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Azerbaijan: Increased punishment for peaceful protestors is a step backwards

Azerbaijan should respect the rights to freedom of expression and of peaceful assembly and stop penalizing peaceful protestors, Amnesty International said today, following Friday's changes in the law which increased the punishment for those organising and participating in 'unauthorised' or 'banned' protests.

Instead of ending the practice of penalizing peaceful protestors, the recent amendments to the Azerbaijani Criminal Code now provide for up to two years in prison for anyone involved in a "legally banned" assembly (Article 169) and up to three years for organisation or participation in activities that lead to "disobedience to the legal demands of government representatives or cause a disturbance to the normal operation of traffic, businesses, companies and organisations" (Article 233).

Fines have also been increased from between 100 to 500 Azerbaijani Manats (AZN) (\$127-637 USD) previously, to between 5,000 and 8,000 AZN (\$6,370-10,192 USD). Similar increases have also been made in Article 298 of the Azerbaijan administrative code, which provides punishment for involvement in an assembly without "appropriate authorisation".

According to opposition parties, the government also prevented a protest against the passage of the amendments. Thirty opposition activists were reported to be detained on Friday as they made their way to the parliament building. Police officers seized activists as they left their house and stopped buses to search for activists en route.

The increased punishment, coupled with the authorities' ongoing blanket ban on protests in Baku city centre, is likely to have a chilling effect on any peaceful protest ahead of the Presidential elections next year.

The requirement of authorisation for assemblies and the blanket ban on protests in Baku city centre violate Azerbaijan's international human rights law obligations. The rights to freedom of expression and of peaceful assembly are recognized in Articles 19 and 21 of the International Covenant on Civil and Political Rights, and Articles 10 and 11 of the European Convention on Human Rights. Any restrictions on the exercise of these rights are permissible only if they are demonstrably necessary and proportionate for the protection of certain public interests or for protection of the rights and freedoms of others, and must not jeopardize the right itself.

Azerbaijan must repeal provisions in its criminal and administrative codes that penalize peaceful protests and further end its practice of punishing persons for exercise of their rights to freedom of expression and peaceful assembly.

Amnesty International has long criticized the government blanket ban on peaceful protests in the centre of Baku, and the arrest and imprisonment of individuals who break the ban. Following their violent dispersal of peaceful protests in March and April last year, the authorities jailed 17 people who called for or took part in the demonstrations. Two of those, Shahin Hasanli and Vidadi Isgandarov, are still behind bars following unfair trials, and the government has since brought trumped up charges against a further six individuals - Taleh Khasmammadov, Anar Bayramli, Ramin Bayramov, Ogtay Gulaliyev, Mehman Huseynov and Hilal Mammadov - in retaliation for their peaceful exercise of the right to freedom of expression.

The Government of Azerbaijan must immediately and unconditionally release these and other protestors who have been imprisoned solely due to the expression of their rights to freedom of expression and of peaceful assembly.

Background:

On 20 April human rights defender **Taleh Khasmammadov** was sentenced by Kurdamir Regional Court to four years in jail on charges of 'hooliganism' and 'resisting police officers'. Khasmammadov had been investigating allegations of illegal activity and abuse committed by law enforcement officials in Ujar region and had published several articles critical of the local authorities. Shortly before his arrest, he published an article in Gundam Khabar and Azadliq newspapers regarding the suicide of the 17 year-old female victim of human trafficking, in which he alleged that a criminal group operating the trafficking ring was aided by local police.

He had also previously published several articles in which he alleged that local police officers have been colluding with criminal gangs operating in the area. His lawyer, Asabali Mustafayev, told Amnesty International that Taleh Khasmammadov has been previously summoned and warned by the Ujar police to stop publishing the articles.

Amnesty International believes that the allegations brought against Taleh Khasmammadov were either fabricated or hugely exaggerated and brought in retaliation for his critical reporting and complaints he brought against local police. Amnesty International considers Taleh Khasmammadov to be a prisoner of conscience, imprisoned in relation to his critical investigation and reporting, and calls on the Azerbaijani authorities to drop the charges and release him immediately and unconditionally.

On 17 February **Anar Bayramli**, a journalist working for the Iranian sponsored, Azeri language, television station *Sahar*, was arrested on fabricated drugs possession charges, shortly after relations between Azerbaijan and Iran deteriorated following Iran's claim that an Iranian nuclear scientist had been assassinated by Israeli operatives based in Azerbaijan. Amnesty International believes the charges against Anar Bayramli were fabricated in retaliation for his work as a reporter. Sahar TV is known for its critical reporting on sensitive political, social and religious issues in Azerbaijan and had recently been criticized by the Azerbaijani authorities for deliberately seeking to destabilize the country. Reports by Bayramli shortly before his arrest touched upon especially sensitive issues such as government's treatment of conservative Shi'a muslim groups and the closure of the mosques.

