement came to power in 1992, the Law on Means of Mass Media was one of the first laws to be adopted. The first non-government, private television channel, ANS, was established during that period. As the government was controlling the frequency resources, television and radio broadcasting did not experience the same rise as the print media.

Beginning in the second half of the 90s, the rising trend of independence in the print media began to cease and its progress went into reverse. Even though direct censorship of the media was repealed in 1998, a new law on the Means of Mass Media was adopted in 1999, the demand for newspapers to hold a license was repealed in 2001 and their means of registration was simplified, the tide of restriction continued to rise. By restricting economic freedoms and intimidating businesses into political loyalty, the government blocked access to advertising revenue for independent newspapers. Thus from the end of the 90s, if major companies (even international firms) placed even small advertisements in critical newspapers which were on the government's blacklist, it was interpreted as violation of their political loyalty.

Simultaneously, the media faced several problems. More critical journalists were jailed, beaten, kidnapped and threatened, and more media outlets were sued. Azerbaijan's acceptance to the Council of

Europe, ratification of the European Human Rights Convention, and inclusion into the European Court of Human Rights jurisdiction could not prevent the situation from deteriorating. As the flow of oil money expanded the government's political and material opportunities, so it increased its ability to attack human rights standards, democratic values and freedom of expression. The attacks on independent media became more severe at the same time as the repression of political and economic freedoms and the deepening of corruption significantly increased in scale.

After 2003 the government began openly to demonstrate its intolerance to criticism, and the subsequent period can be evaluated as harsh for critical media. Dozens of journalists who observed protest rallies after the 2003 presidential elections were beaten by police.

On March 2, 2005 the founder and chief editor of Monitor magazine, Elmar Huseynov, who had sharply criticised the government, was assassinated. The perpetrators of the killing have not yet been punished.

In 2006, a new wave on attacks on critical journalists started. At the end of the year, a campaign of pressure started against Eynulla Fatullayev, one of the writers of Monitor magazine, founder and chief editor of Realny Azerbaijan (Real Azerbaijan) and Gundelik Azərbaycan (Daily Azerbaijan), newspapers which were popular at the time. Fatullayev was arrested in April, 2007, the newspaper's equipment and computers were confiscated, and its office was shut down. Thus two very popular newspapers with a major journalistic staff were forced to cease activity. Fatullayev was sentenced to 8.5 years. The Azerbaijani government declined all international and local calls to immediately release him, delayed for one year the implementation of the European Court's ruling for his immediate release.

The number of journalists arrested in 2007 exceeded 10. Rovshan Kebirli, editor-in-chief of the Mukhalifat newspaper, Yashar Agazadeh, a writer of that newspaper, Qanimat Zahid, editor-in-chief the of newspaper Azadliq, Mirza Sakit, a writer for the paper, and Mushfiq Huseynov, a writer for the newspaper Bizim yol received long sentence terms.

As freedom of expression appeared on the internet, attacks changed their focus. In 2009, two young activists and bloggers – Emin Abdullayev and Adnan Hajizade - were arrested for a video posted on the AN TV site; the case was later named the 'Donkey case' in the international media. At first, the bloggers were beaten in a restaurant by specially-trained men. When the bloggers appealed to police, they were charged with hooliganism and jailed.

Harvard graduate Bakhtiyar Hajiyev, famous for blogs on socio-political topics and addressing young people on social networks, was also imprisoned for evading military service. His arrest was also evaluated as political both in Azerbaijan and abroad.

Currently, six journalists are in prison in Azerbaijan on different charges. Avaz Zeynalli, founder and chief-editor of Khural newspaper which broadly criticised the government, was detained on charges of demanding a bribe. A member of ruling YAP Political Council, who has also long been a member of parliament filed a lawsuit against him. Zeynally has also had to pay major amounts of money to Ramiz Mehdiyev, head of the Presidential Administration and other high-ranking officials on claims of defamation.

The chief editor of a religious internet site with broad audience and a journalist of Iran's Sahar television have been detained on charges of keeping drugs. The executive editor and editor-in-chief of the Khayal television broadcast in Quba are accused of organising a March 1, 2012 protest in Quba by distributing the video of a speech by Quba's local governor who used abusive expressions against local people.

A terrible incident which had a shattering effect on freedom of expression in the country took place last November. Writer Rafiq Tagi, known for his critical articles on social, political and religious topics, was killed. An unknown man stabbed Tagi when he was coming home in the evening; the writer survived, but died four days later in unknown circumstances in hospital. As with the case of Elmar Huseynov his killer

has so far not been found or punished. Back in 2007 Rafiq Tagi was threatened by sources from the Islamic Republic of Iran after he published an article 'Europe and we' in which he compared European and Islamic civilisations and used certain expressions about Prophet Muhammad. The Azerbaijan government accused him of creating religious confrontation and sentenced him to three years' imprisonment.

The above-mentioned facts primarily show the pressure directed at print media and journalists. The reason is that the print media and internet have more opportunities to criticise the government than the broadcast media. The authorities have managed to keep absolute control of broadcast media. Even minor efforts towards independence in this sphere have been resolutely eliminated. In the second half of 1990s, two television stations, BMTI and Sara TV (and Sara Radio), were shut down. By accumulating economic activity in their hands, the authorities have taken absolute political control of the advertising market and deprived media outlets it dislikes of revenues. To counter and punish initiatives of independence, the government has constantly used administrative and other levers. Along with this, the authorities have appointed close and loyal men to all broadcast outlets. It is the Presidential Administration which is exercising political and administrative control over television and radio. ANS TV and radio was established in 1992 and survives to date. This broadcaster is owned by people who have no direct links to the ruling political group. When the broadcaster gave space for political pluralism during political struggles in 2005, it was consequently shut down on groundless pretexts in 2006 and deprived of broadcasting for a long time. After it resumed broadcasting through significant efforts, the channel applied heavy self-censorship which brought the quality of its programs to the level of other broadcasters.

The authorities regarded as intolerable even the objective and balanced reports of the BBC, Radio Free Europe/Radio Liberty and Voice of America and took back their licenses and frequencies at the end of 2008.

Currently, there are seven television networks that broadcast in Baku. The biggest of them, AzTV, is the government's property. Its chairman is appointed directly by the President of Azerbaijan. AzTV has three television channels (AzTV, Idman-Azerbaijan (Sports-Azerbaijan) and Medeniyyet (Culture)). All three of them are funded through the state budget. The Ictimai (Public) television and radio broadcast service established in 2005 is also funded by the state budget. Programmes of the remaining television and radio channels, despite being private, are engaged in political propaganda for the government and the President as are AzTV and Ictimai (Public) TV. There are 11 local televisions outside Baku. All of them are under the control of central government bodies as well as heads of executive offices appointed by President of Azerbaijan.

The same situation exists in radio broadcasting. All seven central television companies also have radio broadcasting. In addition, there are three radio stations which broadcast only in Baku and two radio stations which broadcast in Nakhchivan. There is no radio channel in other districts of the country.

The National Television and Radio Council (NTRC) – the regulatory board of broadcasting - is one of main tools for the government's political control. All nine members of this council are appointed by President of Azerbaijan, without any special election procedure and by non-transparent means. Almost all members of the Council are close to high-ranking officials of the Presidential Administration. During 10 years of its existence, NTRC has not held even one transparent tender. The NTRC is used for keeping television and radio broadcasting under the government's absolute political control, not allowing even minor opportunities for independence. Consequently, there is no municipal broadcasting, or inter-university broadcasting in the country at the moment. NTRC is currently making constant calls to exercise control over audio and video news broadcasting via the internet. The purpose of the calls is to take into control news-distribution efforts of the few Internet sites retaining the opportunity for freedom of expression.

Despite biased content and the low quality of local television and radio broadcasting, television and radio remains one of the main news sources for the population. Newspapers criticising the government have

the highest independent circulation. Along with this, as newspaper distribution is in government's hands, obstacles are created for distribution of critical newspapers, a campaign of degradation is used against those papers; their circulation rarely surpasses 10,000. These newspapers are distributed outside Baku in very restricted numbers.

The quality of media materials is in decline due to depriving newspapers of advertising revenues, the persecution of journalists, restrictions in obtaining information, official bodies evading any contact with critical media and officials' not formally responding to critics in these papers.

Television news audiences have reduced as news programmes work under absolute political control, present the developments in the country only from the government's viewpoint, and either do not cover very important events or do so superficially. Turkish and Russian channels broadcast via satellite are the most watched. Even the news programmes of Iran's Sahar television, which is a mouthpiece of Iran's official ideology and conducts anti-Azerbaijan propaganda, have gained significant popularity in Azerbaijan. The reason is that Sahar offers an alternative to unilateral news of local television channels, airs political news and opinions blocked by Azerbaijani television and gives coverage to critics who have unofficial bans on local television.

Freedom of expression on the internet remains narrow as the infrastructure is weak and the internet is expensive in Azerbaijan. According to government statistics, more than half of the country population uses the internet to some extent. Approximately half of them have access to broadband internet. The populations' internet literacy is low. Online content in Azerbaijani is limited. Most of newspapers have online versions but daily visits to mostly-read sites do not exceed 10,000, 20,000 in special cases. Even though local television stations have online broadcasting, their number of visitors is not high.

Regulation of online content coincides with that of the print media. From time to time, government officials make calls to strengthen control over the internet. These calls are mostly made with regard to video and audio content. There is also concern that these calls aim to take control of internet content which offers an extensive platform to news not covered by local television and radio, or broadcast in a biased form, different from official views.

After Azerbaijan became a member to the Council of Europe and accepted the European Court's jurisdiction, it gained a chance to take freedom of expression- related violations to the Court. There appeared hope to get fair rulings unlike those given by government- dependent local courts. Dozens of complaints on violation of freedom of expression, on which local courts did not issue fair rulings, were submitted to the European Court. Yet the Court has issued final rulings on just two of these complaints (the case of R.Mahmudov and Y.Agazade, the case of E.Fatullayev). Both cases were connected with jail terms given to journalists for defamation-related expressions. The Court ruled that freedom of expression was violated in both cases reiterating that imprisonment for using freedom of expression is a grave punishment with an intimidating effect. Such punishment can be justified only in exceptional cases.

OSCE and the Council of Europe have long called on the government to accept a law on defamation, or to decriminalise it. Even though local NGOs worked out draft laws together with international experts, the government has not hurried to adopt the law. The government is not concerned about the yearly appearance of dozens of freedom of expression- violation cases.

The government does not create any problems for the payment of compensation indicated in Court rulings on violations. But the government does not hurry to take any common-sense steps coming from these rulings. The European Convention on Human Rights, as well as the Council of Europe Ministerial Committee controlling implementation of Court rulings, demand steps to reform existing laws and experience to prevent new violations taking place.

The authorities are apparently unwilling to implement reforms, successfully continuing to deviate by all possible means from implementing these demands. At least for now.

Information and Communication Technology in Azerbaijan

Dr. Katy E. Pearce

The country of Azerbaijan has significantly less information and communication technology use than its neighbours Armenia and Georgia. While Azerbaijan is wealthier -- both nationally and in terms of average household income -- than its neighbors,¹⁵⁰ there are many socio-demographic, regulatory and political reasons that Azerbaijanis are lagging behind the rest of the South Caucasus.

Socio-demographic technology landscape

The South Caucasus have seen a tremendous increase in information and communication technology ownership in the past few years (Figures below all from the Caucasus Research Resource Centers' Caucasus Barometer – 2004 data is urban only). Yet in personal computer ownership and Internet, Azerbaijani households have not grown at the speed with which neighboring households have.

Figure 1: Household PC ownership (%) (CB)

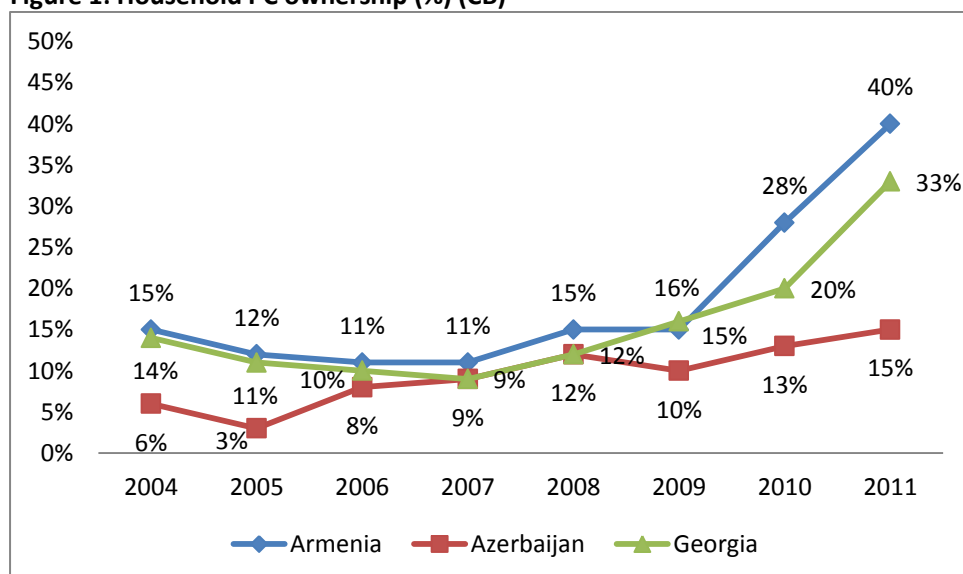
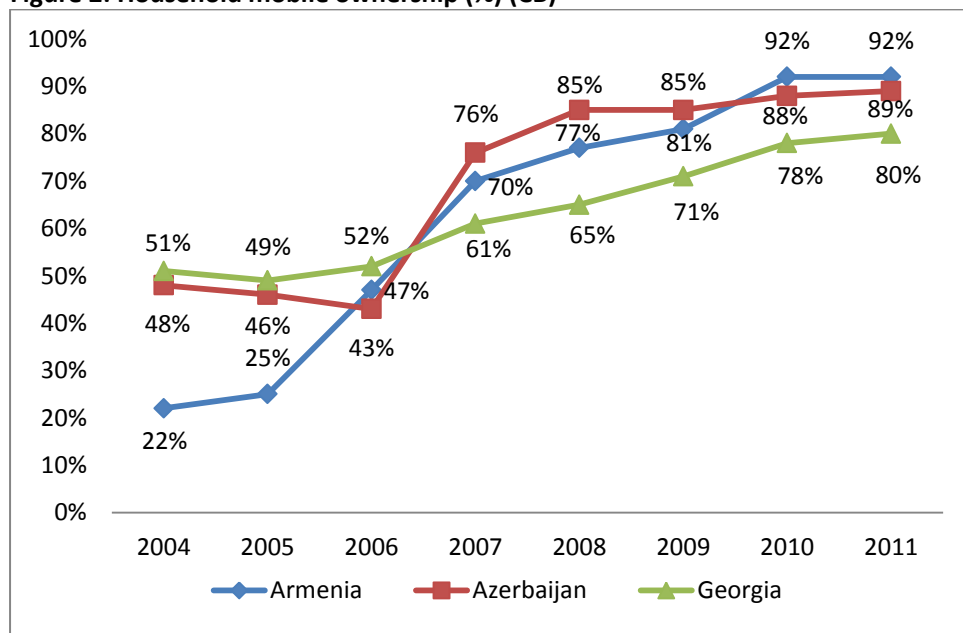
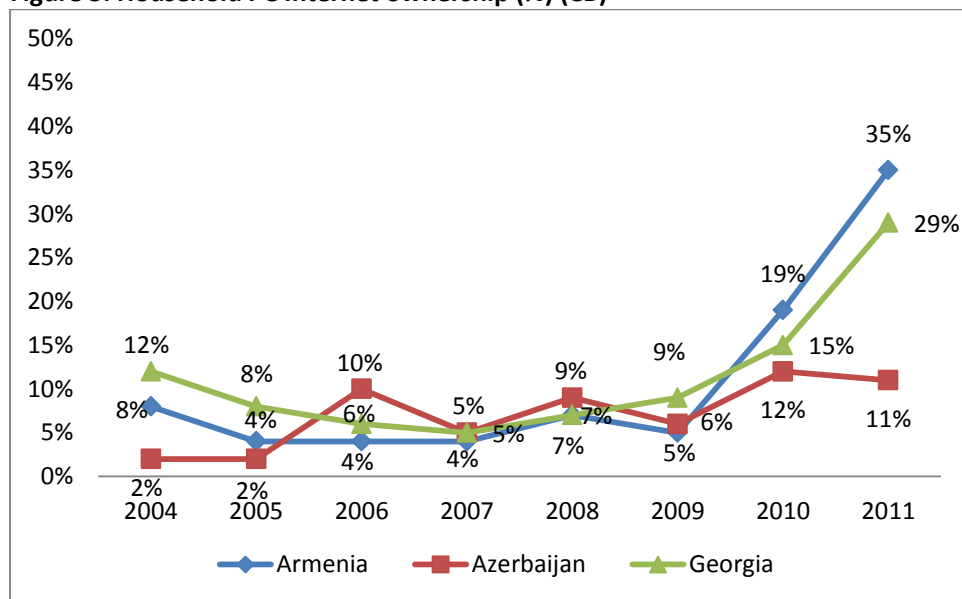


Figure 2: Household mobile ownership (%) (CB)



¹⁵⁰ Katy E. Pearce, 'Poverty in the South Caucasus', *Caucasus Analytical Digest*, 34 (2011) <<http://www.isn.ethz.ch/isn/Digital-Library/Publications/Detail/?ots591=0c54e3b3-1e9c-be1e-2c24-a6a8c7060233&lng=en&id=135319>>.

Figure 3: Household PC Internet ownership (%) (CB)



Socio-demographic factors create barriers to technology awareness and use in most contexts, and Azerbaijan is no exception.

Awareness

The 12% of Azerbaijanis who do not know what the internet is are poorer and older than those who do know what it is. They are also more likely to be women than men. Interestingly, however, there are no regional differences in awareness. Compared to Armenia and Georgia, age is a bigger barrier to internet awareness. Interestingly, in Armenia and Georgia, poverty is not a barrier to awareness.

Ever used

Nearly 80% of Azerbaijanis have *never* used the internet (as opposed to 63% of Armenians and Georgians). Those three-quarters are poorer and older than internet users. The socio-demographic barriers to adoption are not very different between the three South Caucasus states.

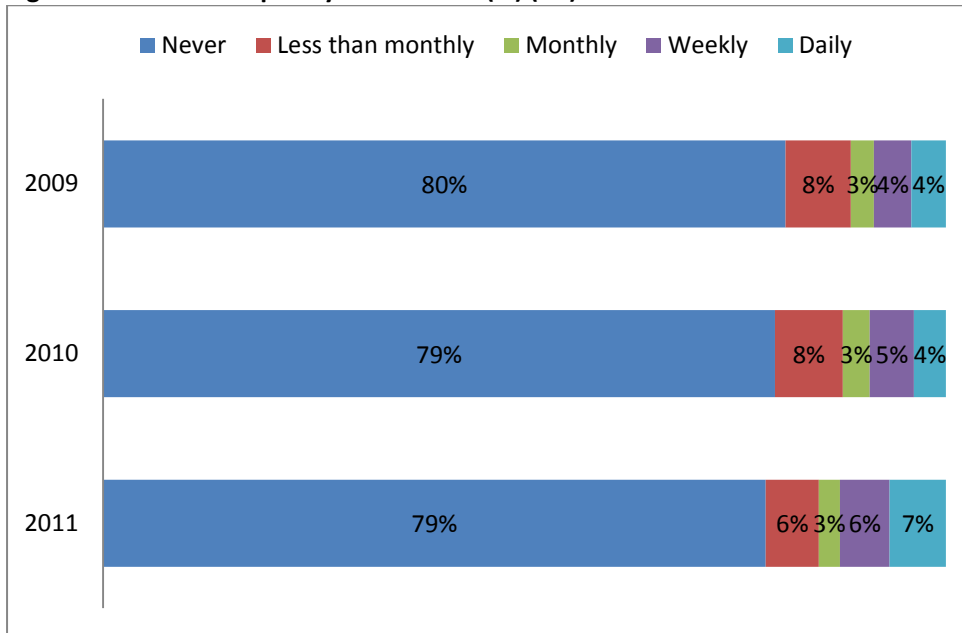
Frequently use

However, as is argued elsewhere,¹⁵¹ ever having used the internet is not the most appropriate way to approach internet use in the Caucasus. Frequent users, those that access the internet at least weekly, are those that are benefiting the most from internet access. There has been very little growth in internet use frequency in Azerbaijan in the last three years. And demographically, frequent users have remained the same.

There are substantial socio-demographic barriers to frequent internet use in Azerbaijan. Only a quarter of frequent internet users in Azerbaijan are women. Nearly all frequent internet users have had a university education and are wealthier. And half of Azerbaijan's frequent internet users are in Baku. Most telling is that these barriers are much stronger than in either Armenia or Georgia.

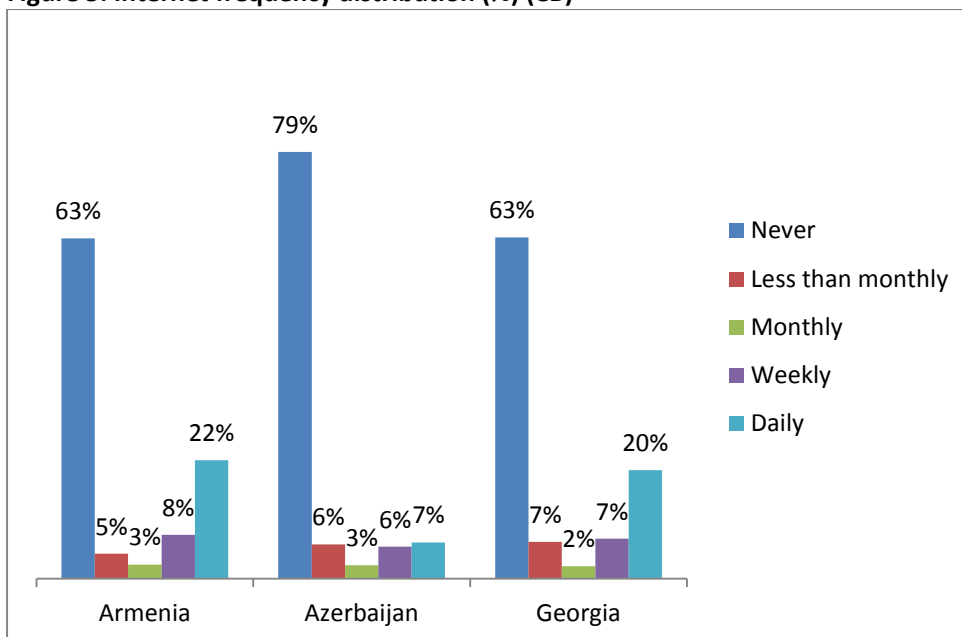
¹⁵¹ Katy E. Pearce, 'ICT Diffusion in the Republic of Armenia', in *Proceedings of the Fifth International Conference on Information and Communication Technologies and Development - ICTD '12* (New York, New York, USA: ACM Press, 2012), p. 326 <doi:10.1145/2160673.2160713>; Katy E. Pearce and Sarah Kendzior, 'Networked Authoritarianism and Social Media in Azerbaijan', *Journal of Communication*, 62 (2012) <doi:10.1111/j.1460-2466.2012.01633.x>.

