



## Locking up free expression

Azerbaijan silences critical voices

October 2013

## **Locking up free expression: Azerbaijan silences critical voices**

**Report, October 2013**

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### **About Index**

Index on Censorship is an international organisation that promotes and defends the right to freedom of expression.

Index uses a unique combination of journalism, campaigning and advocacy to defend freedom of expression for those facing censorship and repression, including journalists, writers, social media users, bloggers, artists, politicians, scientists, academics, activists and citizens.

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# Introduction

Intimidation, violence and media clampdown – free expression in Azerbaijan is under siege. The country's record on free expression has undergone a marked deterioration in the run up to its presidential election.

This report addresses violations against freedom of expression on the eve of these presidential elections. It is based on field research conducted between 16 and 21 September 2013 in Baku. In 2012, international and national civil society groups denounced attempts by the Azerbaijani government to silence critical voices through fabricated charges, barring protests and blackmail.<sup>1</sup> In 2013, the government has introduced a new set of repressive laws, curbs on media and arrests of journalists, political activists and human rights defenders.

Laws passed in May 2013 extend existing draconian penalties for criminal defamation and insult to online content and public demonstrations. Intimidation, harassment and violence against journalists continue with impunity. Civil society organisations have raised concerns about the deterioration of the media environment and the number of imprisoned journalists through the intensification of the practice of unjustified criminal prosecution.<sup>2</sup>

It is important to note that country is due to assume the chairmanship of the Council of Europe's Committee of Ministers in 2014, while it fails to comply with its obligations under the European Convention on Human Rights.

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<sup>1</sup> Running scared. Azerbaijan's Silenced Voices, International Partnership Group for Azerbaijan report, 2012, <http://www.indexoncensorship.org/Documents/Azerbaijan/12-03-26-azerbaijan.pdf>

<sup>2</sup> Interim Report No. 1, 28 August – 12 September 2013, OSCE Office for Democratic Institutions and Human Rights, Election Observation Mission, Republic of Azerbaijan, <http://www.osce.org/odihr/elections/104995>

# 1. Impunity

Impunity for physical and moral attacks against journalists and activists continues unabated. There have been attacks on journalists during the period of the presidential elections. Those responsible for the murders of journalists Elmar Huseynov (2005) and Rafiq Tagi (2011) have yet to be found or tried. No suspects have been named or charged with the violent attack on Idrak Abbasov in 2012, weeks after he received an Index Award. Independent journalists receive threats and are subject to blackmail.

On a daily basis, journalists, who receive physical and psychological threats and make reports to the authorities, are denied justice or protection.

In September 2013, Index met with Ramin Deko, a journalist at Azadliq newspaper. In addition to regular intimidation and threats, Deko has been harassed financially, with prosecutions and fines obstructing his investigative journalism (see section on the economic squeeze on independent or critical media). Deko alleges he was abducted and beaten up on 3 and 4 April 2011 by law enforcement bodies. While he was illegally detained, he said he was told to stop critical articles and to change his workplace to a pro-government newspaper.<sup>3</sup> On 4 October 2013, Deko was part of a group of journalists attacked by a pro-government mob while covering a sanctioned opposition rally the central Azerbaijan town of Sabirabad.<sup>4</sup> Tural Mustafayev, who was also among the journalists, said that they were assaulted, and their equipment was damaged by the mob while police officers stood by and made no effort to disperse the attackers. No measure has yet been taken to investigate the beating and harassment of the attacked journalists. On the contrary, the Interior Ministry released a statement justifying the action of the police and Bakunews internet television reporter, Ilham Rasulzadeh, was detained and taken to the Sabirabad police department.<sup>5</sup>

Journalists and activists face intimidation, harassment, threats, blackmail, attacks and imprisonment in connection with their work.

Another journalist, Yafez Akramoghlu, told Index that the range of “tools” to intimidate journalists has widened.<sup>6</sup>

Akramoghlu is a journalist at Radio Liberty/Azadliq radiosu and correspondent for the Nakhchivan Autonomous Republic, which he calls “the North Korea of Azerbaijan”. Akramoghlu claims that in April 2013, his family received an envelope containing a CD and several photos. They depicted intimate pictures and a fake Facebook profile with fabricated Facebook chats between Akramoghlu and a woman (the same woman appearing in intimate positions in the photos). Shortly after receiving the envelope, Akramoghlu says he received a phone call from someone who identified himself as an employee of the Nakhchivan national security forces. This individual reportedly threatened to damage the journalist’s reputation by circulating the images if he did not stop his investigative work. Following his refusal to give in to blackmail,

<sup>3</sup> Index on Censorship interview, Baku, 18 September 2013

<sup>4</sup> Mob Attacks Journalists During Azeri Opposition Rally, Radio Free Europe. Radio Liberty, 4 October 2013, <http://www.rferl.org/content/azerbaijan-rally-reporters-attack/25126799.html>

<sup>5</sup> The Interior Ministry clarifying the incident that occurred during a protest of Camil Hasanli voters in Sabirabad, <http://az.trend.az/news/politics/2197913.html>

<sup>6</sup> Index on Censorship interview, Baku, 18 September 2013

Akramoghlu claims he received assassination threats directed at himself and his family.