Ramin Bayramov, the editor of the pro-Iranian news website Islamazeri.com who was sentenced on trumped-up drugs and firearms in retaliation to his reporting was sympathetic to Iran was granted an early release on 17 August after serving 13 months of his 18 month sentence. **Ramin Bayramov** was arrested in August 2011 on suspicion of treason, breach of national security and incitement of mass unrest, but no charges were brought on these allegations. Instead, he was later convicted of drugs and firearms charges – which Amnesty International believe to have been fabricated in order to silence his coverage of religious issues and because his reporting was sympathetic to Iran.

A human rights defender **Ogtay Gulaliyev** was released on 13 June 2012 after spending almost two months in detention. However he can still face up to three years of prison if convicted on trumped up charges of hooliganism pending against him.

Ogtay Gulaliyev is the coordinator of the Kur Civil Society Organization and had been investigating allegations of humanitarian aid expropriation by the local authorities in Sabirabad after local residents were hit by floods in spring 2010. He was detained by police on 8 April while he was meeting residents of Minbashi village to discuss their complaint that officials had

been stealing social aid. Earlier in April, the residents of the village held a demonstration blocking a road to protest against the alleged theft.

The following day, Sabirabad Regional Court charged Gulaliyev with minor hooliganism after police claimed he swore in public. He was given 12 days of administrative detention. On 19 April, as Ogtay Gulaliyev's 12 day administrative detention was about to expire, new criminal charges were brought against him. He was accused of inciting 'violence and mass disorder' under Article 220 (2) of the Criminal Code. The charges were based on complaints made by the local Municipal Chairman that Gulaliyev had gathered and brought residents to the local government building, inciting them to rise up against the authorities.

Intigam Aliyev, a lawyer working on Ogtay Gulaliyev's case told Amnesty International that no evidence has been presented that Gulaliyev incited any violent act or protest. Indeed all three protests he is accused of inciting were entirely peaceful.

During the pre-trial hearing Gulaliyev refused the state-appointed lawyer, but his request to be represented by the lawyer of his choice was rejected. As a result, the court sentenced him to two month pre-trial detention without legal representation. According to Intigam Aliyev, on the day of his arrest, Gulaliyev was beaten at the Sabirabad Region Police department and was denied food and water for the entire day. Despite filing a complaint, no investigation has been carried out into the reports of ill-treatment.

Amnesty International considers Ogtay Gulaliyev, targeted in response to his work as a human rights defender. The organization calls for the Azerbaijani authorities to immediately drop the charges against him.

23 year-old activist and journalist **Mehman Huseynov** is facing up to five years in prison on fabricated 'hooliganism' charges.

As Azerbaijan prepared to host the Eurovision Song Contest earlier this year, Mehman was part of a group that met with the eventual winner (Sweden's Loreen), prompting her to speak out about human rights issues in the country.

The police claim that the reason for the charges against Mehman relate to him being violent at a protest he was covering as a journalist. This testimony is contradicted by eyewitness reports. We strongly believe the charges against him are instead an attempt to punish him for capitalising on the international media spotlight brought by Eurovision to highlight human rights abuses in Azerbaijan.

Mehman was arrested on 12 June, but released on bail the following evening. His trial is ongoing.

Hilal Mamedov, the editor of a minority language newspaper, was arrested on spurious drugs charges. The arrest followed Mamedov's posting on internet channel Youtube of an Azerbaijani rap battle entitled 'Who are you, come on, off you go' which became a viral hit and was subsequently adapted by opposition campaigners in Russia to attack President Putin.

Local rights activists suspect he was arrested partly to prevent greater media interest in the rights of the Talysh minority he campaigns to protect following the video's publication. He was detained by police without explanation, taken to a police station and searched, where officers claim to have found a package containing five grams of heroin on him. They claim to have found a further 20 grams in his home.

According to Mamedov's lawyer, the police officers showed him the package but not the contents. He insisted that all the drugs were planted. When the lawyer tried to visit Mamedov in custody, he was refused access until the following day. He told Amnesty International that Mamedov had been tortured while in police custody and supplied photo evidence of bruising

on his feet and ankles.

On 22 June a Baku court ordered him to spend three months in pre-trial detention on charges of possessing large quantities of drugs. If convicted, he faces up to 12 years in prison.