Figure 4: Internet Frequency distribution (%) (CB)



Only 13% of Azerbaijanis are frequent users, while 30% of Armenians and 27% of Georgians are.

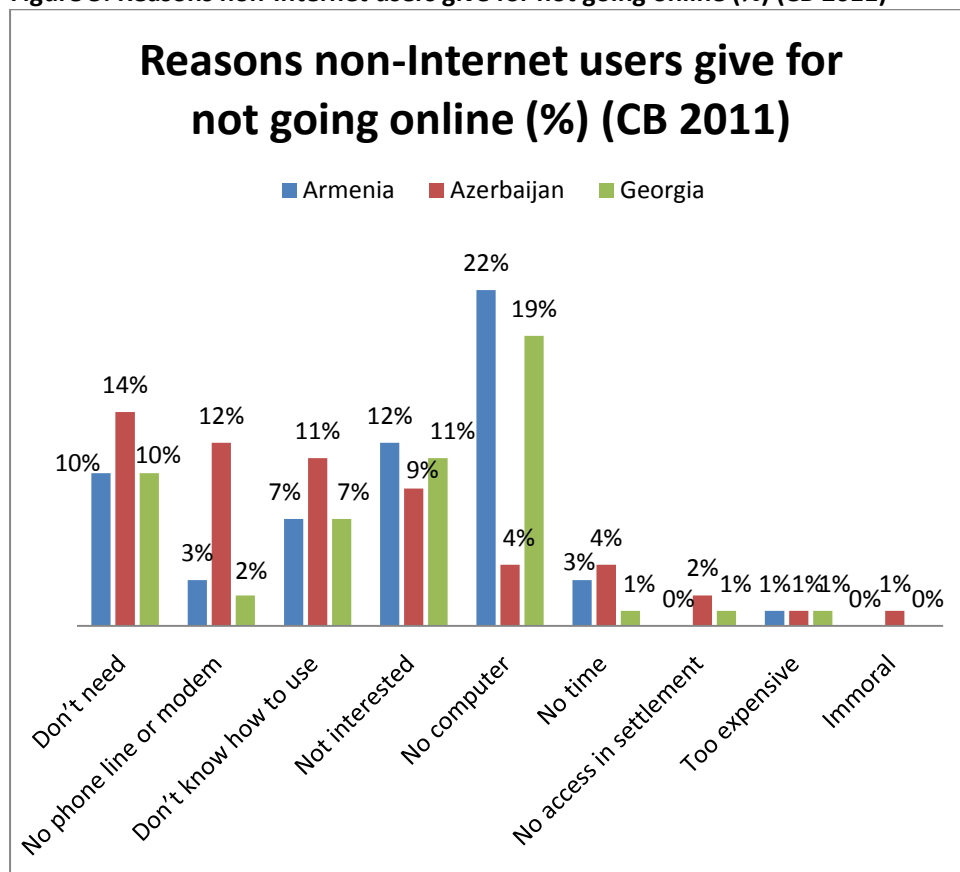
Figure 5: Internet frequency distribution (%) (CB)



Reasons for non-use

When asked why they do not use the Internet, Azerbaijani non-users were more inclined to say that they “do not need” the internet than Armenian or Georgian non-users. Azerbaijani non-users were also more likely to not have a phone line or modem to get online. This may reflect the prohibitively high cost of mobile internet – either through a mobile phone or through a USB stick - in Azerbaijan, as compared to Armenia and Georgia. Interestingly, not having a computer was a substantial barrier in Armenia and Georgia, but *not* in Azerbaijan.

Figure 5: Reasons non-Internet users give for not going online (%) (CB 2011)



Regulation

Azerbaijan has a unique approach to internet regulation that represents a ‘middle path’ between open access and censorship¹⁵². Because the internet is both unpredictable and a prime venue of unsanctioned content, threatens what the Azerbaijani government values most: power through consistency, consistency through power¹⁵³.

There are three generations of internet control that a government can use. The first generation is widespread filtering and direct censorship. Second generation controls manipulate regulations on acceptable content and change the “use of defamation, slander, and ‘veracity’ laws, to deter bloggers and independent media from posting material critical of the government or specific government officials, however benignly (including humor)”¹⁵⁴. The third generation competes with internet freedom “through effective counter information campaigns that overwhelm, discredit or demoralize opponents”¹⁵⁵.

While Azerbaijan does little first generation control (although it has sporadically filtered opposition news sources, especially before elections¹⁵⁶), it instead discourages technology use in three ways: media framing (third generation), monitoring (third generation) and arrests (second and third generation). Together these have created psychological or cognitive attitudinal change that impacts Azerbaijani technology use.

¹⁵² Pearce and Kendzior.

¹⁵³ Pearce and Kendzior.

¹⁵⁴ Ronald Deibert and Rafal Rohozinski, ‘Liberation Vs. Control: The Future of Cyberspace’, *Journal of Democracy*, 21 (2010), 43-57 <doi:10.1353/jod.2010.0010>. p. 25

¹⁵⁵ Deibert and Rohozinski, 43-57. p. 27

¹⁵⁶ Magdalena Frichova Grono, *Nations in Transit: Azerbaijan* (Washington, DC, 2011); OpenNet Initiative, *Azerbaijan, 2010* <<http://opennet.net/research/profiles/azerbaijan>>.

First, the Azerbaijani government uses media coverage to demonize technology through framing. Framing is when an aspect of a perceived reality is made more salient in a communication context to promote a particular problem, definition, interpretation or evaluation¹⁵⁷ with cognitive schema¹⁵⁸ for understanding¹⁵⁹.

The Azerbaijani government-controlled media often runs stories that social media use with mental illness and treason. For example, television shows describe “family tragedies” and “criminal incidents” after young people join Facebook and Twitter¹⁶⁰. Moreover, in March 2011, the Azerbaijani government’s Chief Psychiatrist said that social media users avoid real-life communication, have psychological problems and cannot maintain relationships. And this is “trickling up” to government. In May 2011, Parliament discussed the bad influence that social media has on Azerbaijan and began proposing laws to curtail it, which received substantial media coverage¹⁶¹.

Second, the Azerbaijani government monitors its citizens’ use of social media. Azerbaijanis believe that their government is watching “everyone” on social media. In addition, there is evidence for this: users have had their Facebook accounts as well as Yahoo! and Gmail e-mail accounts compromised¹⁶². This causes self-censorship amongst those that *do* use social media while discouraging those too fearful to engage.

Third, the government arrests online activists. In early September 2009, Adnan Hajizada and Emin Milli, two young Baku foreign-educated elites, employees of international organizations and youth activists, produced a YouTube video¹⁶³ parodying the government for spending hundreds of thousands of dollars to import donkeys from Germany. In the video, a group of solemn journalists interview a donkey (Hajizada in costume) and note that this donkey would be afforded more civil liberties than Azerbaijani citizens, “There will be someone to protect donkey rights,” the video concludes, “but what of human rights?” Two weeks later, Hajizada and Milli were having dinner with friends when they were attacked by two unknown men. They went to the police, assuming that the incident would be investigated. Instead, they were arrested for “hooliganism” and sentenced to 30 and 24 months imprisonment, respectively, on November 11, 2009. Appeals by human rights groups and foreign governments in late 2009 and through most of 2010 were denied. After intense international pressure, the two were released in November 2010.

Also, on the very day the “Arab Spring” began in late January 2011, state officials arrested former parliamentary candidate and online activist Baxtiyar Hajiyev, who remains in jail at the time of writing. Two other online youth activists, Jabbar Salavan and Deyanat Babayev, were arrested in February and March 2011, respectively. Salavan was released on 26 December 2011 and Babayev confirmed to the author in December 2011 that he was released although there was no press coverage¹⁶⁴. While the earlier cases had no mainstream media coverage, the 2011 cases have, which further demonizes social media to the Azerbaijani public.¹⁶⁵

Activities

The few Azerbaijanis that *do* use the internet frequently, albeit cautiously, are mostly searching for information. About half use email and Facebook (although that is only 7-8% of the total population).

¹⁵⁷ Robert M. Entman, ‘Framing: Toward Clarification of a Fractured Paradigm’, *Journal of Communication*, 43 (1993), 51-58 <doi:10.1111/j.1460-2466.1993.tb01304.x>.

¹⁵⁸ Cognitive Schema- the organization of knowledge about a particular concept. The schema contains the features or attributes that are associated with a category membership. (Sims & Lorenzi, 1992) see http://www.uri.edu/research/lrc/scholl/webnotes/Dispositions_Cognitive-Schema.htm

¹⁵⁹ Zhongdang Pan and Gerald Kosicki, ‘Framing Analysis: An Approach to News Discourse’, *Political Communication*, 10 (1993), 55-75 <doi:10.1080/10584609.1993.9962963>.

¹⁶⁰ Pearce and Kendzior.

¹⁶¹ Pearce and Kendzior.

¹⁶² Pearce and Kendzior.

¹⁶³ The “donkey rights” video may be found, with English subtitles, at <http://www.youtube.com/watch?v=Aaecvg7xClk>

¹⁶⁴ Pearce and Kendzior.

¹⁶⁵ Pearce and Kendzior.

Figure 6: Internet users' activities (%) (CB, 2011)

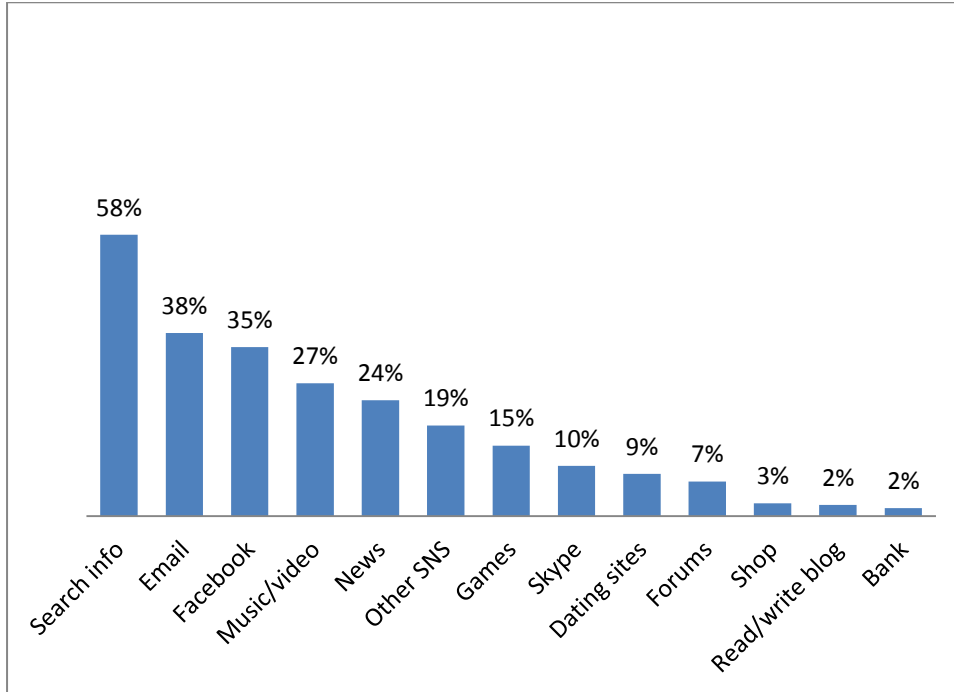
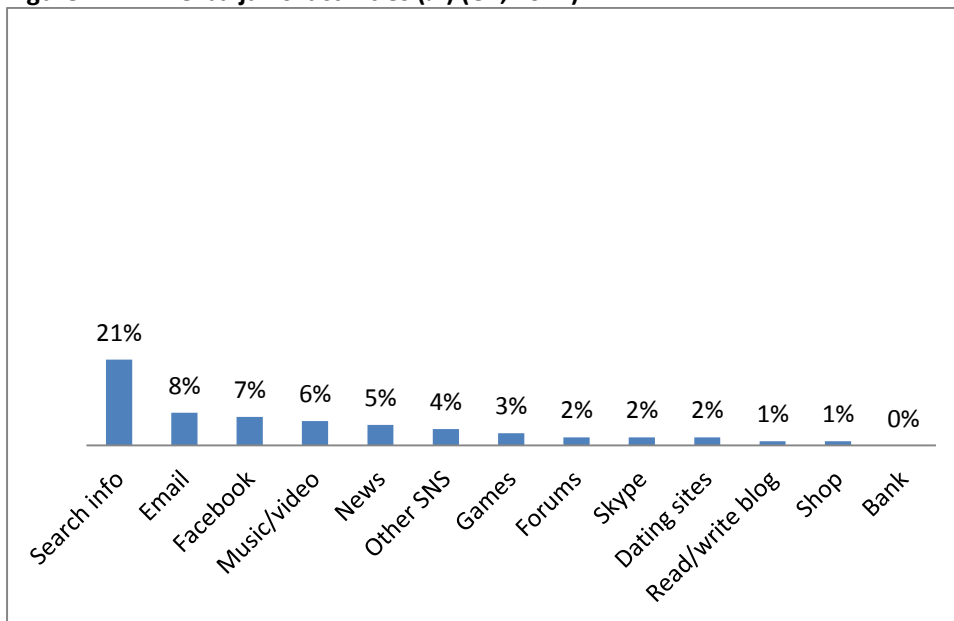


Figure 7: All Azerbaijanis' activities (%) (CB, 2011)



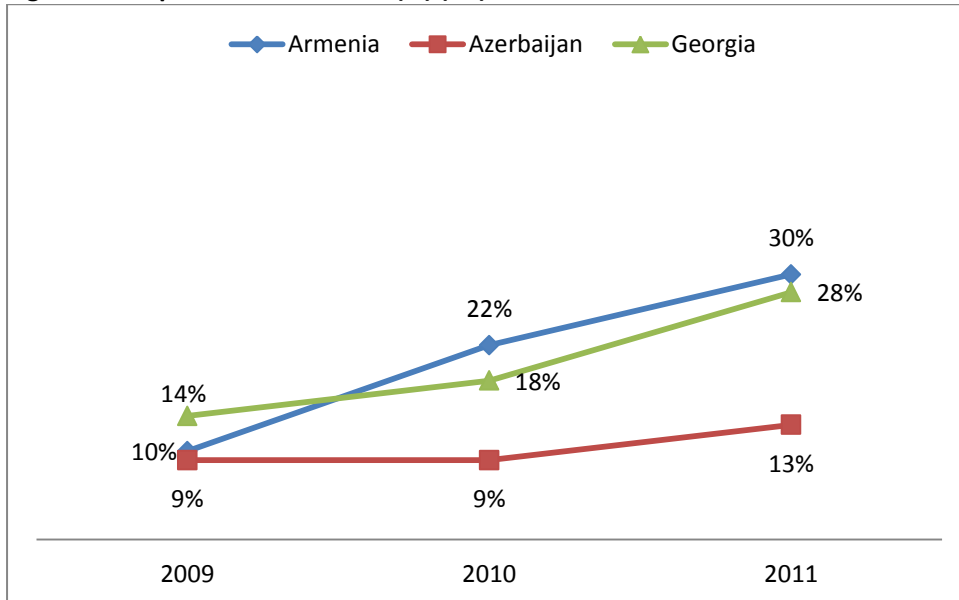
Conclusion

In conclusion, despite Azerbaijan's relative wealth, there are significant barriers to technology use in the country – both socio-demographic and regulatory-political which have proven difficult to overcome. Notably, the government's discouragement of internet use creates an additional barrier which is more challenging to tease apart or work on with international aid or development programs. Attitudinal change is incredibly difficult to promote, much less in the face of the government's dominance of mass media and the fear of government monitoring.

There has been very little internet growth in Azerbaijan in the past three years, while there has been substantial change in Armenia and Georgia – nearly 10% increases in frequent users each year. These increases have also shifted the demographic profile of Armenian and Georgian internet users – they are

more socio-demographically diverse. And while there still are socio-demographic barriers to internet use in Armenia and Georgia, these barriers reduce dramatically each year and some barriers have disappeared altogether. (For example, mobile internet is available in Armenia and Georgia to those with all levels of educational attainment and all but the poorest-of-the-poor.)

Figure 8: Frequent Internet users (%) (CB)



The consequences of an 'elite only' internet in Azerbaijan are as yet unknown. However, in circumstances like this, the resources which internet and technology use can provide increase the gap between the haves and have-nots. Thus, technology amplifies inequality in Azerbaijan. Furthermore, those elite individuals cautiously treading online are possibly 'escaping' Azerbaijani reality. While this may not be a sophisticated bread-and-circuses effort on behalf of the Azerbaijani government, the effects could be similar.

Illegal expropriations, forced evictions and house demolitions in Baku

Giorgi Gogia

Since 2008, the government of Azerbaijan has undertaken a sweeping program of urban renewal in Baku, the capital of this oil-rich country in the South Caucasus. In the course of this program, the authorities have illegally expropriated hundreds of properties, primarily apartments and homes in middle class neighborhoods, to be demolished to make way for parks, roads, a shopping center, and luxury residential buildings. The government has forcibly evicted thousands of homeowners, often without warning or in the middle of the night, and at times in clear disregard for residents' health and safety, in order to demolish their homes. It has refused to provide homeowners with fair compensation based on the market values of properties, many of which are in highly desirable locations and neighborhoods.¹⁶⁶

Azerbaijan's hydrocarbon windfalls have helped to trigger a construction boom in Baku. In the last decade, Azerbaijan has experienced tremendous economic growth fuelled by oil and gas exports. According to the World Bank, Azerbaijan's Gross Domestic Product increased nearly 10 fold in less than a decade, growing from US\$5.7 billion in 2001 to US\$51.1 billion in 2010.¹⁶⁷ Azerbaijan is the twenty-second largest oil-producing country in the world and the third largest oil producer in Eurasia, after Russia and Kazakhstan.¹⁶⁸

The desire and policy of the Azerbaijan government to develop its capital city and improve infrastructure and public works is a legitimate government mandate. Human rights law recognizes that rights to property, including house and home, may be subject to interference by the state in the interest of the common good, such as for purposes of development. However, such state interference with private property is lawful only if it takes place in accordance with a number of conditions: that the interference is in the public interest, that it is not arbitrary, that it follows due process and is conducted in accordance with appropriate legal provisions, and that it complies with principles of international law such as the provision of fair compensation.

Human Rights Watch has documented human rights violations at every stage of the government's 'development' campaign, including in the process by which the authorities identified homes and properties for expropriation, notified homeowners and residents of impending expropriations and demolitions and assessed and awarded compensation, as well as in the manner in which expropriations, evictions and demolitions were executed. Irrespective of any lawful basis for the expropriations, the government's conduct during the expropriation and evictions processes was abusive and those whose rights were affected have had no effective legal recourse or access to a remedy.

Illegal expropriations

The government's campaign of expropriations, evictions and demolitions of homes and other property in Baku has no basis in national law. Although expropriations and evictions are envisaged in Azerbaijani and international law, the authorities should resort to expropriations only in exceptional circumstances, for purposes that are clearly in the public interest, and with appropriate due process, including the provision of fair compensation and/or alternative housing options. The ongoing expropriation and demolition of properties in central Baku by the City's Executive Authority are not lawful, as they have no legal basis in national law and directly violate provisions of existing national law on expropriation, which provides that

¹⁶⁶ From June 2011 to January 2012 Human Rights Watch carried out research in Baku and in February 2012 published the report – "They Took Everything from Me: Forced Evictions, Illegal Expropriations, and House Demolitions in Azerbaijan's Capital." The full report can be found at: <http://www.hrw.org/reports/2012/02/29/they-took-everything-me-0>.

¹⁶⁷ World Bank, "Data and Statistics for Azerbaijan," September 2011, <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/ECAEXT/AZERBAIJANEXTN/0,,menuPK:301939~pagePK:141132~piPK:141109~theSitePK:301914,00.html> (accessed October 20, 2011). Annual GDP growth peaked at 34.5 percent in 2006.

¹⁶⁸ The largest oil producer in the world is Saudi Arabia, which produced about 10.8 million barrels of oil per day (bopd) in 2010. In 2010 Eurasia produced about 13.2 million bopd, with Russia producing 10.2 million bopd followed by Kazakhstan with 1.6 million bopd. Azerbaijan accounted for about 7.6 percent of the region's 2010 oil production. United States Energy Information Administration (USEIA), "International Energy Statistics," <http://www.eia.gov/cfapps/ipdbproject/iedindex3.cfm?tid=5&pid=53&aid=1&cid=regions&syid=2010&eyid=2010&unit=TBPD> (accessed October 22, 2011).

the government may only expropriate property in limited circumstances for state needs¹⁶⁹, with a court order, by purchasing the properties at market prices and by providing residents with at least one year's notification of the impending demolition, among other requirements.

There have been no court decisions validating the expropriations and demolitions of the properties. Many of the residents were notified less than a year in advance of demolitions and property owners had no warning at all, or as little as a few hours' or weeks' notification. In some cases, homeowners never received any official notification, but learned about impending demolitions from neighbors. In a number of cases, evictions and demolitions took place in violation of court orders prohibiting the authorities from taking action against the properties.

Forced evictions

The authorities have often carried out forced evictions and demolitions with willful disregard for the dignity, health and safety of homeowners and residents. In many cases, the authorities have dismantled apartment buildings or houses in which families and individuals continued to live, including by removing roofs, doors and damaging shared walls, exposing residents to the elements and to the risk of partial collapse of buildings. In many cases, the authorities have also cut water, sewers, electricity, gas or telephone lines while homeowners remained in their homes. These actions also render the properties uninhabitable, ultimately compelling the residents and homeowners to move out and accept unfair compensation offers.

In some cases, the authorities have forcibly evicted residents with little or no notice immediately prior to demolishing their houses or apartment buildings. In some cases officials have arrived without warning with a bulldozer and other machinery at night or in pre-dawn hours to begin demolishing homes immediately after telling homeowners to vacate. In these circumstances, homeowners had a few hours or less to remove their personal belongings and valuables. In some cases police have escalated the evictions process by detaining homeowners in a police station following their eviction while the authorities demolished their homes.

Lack of fair compensation

The government of Azerbaijan has refused to provide homeowners with fair compensation based on the market values of properties, many of which are in highly desirable locations. For many homes, the authorities have offered a single, government-fixed rate of 1,500 manat (US\$1,900) per square meter, without regard to the property's location, age, condition, use or any other factors. Homeowners were not aware of any independent appraisals of their homes ordered by the government. In other cases, the government has offered homeowners resettlement to apartments built in high rise buildings, typically outside of the city center. However, it does not give them ownership title to these apartments prior to their relocation, instead promising ownership at a later, unspecified date. In addition, photographic evidence and testimony from those living or expected to live in the new apartments indicate that the quality of at least some the apartments, and the buildings themselves, is low and possibly in violation of building code standards. Problems include standing water in the basement, cracks in walls, including load bearing walls, unfinished windows and peeling and damaged floors.

Lack of effective legal remedy

One component of a fair and transparent expropriation process is the existence of a mechanism for resolving grievances. Such a mechanism should ensure that those affected by expropriation have the opportunity to register grievances and that those grievances are addressed in a clear and transparent manner. Under Azerbaijan's national laws, property owners may appeal to court to challenge the government's expropriation and compensation mechanisms, including by seeking court injunctions to stop the expropriations and demolitions¹⁷⁰.

¹⁶⁹ State needs justifying forced expropriation are identified as: construction of roads or other communication lines; for purposes of defending a state border; construction of defense facilities; or construction of industrial mining facilities. Law on Expropriation of Land for State Needs, article 3.

¹⁷⁰ Civil Code of the Republic of Azerbaijan, article 157.4, and Housing Code of the Republic of Azerbaijan, article 31.9.

However, the government has pursued evictions and demolitions in blatant violation of court orders or when court cases are still pending, raising serious questions as to whether the courts can provide an effective means of redress. After learning about the possible demolition of their homes, many homeowners have filed complaints with the courts, but the authorities' repeated failure to appear for hearings has caused these proceedings to be delayed for months at a time. In several cases, the authorities have demolished homes in violation of court injunctions explicitly prohibiting any harm to the buildings or apartments while court cases challenging the intended demolitions were pending.

The Eurovision Song Contest and forced evictions

One of the areas where Human Rights Watch documented illegal expropriations, evictions and demolition is Bayil neighborhood, the seaside location of the National Flag Square and the Baku Crystal Hall, the venue for the May 2012 Eurovision Song Contest. The Eurovision Song Contest is Europe's most popular televised song contest featuring music acts from 56 countries in and around Europe. Azerbaijani authorities intensified the efforts to develop the Bayil neighborhood after May 2011, when its singers won the contest and therefore became host to the 2012 event. For the government of Azerbaijan, the visibility of the event provides an opportunity to showcase Baku to thousands of visitors and millions of television viewers.

The main venue for the contest will be the Baku Crystal Hall, a modern, glass-encased arena overlooking the Caspian Sea. The government has also stepped up work on other, possibly previously planned projects in the immediate vicinity, including extending a waterfront promenade that begins in the city center; extending and widening a road parallel to the coast; and creating a park on the opposite side of the National Flag Square from where the Baku Crystal Hall is being built. In order to clear land for construction of the road and the park, the government has forcibly evicted several hundred residents from the Bayil neighborhood.

What should be done?

The Azerbaijani authorities should provide those who have already been victims of unlawful expropriations and evictions full and fair compensation for their loss and violations endured and halt all further evictions, expropriations, and demolitions until they can be carried out in a fair and transparent manner and are consistent with Azerbaijani national law and international human rights law. The authorities should also ensure that any future evictions of homeowners who refuse to leave their properties are carried out with full respect for the safety and dignity of those evicted. The compensation should be set at market value and determined by an independent appraisal. In addition, the authorities should provide property owners affected by expropriation with clear information about the timing and legal basis of expropriations, compensation and resettlement options as well as access to an effective complaint mechanism that addresses grievances in a clear and transparent manner and an effective remedy to resolve complaints.

Nagorno-Karabakh: A traumatic experience that cripples a nation

Tabib Huseynov

The Nagorno-Karabakh conflict has played a central role in shaping Azerbaijani politics since the country regained its independence in 1991. The Armenian occupation of Nagorno-Karabakh and territories around it, which make up some 14% of the country, was a huge traumatic experience for Azerbaijanis. The conflict has caused the biggest population displacement in the former Soviet space and made Azerbaijan a country with one of the highest per capita displaced populations in the world. Territorial losses and massive population displacement have left deep scars in the national memory. Today this unresolved conflict remains the key factor shaping state policies and public attitudes across a wide variety of issues, ranging from various aspects of domestic governance to security and foreign policy.

Impact on democracy and governance

The conditions under which Azerbaijan sustained losses during the full-scale hostilities over Nagorno-Karabakh in the early 1990s have had a profound impact on the way the government system has been formed in subsequent years. One of the main 'lessons' derived from the chaotic war in the early 1990s was the need for a strong leader, who could preserve the stability of the state. The first two presidents of Azerbaijan, Ayaz Mutallibov and Abulfaz Elchibey, although starkly different in terms of their political agendas, both failed because they were largely perceived as too weak to lead the country at a time of war. Both served as presidents for less than a year and their presidencies were marred by political infighting and economic collapse. The initial years of Heydar Aliyev's presidency were similarly characterised by a fight for power between him and various political and military groupings.

These political struggles rendered the state ineffective and unable to defend its territory and population. The main reason for every major territorial loss that Azerbaijan sustained in 1992-1993 was not Russian assistance to Armenia, as argued by some analysts, or the alleged superior fighting capabilities of the Armenian troops, as the Armenian party line often proclaims, it was the political vacuum and infighting in Baku, which Armenian forces readily exploited. As a result of this bitter experience, domestic political instability in Azerbaijan has come to be associated with territorial losses. Thus, the stability of the state became a paramount value, which should be guarded above all other considerations.

The argument about stability has been used and misused ever since by the ruling elites to retain tight control over the society. The pro-establishment line of thinking is that the society is not yet ready for democracy and that the external challenges the state faces, including first and foremost the Nagorno-Karabakh conflict, require a strong executive to preserve stability. Accordingly, the popular maxim the ruling elites try to ingrain in public minds goes like this: "demonstrations disrupt public order and play into the hands of our enemies".

A most recent example of such misuse of the argument for stability was in mid-February, when a leader of the ruling party, Ali Ahmadov, accused the opposition of playing into the hands of the Armenians, following the opposition call on the singers coming to the Eurovision song contest in Baku in May 2012 to demand the Azerbaijani government release jailed opposition activists. Such manipulations, however strange they may seem to an outsider, resonate with many people, because the society at large is also afraid of any instability and has seemed to prefer a predictable, even if authoritarian, government to unpredictable change. Such policies, built on public fears, have had a strong negative effect on democratic governance, rule of law and institution-building in Azerbaijan. They have made the state over-dependent on personalities and have rendered it institutionally weak and potentially vulnerable to destabilisation in the future.

Irrespective of the instrumentalisation of the issue by elites however, the Nagorno-Karabakh conflict is widely and genuinely perceived as an existential problem to the Azerbaijani nationhood. Unlike Armenia, which became a virtually mono-ethnic state following the expulsion of its Azeri and Muslim Kurd minorities, Azerbaijan remains largely a country with multiple indigenous and territorially concentrated ethnic groups. The permanent loss of Nagorno-Karabakh, it is feared, may in the future stimulate similar

separatist tendencies among Azerbaijan's other national minorities, thus bringing about an end to the nation, as we know it today.

“Genocide competition”

The massive displacement of Azeris from Armenia and Azerbaijan's occupied territories has spurred an officially-supported narrative of a “genocide” committed against the Azerbaijani people at the hands of the Armenians. Today, officially-endorsed narrative looks at all past Azerbaijani forced displacements and ethnic cleansings exclusively through the prism of genocide. According to this narrative, Azerbaijanis have suffered from “genocidal policies” four times throughout the twentieth century, as part of a ploy by Armenian nationalists to expand and establish a “Greater Armenia” at the expense of historical Azerbaijani territories.

Thus, the conflicts and massacres of the early 20th century (1905-1907 and 1918-1920), the Stalinist deportation of Azeris from Armenia in the late 1940s and the most recent conflict beginning from the late 1980s, and in particular, its bloodiest episode – the Khojaly massacre of February 1992 – are promulgated as Armenian-committed “genocides” against Azerbaijani people. Since 1998, following a presidential decree, 31 March, signifying the March 1918 massacres in Baku and elsewhere, is annually commemorated as a “Day of genocide against Azerbaijani people”. The dates of Armenian occupation of Azerbaijani towns and districts are also annually commemorated and taught in schools as a “blood memory” (*qan yaddası*). A number of monuments and museums dedicated to Armenian-committed atrocities have been built throughout the country, serving as silent reminders of past pain and suffering.

In developing narratives and national symbols supporting a genocide thesis, Azerbaijanis experience trends in public consciousness similar to those developed earlier within Armenian society, stemming from a ‘defeat complex’, unachieved national aspirations and perceived victimisation of the nation. The injustices of the past are being used to dehumanise the other side, mobilise society under a unifying cause and boost the political claims of today. “Genocide”, thus, increasingly becomes a factor that defines a nation. These trends are equally observed in Azerbaijan and Armenia today and both are involved in what a foreign colleague aptly described recently as a “genocide competition”.

Such discourses are entrenched in public minds over time and serve to polarise and perpetuate existing insecurities and ethnic hatreds that scar the societies both physically and morally. The stalled peace process and lack of contact with Armenians across the divide further provide fertile ground for the development of a “genocide” narrative. As a result, the chances of a peaceful solution being found between the two peoples become narrower with each passing year.

Foreign policy agenda and geographic fatalism

The Nagorno-Karabakh conflict is the main determinant of Azerbaijan's foreign policy. Azerbaijan jealously guards international recognition of its territorial integrity and painfully reacts to every political statement or action that it deems to question or insufficiently acknowledge this fact. Azerbaijanis view the neutral position or ambivalent support for the country's territorial integrity displayed by various international actors at various times as a cold-hearted indifference, or worse, as a tacitly pro-Armenian position. Many Azerbaijanis also view the Nagorno-Karabakh conflict as a major tool that external forces use to influence Azerbaijan. Armenians are perceived under this paradigm as a tool at the hands of the greater powers, particularly Russia, to gain control over the region.

In order to neutralise negative external impacts and preserve state stability, Azerbaijan has embraced a ‘balanced foreign policy’ doctrine. It is based on accommodating the interests of all major powers with stakes in the region – and in particular, balancing between Russia and ‘the West’, while avoiding being over-dependent on any one of them. By employing this policy, Azerbaijan hopes to play the external powers against each other and thus diminish their influence on itself, while simultaneously maximising its bargaining power with respect to the resolution of its conflict with Armenia and the restoration of the country's territorial integrity.

The Russian invasion of Georgia in 2008 further reinforced perceptions in Azerbaijan that the balanced foreign policy it pursues is dictated by the geography the country finds itself in and therefore, has no better alternative. This foreign policy has so far proven effective in preserving the stability of the state. However, this policy is essentially a crisis management policy, and does not allow for more proactive actions. It is often premised on existing tensions between the external powers and therefore, does not contribute to a lessening of regional competition between them, which is a prerequisite for more concerted international efforts aimed at solving the problem.

The existing foreign policy of Azerbaijan, supported by popular perceptions, is also premised on the theory that the main causes of the conflict are external to the region and the key to the resolution of the conflict lies in either Moscow, Washington or Brussels, and therefore, is outside of their influence. This perception embeds a geographic fatalism and a confrontational mind-set in policy making and leads to a situation whereby Azeris and Armenians often talk past each other, instead of talking to each other. The primary audience in such negotiations or dialogue meetings is not the opposite side, but the 'international community', whose support is believed to be sufficient for solving the problem.

Conclusion

The Nagorno-Karabakh conflict continues to have crippling effects on Azerbaijani society and state-building. Because of the unresolved nature of the conflict, the traumas of the past are actively revived and with time are interwoven with national narratives that drive the Armenian and Azerbaijani peoples further away from each other, ignoring the centuries-old history of peaceful co-existence that previously characterised both nations. The negative impact of the conflict is not limited to relations between the two peoples, however. The conflict has turned into a powerful political tool at the hands of the political elites to control the society.

It is often debated in Azerbaijan and Armenia, what should come first – democratisation or conflict resolution. The answer is very simple – both goals should be pursued simultaneously and one cannot be achieved without the other. Both should be looked at as not a single event, but as gradual, incremental and mutually reinforcing processes.

Spotlight on the Azerbaijani economy

Vugar Bayramov

For the past 20 years of independence, the Republic of Azerbaijan has been through economic crisis, stability and rapid development. All these steps taken toward development have been remembered for both their uniqueness, as well as their conformity to economic realities: the recession (1992-1995), recovery (1996-1997), boom (1998-2008) and final slump (starting 2009)¹⁷¹. Thus, when evaluating the past 20 years of the economy of the Republic of Azerbaijan, it is of great importance to pay close attention to its growth and prosperity and draw conclusions about the developmental process itself. However, the overall picture is that it is hydrocarbon resources and its gradually increasing income that played a profound role in helping Azerbaijan achieve economic stability.

Development is good, but sustainability and stability are important too. From this point of view, except for the first few years of independence, the Azerbaijani economy has shown positive trends from 1996 until the present. Economic growth rates have increased, the level of unemployment and inflation have decreased and large amounts of foreign investment have flowed into the country, which have all contributed to the development of the economy. In recent years, however, one-sided development of the economy has begun to show negative symptoms. As a result, in 2011, the country's economic growth rate, for the first time, decreased to its lowest level since 1996. The main cause of this was the decrease in the oil sector by 9.3%. In this respect, even the 9.4% growth in the non-oil sector could not counteract this negative impact on economic growth.

The fall in the oil sector has also had a negative impact on the industrial sector as a whole and a 5% decrease has already been noticed in this field. According to the State Statistics Committee¹⁷², in 2011 77.9% of industry was realised in mining, 17% in processing, 4.5% in production, distribution and supply of electricity, gas and steam and 0.6% in water supply, treatment and processing of waste. As seen from these figures, mining constitutes the main part of the whole industry and at the same time more than 50% of the processing industry consists of oil processing.

After announcing its independence, Azerbaijan's economy has faced a number of challenges. The most influential factors hampering economic growth were the loss of economic relations with other former Soviet Union countries, structural problems with the Azerbaijani economy and lack of financial resources. Back then, attracting foreign investors and moving towards a new economic system were almost impossible. Foreign investors were even hesitant to invest in the oil industry. On the other hand, the state didn't have enough resources to invest either. At that time, overcoming the deterioration of the economy seemed to be an impossible task. During this period, production rates had seriously declined and, at the same time, inflation and unemployment levels were high. As a result of all of these negative factors, Azerbaijan was to remain in crisis until 1995.

However, in 1994, the development of Azerbaijan's sector of the Caspian Sea began when Azeri, Chirag and deep-water Gunashli (ACG)-International Contract No. 1-was signed by Azerbaijan and the participating international companies on September 20, 1994. Because of its potential reserves estimated at 6 billion barrels (950,000,000 m³) of oil, this project is often referred to as the 'Contract of the Century'.

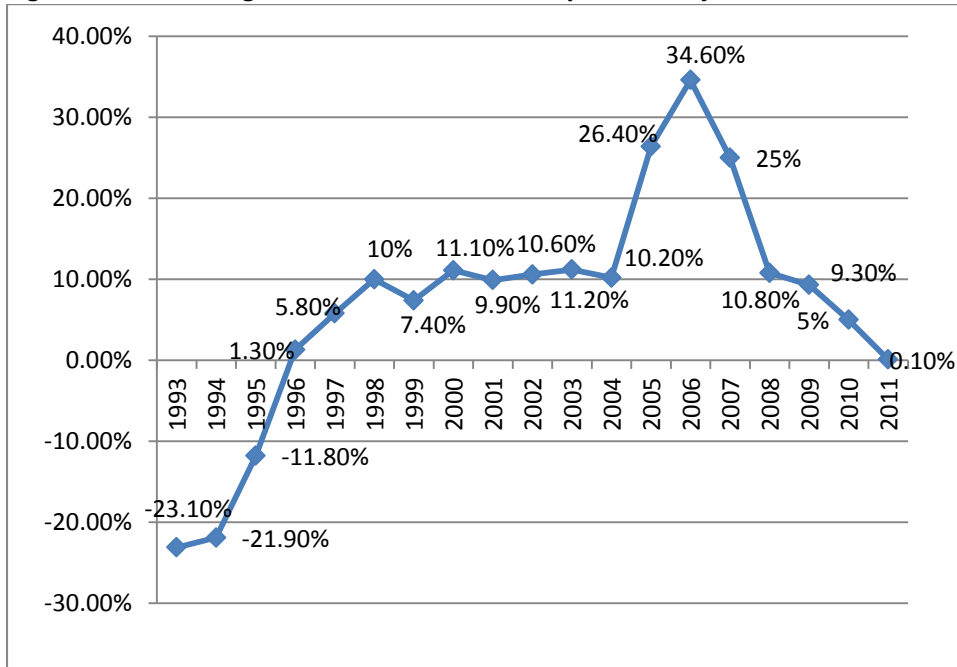
The signing of this contract signalled the birth of a new era in Azerbaijan's oil industry and a dynamic pace of prosperity began for the whole economy in general. By successfully executing 'The Contract of the Century', Azerbaijan managed to involve a number of EU countries and the US. Even with the Baku-Supsa and Baku-Novorossiysk pipelines, Azerbaijan was not able to meet growing demand for the export of its oil, so the Baku-Tbilisi-Ceyhan oil pipeline was built. Billions of dollars from foreign investors were

¹⁷¹ 'Azerbaijan's economic model and its development since independence', Gubad Ibadoglu, 2010

¹⁷² http://www.azstat.org/press_reliz.php?id=1153

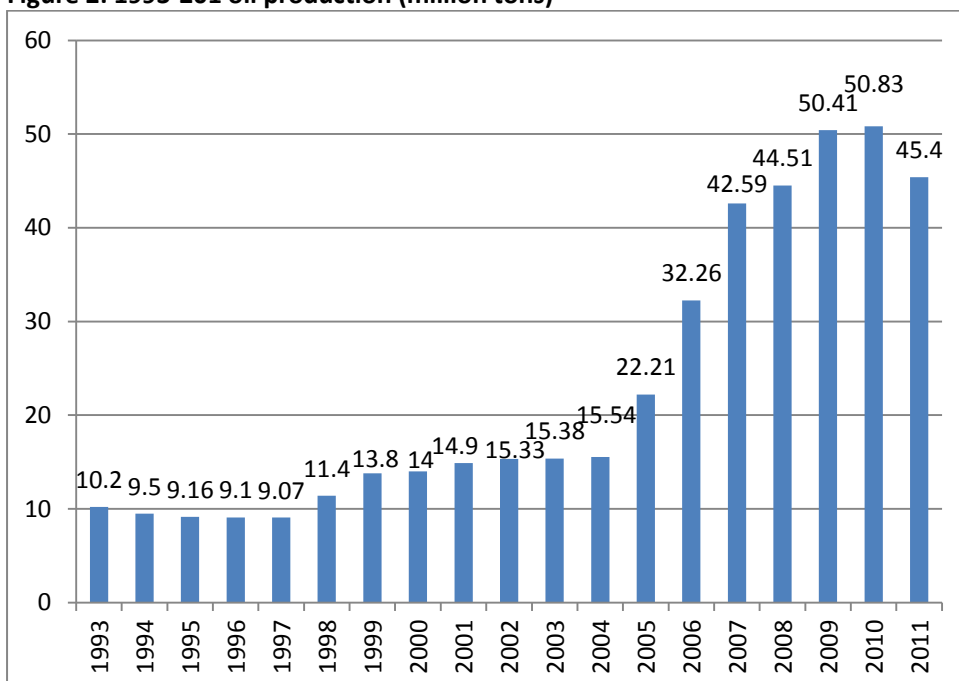
invested in Azerbaijan to realise the project. Substantial investments by foreign oil companies in the oil sector revived the economy in a short time. As a result, since 1996, Azerbaijan's economy has shown high growth rates until recent years. According to official data from the State Statistics Committee, the highest growth rate recorded was in 2006, when real GDP growth was 34.5%.

Figure 1: 1993-2011 growth rates in the economy of Azerbaijan¹⁷³



As shown in Figure 1, the highest growth rate recorded in the economy of Azerbaijan was in 2006, which is attributed to the increase in oil exploration and production. According to the State Statistics Committee, 45% of the increase was due to oil production totaling 32.2million tons, which was 10 million tons more than that of the previous year.

Figure 2: 1993-2011 oil production (million tons)¹⁷⁴



¹⁷³ Source: State Statistics Committee, 2011 http://www.azstat.org/statinfo/system_nat_accounts/en/index.shtml

¹⁷⁴ State Statistics Committee, 2011 http://www.azstat.org/statinfo/balance_fuel/en/index.shtml

As Figure 2 shows, in 2006, the sudden increase of 10 million tons of oil production contributed to the 34.5% growth in GDP. However, in spite of the growing level of oil production in the following years, the GDP growth rate kept decreasing. The main reason for this decrease was the 'low base effect' concept, in which every next year GDP increased by a larger base and thus was disproportionately reflected in real GDP growth. In other words, GDP has been growing on a higher base each year. As a result, in spite of the highest growth of oil production recorded in 2010, GDP real growth was merely 5%. Thus, in 2011 the decrease of 5 million tons in oil extraction had a substantial negative impact on the GDP growth rate. For the first time since 1996, the real growth rate declined to 0.1%.

At the moment the government, NGOs and independent experts agree that certain measures should be taken in order to reduce dependence on the oil industry as an economic driver and to improve diversification of the economy of Azerbaijan. If we take a close look at the official data of the State Statistics Committee, it is clear that the oil sector constitutes up to 94% of total exports, more than 60% of the local industry and 60% of the state budget revenues. It should also be noted that 60% of the funds transferred directly to the state budget are received by the State Oil Fund. Moreover, if we include the amount of funds received through SOCAR and other oil-based sources, then we can deduce that the oil sector actually constitutes 70% of budget revenues. There is no alternative that can replace the oil sector. Indeed, leading industries in the non-oil sector are actually indirectly funded by the oil sector, including construction, tourism and finance. Most of the aforementioned fields are not able to contribute revenue to the state and some even incur losses.

According to the International Monetary Fund's report on Azerbaijan¹⁷⁵ issued on January 18 2012, one of the main concerns is the dominant role of public expenditure on non-oil growth. In order to achieve sustainable economic development, the existence of a diversified private sector is important. It is also noted that monopoly, administrative barriers and excessive bureaucracy are the main factors that impede the development of the non-oil sector. As a result, foreign trade - especially the share of the non-oil sector - declines. Thus, the future development of the economy of Azerbaijan, given weakening growth in the oil sector, will depend on the speed of the reforms. These reforms include WTO membership, the fight against monopoly and corruption, faster diversification of the economy, the development of small and medium enterprises and the elimination of existing barriers to foreign trade.

Unfortunately, corruption places severe constraints on a country's capacity to undertake economic reforms. This is because reforms require greater transparency, accountability, free and fair competition, deregulation and reliance on market forces and private initiative, as well as limiting discretionary powers, special privileges and price distortions – all of which will reduce opportunities for economic rent on which corruption thrives. The rich and the powerful, the main beneficiaries of a corrupt system, will therefore oppose reforms.

At the same time, e-government, which is a key tool for fighting corruption in terms of minimising opportunities for civil officials to engage in corruption, is still missing. The biggest success in the direction of e-government that Azerbaijan has achieved so far, as stated in the World Bank report⁶, is the speeding up of the business registration process.

Mainly due to the aforementioned issue, in 2012, Azerbaijan was ranked 66th among 183 countries in the World Bank's Doing Business annual report¹⁷⁶. According to the same report, the most important problems for business that still exist relate to the functional side of business (registration is simple and fast, but enterprises face huge challenges and delays). In the same report, Azerbaijan was ranked 170th for transboundary trade and 172nd for building permit acquisition. All of these negative factors are indicators of sizable problems that impede the development of small and mid-sized entrepreneurs.

¹⁷⁵ Republic of Azerbaijan: Selected Issues, January 2012, IMF country report No.12/6
<http://www.imf.org/external/pubs/ft/scr/2012/cr1206.pdf>

¹⁷⁶ World Bank Ease of Doing Business in Azerbaijan, <http://www.doingbusiness.org/data/exploreeconomies/azerbaijan/>

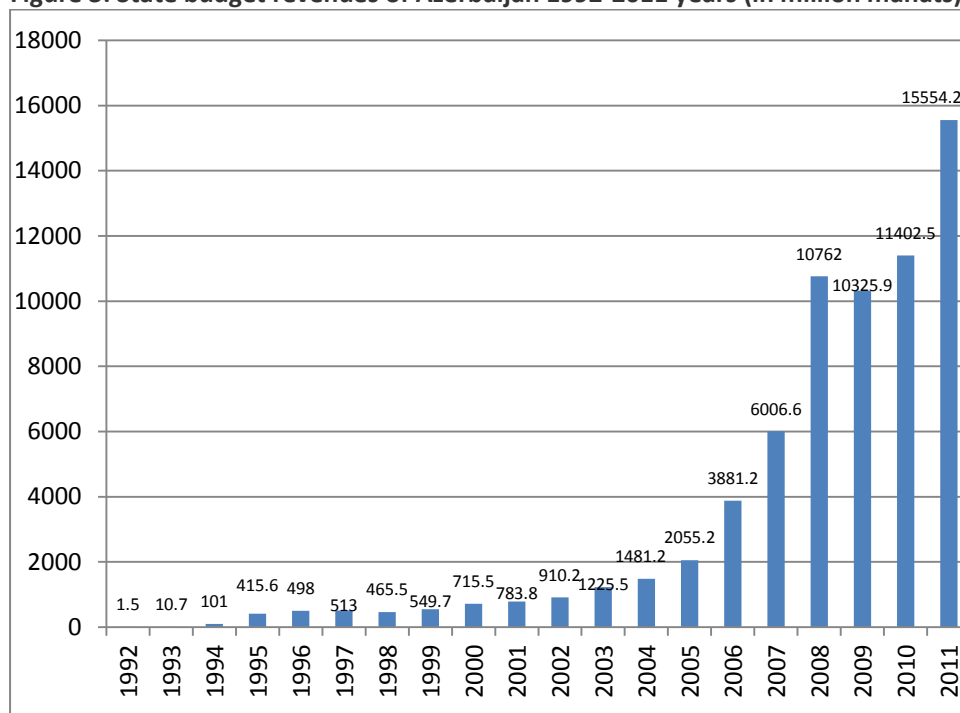
For example, entrepreneurs' access to additional financial resources is weak. They don't have access to alternative financial resources other than high-interest bank credit. This is for a number of reasons. First, entrepreneurial activity is weak and most entities don't apply international accounting, corporate governance or other standards. Thus, they are not able to attract additional financing by issuing bonds, shares, or other securities. Poor development of the securities market of the country can be added to its list of problems. Types of financial intermediation such as venture funds, hedge funds and mutual funds are still not available. Despite the adoption of a law on investment funds in 1999, there is still not a single fund operating in Azerbaijan. The second reason is that the shareholders are not paid dividends because joint stock companies hide their real profits. This, in turn, reduces the interest of potential investors.

Economic success since independence

The volume of the Azerbaijani economy in 2011, in comparison with 1991 when it earned its independence, has increased 18.5 times. If nominal GDP in 1991 was AZN 2.7 billion, or approximately US\$ 3.4 billion with the current exchange rate, in 2011 this figure was AZN 50.1 billion or approximately US\$ 63.4 billion. During this period, the volume of GDP per capita with Purchasing Power Parity (PPP) increased 39 times to around \$10,000, while nominal GDP reached US\$ 7,003.40.

For the first time since its independence, Azerbaijan achieved macro-economic stability and economic growth from 1996 to 2011. During this period, the average economic growth rate was 11.8%. Compared to 1992, the state budget revenues of Azerbaijan have increased more than 10 times. In this same period, the ratio of budget revenues to GDP increased from 30% to 38%.

Figure 3: State budget revenues of Azerbaijan 1992-2011 years (in million manats)¹⁷⁷



As can be seen from figure 3, except for the decrease in budget revenues in 2009, which is considered a post-crisis period, Azerbaijan has been able to maintain a steady growth in budget revenues.

These figures enabled Azerbaijan to implement large-scale projects such as the Baku-Tbilisi-Kars railway project, the Oguz-Gabala-Baku water pipeline and other infrastructure projects. However, this rapid annual growth in budget revenues was the result of money transfers from the State Oil Fund of Azerbaijan (SOFAZ). Accordingly, it is not possible to assess distinctly the growth of budget revenues.

¹⁷⁷ Source: National budget group 2011 www.budget.az

Table 1: SOFAZ's transfers to the state budget¹⁷⁸

Year	Transfers from SOFAZ to the state budget (million AZN)	Growth rate	Share in budget	Share of transfers in SOFAZ's expenditure
2003	100	--	8.2%	41%
2004	130	30.0%	8.6%	77%
2005	150	15.4%	7.2%	70%
2006	585	290.0%	15.6%	59.6%
2007	585	0.0%	9.7%	55.1%
2008	1100	88.0%	35.3%	88.5%
2009	4915	346.8%	40.4%	92.8%
2010	5915	20.3%	51.4%	90.5%
2011	6480	9.6%	53.7%	94.9%

As can be seen from the table, the State Oil Fund's budget share in 2011 increased by 64.8 times in comparison with 2003, which contradicts the principle of conserving oil money for future generations. On the other hand, dependence on oil revenues may create risks for the future sustainability of the state budget.

However, in terms of the global economic crisis, the current state of Azerbaijan's economy can be considered positive. According to official data, the growth of Azerbaijan's economy in 2011 was a result of growth in non-oil sectors. The State Statistics Committee claims that the non-oil sector increased by 9.4% in 2011. Last year, the nominal volume of GDP was AZN 50.1 billion or approximately US\$ 63 billion and this constituted 47% of total GDP. Although non-oil GDP has not exceeded oil GDP, for the first time since the independence of Azerbaijan, equilibrium was reached between them.

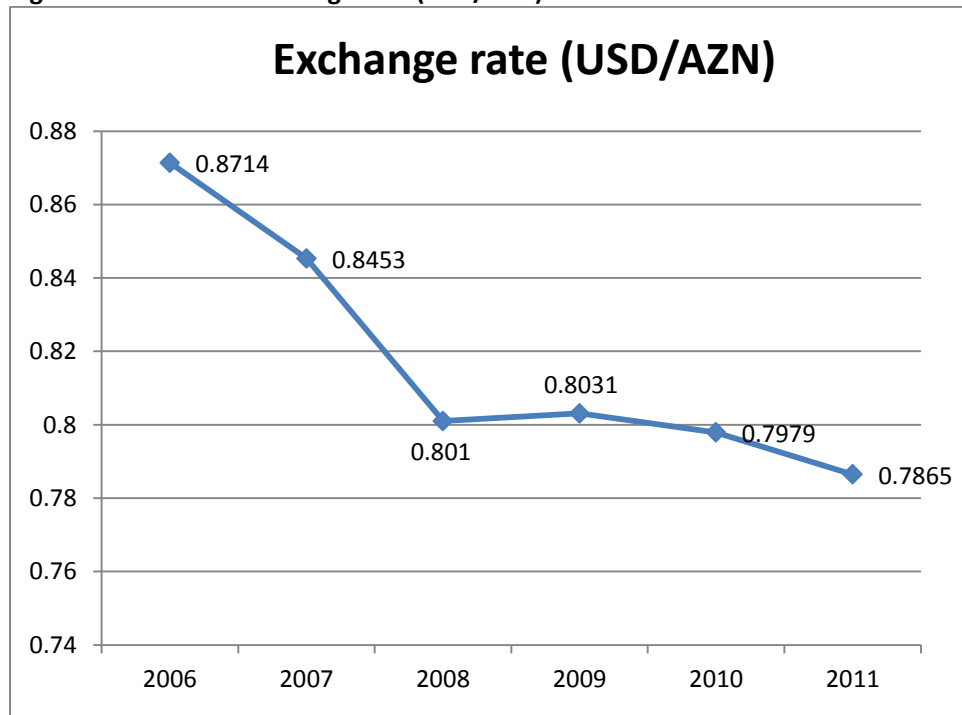
Azerbaijan managed to preserve macroeconomic stability during the crisis. In such conditions, steady enhancement of the manat's exchange rate relative to other currencies, preservation of the inflation rate up to an optimum level by the Central Bank during high volatility in the world market and stabilisation of the financial sector have been achieved.

On February 7, 2005 a decree 'On changing (denominating) the nominal face value of money units and scale of the prices' was signed by the President of the Azerbaijan Republic. According to the provisions of this legislative decree, on January 1, 2006, due to the transition to the new manat, 1 new manat equalled 5000 old manats. As a result of this denomination, the manat's exchange rate increased and this negatively affected the exports of Azerbaijan. Currently, the Azeri manat is the most expensive currency in the region. According to the Central Bank's official exchange rate reports, 1 Russian Ruble is equivalent to 0.0268 manat, 1 Turkish Lira 0.4437 manat, 1 Ukrainian Grivna 0.0978 manat, 1 Georgian Lari 0.473 manat and 1 US Dollar is equivalent to 0.7861 manat. As you can see from the aforementioned

¹⁷⁸ <http://www.oilfund.az>

information, the manat's high value impedes exports and weakens Azerbaijan's position with regard to foreign trade.

Figure 4: 2006-2011 exchange rate (USD/AZN)¹⁷⁹

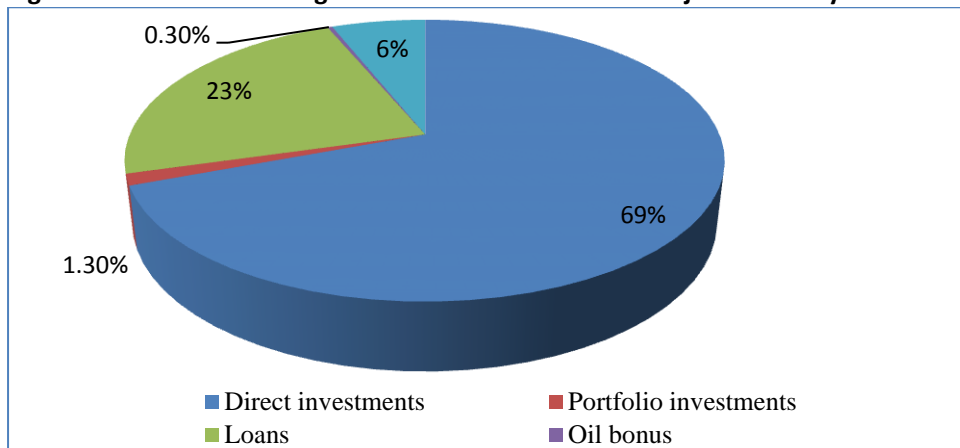


As can be seen from the graph, the manat exchange rate rose in 2006 compared to that of the USD by 10 per cent and at the end of February 2012, USD\$1 was equivalent to 0.7861 manat. From this, it can be concluded that, the value of the manat continues to grow and this negatively affects the export potential of the country.

The volume of investments in Azerbaijan's economy continue to grow as well. According to official data, since 1994, the volume of investments in the country's economy exceeded US\$100 billion. A growth trend was observed until 2009. However, for the first time, the volume of investment has decreased by AZN 3 billion, or US\$3.8 billion in 2009. This was attributable to the end of numerous investment projects by foreign oil companies. According to the Ministry of Economic Development, from 1995 to 2010, foreign investment in the country's economy totalled US\$54.2 billion, which consisted of 23% in loans, 69% in direct foreign investment, 0.3% in the oil bonus, 1.3% in portfolio investments and 6% in other investments.

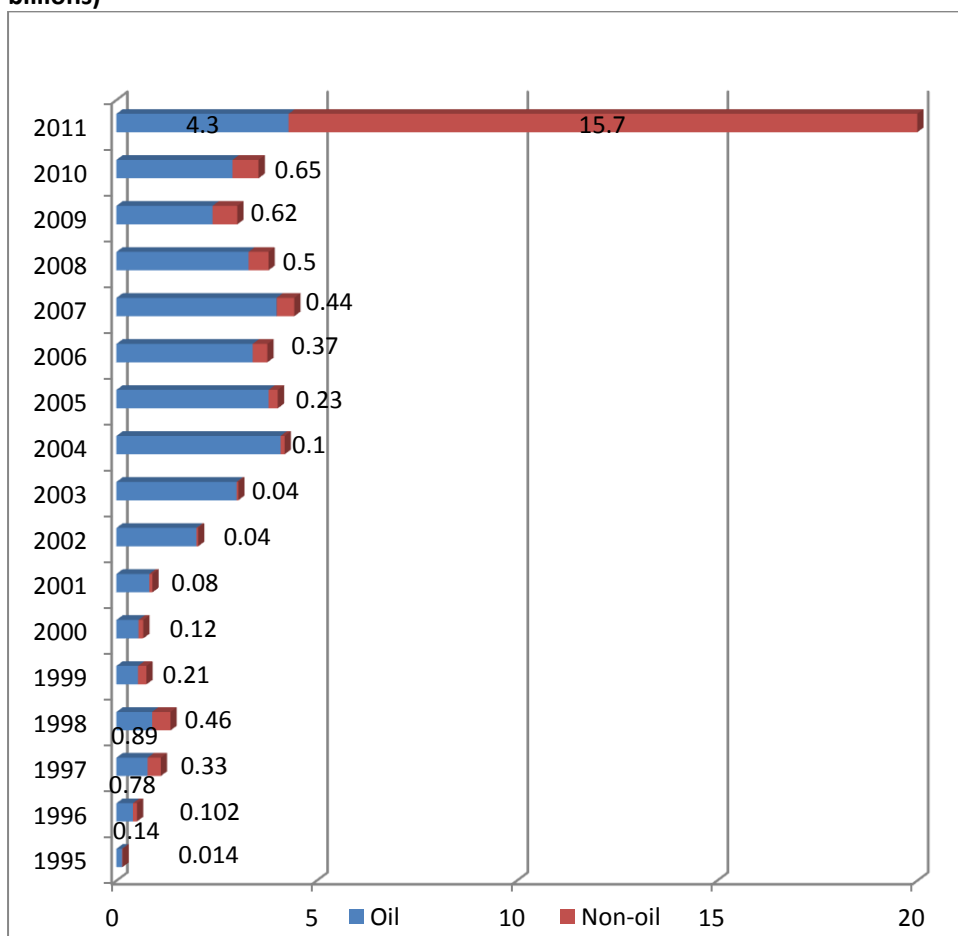
¹⁷⁹ Source: Central Bank's official exchange rate

Figure 5: Structure of foreign investments into the Azerbaijani economy 1995-2010¹⁸⁰



The major reason for the small volume of portfolio investments is the poor development of the securities market. According to the results of 2011, the volume of transactions in the Securities Market totalled AZN 6.717 billion or 13.4% of GDP. If we consider that it is 4.4 times more than that of 2010, then we can see how small the volume of the securities market was in previous years. At the same time, loans are one of the fastest growing types of foreign investment. These investments mainly include loans from international financial institutions at a low interest rate with the state's guarantee. 61% of total foreign direct investment or US\$33.1 billion were invested in the oil sector throughout 1995-2010.

Figure 6: The structure of investments to oil and non-oil sectors in Azerbaijan 2008-2011 (US\$ billions)¹⁸¹



¹⁸⁰ Ministry of Economic Development, 2011

¹⁸¹ Ministry of Economic Development, 2011 http://economy.gov.az/index.php?option=com_content&view=article&id=1710&Itemid=155

As can be seen from the chart, although investments in the oil sector dominated the economy in previous years, it is a positive sign that in 2011, the volume of non-oil investments exceeded the volume of oil investments by a factor of more than 3.6%. This year, for the first time, more funds were invested in non-oil sectors. However, it is worth reiterating that these investments mainly came from the state budget fund.

Conclusion

Research shows that the main problem with the Azerbaijan economy is a high degree of dependence on the oil industry. Thus, the economic growth rate predominantly depends on oil as well. If we take into account that oil production will decrease in the coming years, the Azerbaijani economy may face macroeconomic and fiscal risks.

It is true that in recent years the government has initiated efforts to develop the non-oil sectors of the economy. In this regard, some measurable results have already been achieved: the share of the non-oil sector in GDP reached 47% in 2011. This was the first time that the volume of investment in non-oil sectors was 3.6 times more than that of investments in the oil sector. In spite of this, Azerbaijan has been prodigal with its funds. In other words the necessities and priorities of public investments are not seriously analysed and properly selected.

This, in turn, reduces the effectiveness of investments. In fact, it is not the amount of money spent, but the result that is important. In some cases, investments are directed to the implementation of the *same* projects several times. As a result, the share of investments in the budget continues to grow instead of lessening each year. It also shows that there is a lack of strong entrepreneurship in Azerbaijan. Thus, the burden on the state increases instead of decreasing each year. Moreover, a great amount of oil money in the state budget does not have a positive impact on the economy because the budget funds are either not executed properly or are not executed at all.

For the development of non-oil sectors in the coming years, the government must continue reforms in the following areas:

- In order to attract an increasing volume of investments in non-oil sectors, the results and efficiency of the investments should be monitored closely, bureaucratic barriers should be removed and the independence of the courts should be increased.
- The dependence of GDP growth rates on oil production and oil prices should be reduced. Small and medium-sized enterprises should be developed and the economy should be diversified.
- An alternative industry or service area with the capacity to produce a product or service that can compete in foreign markets and bring export revenue into the country must be identified and developed. These areas should be given state support in at least the first year of their operation.
- The fight against monopoly and unfair competition should be strengthened and prioritised by adopting the competition code and increasing the authority of the anti-corruption department.
- Access to additional funds for small and medium-sized enterprises should be increased.
- The activities of venture companies and investment funds should be supported and banks should be motivated to offer different services in addition to traditional ones such as credit and deposit services by providing tax benefits.
- The number of illegal inspections by the tax authorities of business owners' operations must be reduced. A centre for the monitoring of these inspections should be created and the number and quality of electronic services provided by the Ministry of Taxes should be increased.
- The volume of funds transferred from the Oil Fund to the state budget should be reduced to an optimal level, and certain limits should be applied to the level of those transfers.
- The share of tax revenues in the budget should be increased.
- Artificial barriers to foreign trade must be eliminated, and the transparency of customs must be improved, for example by broadening the use of electronic services in this system. The process of accession to the WTO should be accelerated.

Turkey and Azerbaijan-Friends or Foes?

Firdevs Robinson

Three and half years after the doomed Turkey – Armenia rapprochement, the rift between Ankara and Baku, at last, appears to be repaired. As Ali Hasanov, chief of the Public Policy Department at Azerbaijan's Presidential Administration put it recently¹⁸², the experience of the Turkish – Armenian reconciliation effort has turned into a test for Turkey – Azerbaijan relations. "We both passed the test with flying colours. Our governments listened to the wishes of our peoples. Ankara has seen the truth" he said.

Turkey has indeed chosen to bow to strong pressure both from the Azerbaijani government and Turkish public opinion. In return, the Erdoğan government has been rewarded handsomely with lucrative gas deals and a stronger prospect of becoming a regional energy hub.

The EU-backed Nabucco gas pipeline project is facing difficulties as the financial crisis in Europe casts a long shadow over its future. It is suggested that the 4,000 km pipeline project, aiming to transport over 30 billion cubic metres of gas per year into Europe would have to downsize in order to remain feasible. Apart from the general reluctance to take risks with major infrastructure investments at the moment, there are further questions over how to find enough gas to fill it. There is now a talk of building a cheaper version of the pipeline. It would stop at the Greek border and then make use of existing Turkish pipelines rather than going all the way through Turkey to the Azeri border. The other two pipeline options to export Shah Deniz gas include the Trans-Adriatic pipeline to Italy and the South East Europe pipeline to Hungary, Bulgaria and Romania.

Turkey and Azerbaijan signed a deal for the US\$5 billion trans-Anatolian gas pipeline project (TANAP) in December 2011. Led by the Azeri state oil company SOCAR with an equity stake of 80% and Turkish state oil firm TPAO holding 20%, it runs from Azerbaijan to the Turkish border with Bulgaria.

The gas pipeline is designed to supply 6 billion cubic metres of gas from the Shah Deniz field in the Azerbaijani sector of the Caspian Sea to the western regions of Turkey and 10 billion cubic metres of gas to Europe via the Turkish-Bulgarian border.

The signing of the construction agreement was planned for March-April 2012 but it has been delayed. Azerbaijan's energy minister Natiq Aliyev told Azerbaijani news agency APA¹⁸³ that the agreement was more or less ready for signing and the delay was only due to "some small problems".

On 27 April 2012, Azerbaijan's national gas company SOCAR signed an accord with Bulgaria's state energy holding BEH to supply Bulgaria with gas starting in 2014. For Bulgaria to become the first EU country to receive Azeri gas, it is necessary to build an interconnector with Turkey. Bulgaria said it would seek support from the EU's Council of Ministers to build the connection and it was confident it would be supported "because the interconnector will give Europe diversification"¹⁸⁴.

Despite an undoubted affection between their peoples and strong cultural and linguistic ties, relations between the Turkish and Azeri governments are never entirely smooth. What Azerbaijan's energy minister calls "some small problems" seem to be substantial disagreements. "Bickering between two cultural cousins" as a leading Azeri commentator, Shahin Abbasov, wrote in Eurasianet¹⁸⁵.

¹⁸² Serhat TV, Ankar has seen the truth, April 2012 <http://www.serhattv.com.tr/haber/126443/ankara-gercekleri-gordu.html>

¹⁸³ News.Az, Azerbaijani Minister confident on Trans Anatolia Pipeline deal, <http://www.news.az/articles/economy/58862>

¹⁸⁴ Focus Newsagency, Building Interconnector with Turkey is essential for gas supplies from Azerbaijan in 2014: minister, April 2012, <http://www.focus-fen.net/index.php?id=n276726>

¹⁸⁵ Shahin Abbasov, Azerbaijan and Turkey: Back to the Drawing Board on TANAP Pipeline? Eurasianet, April 2012, <http://www.eurasianet.org/node/65233>

Still waters running deep

Both countries have almost perfected the art of keeping up appearances to suggest that it is business as usual. As exemplified by the US cables published by Wikileaks in December 2010, we occasionally come across a less diplomatic interpretation of these brotherly ties¹⁸⁶.

Azeri-Turkish relations have survived critical, even mocking remarks, reportedly uttered by President Aliyev. This was mainly thanks to the downplaying of comments by the Turkish side. Meeting soon after the leak, on the sidelines of the Organization for Security and Cooperation in Europe (OSCE) summit in Kazakhstan's capital Astana, Turkish president Abdullah Gül told a group of journalists that Aliyev denied the report during their meeting. Gül said Aliyev expressed his dismay over the cables presenting him as being critical of Erdoğan. "He denied the veracity of the documents and expressed his sadness," Gül said. "I told him not to be sad. Even if you hadn't told me they weren't true, we did not believe them anyway"¹⁸⁷.

When Turkey decided to sign a protocol with Armenia, paving the way to normalise relations and open border crossings, Azerbaijani officials reacted with anger. They threatened to suspend gas exports to Turkey. President Aliyev cancelled his trip to Istanbul where he was due to attend the NATO Dialogue of Civilisations conference.

When Turkish-Azerbaijani relations hit rock-bottom, with flags being lowered and insults traded in national media, many had under-estimated Azerbaijan's leverage on Turkey. However, it turned out to be strong enough to derail Turkey-Armenia rapprochement. The result was that the 2009 protocols and the reconciliation process between the two countries became as good as dead.

A 30 metre high statue, depicting two human figures facing each other, was erected on a mountain in the Turkish city of Kars, near the Armenian border.

It was called the Statue of Humanity. Created by the well-known Turkish artist Mehmet Aksoy, it would have had one figure extending a hand to the other, symbolising the end of a century-long enmity and suspicion. The Turkish Prime Minister, Recep Tayyip Erdoğan, having repaired relations with Baku, signalled the end of the Armenian-Turkish rapprochement when he ordered the demolition of the statue. He described it as a "freak".

Rising nationalism

In January 2012, when the French Senate approved a bill which would make it illegal to deny the mass killing of Armenians in 1915, Azerbaijan joined Turkey in condemning France. The executive secretary of the Azeri governing party, Ali Akhmedov, told Interfax news agency that France's actions had also undermined its credibility as one of the members of the OSCE's Minsk Group, which is trying to help negotiate a solution to the Nagorny Karabakh conflict.

Later in February, the controversial draft law, which had soured relations between France and Turkey, was struck down, not as a result of threats from Turkey and its ally Azerbaijan, but because the French Constitutional Council decided that the legislation violated free speech rights and that it was not the place of the legislature to impose its own explanation for the mass killing of Armenians in 1915 during the last years of the Ottoman Empire.

A few days earlier, on 26 February, a large demonstration in Istanbul brought Turks and Azeris together to commemorate the 20th anniversary of the Khojaly Massacre. Khojaly was the bloodiest episode in Azerbaijan's conflict with Armenia when, in 1992, more than 600 civilians, including women and children, were killed by Armenians. The large rally, the first of its kind, was organised jointly by Azerbaijani parliamentarians and groups, in conjunction with Turkish nationalists. The Turkish Interior Minister Idris

¹⁸⁶ Hurriyet Daily News, Azerbaijani President no fan of Turkey's AKP, say US diplomats, November 2010

<http://www.hurriyetdailynews.com/default.aspx?pageid=438&n=azerbaijan8217s-aliyev-slams-recep-tayyip-erdogan-government-2010-11-29>

¹⁸⁷ The Turkofile, Turkey & Azerbaijan: What Wikileaks, December 2010, Eurasianet <http://www.eurasianet.org/node/62489>

Naim Sahin addressed the crowd gathered in city's central Taksim Square. "The Turkish nation will not forget this bloodshed as long as it lives. We will never let the Azerbaijani Turks' blood remain on the ground" he said. The slogans chanted and the placards carried featured remarks that would be considered racists or hate speech in most countries.

Human Rights Association's (IHD) Istanbul branch filed a criminal complaint against the Turkish Interior Minister whom they claim supported the controversial slogans uttered against Armenians at the rally. Prime Minister Erdoğan rejected the criticism of his interior minister. Turkey's EU Negotiator Egemen Bagis also told an audience in the London School of Economics on 29 February 2012 that the Taksim demonstration was not anti-Armenian. He said the Interior Minister went to share the pain of Azeris and could not be blamed for unacceptable banners displayed in the same photo frame as him.

A leading academic and commentator, Cengiz Aktar wasn't satisfied with these explanations. In his column in Today's Zaman newspaper dated 07 March 2012, he asked whether Turkey's Armenian policy was subcontracted to Azerbaijan. "Standing up for, or taking ownership of, the Nagorno-Karabakh problem gained pace following this Azerbaijani 'victory', with the matter receiving Turkish public support despite the fact that most people could not even spot Azerbaijan, let alone Karabakh, on a map. The February 26 rally was certainly the peak of these endeavours. Notwithstanding the demonstrators who were there to commemorate Khojaly in a dignified manner, the overall tone of the gathering was an obvious reversion to good old denialism, but this time via the Karabakh issue. With the prime minister endorsing the rally, it now looks like Turkey's traditional Armenian policy is stronger than ever. In conclusion, Turkey appears as though it has subcontracted its policies regarding Armenia, as well as the Armenians, wholly to Azerbaijan¹⁸⁸."

Once again, both Turkey and Azerbaijan watched 24th April this year with nervous anticipation to see how US President Barack Obama would describe the day of remembrance for the 1915 mass killings and deportations of Armenians. Once again, there was a sigh of relief that he didn't use the "g" word. But as the 2015 centenary of the Armenian killings gets closer, Turkey's unease increases. In anticipation of relentless pressure from the international community to acknowledge large scale killings of Armenians as genocide, we can expect further cooperation between Turkey and Azerbaijan to deflect criticism. Providing, on the way there, the strategic partnership between Ankara and Baku doesn't get shaken by conflicts of interest – such as growing co-operation between Azerbaijan and Israel.

Despite denials of a recent report in Foreign Policy¹⁸⁹ magazine alleging that, in addition to the commercial ties, Israel has acquired access to airfields in Azerbaijan, Baku is developing its relations with Israel both on a military and economic level. However, Turkey is no stranger to commercial pragmatism. While Prime Minister Erdoğan hardens his stance against Israel diplomatically, Turkish businesses continue to trade with Israel. According to TUSIAD's Umit Boyner, bilateral trade has not stopped, it has actually increased and continues to grow¹⁹⁰.

There are many spoken and unspoken differences between Azerbaijan and Turkey. Yet, if there is one common thread that is becoming more and more visible, it is their increasing self-confidence. Turkey, thanks to its growing economy and importance in a volatile region; Azerbaijan, mainly due to its rich hydrocarbon resources. Both seem to have an easier ride at times of deep economic crisis and growing need for affordable energy. Who would have thought a veteran British journalist like Sir David Frost would have so gracefully taken President Aliyev's statement that they have a free press, and free internet as an answer to the question "how do you make yourself a full democracy?"

¹⁸⁸ Cengiz Akhta, Turkey's Armenian policy subcontracted to Azerbaijan? Today's Zaman, March 2012, <http://www.todayszaman.com/columnist-273611-turkeys-armenian-policy-subcontracted-to-azerbaijan.html>

¹⁸⁹ Mark Perry, Israel's Secret Staging Ground, March 2012, Foreign Policy http://www.foreignpolicy.com/articles/2012/03/28/israel_s_secret_staging_ground

¹⁹⁰ Brookings Institution, October 2011, http://www.brookings.edu/~media/Files/events/2011/1025_turkey_foreign_policy/20111025_turkey_foreign_policy.pdf

**Britain and Azerbaijan:
An important relationship with a lot of potential for growth**

Dennis Sammut

Britain and Azerbaijan have just marked the 20th anniversary of the establishment of diplomatic relations between the two countries. Britain recognised Azerbaijan as an independent country shortly after the dissolution of the USSR in 1991. A British Embassy was established in Baku quite early on, and soon after an Azerbaijani Embassy also opened in London. Political and economic relations have since thrived.

This was the second time that Britain and Azerbaijan had established relations. An independent Azerbaijan Republic emerged in the Caucasus after World War I. Britain initially hesitated to extend recognition due to problems in the definition of frontiers between the three Transcaucasian republics, but eventually did so in early 1920. It was accompanied by a vague promise of diplomatic and material help in case of Soviet aggression made in a statement in Parliament by the then Lord Privy Seal Andrew Bonar Law on 24 February 1920. Azerbaijan put much hope on this support¹⁹¹. When the Bolshevik armies eventually arrived in April however, no British aid was forthcoming. A terse telegram from the Foreign Office to Oliver Wardrop, the British Commissioner in the Caucasus, stated unambiguously, "There is no question of our giving Georgia and Azerbaijan active military support in case of an attack on them by Soviet Forces, and you should be careful not to put any such interpretation on Mr Bonar Law's statement on February 24th."¹⁹² Baku came under Soviet rule on 28 April 1920. There had been a lot of sympathy in Britain to the Azerbaijani case, and certainly Wardrop was very keen to assist the Georgians and the Azerbaijanis, but the British military felt that their lines were overstretched and were pressing for a withdrawal from the Caucasus. Thus ended, not very auspiciously, the first chapter in British-Azerbaijani relations.

Over the last two decades Britain and Azerbaijan have sought to build their relations on a much stronger footing and in many regards they have succeeded. Leaders of the two countries regularly hail the level of relations and trust, but there is a sense that the two sides can do more. Whilst both countries can be satisfied with how relations have developed in the past two decades, they need to set more ambitious objectives as to what they can achieve together in the future.

BP and the transformation of Azerbaijan

Over the last decade Azerbaijan has gone through a process of economic transformation not seen since the oil boom in the Persian Gulf in the 1970s. The country has changed in appearance, and has become incredibly self-confident. A new generation of Azerbaijani youth is fast coming into its own, and has started to make its mark in the international arena in many spheres – from sport to culture to politics. From being the region's loser, Azerbaijan has become the region's winner. A former British Ambassador to Azerbaijan, Dr Laurie Bristow summed it up as follows: "During my period as Ambassador from 2004-7, I saw history unfold before my eyes. Azerbaijan now has great self-confidence on the world stage and plays an essential role in maintaining a secure energy source for the EU. It is also seeking to develop the non-oil sector. I look forward to the next twenty years".¹⁹³

Britain has been right at the centre of the Azerbaijani transformation because of the pivotal role that BP has played in the development of Azerbaijan's energy sector. BP has, since 1994, led an international consortium that has successfully developed Azerbaijan's offshore energy resources, providing an important alternative resource to Europe's energy markets. According to the President of BP, Azerbaijan BP has invested US\$35 billion in Azerbaijan in the last twenty years.¹⁹⁴ Whilst BP was a natural choice for a partner, given its skills and technology for deep sea oil exploration, the decision of the Azerbaijan

¹⁹¹ Confidential Note No 30 of 24 March 1920 from the British Political Officer in Baku, T Denis-Daly to the Chief British Commissioner Tbilisi reporting on a meeting that morning with the Azerbaijan Minister of Foreign Affairs (PRO/FO371, file 1)

¹⁹² Cypher Telegram from the Foreign Office to Mr Wardrop No 183 dated 27 April 1920 (PRO/FO 371, File 1).

¹⁹³ Laurie Bristow speaking at an event marking the 20th anniversary of Azerbaijani independence held in London on 15 October 2011, quoted in TEAS Magazine (November 2011), p 5. quoted in TEAS Magazine (November 2011), p 5.

¹⁹⁴ BP Azerbaijan President Rashid Javanshir quoted by Azernews.az on 27 January 2012 (Site visited on 14 March 2012)

government to go for a British company was not a simple and easy one. Certainly there are many in Russia who, until today, consider this development to have been a major setback for Russian interests in the region. This was further highlighted by the construction of the Baku-Tbilisi-Ceyhan (BTC) pipeline, again with BPs efforts. Despite all predictions to the contrary, BTC was constructed on time and on budget. BTC gave Azerbaijan the possibility of exporting its resources bypassing Russia and thus hugely increasing its room for manoeuvre in a difficult geo-political region. BP has therefore become a fulcrum around which British-Azerbaijani relations have revolved for the last two decades. Both sides however should push harder to move relations to a new basis in the future.

Azerbaijan is good for British business

There are currently over 170 British companies operating in Azerbaijan, and the British expatriate community numbers around five thousand.¹⁹⁵ Whilst many work in the energy sector, there is other commercial activity too. British companies are now increasingly involved in the non-oil sector and many report success despite difficulties. These difficulties stem from Azerbaijan's incomplete reform process. Whilst BP managed to secure guarantees from the Azerbaijani government over the years which have enabled it to work largely without interference or obstacles, other companies continue to face problems that are endemic in Azerbaijan's business environment, including corruption, monopolistic practices and general bureaucratic frustrations. Many consider what the Azerbaijan government response to these issues is far from adequate.

Britain and the Karabakh conflict

Britain supports the territorial integrity of Azerbaijan and has expressed this position firmly both bilaterally and in international fora. Britain also supports a peaceful resolution of the conflict in the framework of the OSCE Minsk Process.¹⁹⁶ In private, Azerbaijani officials have often expressed disappointment that Britain does not play a more active role in the diplomatic arena on this issue. Quite why Britain refused to be included in the OSCE Minsk Group when it was established in 1992 has never been properly explained by the Foreign Office, but the reason is likely to have been mundane rather than strategic. The current British position is to try to push for a more active EU engagement with the problem whilst refraining from engaging directly with the issues. This approach is often not appreciated by the Azerbaijanis.

Azerbaijan's democratic shortcomings cast a shadow over relations

The issue that continues to cast a shadow over Britain's relations with Azerbaijan is the country's shortcomings in the field of democratisation and political reform. Azerbaijan is not a totalitarian country. Opposition and dissenting views are tolerated within limits. There are however, government elements with strong totalitarian streaks. Heavy handed tactics in dealing with journalists, activists and political opposition mar what otherwise would be an impressive record of development, well lubricated over the last decade by revenues from the export of energy resources.

This situation continues to be a matter of concern to the British government and increasingly to public opinion in Britain. The media for a number of reasons has started to take a closer interest in Azerbaijan and it generally does not like what it sees. Liberal leaning newspapers often run stories very critical of the Azerbaijan government. Pro government media in Baku have occasionally responded in kind. British officials have traditionally been very hesitant to criticise the Azerbaijani government in public, although in private they have usually been more candid. The hope has been that with increased confidence, President Ilham Aliyev will opt for a European model of development, rather than a statist Russian or a feudal Middle Eastern one. Whether he will do so remains to be seen.

¹⁹⁵ Newsletter of the Republic of Azerbaijan in London, March 2010, Issue 3.

¹⁹⁶ In an interview with TEAS Magazine, the then British Ambassador to Azerbaijan Dr Carolyn Browne expressed the position as follows: "My government's position is clear - we fully recognize Azerbaijan's territorial integrity and remain committed to supporting international efforts to bring about a negotiated and sustainable settlement to the Nagorno-Karabakh issue based on UN and OSCE principles." TEAS Magazine, London, June 2009, p 6

Key actors have contributed to develop the relationship despite difficulties

British-Azerbaijani relations over the last two decades have developed successfully despite problems and difficulties. A range of state and non-state actors have contributed to this. The relationship has benefitted from the able and committed diplomats the two governments have deployed in their embassies, from an on-going political dialogue at the highest level, and from a vibrant, even if somewhat chaotic civil society engagement. Over the last five years Azerbaijan's charm offensive in Britain has been spearheaded by The European Azerbaijan Society (TEAS), headed by able LSE graduate, Tale Heidarov, son of a senior Minister. TEAS is derided by critics of the Azerbaijan government as part of the state propaganda machine, but it has on the whole tried to deliver a largely positive message even when faced with difficult issues such as human rights abuses and media problems. A number of British NGOs work in Azerbaijan, establishing relations across the political spectrum.

Both Britain and Azerbaijan need to be ambitious for the future

Britain and Azerbaijan have over the last two decades created the foundations for a solid relationship between them and these relations are now extending beyond diplomatic and economic spheres to more people to people contacts. Both sides, however, need to recognise problems that persist in the relationship which they need to deal with. There are areas where many feel much more could be done, particularly in the field of education and health care, where Azerbaijan lags behind and where Britain can be making a much more direct contribution. Britain and Azerbaijan need to be more ambitious about where they want to take their relationship in the future. They need to establish a new basis for the relationship in the next two decades, one that is more value driven, but also one that recognises the huge strides that Azerbaijan has made in the recent years.

EU relations with Azerbaijan under ENP: More for less?

Jacqueline Hale

A challenging partner

Azerbaijan is neither an easy nor obvious partner in Europe's project to integrate its neighbours. Geographically distant, lying on the shores of the Caspian, it has no direct border with the EU. The current government is ambivalent about the country's European vocation and associated EU norms and values, despite Azerbaijan's pre-Soviet heritage as the first Muslim democracy in the world¹⁹⁷. Nevertheless, on the back of the EU's successful enlargement policy and coloured revolutions in Ukraine and Georgia, Azerbaijan was included in the EU's European Neighbourhood Policy (ENP) when it was launched in 2006, replacing the TACIS programme¹⁹⁸. The ENP is an ambitious policy, combining the logic of normative rules-based approximation that had guided successive EU enlargements with the foreign policy goals of creating a ring of stability, prosperity and democracy in states on the EU's borders. From the start, the ENP's complex policy mix of values and interests met resistance in Azerbaijan. It has proved the least willing of the South Caucasus neighbours to embrace the EU's transformative agenda and socialisation objectives (including free trade, people-to-people contacts, visa and facilitation), let alone objectives on human rights and democratisation. Five years on, whilst EU-Azerbaijan relations have advanced in some areas – notably energy cooperation – many of the political commitments remain on paper and negotiations on an Association Agreement are proceeding slowly.

Normative failure

The EU's values agenda has seen little if any progress since Azerbaijan committed itself to a number of reforms in a jointly-signed Action Plan. Azerbaijan has remained stuck in transit – even backsliding – during the lifespan of this new normative relationship. It dropped from 135th to 162nd place in the Reporters without Borders Press Freedom Index¹⁹⁹; elsewhere it is characterised as highly corrupt and authoritarian and 'not free'²⁰⁰. Specific commitments to improve the judiciary, simplify NGO registration and develop independent broadcasting have not been met. The government's lack of willingness to embrace a European vocation has led Azerbaijan to lag behind its South Caucasus neighbours to become – along with Belarus – a lowest common denominator in the Eastern Partnership, which the EU launched as a multilateral layer for the ENP East²⁰¹. Whilst relations with Azerbaijan have been formally conducted on a parallel track with Georgia and Armenia, it has increasingly become clear that each has a different vision of their respective relationship with the EU and that Azerbaijan prefers a Strategic Partnership to approximation to EU norms and standards²⁰².

The EU-Azerbaijan relationship is a tale of mismatched objectives and ambitions: the EU has – on paper at least – tended to seek comprehensive reforms across a range of sectors, whilst Azerbaijan's interests are more narrowly defined. The Action Plan commitments, additional to the standard contractual Partnership and Cooperation Agreement signed in 1999, projected reforms across a broad range of policy areas. Among the 10 priorities²⁰³, Nagorno-Karabakh features highly (priority 1), as does energy cooperation, testifying to the government's interests, whereas the EU pushed for priorities 2 and 3 which focus on democratisation and human rights protection. Whilst successive annual European Commission

¹⁹⁷ Azerbaijan briefly had a democratic government between 1918-1920.

¹⁹⁸ The EU started relations with Azerbaijan upon its independence in 1991, and assistance was pre-dominated by the Technical Assistance to the Community of Independent States (TACIS) programme to maintain economic and political links among the post-Soviet states as well as food aid. This cooperation was essentially based on energy and transportation.

¹⁹⁹ Reporters Without Borders Press Freedom Index. Figures given here are for 2006 and 2010 respectively.

²⁰⁰ Transparency International Corruption Perception Index 2010, Freedom House Nations in Transit, 2010

²⁰¹ Recent Comparative Analysis of the 6 Eastern Neighbours ranks Azerbaijan 5th in its Linkage and Approximation to EU structures and Management of EU integration processes. On the Belarus is in 6th place, Moldova comes top. European Integration Index, Open Society Foundations, November 2011

²⁰² See Memorandum of Understanding on a Strategic Partnership between EU and Azerbaijan on Energy (December 2006)

²⁰³ 1 EU / Azerbaijan Action Plan (14 November 2006), http://ec.europa.eu/world/enp/pdf/action_plans/azerbaijan_enp_ap_final_en.pdf. The Action Plan has 10 priorities: conflict resolution on Nagorno-Karabakh; strengthen democratisation (with particular focus on a transparent and fair electoral process), strengthen human rights protection; improve the business and investment climate (especially the fight against corruption), improve customs, economic development, diversification, rural development and protection of environment, Convergence of economic legislation and administration; EU-Azerbaijan energy bilateral cooperation regional cooperation, cooperation in the field of justice freedom and security; including in the field of border managements (visa and readmission), regional cooperation.

progress reports and those by independent observers²⁰⁴ have pointed out the government's failure to implement even minimal political commitments, and despite the lack of progress towards safeguarding human rights and consolidating democracy, there are plans to deepen the relationship: the EU and Azerbaijan are currently negotiating an Association Agreement and a possible Roadmap of future policy reforms; the EU again looking for a comprehensive partnership whilst Azerbaijan is said to be more interested in cherry-picking areas of collaboration. Nagorno-Karabakh and the issue of territorial integrity is a sticking point in official negotiations, whilst Azerbaijan's resistance to discussing political questions, particularly human rights, looms large²⁰⁵.

Energy security versus human rights?

One area where the partners' interests converge is energy cooperation. The EU is projected to rely on external actors for 70% of its energy supply by 2030. The 2006 Russia-Ukraine gas crisis prompted broad consensus among the EU27 over the need to diversify supply away from Russia, inter alia, through a Southern Gas Corridor to supply 10-20% of EU gas demand by 2020²⁰⁶. Azerbaijan has 2.5 trillion cubic metres of gas reserves and is projected to have an output of 28.2 billion cubic metres in 2012²⁰⁷. Against this context, the signing of a Memorandum of Understanding on Energy in a parallel process to the launching of the Action Plan was significant²⁰⁸. In practice, energy concerns have driven the higher level political relationship, whilst the job of policing the Action Plan commitments has been left to the technocrats at working level. The last few years have seen a number of high level visits by Commissioners Barroso and Oettinger to Baku, relating to negotiations for a Transcaspien Gas Pipeline Agreement, signed in September 2011²⁰⁹. On human rights the EU has generally preferred quiet diplomacy to outspoken critical statements or sanctions, whilst criticisms have been buried in bureaucratic reports²¹⁰. Clearly the thirst for Azerbaijani oil and gas is an interest which overrides, or is seen to be hampered by, asserting EU values. The result has been inconsistent pursuit by the EU of its policy goals: the Union has remained rhetorically committed to human rights whilst allowing its interest in Caspian energy to trump human rights concerns. Where human rights have been raised, they have been emphasised to differing degrees by various arms of the EU. The Commission has not been a unitary actor: DG Enlargement and Neighbourhood, and DG Energy all having different takes, the latter being the policy lead given the appointment to the External Action Service of an EU Ambassador who had previously worked with the Energy Commissioner. Member States have pursued bilateral relations according to commercial interests²¹¹, whilst the European Parliament has appeared schizophrenic; championing individual human rights cases on the one hand, for example protesting the murder of journalist Rafiq Tagi, while producing a resolution favourable to Azerbaijan on the EU-Azerbaijan Association Agreement which recognised Azerbaijan's 'territorial integrity' and praised its contribution to the Eastern Partnership²¹².

The assumption driving this policy incoherence, namely that human rights, democracy and a rule of law-based agenda are incompatible with the pursuit of energy interests, has been challenged by events in the EU's Southern Neighbourhood. The Arab Spring brought into sharp relief how pursuing energy and commercial deals at the expense of human rights had cast the EU adrift from the aspirations of those societies. The reputational and political cost to the EU prompted a review of its policy towards its neighbours which placed promising new emphasis on supporting civil society groups and human rights and democracy, yet for the most part short-sightedly gearing this towards the Southern Neighbourhood²¹³. Azerbaijan has until recently remained something of a blind spot in the EU's field of

²⁰⁴ Boonstra, J., How Serious is the EU about supporting democracy and human rights in Azerbaijan?, ECFR Working Paper

²⁰⁵ For example, Azerbaijan, unlike Georgia and Armenia, has still has not formally agreed to a Human Rights Dialogue. A discussion takes place in a technical committee linked to Justice, Liberty and Security cooperation.

²⁰⁶ See the EU Second Strategic Energy review and "The EU Energy Policy: Engaging with Partners beyond Our Borders" September 2011.

²⁰⁷ Official SOCAR figures.

²⁰⁸ Initially oil, and now Shah Deniz gas has been the background to the relationship. Heydar Aliyev signed an oil deal in 1994 with 11 companies, including many Europeans, which was dubbed the Contract of the Century.

²⁰⁹ The Transcaspien Pipeline would ship gas from Turkmenistan via Azerbaijan to Europe.

²¹⁰ Progress reports have raised concerns, diplomatically.

²¹¹ For example, visits by the UK's Prince Andrew in a Business Envoy role.

²¹² Resolution on EU-Azerbaijan Association Agreement, 19 April 2012. In addition to the resolution on Rafiq Tagi (December 2011), the Parliament voted a highly critical urgency on human rights in Azerbaijan in May 2011.

²¹³ Joint Communication on 'A New response to a changing neighbourhood', June 2011

vision: notwithstanding efforts by the Commissioner for Enlargement and the Neighbourhood, and recent local statements by the upgraded EU delegation in Baku aimed at protecting human rights defenders and targeted individuals²¹⁴, the EU has yet to draw consistent links between energy, trade and human rights policy, both in terms of ensuring coherent messaging towards Azerbaijan, or outlining negative policy consequences. This lack of policy coherence threatens to become a strategic issue at the multilateral level: for example, Azerbaijan is ranked below Belarus in the 2011 Economist Intelligence Unit Democracy Index²¹⁵. Whereas energy-poor Belarus comes in for consistent criticism and sanctions and its government is barred from participating in the EU's Eastern Partnership, the EU has not considered responding to Azerbaijan's ongoing crackdown on dissent with sanctions.

Leverage concerns-dependency narrative

Much EU discourse and policy is shaped by the perception that the EU needs hydrocarbon-rich Azerbaijan more than the reverse. Officials frequently bemoan the EU's lack of leverage, pointing to its gas reserves and supply diversification strategy. From 2007, Azerbaijan has emerged as a decisive broker for a number of gas deals involving competing commercial entities from different EU Member States (initially a three way competition but since opening up to other consortia²¹⁶), as well as transit deals with Turkey. At the same time, the country has been slow to take up the EU's offer to its neighbourhood, characterised by the High Representative as "Money, Markets and Mobility". As a non-WTO member, Azerbaijan's interest in EU plans for a Deep and Comprehensive Free Trade Agreement is limited. The country has not shown a clear interest in visa facilitation – and indeed toughened its own visa rules in the last 2 years. EU budget support financing has also lacked appeal. Azerbaijan has been reluctant to sign off financing agreements under the European Neighbourhood Partnership Initiative worth €122.5 million from 2011-13, a level of aid which is negligible in light of Azeri oil and gas revenues and not seen as a real incentive.

At the same time, frequent official insistence that the EU has 'no leverage' has been both an excuse for inaction on human rights and a strategic blunder. The EU's position as an energy consumer has been misinterpreted as one of energy dependence (despite the fact that the EU market of 500 million people gives it considerable clout), whilst the EU's political embrace of grand infrastructure projects, notably the Nabucco pipeline, has allowed its foreign policy to be tied to the notoriously fickle energy markets²¹⁷, with implications for geopolitics as well as human rights. Recent developments testify to the lack of success: for all the high politics of the Southern Gas Corridor and its once flagship contender, Nabucco, the EU and its Commission-led Caspian Development Corporation has been largely side-lined by commercial ventures involving its member states. Far from defeating Russia at its own foreign energy policy game, the EU has allowed its soft power to be straitjacketed to realpolitik and thus far emerges with little to show for its efforts.

The other component to the dependency myth is that by intensifying cooperation one will enhance leverage to effect transformative (and normative) change later. In the case of Azerbaijan, the experience of recent years shows how this assumption breaks down: since European companies signed oil and gas deals from the mid-1990s onwards, and as self-confidence has grown with its rapidly rising GDP, Azerbaijan's authoritarianism has entrenched. Presidential and Parliamentary Elections in 2008 and 2010 were seen as uncontested and blatantly rigged in favour of the ruling party. Abuses of property rights relating to pipeline construction continue, as the State Oil Company of Azerbaijan Republic (SOCAR) acts with increasing impunity²¹⁸, all while the EU becomes less disposed to raise critical concerns. If linkage is to lead to leverage it can only be through the exercise of strict benchmarking (delivered publicly) and the

²¹⁴ See for example, local human rights statement on the case of Khadija Ismayilova.

²¹⁵ In the Economist Intelligence Unit: Democracy Index (2011), Azerbaijan is ranked 140/167 with a 3.15 score, with Belarus considered marginally less authoritarian, at 3.16, where 10 is a full democracy.

²¹⁶ The original three-horse race between Nabucco, Italy-Turkey-Greece-Interconnector (ITGI), Trans-Adriatic-Pipeline (TAP) has recently opened up following possible Azerbaijani SOCAR endorsements to include the BP sponsored SEEP and a mooted joint Turkish-Azerbaijani Trans-Anatolian Pipeline (TANAP).

²¹⁷ Since the launch of the Southern Gas Corridor and the endorsement of the Nabucco pipeline in particular, the markets have been transformed by the rise of LNG, Shale gas and tight gas technologies.

²¹⁸ On 18 April, two journalists were beaten when trying to film the demolitions of homes by employees of SOCAR acting with impunity <http://www.amnestyusa.org/sites/default/files/uaa11012.pdf>

development of redlines (conditionality by another name). Yet, through EU insecurity about the attractiveness of its offer and its perceived dependency, the EU has not exactly been keen to attach political conditions to its approach. This self-fulfilling dependency narrative and engagement without conditions has been both geopolitically and commercially unstrategic. On the one hand, the EU risks undermining its credibility as happened in the Arab world. On the other hand, the failure to tackle impunity, lack of rule of law and its bedfellow, rampant corruption, will blight commercial opportunities gained further down the line. Companies are still leaving Azerbaijan. In March 2012, Nestle, the world's largest food company, announced it was severing all ties because of rampant corruption impeding its business. Unless Azerbaijan tackles corruption, others may follow.

Breaking the dependency myth – More for more

The ENP review brings a chance to rebalance the relationship and for the EU to have a more coherent and consistent approach towards Azerbaijan. The first step is to recognise that, despite its self-confident rhetoric, Azerbaijan needs the EU. Brussels – and the capitals – far from lacking leverage, are a key port of call for the government and civil society. For the government, Brussels is an increasingly important vector in a policy of balancing geopolitical interests. Azerbaijan's poor relations with Iran and a perceived imbalance (in Armenia's favour) of Russia's relations in the region²¹⁹ leaves Azerbaijan in real need of soft and potentially hard power cooperation with the EU and Euro-Atlantic structures in the event of a regional conflict. It depends on international efforts, and increasingly EU engagement, to solve its dispute with Armenia over Nagorno-Karabakh. The EU27 is also a key economic player – and Azerbaijan's leading trading partner, accounting for nearly 50% of Azerbaijani exports in 2010²²⁰. Azerbaijan's westward energy policy and largely undiversified economy²²¹ leaves it dependent on the EU market for oil and gas to fill its coffers. In terms of investment security and sustainable development, the country also has an interest in avoiding the resource curse through implementing regulatory reforms²²² and a diversification strategy as oil output, in particular, continues to decline. Finally, prestige projects such as the Eurovision Song Contest, Azerbaijan's campaign for a UN Security Council seat and its ambition to host the Olympics in 2020 reveal the importance of international legitimacy and prestige to the authorities in the absence of legitimacy conferred by democratic process at home.

For its part, Azerbaijan's still robust civil society, including its younger, well educated blogger generation is looking to the EU for inspiration and support. Ahead of May's Eurovision Song Contest, many groups are calling for the EU to be more vocal about human rights concerns and are seeking EU support for their democratic aspirations²²³. The EU's recent rhetoric in its ENP review on a "partnership with societies"²²⁴ is timely and offers a chance for the recently upgraded delegation to reach out further – unshackled by government prescriptions about who should be invited to sit around the table – as was unfortunately the case during an EU-Azerbaijan civil society seminar in June 2011²²⁵. The EU can also afford to move beyond quiet diplomacy to speak out more often: recent local delegation statements (e.g. in the case of the persecution of RFE journalist Khadija Ismayilova) provided important protection for the victims and a morale boost for local activists and should now form part of a consistent post-Arab spring strategy of talking beyond governments.

New funding via the Civil Society Facility worth €22 million a year (shared among the 16 neighbourhood countries) also brings a chance to provide additional funding to independent NGOs following years of limited cooperation with the previously small EU assistance office. A proposed European Endowment for Democracy already sends a strong signal and – if it becomes a reality – should enable more cutting-edge and risk-taking funding by the EU to pro-democracy projects in Azerbaijan. The EU could use increased

²¹⁹ Notably the Russian military base in Gyumri, Armenia whose lease was extended in 2010 to 2044.

²²⁰ DG Trade figures: http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_113347.pdf

²²¹ Oil and oil products constituted 92 % of Azerbaijan's exports in the first 10 months of 2011 according to the Centre for Economic and Social Development, Baku.

²²² See Oil Boom and Resource Curse, Centre for Economic and Social Development, Baku.

²²³ See www.Singfordemocracy.org

²²⁴ Joint Communication on 'A New response to a changing neighbourhood', June 2011

²²⁵ The June 2011 seminar, on the subject of civil society development, was organised by GONGOs and independent NGOs were specifically excluded.

flexibility in its new funding instrument, the European Neighbourhood Instrument, to move funds across substantive areas, and also to redirect funding to independent civil society if there is mismanagement of funds or backsliding, or if the government fails to take up funding. This could involve a reinvigorated – and peer vetted – National Platform of the Eastern Partnership Civil Society Forum. Supporting innovative projects like those the EU and its member states currently undertake for Belarus (such as BelSat independent TV) would keep the EU consistent in its democratisation activities across its Eastern neighbourhood, whilst responding to the needs and aspirations of broader society. Targeted use of the Erasmus Mundus External Window for young dissidents would provide opportunities for those denied funds through the government’s state-run diplomatic academy programme.

Alongside funding support, the EU could usefully develop – ideally publicly, but at least privately – a common and strategic understanding of what they will and will not accept from Azerbaijan, as with other Caspian hydrocarbon states. This *less for less* policy will help the ‘more for more’ policy to emerge more consistently and sharply, and create a virtuous circle whereby the EU can take advantage of the competition created by its differentiated approach to its partners in the neighbourhood to encourage best performers, rather than allowing Azerbaijan to become a lowest common denominator – the ‘more for less’ scenario. Over the long term, developing clearer rules and conditions for engagement will also safeguard the EU against being drawn into relationships of perceived dependence on unreliable or unreformed states, such as Azerbaijan. Short-term expediency should no longer come at the cost of long-term political and commercial sustainability.

Civil society actors in Baku frequently remind observers that yesterday’s Tunisia is today’s Azerbaijan. The EU can ill-afford a repeat of its pre-Arab Spring policy failure in the Caspian and needs to develop more comprehensive engagement with a cadre of well educated young people and non-governmental actors, including dissidents. Conducting EU-civil society interactions without government interference and seeking further civil society participation in policy processes linked to ENP will support the pro-European NGOs who can become amplifiers of the EU’s soft power in the country. Conditioning its engagement along political as well as economic lines, and raising its voice on human rights should enable the EU to become a more coherent, consistent and above all, credible partner for Azerbaijani society.

Conclusion: Azerbaijan's choice

Adam Hug

Spotlight on Azerbaijan has examined a number of different areas where the processes of the state are significantly in need of reform. For the most part, whether the country chooses to address these problems, will come down to the extent of its political will to reform and the pressure it faces from Azerbaijani civil society and its increasingly aspirant younger generation. However, there are three key variables that will have a significant impact on the political dynamics in Azerbaijan over the coming years: the future rate of economic growth, the unresolved Nagorno-Karabakh conflict and the country's relationships with the international community.

Economic pressures

Azerbaijan's future political stability is likely to be dependent on whether it is able to continue to generate significant economic growth. As Vugar Bayramov has showed, as the oil industry boomed in the mid 2000s, Azerbaijan's GDP growth hit 25.5% in 2005, a stellar 34.6% in 2006 and 25% in 2007, before returning to the trend rate of around 10% for two years that it had previously maintained since the first oil came on stream in the late 90s. However, there are clear signs that the party may be over, with Azerbaijan's growth rate dropping to 5% in 2010 and 0.1% in 2011, according to official statistics²²⁶. First quarter official statistics for 2012 show a moderate bounce-back to 0.5% growth for the quarter but it falls below the level forecasted, leaving agencies to begin trimming their predictions for the year, with the Asian Development Bank downgrading its 2012 estimate from 5.8% to 4.1%²²⁷ and lowering its 2013 figure to 3.5%. The key driver for this is the tailing off of oil production, which has dropped from 51 million tons of oil in 2010 to 46 million tons in 2011, and 42 million tons projected for 2012, with predictions for 2015 as low as 33 million tons²²⁸. While new investment in the development of the deepwater Chirag, Azeri and Gunlash (ACG) fields may help to soften this decline, and government officials are insisting that the reduced production is part of a plan to extend the working life of the reserves, the general trend for both oil and gas output²²⁹ is on the downslope until a significant new slug of gas from Shah Deniz II comes on stream in 2017.

As Vugar Bayramov's piece points out, only a small proportion of current oil and gas revenues are being added to the long-term holdings of the State Oil Fund (SOFAZ), with 95% being redirected into current spending. With new oil revenue falling, SOFAZ is making the transition from future nest egg to fiscal cushion and more careful management will be required to ensure that its resources remain available for future generations. Indeed, both NGOs and the international community will need to be vigilant that Azerbaijan does not blow that nest-egg too fast as a response to short-term economic and political challenges.

This is not to suggest that the Azerbaijani economy is at a sheer cliff edge. Its low levels of public debt (around 6% of GDP), its oil fund and strong currency have all contributed to recent improvements in its credit rating from BB to the lowest level of investment grade BBB²³⁰. Azerbaijan has not entirely wasted the benefits of the boom years, it has shown an impressive improvement in tackling poverty, reducing the official rate from 49% in 2001 to 9% in 2010²³¹. Similarly, there have been improvements to local infrastructure and public buildings both in Baku and in the regions, albeit of varying quality.

²²⁶ Zulfugar Agayev, Azerbaijan's Economy Grew 0.1% in 2011, AzTV Says, Cites Aliyev, Bloomberg Business Week, January 2012 <http://www.businessweek.com/news/2012-01-18/azerbaijan-s-economy-grew-0-1-in-2011-aztv-says-cites-aliyev.html>

²²⁷ Centre for Economic and Social Development (CESD), ABA Adjusted Economic Growth Forecast for Azerbaijan, April 2012, <http://cesd.az/new/2012/04/adb-adjusted-economic-growth-forecast-for-azerbaijan/>

²²⁸ CESD, Azerbaijan economy in the first quarter of 2012, April 2012 http://cesd.az/new/wp-content/uploads/2012/04/Azerbaijan_economy_first_quarter_20122.pdf

²²⁹ Reuters, BP to boost investment in Azeri projects in 2012, March 2012, via <http://uk.finance.yahoo.com/news/bp-boost-investment-azeri-projects-153340817.html>

²³⁰ Bloomberg Business Week, Azerbaijan's Credit Rating Raised to Investment Grade by S&P, December 2011, <http://www.businessweek.com/news/2011-12-23/azerbaijan-s-credit-rating-raised-to-investment-grade-by-s-p.html>

²³¹ World Bank, Country Program Snapshot-Azerbaijan, <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/ECAEXT/AZERBAIJANEXTN/0,,contentMDK:20174399~menuPK:301921~pagePK:141137~piPK:141127~theSitePK:301914,00.html>

However, there remain worrying imbalances in a labour market where a significant proportion of the population continues to have to leave Azerbaijan in order to find work, often unskilled workers who move to Russia for manual labour. According to the Central Bank, Azerbaijan received over 1.046 billion manat in remittances in 2011, compared to 876.9 million manat in 2010 and 722.2 million in 2009. In 2006, 9% of the Azerbaijani population was in receipt of remittances and 79% of those remittances were coming from Russia²³². The poor southern region of Lankaran was the region with the highest proportion of remittance recipients, and where the recipient of the remittances was female, in 41% of cases this arrangement had been going on for over five years, in many cases husbands and wives separating for economic reasons²³³. Azerbaijan's future economic development needs to involve both broadening the skills base of its population and providing better opportunities at home for those without the skills to work in the oil sector or other white collar roles.

Another major imbalance in the Azerbaijani economy and budget falls in the key areas of health and education. In 2010, when the average monthly salary in Azerbaijan stood at 325 manats²³⁴, secondary school teachers were in receipt of an average wage of 245.1 manat a month and 211.5 manat for those in technical and vocational roles. Doctors would receive an average salary of 213.3 manat²³⁵. The low wages for these skilled professions encourage teachers and doctors to supplement their income: indeed some would argue that it is an assumption built into the system. In the case of teachers this can take the form of private tutoring; however reports of bribe-taking for better grades are widespread. Such pressures also act as a drain on teachers' motivation and professional development. In the health system, even these low rates of pay are an improvement on previous support, which showed wages as only 6 manat above the official poverty line in 2006 according to UNICEF²³⁶. The same report showed that in the same period Azerbaijan was the only country in the world at its level of income to spend less than 1% of GDP on state provision of healthcare. UNICEF also showed that 58% of total health expenditure came from out-of-pocket payments by patients. Some of this spending falls into the grey area of enabling procedures to take place where full government funding has not been provided and as a mechanism for supporting doctors' incomes.

Azerbaijan's progress towards WTO membership remains slow and, despite some improvements in technical cooperation, there is little sign that it has the political will to join any time soon. Azerbaijani reticence to join is based on two interlinked motivations, one reasonable, the other not. Firstly, the desire to protect infant industries. Despite recent growth, the 'non-oil' sectors are underdeveloped as the 'oil sector' has sucked up the lion's share of the available investment and talent since independence and peace. Furthermore, the downside of having a strong manat is that Azerbaijani firms find it more difficult to export, while lower import costs net a windfall for the firms able to corner this market. Overall, the Azerbaijani economy is uncompetitive and has a prevalence of local monopolies that would struggle to compete in the event of trade liberalisation. Secondly however, many of these domestic monopolies are not naturally occurring economic phenomena, but are 'politically connected economic monopolies'²³⁷. As the US State Department puts it, these 'politically connected businesses appear to have benefited from government regulatory and other decisions to achieve effective control over several lucrative sectors of the economy'²³⁸. Whether Azerbaijan is capable of overriding the entrenched interests that keep its markets closed is as yet unclear. Russian completion of their long-running accession process, due by June

²³² EBRD, Azerbaijan National Public Opinion Survey on Remittances, 2007, <http://www.ebrd.com/downloads/sector/etc/survaz.pdf>

²³³ In 33% of all survey cases where the recipient was female they had received remittances for over 5 years

²³⁴ <http://avciya.az/index/eng/economics/8482-average-monthly-salary-of-hired-workers.html>

²³⁵ The State Statistical Committee of the Republic of Azerbaijan, 4.11 Average monthly salary of works worked fully by occupation and positions in 2010 www.azstat.org/statinfo/labour/en/4_7en.xls

²³⁶ UNICEF, Budget investments in health and education of Azerbaijani children, July 2008 <http://www.un-az.org/doc/Budget%20investments%20in%20health%20and%20education%20of%20Azerbaijani%20children%20ENG.pdf>

²³⁷ Business Anti-Corruption Portal, Azerbaijan Country Profile- General Information, <http://www.business-anti-corruption.com/country-profiles/europe-central-asia/azerbaijan/general-information/>

²³⁸ US Department of State, 2011 Investment Climate Statement – Azerbaijan, <http://www.state.gov/e/eb/rls/othr/ics/2011/157236.htm> State argues that U.S. investors have been among those victimized and that 'powerful state-owned enterprises, such as the Azerbaijan State Caspian Shipping Company (CASPAR) and Azerbaijan Airlines (AZAL), have protected their commercial interests by blocking new entrants into the market through the exercise of their regulatory authority.'

2012, would add some pressure, as much in terms of relative national prestige as economic impact, though Azerbaijan seems likely to follow Russia's exploits as a test case for the immediate future. Lack of WTO membership also leaves a gaping hole in the possibilities for the development of Azerbaijan's relationship with the EU, as explained below.

The government has so far achieved a broad degree of public acquiescence to its activities on the basis of using windfall growth to deliver bread and circuses. If more straitened economic times reduce the supply of the former, a more actively critical public eye may be trained on both the latter (such as the current bids for both the Olympics and the European Championships in 2020) and on the proportion of the country's resources ending up in the hands of the elite and off the books.

Energy

As has been already set out, Azerbaijan is in the gradual process of transition from being primarily a producer of oil to being predominantly a producer of gas, a switch that has not gone unnoticed in a Europe fretting about Russia's dominance of its gas markets. Unlike oil, that can get to market via a number of different routes, the traditional gas sector has required a series of fixed pipeline networks in order to enable its transition from ground to consumer. As the scale of gas reserves in the Caspian became clear, a geo-political competition sprang up between competing Russian (South-Stream) and European (Nabucco) bids to build new pipelines that would transport the gas from the region to markets in South Eastern and Central Europe. Nabucco was initially conceived as a 31 billion cubic metre (BCM) capacity route running from Turkey to Austria, controlled by a coalition of European companies and strongly supported by the EU, which saw it as a critical step in reducing Russian influence over access to Caspian gas.

Nabucco was always going to require gas from an additional source in order to become an economically viable option. Azerbaijan's Shah Deniz II project is projected to make available an additional 16 BCM per year in 2017²³⁹, so even at the most optimistic of projections Baku would only have been able to provide half of the pipeline's maximum capacity. The alternative sources would be provided either by the creation of a Trans-Caspian pipeline to enable it to access Turkmenistan's much larger gas reserves (and potentially leave the way open for future involvement of gas from Kazakhstan) or by gaining access to Iraqi gas. Yet, as the years rolled on with Trans-Caspian and Northern Iraqi options still on the drawing board, concerns had been mounting about the project's cost (as much as US\$12 billion²⁴⁰) and viability.

In December 2012, two Turkish developments in effect killed the full Nabucco project. Firstly, Turkey agreed to allow the 63 BCM Russian South Stream pipeline to pass through its waters and secondly, as Firdevs Robinson points out, it concluded a deal with Azerbaijan that the Shah Deniz II gas would pass through the new Trans-Anatolian pipeline (TANAP) with 6 BCM being diverted for Turkish domestic use and the remaining 10 BCM to supply European markets²⁴¹. As of March 2012, behind the scenes rumours became public statements, with Nabucco being recast as the much more modest Nabucco West²⁴², a 10 BCM plan to take Azerbaijani gas from TANAP at the Bulgarian border. Even in this form, its future is still not secure with BP yet to make a decision the final destination for the Azerbaijani gas, with the 10 BCM Trans-Adriatic Pipeline (TAP) to Italy and the South East Europe Pipeline (SEEP) providing further completion, and one of the consortium members, the Hungarian firm MOL, pulling out of the deal in April 2012²⁴³.

²³⁹ BP, Shah Deniz project enters the next phase of development, April 2012,

<http://www.bp.com/genericarticle.do?categoryId=2012968&contentId=7074309>

²⁴⁰ Henning Gloystein, Snap Analysis - Nabucco gas pipeline must shrink or die, Reuters, April 2012,

<http://uk.reuters.com/article/2012/04/26/uk-energy-europe-gas-nabucco-idUKBRE83P10K20120426?feedType=RSS&feedName=GCA-GoogleNewsUK>

²⁴¹ Al Arabiya, Flagship EU gas pipeline project near collapse: Analysts, February 2012,

<http://english.alarabiya.net/articles/2012/02/05/192632.html>

²⁴² Vladimir Socor, Trans-Anatolia, Nabucco-West Pipeline Projects: An Optimal Fit, March 2012,

http://www.jamestown.org/single/?no_cache=1&tx_ttnews%5Btt_news%5D=39189

²⁴³ FT, MOL to drop share in Nabucco pipeline, April 2012

<http://www.ft.com/cms/s/0/bb333a08-8fbb-11e1-beaa-00144feab49a.html#axzz1tMFbKbp>

The likely downsizing of Nabucco or its replacement with alternative routes do not significantly impact Azerbaijan in financial terms as it is not short of competing options to transport its gas to market. However, if it is no longer a stepping stone to a much larger volume of gas from across the Caspian or Iraq then it significantly reduces the strategic importance of this 'Southern Corridor' to European energy security. Azerbaijan's long-term strategic significance is significantly downgraded if it is not able to act as a stable bridge-head to Central Asian reserves through a Trans-Caspian pipeline or to transfer its reserves directly into European controlled pipelines. A 10 BCM per year contribution to the EU gas market is not to be sniffed at, but at less than a third of the originally planned volume, makes less of an impact on the EU gas market (of which 447 BCM of the 553 BCM EU gas market was imported in 2010²⁴⁴). The inability to ensure access to Central Asian gas comes at a time when Shale Gas is dramatically changing the global gas markets, providing new reserves, particularly in the US, and freeing up reserves of Liquid Natural Gas (LNG) that were previously serving those markets, sapping the resolve to build long pipelines in challenging regions. Given that Azerbaijan does not now seem to be an integral part of the EU's future energy security, this should, in theory at least, enable it to act with more freedom on other issues.

Conflict and refugees

Although this is not a publication focused on the conflict itself, in addition to the territorial encroachment, closed borders and psychological scarring addressed in the introduction and by Tabib Huseynov in his contribution, there are three additional elements worth briefly touching on: the legacy of Internally Displaced Persons (IDPs), continuing incidents around the line of contact and Azerbaijan's ballooning defence budget.

While, for the most part the population of Azerbaijani refugees who left Armenia have been absorbed into mainstream society in the same way that the Armenian refugees from Azerbaijan have been in reverse, the issue of IDPs from the occupied territories and from Nagorno-Karabakh remain in need to attention and hopeful resolution. According to International Crisis Group (ICG), the number of registered IDPs has remained broadly stable at between 595,000 and 600,000²⁴⁵, of which only 40,000 are from Nagorno-Karabakh itself. Due to the oil boom of the 2000s, their support funding has risen to about 3% of the state budget in 2011, 715 manat per capita, a ten-fold increase over the course of a decade. It is a level of investment that has reduced the poverty level to closer to that of the main Azerbaijani population, enabled the closure of the final tent camp in 2007 and allowed the resettlement of 108,000 between 2008-11 in new purpose-built communities. There are also plans for a further 115,000 to be rehoused by 2015 to help tackle the outstanding issue of the remaining 400,000 who live in sub-standard housing, often in old Soviet-era public buildings²⁴⁶. Although disbursed around the country, they vote in national elections based on the territories from which they were forced to leave and, as such, are unable to vote in the, albeit mainly symbolic, local elections.

The Armenian civilian presence in the majority of the occupied territories remains low, and the international community has an important role to play to help ensure that it remains that way by speaking out more forcefully about the small-scale settlement activity that is taking place. As long as the occupied territories remain 'uncontested space'²⁴⁷, then return remains a viable option in the context of a wider peace-deal.

²⁴⁴ Al Arabiya ibid

²⁴⁵ International Crisis Group, Tackling Azerbaijan's IDP Burden, February 2012, <http://www.crisisgroup.org/en/regions/europe/south-caucasus/azerbaijan/B067-tackling-azerbaijans-idp-burden.aspx>, information in the remainder of the paragraph from the same source except the one exception below. Also from discussions with Tabib Huseynov who points out that part of the reason why the population has not increased dramatically in the 20 years since the conflict is that in addition to some choosing to leave the system and fully integrate into Azerbaijani society, while children of IDP fathers married to non-IDP mothers may be registered as IDPs the children of IDP mothers and non-IDP fathers may not as registration is based on the paternal address.

²⁴⁶ Yulia Gureyeva-Aliyeva and Tabib Huseynov Can You be an IDP for 20 Years?, Brookings Institution, December 2011, http://www.brookings.edu/reports/2011/12_idp_host_communities_azerbaijan.aspx

²⁴⁷ Conciliation Resources, 'Individual rights, societal choices: Confronting legacies of displacement in the Nagorny Karabakh conflict' http://www.c-r.org/our-work/caucasus/documents/NK_201111_web.pdf. CR see the six regions of (Jebrayil, Kelbajar, Qubaty, Agdam, Zangilan and Fizuli) as fitting this category with only the Goranboy/Shaumyan region that previously had an Armenian majority as being considered contested outside of NK.

The term 'frozen conflict' is often used to describe the unresolved nature of the situation in Karabakh but it fails to capture that on a day-to-day basis between the two sides the conflict remains warm, as tit-for-tat sniper attacks claim the lives of soldiers and civilians on both sides. While exact figures are hard to come by, the ICG put the average yearly death toll at around 30 people per year²⁴⁸. In 2011, it is believed²⁴⁹ that 14 Azerbaijani servicemen and 5 civilians were killed and precise Armenian numbers unknown. Both sides have a tendency to claim that their actions are retaliatory and allege that they have inflicted higher casualty figures on the other side than officially announced.

These incidents along the line of contact between the sides are not only a tragedy for the individuals and families involved, but also have the potential for accidental escalation that could bring both sides back into an open conflict that neither has chosen. The primary driver of international concern around such a scenario has been the dramatic build-up of military capacity, particularly by Azerbaijan, that might tempt it to challenge the military assumptions that argue Baku would need an at least a 3:1 force advantage in order to overcome the defensive advantages of the mountainous terrain. Azerbaijani military spending in 2011 hit a long-standing target, at US\$3.1 billion, not only 20% of its own state budget, but larger than the entire state budget of Armenia²⁵⁰. This largess has been invested in high-grade military equipment, including a partnership with Israel to develop its own drone capability. However, there is some international concern that the new economic and political pressures that Azerbaijan may face over the next few years may reduce its willingness to stay its hand, thereby increasing fears of renewed conflict.

International engagement: Europe

As Jacqui Hale has set out in detail in her article, the EU and Azerbaijan are not on the same page when it comes to the future of their relationship. Azerbaijan's current oil wealth and lack of WTO membership blunts the effectiveness of the EU's traditional inducements, aid and trade opportunities, a fact that leads EU officials to question whether they have any leverage at all in a state that seems to prefer realpolitik bilateral relationships to the multi-lateral regulatory convergence approach that Brussels can offer. Baku's aims for the relationship with Brussels boil down to a desire for status and security, an approach that poses a real challenge for the EU.

Azerbaijan is pushing hard for any Association agreement to state the EU's support for Azerbaijan's territorial integrity and sovereignty, in effect forcing it to come down on Baku's side of the conflict. The EU is extremely unlikely to come off the fence in this way, given its desire to support attempts to find a negotiated solution to the conflict and its own internal divisions over the primacy of territorial integrity and self-determination. Some close to the Azerbaijani government have argued that the EU should take the French seat on the Minsk group, although this does not appear to be explicit government policy, and hopes may have been raised by a European Parliament Foreign Affairs Committee motion calling for the EU's 'direct' engagement in the Minsk group²⁵¹. However, in practice the EEAS is unlikely to press to become the co-chair given perceptions that attempts to change the formula would lead to the already troubled process collapsing²⁵². While Minsk has not proven very good at conflict resolution, primarily because the parties are not ready to negotiate, it does provide an important safety value for combatants, and time spent discussing format avoids tackling hard issues. Azerbaijan does have a point that the three Minsk Group co-chairs have their own institutional biases towards Armenia, in the case of the US and France due to the presence of large and vocal Armenian diaspora and for Russia its greater involvement on the Armenia side during the war and since but a simple change in the European co-chair is unlikely to be transformative.

²⁴⁸ International Crisis Group, Tackling Azerbaijan's IDP Burden, *ibid.*

²⁴⁹ In discussions with Tabib Huseynov

²⁵⁰ International Crisis Group, Armenia and Azerbaijan: Preventing War, February 2011, [http://www.crisisgroup.org/~media/Files/europe/caucasus/B60%20Armenia%20and%20Azerbaijan%20---%20Preventing%20War.pdf](http://www.crisisgroup.org/~/media/Files/europe/caucasus/B60%20Armenia%20and%20Azerbaijan%20---%20Preventing%20War.pdf)

²⁵¹ European Parliament, Report containing the European Parliament's recommendations to the Council, the Commission and the European External Action Service on the negotiations of the EU-Azerbaijan Association Agreement (2011/2316(INI)), March 2012, <http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A7-2012-0071&format=XML&language=EN>

²⁵² Whether or not starting again from scratch would be a good idea or not is a debate for another time.

Baku's dreams of a Strategic Partnership, the grand sounding format through which the EU akin to how it engages with Russia, that would give status but not involve the nitty gritty processes of convergence in terms of economic and technical regulations, or indeed standards of human rights that are an important strand of Eastern Partnership, may flounder on the simple observation that Azerbaijan is not Russia. While Azerbaijan does hold strategic value for the EU, one would have to wonder about the response of other Eastern Partnership members, in particular the much larger Ukraine, were Baku to circumvent the process. The EU must be clear that any agreement must be more than an empty document for the sole benefit of Baku's domestic and international public relations.

The current three year EU budget in Azerbaijan, a drop in the ocean at €122.5 million over three years, is focused on three priority areas in the 2011-13 National Indicative programme: democratic structures and good governance; socio-economic reform and sustainable development, trade and investment regulatory approximation and reform; PCA and ENP AP implementation, including in the area of energy security, mobility and security. Of these, unfortunately the democracy and governance strand receives the smallest share of resources, when both NGO capacity building and support for government-focused technical assistance programmes²⁵³ can both make important contributions to changing the political environment that in the longer term may enable progress in other areas.

Given the lack of willingness on behalf of the Government of Azerbaijan to drive forward trade liberalisation measures that would enable a WTO membership and an eventual Deep and Comprehensive Free Trade Agreement, normally the cornerstone of the Eastern Partnership offer, and its general ambivalence to the relatively small amount of EU aid, progress on these areas can not be as effectively tied to improvements on human rights issues as might be possible in other countries²⁵⁴. Nevertheless, the EU should continue to develop its ability to accurately assess progress towards the 'expected results' of the National Indicative Programme²⁵⁵ by stating whether its detailed 'indicators of achievement' have been met and using these results in the annual progress reports²⁵⁶ to explicitly set out progress, or lack of it, against each specific indicator. Success or failure in meeting these indicators of achievement should form an important strand of how EU policy towards Azerbaijan continues to develop.

While the visa liberalisation strand, an issue that would benefit many ordinary Azerbaijanis, continues to move slowly, in part due to the prevalence of diplomatic and special purpose visas amongst members of the elite, there may be some hope that gradual progress is being made in an area that would substantially benefit the general population of Azerbaijan. Azerbaijan has also made tentative steps to discuss human rights with the EU but the EU should continue to press for its development into the full Human Rights dialogue process with a greater breadth of civil society engagement.

While Azerbaijan lacks a credible alternative strategic partner²⁵⁷ to Europe its energy reserves, its history and governmental attitude can make it seem more willing that most to go it alone, something that given the weakness of the carrots they can offer, including that membership is not realistically on the table in any meaningful time horizon, preys on the minds of EU officials. However, though the government may be cautious about European integration²⁵⁸, younger members of both the elite and civil society see

²⁵³ Many activists are sceptical of the benefits provided by such support to the government. However as this publication has shown they can deliver small but tangible benefits in the way in which Azerbaijan is governed. As yet such projects do not change the fundamental nature of power and accountability in Azerbaijan, and this should always be remembered, but this does not make them worthless. Ultimately, at the current level of human rights problems, the international community can only call for (and should insist on) the real reform of processes, not taking a position on the need for the change of personalities.

²⁵⁴ In 'Spotlight on Georgia' and with some caveats 'Spotlight on Armenia' (see www.fpc.org.uk/publications) a carrots and sticks approach was advocated explicitly linking trade and aid to human rights improvements.

²⁵⁵ European Neighbourhood and Partnership Instrument, Azerbaijan National Indicative Programme 2011-13, http://ec.europa.eu/world/enp/pdf/country/2011_enpi_nip_azerbaijan_en.pdf

²⁵⁶ The most recent Progress Report looking at 2010 gives a useful narrative account of progress (and lack of it) http://ec.europa.eu/world/enp/pdf/progress2011/sec_11_640_en.pdf

²⁵⁷ To complement its bi-lateral relationship with Turkey.

²⁵⁸ For example, President Aliyev is claimed to have said Azerbaijan is in 'no hurry to join the EU' in an October 2011 interview with Al Jazeera, <http://contact.az/docs/2011/Politics/101710657en.htm> though the phrase is not used in the English language interview on Sir David Frost's programme to which it is sometimes attributed. <http://www.aljazeera.com/programmes/frostovertheworld/2011/10/20111015143746924445.html>

Europe as their future. If EU relations with Georgia and even Armenia press ahead, the greater the societal pressure may become for Azerbaijan to make that choice.

Azerbaijan joined the continent's other main international institution, the Council of Europe, in January 2001, with Heydar Aliyev declaring that 'the process of democratic development of Azerbaijan has become irreversible' and that membership marked 'the recognition of an independent, sovereign, democratic and secular state, but it is also the beginning of a new stage in the development of the Azerbaijani state as an equal member of the European Family'²⁵⁹. However, the new stage of development has not lived up to its billing on either side. Azerbaijan, whose initial Parliamentary Assembly (PACE) delegation was led by Ilham Aliyev, has found PACE a regular venue for criticism of its policies and activities and the European Court of Human Rights a regular challenger to its legal practices²⁶⁰. It has engaged with the Venice Commission and other CoE bodies on legislative reform but, as shown, has not always adopted its recommendations, particularly on politically sensitive legislation outlined in the introduction. One of the most recent problems between Azerbaijan and the Council of Europe has been Baku's continued blocking of an official visit by CoE Special Rapporteur on political prisoners in Azerbaijan, Christopher Strässer MP, something that does not sit at all well with its commitments to the organisation. Baku's assertion that 'there are no political prisoners in Azerbaijan' certainly rings hollow, but even in the event that the Government was correct, engagement with the rapporteur would then surely be a more effective way of dealing with the issue. Azerbaijan's assertion that it has been singled out in terms of Strässer's specific remit, while technically true does ignore the fact that addressing the issue of political prisoners have been the primary objective of other CoE special rapporteurs including Lord Prescott's eventful tenure in Armenia.

Given the current human rights situation in Azerbaijan, questions have been asked about the viability of Azerbaijan²⁶¹ remaining a member of the Council of Europe at all. On balance however, access to the ECHR for those denied justice within Azerbaijan, the role of the Venice Commission and other technical bodies in scrutinising legislation and the regular, important scrutiny by the Commissioner for Human Rights are all strong arguments in favour of retaining membership.

Similarly with Russia, Armenia, Ukraine, Turkey and a number of other less than stellar performers in the membership, singling out Azerbaijan for the chop may not yet be appropriate. However, as Azerbaijan is due to take over the organisation's chairmanship from May-November 2014²⁶², Council of Europe member states should set a number of key benchmarks for the implementation of political and legal reforms²⁶³, in practice as well as on paper. If such benchmarks are not met by the time of its chairmanship, the Council of Europe should strongly consider implementing organisational sanctions against Azerbaijan such as the suspension of voting rights at PACE and other bodies. Azerbaijan cannot continue to claim that its membership of the Council of Europe is proof that it is a democracy, particularly when it continues to ignore the principles on which it was founded. Participation in the Council of Europe is supposed to be a tool to help guide Azerbaijan towards democracy, not a badge of achievement.

International relationships: UK

As Denis Sammut's piece in this publication highlights, the UK-Azerbaijan relationship remains one of Baku's most important bi-lateral relationships. The most recent figures suggest that the UK accounts for 39.7% of Azerbaijan's international investment, over two and a half times its nearest rival the US²⁶⁴, with British investment in the first two months of 2012 coming in at 177 million manat (£138.7 million, US\$225

²⁵⁹ Address by His Excellency Mr. Heydar Aliyev, President of the Republic of Azerbaijan at the session of the Parliamentary Assembly of the Council of Europe' Strasbourg, 25th January 2001, <http://www.azerbembasssy.org.cn/eng/statements5.html>

²⁶⁰ As of early 2012 58 Azerbaijan had ECHR cases against it of which two were struck out and a handful resolved between the parties. <http://www.echr.coe.int/NR/rdonlyres/15E0E23D-8D4A-4B53-B483-9B443AB99AA3/0/ListeChrono.pdf>. Azerbaijan is of course not alone in chaffing at the influence of the court, given the current debate in the UK on the matter.

²⁶¹ Afua Hirsch, 'Why is Azerbaijan still a member of the Council of Europe?', Guardian, June 2010, <http://www.guardian.co.uk/law/afua-hirsch-law-blog/2010/jun/29/council-of-europe-azerbaijan-violations>

²⁶² A matter determined by alphabetical order rather than any other criteria.

²⁶³ The Council of Europe should also make significant efforts to improve standards in Armenia ahead of its

²⁶⁴ CESD, UK remains the biggest investor in Azerbaijan, March 2012, <http://cesd.az/new/2012/04/uk-remains-the-biggest-investor-in-azerbaijan/>

million), an extremely impressive figure but so far below the staggering 51.9% of its total FDI in 2010, just under £1 billion²⁶⁵. While there are an increasingly diverse number of UK firms operating in the country, the lion's share of the investment is provided by one firm alone, BP, and a significant proportion of current and planned investment is directed into the development of Shah Deniz II and to extending the lifespan of the Chirag, Azeri and Gunlashi fields.

As for a number of other post-Soviet communities, London remains among the top destinations to shop and stop, while British universities remain among the favourite study options for the children of Azerbaijani's elite. Perhaps the most prominent symbol of the strength of the two countries' relationship can be seen on the streets of Baku in the fleets of new 'London taxis.' Sadly the requirement to take a Bakuvian equivalent of 'the knowledge' does not seem to have been part of the deal.

With the economic relationship between the two countries driven by BP more than Whitehall, the single visit by a member of the Cabinet, forgotten by many in officialdom, took place in 1996 when Malcolm Rifkind was Foreign Secretary. However, there has been greater engagement at Minister of State level with three visits by Foreign Office Ministers – Rt Hon Douglas Hogg MP in 1992 who established diplomatic relations, Europe Ministers Rt Hon Jim Murphy MP in 2008 and Rt Hon David Lidington MP in 2010 and six visits by energy ministers since 2000, including Charles Hendry in September 2010. The London-Baku relationship does also not seem to be influenced by domestic political considerations, given its relatively small Armenian diaspora, and as a P5 member state with a history of influence in the region, the UK fits well within Azerbaijan's preference for strong bi-lateral ties.

Despite the relatively strong lead that the UK is able to give on human rights issues elsewhere in the world, there is a sense that its strong economic ties to Baku have inhibited it from taking as proactive an approach as some other European countries, most notably Germany and Norway. However, BP's direct relationship with Baku is so strong and the knock-on effect of any serious attempts to alter these ties so large, that both BP and its immediate contractors are seen to be somewhat insulated from the day-to-day policy positions of the UK government. Therefore, the debate in part centres around whether other firms, both in the energy sector and beyond, would suffer significant commercial penalties from a more vocal support of a fairer, rules-based system in Azerbaijan's economy and society that would benefit independent international investment in the long-term. The other argument of course revolves around the extent to which UK officials are more strident behind closed doors than they are in public, and while this is likely to be true, there is certainly no sign that the backchannel pressure is significantly greater than that made by other more vocal nations, a position that weakens British standing amongst members of independent civil society.

International relationships: Other key players

As one of the three pillars of the Minsk Group and a key player in world energy markets the US has been one of Azerbaijan's most important partners in the years since Heydar Aliyev reached to Washington as a strategic counterweight to Moscow. In addition to energy co-operation, Azerbaijan has sought to make itself useful to the US by contributing troops to both Iraq and Afghanistan, while allowing its territory to be used as part of the withdrawal route of men and materials from the latter conflict²⁶⁶. However, despite the best efforts of successive administrations to deepen the relationship on strategic grounds, the influence of the sizable and influential Armenian diaspora opinion has continually triggered a Congressional brake on such ambitions.

In the early stages of the Obama administration there was a general feeling that the US was pulling back somewhat from the South Caucasus as part of a broader reprioritisation and strategic realignment. Azerbaijan was without a US Ambassador in-country from June 2009 to January 2011²⁶⁷, due in part to the long-running attempt to appoint the US Minsk group co-chair Mathew Bryza, who had developed

²⁶⁵ Pamela Anne Smith, Power Shift, CNBC, October 2011, <http://www.cnbc.com/story/power-shift/1466/1/>

²⁶⁶ Caspian Information Centre, March 2012, <http://www.caspianinfo.com/wp-content/uploads/2012/04/OP-No.-19-US-Azerbaijan-Relations-Payback-Time-for-America%E2%80%99s-Policymakers.pdf>

²⁶⁷ A gap filled for the most part by Donald Lu, the Chargé d' affaires of Wikileaks fame.

strong relations in Baku but ruffled Armenia diaspora feathers in the role, as the new man in Baku. This perception of closeness to Baku played a crucial role in the Obama administration's inability to get Bryza's confirmation through the Senate, where the Armenian lobby prevented his adoption through normal procedures after his appointment in May 2010 forcing the President to make a Bryza a recess appointment²⁶⁸. He would ultimately serve less than a year, from February 2011 to January 2012. The whole process left a bad taste in the mouth in Azerbaijan, again perceiving the strength of Armenian influence on US policy. President Obama's nomination of Ambassador Richard Morningstar in April 2011 may help sooth frayed Azerbaijani nerves²⁶⁹. Morningstar certainly has the pedigree to make the Azerbaijanis feel that they are being taken seriously. As a former US Ambassador to the EU and the current special envoy for Eurasian Energy issues, he possesses both institutional heft (in fact Bryza used to work for Morningstar in the late 90s) and an existing relationship with the key players in Baku. Tom DeWaal argues that Morningstar should be able to navigate the Armenia lobby in the Senate in order to achieve nomination²⁷⁰.

As set out in the introduction, the years leading up to and immediately after independence were not positive ones for relations between Baku and Moscow. The real and perceived bias of Russia towards Armenia in the conflict has cooled the bilateral relationship and made the Government of Azerbaijan wary of Russian initiatives in the Minsk group. Nevertheless, Russia remains Azerbaijan's primary source of imports with 15% of the total volume coming into the country, mainly in the form of foodstuffs, cars and other machinery²⁷¹. Similarly, Azerbaijan has tentatively allowed a small proportion of the gas from Shah Deniz to head north, a proportion rising from 1.5 BCM to 3 BCM in 2012. Russia remains a lingua franca for the older generation of Azerbaijanis raised in the Soviet era, with a number of Russian language newspapers and schools still in existence, although it faces competition from English for the attention of the young.

Although Russia retains access to a military radar facility on Azerbaijani territory and engages in some arms sales with Baku, most notably the sale of its advanced S300 air defence system²⁷², Russia continues to have a deeper relationship with Yerevan, providing it with access to weapons at reduced rates and maintaining a significant troop presence in Gyumri. The wary security relationship is born out in its international alignments as while Armenia is a member of the Russian-led Collective Security Treaty Organisation, a body with a defence role roughly analogous to NATO, Azerbaijan is currently chairman of GUAM (Georgia, Ukraine, Azerbaijan, Moldova), the breakaway security organisation of post-Soviet states with less friendly ties to Moscow. Crucially, membership of the CSTO includes a mutual defence clause, nominally committing Russia to come to Armenia's aid in the event of conflict.

As Firdevs Robinson has covered in detail, the recent dynamics of Azerbaijan's longstanding and usually fraternal relationship with Turkey and the issue around radicalisation from Iran has been addressed in the introduction, it is only worth adding that tensions with Tehran are exacerbated by both its warm political and economic relationship with Armenia and continuing squabbles over the territorial de-limitation of the Caspian.

Drawing some conclusions

Azerbaijan is often described by sympathetic observers as a 'young', 'emerging' or 'embryonic' democracy, however this publication finds little to suggest that Azerbaijan is making democratic progress, i.e. by enabling power to be freely transferred through formal political processes such as the ballot box.

²⁶⁸ Appointed directly by the President with the Senate out of session and therefore time limited to a year.

²⁶⁹ Radio Free Europe/ Radio Liberty, Obama nominates Morningstar as Ambassador to Azerbaijan, April 2012, http://www.rferl.org/content/obama_nominates_morningstar_us_ambassador_azerbaijan/24561889.html

²⁷⁰ Contact.az, Richard L. Morningstar to be a US Ambassador to Azerbaijan, April 2011, <http://www.contact.az/docs/2012/Politics/04274820en.htm>

²⁷¹ Rasim Musabeyov, Azerbaijan-Russia bilateral relations: economics prevails politics, Center for Strategic Studies under the President of the Republic of Azerbaijan (SAM), October 2010, http://sam.gov.az/uploads/files/journals/r.musabeyov-azerbaijan-russia_bilateral_relations_economics_prevails_politics.pdf

²⁷² Joshua Kucera, Russia's Credibility And Its Military Sales To Azerbaijan, Eurasianet, August 2011 <http://www.eurasianet.org/node/64085>

Indeed, on a number of indicators the situation is clearly getting worse. This is not, however, to say that Azerbaijan is not making any worthwhile reforms. Azerbaijan's government is pursuing a gradual (and uneven) modernisation of some of its institutions without upsetting the ruling power balance. In effect, Azerbaijan is attempting modernisation without democratisation.

Svante Cornell, whose approach is somewhat more sympathetic to the Government of Azerbaijan than many included in this publication, characterises that status quo as a 'semi authoritarian regime, in which elections may be free²⁷³ but not fair, and where the odds are heavily stacked in the favor of the ruling elite; where the rule of law is implemented selectively at best; and where governing institutions lack popular accountability and are characterized by informal power networks'. The issue around Azerbaijan's direction of travel that divided opinion in the mid-2000s is slowly coalescing around the understanding that political power remains concentrated within an elite that is in little mood to share and that the limits of tolerated dissent are in fact narrowing.

Even temporarily setting aside the overwhelming moral arguments around democracy, a 'modernisation without democratisation' strategy is reliant on large holes being present in even a semi-modernised state, through which rents flow to the political elite to maintain their position in society and dominance over large swathes of the economy. That Azerbaijan's well defined patronage networks provide 'stable rather than competitive corruption', as one Western economic analyst described it, is cold comfort for the vast majority of Azerbaijanis who fall outside that system. The scope for meaningful governance reform that impacts on areas of political power is limited while influence, the operation of the shadow state and clan structures, continues to have more relevance than formal institutions. So, while at the same time pushing for greater pluralism, the international community needs to continue to work, both in partnership with and applying pressure on the Government of Azerbaijan in order to strengthen the formal institutions of the state over the informal distribution of real power, renewing and expanding anti-corruption efforts that have so far mostly impacted the small fry²⁷⁴. Improving legislation, while useful, can be no substitute for delivering substantive changes in administrative practices.

Opinion, both amongst authors in this publication and amongst other activists and experts, is divided about whether Azerbaijan is poised for a bout of Arab Spring-style political upheaval. From the editor's perspective, Azerbaijani society is not yet a powder keg ready to explode as there remains widespread resignation towards and acceptance of the status quo²⁷⁵. The twin-pronged strategy of increasing repression against activists and independent information sources combined with ensuring that enough of the population have been able to share in some of the proceeds of growth set a limit on the number of Azerbaijanis willing to put their livelihoods on the line to protest against the government. It is a strategy that has prevented Azerbaijan's robust and active independent civil society and its small number of well-networked and innovative young activists breaking out to mobilise a larger proportion of the population out of their relative passivity.

Civil society is not helped by the structural problems in the traditional opposition, whose leadership is broadly retained from the early 90s and until recently has been riven by division that provided an open goal for the Government's political narrative that the Popular Front, Musavat and the like were synonymous with chaos. Divisions about whether to participate in flawed political institutions, to stand for election and then boycott them or to sit the process out entirely²⁷⁶ may be resolved by the actions of the Public Chamber, which may over time be the basis of a merged party. However, in order to stand any

²⁷³ Svante Cornell, Azerbaijan since independence, *ibid*, As highlighted in the introduction there are enough examples from the 2010 elections to question the characterisation as free, though Cornell is right to suggest that the bigger problem remains the way in which the desk is stacked against the opposition, rather than simply the hands on ballot manipulation.

²⁷⁴ And those like Ali Insanov who fall foul of the internal politics.

²⁷⁵ Of course the Arab Spring showed that such sentiments are subject to quite rapid change and that it was economic hardship, unresolved by corrupt and disinterested structures of government that sparked the initial protest in Tunisia.

²⁷⁶ The latter two options may of course put off voters who actually want someone to represent them even in an unfair system. If the Public Chamber's strategy is to build enough momentum so that the government would have to engage in industrial scale falsification in order to prevent the opposition from winning power, thereby triggering a mass uprising (the Orange Revolution Strategy), then it is contingent on them to encourage as many people as possible to actually go out and vote for them (by both a commitment to representation and a positive manifesto for change).

hope of building momentum it will need fresh faces and ideas from a younger generation. In fact, Azerbaijani politics is in need of an injection of new blood into the senior levels of both government and opposition to engage the public and to put a stop to its apposite nickname, Jurassic Park²⁷⁷. While a refreshment of personnel on all sides may be welcome at this stage, the EU, member states and other official stakeholders must be clear that their concerns are focused on practices not personalities, even if opposition activists see no hope for reform with the current personnel in charge and wish for external pressure for 'regime change'. While such concerns may be strongly rooted, the international community pressure must be focused on reform, not on advocating revolution.

As argued both in this publication, and from the other side in our previous publication in the series 'Spotlight on Armenia,' the use of the conflict as an excuse for the lack of political pluralism is self-defeating in terms of actually bringing the conflict to a close. Both sides use strident advocacy of unachievable nationalist positions to reinforce their domestic position, in Azerbaijan's case also constantly referencing the chaos of the early 90s as an excuse for authoritarianism today. Greater government legitimacy in the eyes of their publics is an important step in enabling both sides to make the tough choices required to move away from maximalist claims to a realistic peace settlement based on the Madrid principles. It is also important that critiques of Azerbaijan's human rights and governance are not used as part of the wider diplomatic debate around the conflict. As 'Spotlight on Armenia' shows, Yerevan shares many of the same governance deficiencies as Baku. While it is certainly true that Azerbaijan's failings receive a greater airing in some chambers than Armenia's, in part due to the influence of diaspora politics, this serves as an argument for greater scrutiny of Yerevan rather than ignoring genuine problems in Baku.

Protestations that the international community should not 'interfere in Azerbaijan's internal affairs', a spurious concept at the best of times when governments lack the aura of legitimacy that flows from free and fair acclamation by their populations, cannot be squared with the binding commitments Azerbaijan has made to the Council of Europe and to the European Union amongst others. Membership of international bodies forms an important part of the Government of Azerbaijan's narrative to its public – that Azerbaijan is a respected member of the international system - so it cannot be allowed to ignore the elements of those bodies and commitments that they don't like, particularly given that, in the case of the Council of Europe, 'interference in internal affairs' is the organisation's *raison d'être*. Azerbaijan's commendable UN Security Council vote for sanctions against Syria at the UN, shows that it does not (and cannot) take an absolutist approach to state sovereignty.

As set out clearly, Azerbaijan's oil- and gas-driven affluence does make it more resistant to some of the levers of influence and incentives that the international community would normally be able to deploy in order to push for reform. However, Azerbaijan's somewhat precarious strategic position and most importantly, its desire for international recognition and status, do provide real opportunities for leverage that should not be ignored, a trick the international NGO community has not missed around Azerbaijan's Eurovision festivities. Status rather than subsidy then is the key leverage for reform in the international community's relationship with Azerbaijan.

Azerbaijan's chairmanship of the Council of Europe in 2014 needs to be the next main focal point for international pressure once the Eurovision caravan has moved on, setting clear reform targets for the next two years and showing a willingness to use political sanctions if these are not met. At the same time international sporting federations need to consider the current status of Azerbaijan's human rights record when considering its appropriateness as a host for the 2020 Olympic Games or as co-host of the 2020 European Championships, a series of events that might also prove something of a logistical challenge in the extremely unlikely event that both bids were successful.

It is somewhat depressing, given its record on online freedoms, that in Autumn 2012 Baku will play host to the UN-affiliated Internet Governance Forum. However, it should be noted again that this primarily

²⁷⁷ In conversations with the editor and in Cornell *ibid*.

represents a structural failing in the IGF's organisation in that it is hosted by those willing to pay to host it, with Azerbaijan the only state willing to stump up the cash in 2012²⁷⁸.

This approach does have its limitations, as the run up to Eurovision has not seen Azerbaijan seek to significantly alter its behaviour in a positive manner, albeit it is likely that lingering concern following the Arab Spring is as much behind the authorities' actions as anything else. It is therefore imperative that, once the Eurovision circus has moved on and before other international events arrive, the international community maintains steady pressure for reform. The October 2013 Presidential poll will need to be a particular focus of scrutiny as it will come at time of potential economic pressure and it seems likely that, for the first time since 2003, the main opposition groups will be putting forward a candidate.

Shaking off public reticence and speaking out is not entirely without consequence for governments and officials, with Germany the recent subject of a going-over by the Azerbaijani media, following strong statements by German Foreign Minister Guido Westerwelle, critical media coverage and the perceived influence of the German Stiftung (Foundations) in supporting independent-minded civil society activity. A recent Azerbaijani TV expose on Germany portrayed the nation filled with homeless people and beset with loose sexual morals²⁷⁹ while the newspaper of the ruling party delivered a six page stream-of-consciousness rant²⁸⁰ that managed to weave together Hitler and accusations of hysterical German statements and speeches. The coverage acts as both a message to the Azerbaijani public about the supposed immorality and hypocrisy of the interfering Germans and to Berlin about 'interfering in internal affairs'. However, perhaps unlike Baku, Berlin does not exactly see such reporting as a mortal threat to national honour or sovereignty. While larger member states are more than capable of brushing off such attacks, it highlights the advantages of developing a more coordinated approach to reform in Azerbaijan, where the EU in particular can play an expanded role, both through its own activities and in helping to co-ordinate messages in the bi-lateral style that Baku often prefers.

The Government of Azerbaijan has to make the clear choice to reform its power structures and its political and economic practices if it is to be welcomed with open arms as a modern and respected member of the international family. There will be a window of opportunity²⁸¹ for the international community to make a concerted effort with Azerbaijan to reform before the revenues of Shah Deniz II come on stream in 2017, to ensure that future windfalls are spent more equitably. It is essential that the international community continues to engage with Azerbaijan to make clear both that it has the future in Europe that its younger generations desire, but at the same time greater collaboration will be matched by greater pressure to reform.

²⁷⁸ The 2009 conference was held in Mubarak-era Egypt.

²⁷⁹ Eurasianet, Azerbaijan: Baku Taking Potshots at Berlin, April 2012, <http://www.eurasianet.org/node/65309>

²⁸⁰ Yeni Azerbaijan, Diplomatic order: the opposition, "Eurovision" is a sign!, April 2012, <http://www.yeniazərbaycan.com/news/15639.html>

²⁸¹ Particularly once Afghanistan operations have been wound down. Though as mentioned before this is a period of higher risk in terms of renewed conflict.

Spotlight on Azerbaijan: Recommendations

Recommendations to the Government of Azerbaijan

- Reduce the 450-signature requirement to stand as a parliamentary candidate and end ballot manipulation at elections.
- Re-energise 2011's anti-corruption drive, improving monitoring and enforcement; open tendering for state contracts and prevent politically connected domination of markets. Prevent abuses of tax inspections.
- Reform the Judicial-Legal Council to reduce executive influence, reduce accusatory bias in criminal cases to improve the opportunity for acquittal and end politically motivated cases, verdicts and sentencing.
- Improve the quality of education, qualification and training for defence lawyers, their access to clients, the system of court-appointed defence counsel and the treatment of defenders in political cases.
- Release all political prisoners and allow the entry of the Council of Europe Special Rapporteur.
- Allow political protests within proximity to their target audience by approving new venues in central Baku. End police harassment of legal pickets and other political activity.
- Enforce the statutory timeline for decisions on NGO registration with clear procedures around confirmation or rejection. End bureaucratic harassment and the excessive restrictions on international NGOs.
- Use the opportunity created by the digital switchover to enable independent channels to broadcast in Azerbaijan. Allow Azerbaijani stations to rebroadcast international content or restore national licences for Radio Free Europe/Radio Liberty, the BBC and VOA.
- Reform the structures and activities of the National Television and Radio Council, Press Council and the Public Broadcaster to achieve real independence from the government. Improve economic opportunities for independent titles and journalists. Stop the publication of the Press Council Blacklist and the pressure on independent vendors.
- End politically-motivated harassment or prosecution of independent journalists, bloggers and activists, particularly the use of vague or trumped-up charges such as 'hooliganism'.
- Expand broadband capacity dramatically to improve internet access. End the targeting of bloggers, monitoring of private email accounts and criticism of social networking.
- Speed up progress on equality for women and LGBT Azerbaijanis, while removing intrusive bureaucratic restrictions on freedom of religion.
- Enforce the legal safeguards in the Law on Expropriation of Land for State Needs to end illegal property expropriation and forced eviction. Reform the unfair compensation system.
- Strengthen the independence of the office of the ombudsman and implement the National Human Rights Action Plan.
- Stop using the legacy of the conflict as a means to support authoritarian control and to prevent peace building efforts.

- Renew efforts to join the WTO and thereby facilitate an EU Deep and Comprehensive Free Trade Agreement to improve competition.
- Pursue the prudent long-term management of the State Oil Fund.
- Increase investment in health and education to raise wages and fully fund programmes. Improve employment and skills to stem migration.

Recommendations to the international community

- Ensure that the Government of Azerbaijan delivers reform on the issues set out above and that it fulfils its international obligations on governance and human rights, particularly in the binding commitments it has made to the Council of Europe and European Union.
- Strengthen EU monitoring and advocacy against its agreed human rights commitments. Improve financial and technical assistance to Azerbaijani civil society.
- Insist that Azerbaijan makes clearly defined improvements in its human rights performance ahead of its 2014 Council of Europe Chairmanship or face institutional sanctions.
- Reinvigorate the failing Minsk process and increase awareness of and support for Azerbaijan's IDP problem.
- Use future international political, economic, sporting or cultural events in Azerbaijan as an opportunity to push for political reform. Reconsider the appropriateness of Azerbaijan as an Olympic or European Championship host without further reform.

Spotlight on Azerbaijan provides an in-depth but accessible analysis of the major challenges Azerbaijan faces regarding democratic development, rule of law, media freedom, property rights and a number of other key governance and human rights issues while examining the impact of its international relationships, the economy and the unresolved Nagorno-Karabakh conflict on the domestic situation. It argues that UK, EU and Western engagement in Azerbaijan needs to go beyond energy diplomacy but that increased engagement must be matched by stronger pressure for reform.

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