Investigative journalist Khadija Ismayilova has also been the target of a smear campaign. On 7 March 2012, she received an envelope from an anonymous sender containing explicit photos of her and her boyfriend with a note warning her, “Whore, behave. Or you will be disgraced.” Ismayilova published the threat letter and continued her investigative work.<sup>7</sup> On 14 March 2012, a secretly-recorded video of Ismayilova having sex with her boyfriend was posted on the internet. The previous day, a pro-government newspaper ran a long article attacking her and criticizing her personal life.<sup>8</sup> In August 2013, 11 international NGOs sent a joint letter to President Ilham Aliyev and Prosecutor-General Zakir Garalov urging them to take concrete steps to ensure that the repeated harassment and intimidation of Khadiya Ismayilova is properly investigated.<sup>9</sup> This was after Ismayilova sent at least four letters to the prosecutor’s office requesting updates on the investigation. According to Ismayilova, in its replies, the prosecutor’s office has merely stated that the investigation was ongoing, without giving any details.

Imprisoned journalists and activists also face intimidation and violence. In May 2013, one NIDA board member – Turgut Gambar – and two other youth activists – Abulfaz Gurbanli and Ilkin Rustemzade – were arrested on misdemeanour charges and had their heads forcefully shaven while they served administrative detention.<sup>10</sup>

Since his arrest in June 2012, Hilal Mammadov, editor-in-chief for Tolisho Sedo newspaper, has reported ill-treatment and torture. On Friday 27 September 2013, two weeks before the presidential elections, Mammadov was sentenced to five years in prison on charges of treason, inciting ethnic hatred and drug trafficking.<sup>11</sup>



By Aziz Karimov

7 Tightening the Screws. Azerbaijan’s Crackdown on Civil Society and Dissent, Human Rights Watch Report, 2013, [http://www.hrw.org/sites/default/files/reports/azerbaijan0913\\_ForUpload\\_0.pdf](http://www.hrw.org/sites/default/files/reports/azerbaijan0913_ForUpload_0.pdf)

8 Ibid.

9 Open Letter to Azerbaijani Authorities About Harassment of Investigative Journalist, Reporters Without Borders, 14 August 2013, <http://en.rsf.org/azerbaijan-open-letter-to-azerbaijani-14-08-2013,45050.html>

10 Tightening the Screws. Azerbaijan’s Crackdown on Civil Society and Dissent, Human Rights Watch Report, 2013, [http://www.hrw.org/sites/default/files/reports/azerbaijan0913\\_ForUpload\\_0.pdf](http://www.hrw.org/sites/default/files/reports/azerbaijan0913_ForUpload_0.pdf)

11 Hilal Mamedov is sentenced to five years in prison, <http://www.contact.az/docs/2013/Politics/092700051334en.htm#.UIREyGTxg0P>

## 2. Repressive legislation

In the run up to the presidential elections, the framework for freedom of expression became tighter. Recent amendments to laws have further restricted freedom of expression, freedom of assembly and the work of civil society, by increasing sanctions for public order offences, including organising and participating in unauthorised demonstrations. Minor public-order offences now carry maximum jail sentences of 60 days, instead of 45. Adopted on 2 November 2012, new amendments to the law “On freedom of assembly” and to the Criminal Code saw

fines for protesters who violate the law raised from 300 manat (USD 385) to 8,000 manat (USD 10,200) and introduced a prison sentence of two years. Criminalising the organisation and participation in peaceful protests has an increasingly chilling effect on freedom of expression in Azerbaijan.<sup>12</sup>

Amendments to legislation regulating non-governmental organisations (NGOs), signed into law by the president on 11 March 2013, further stifle civil society in Azerbaijan, with NGOs now facing additional registration hurdles and stricter funding requirements. The new law bans cash donations above USD 200, and increased fines for non-compliance. In addition, NGOs that do not register under the law are unable to open or maintain bank accounts. This legislation further interferes with freedom of association already undermined in 2009 and 2011, after the introduction of overly complicated NGO registration requirements. The International Center for Not-for-Profit Law (ICNL) identified a number of issues relating to NGO legislation in Azerbaijan, including the lack of transparency in the process of government authorities’ decision-making on whether to register an NGO.<sup>13</sup> It is feared that the arbitrary application of the law directly undermines freedoms of expression and association. On 19 October 2011, the Council of Europe Venice Commission referred to NGO regulations in Azerbaijan as “a breach of international standards.”<sup>14</sup>

In May 2013, the Azerbaijani Parliament adopted amendments to the Code of Administrative Offences, resulting in the extension of the permitted length of administrative detention. The maximum period of administrative detention sanctioning offences for “violation of the rules of organising and conducting rallies, demonstrations, processions, etc.” has been increased from 15 to 60 days.<sup>15</sup> This new legislation allows the arrest, for example, of people who distribute leaflets in the streets. On 19 September 2013, the police reportedly arrested and detained for a few hours 20 young people distributing leaflets for an authorised protest.<sup>16</sup>

In addition, Azerbaijan’s defamation legislation was extended on 3 June 2013 and now also applies to internet-based content and opinions expressed online, including in social media (see section on internet censorship). The new defamation law imposes hefty fines and prison sentences for anyone convicted

New legislative amendments further erode rights to freedom of expression and peaceful assembly

<sup>12</sup> Civic Solidarity Platform statement on new law raising fines on protests in Azerbaijan, 9 November 2013, <http://www.civicsolidarity.org/article/592/civic-solidarity-platform-statement-new-law-raising-fines-protests-azerbaijan>

<sup>13</sup> Assessment of the Legal Framework for Non-Governmental Organizations in the Republic of Azerbaijan, International Center for Non-for-Profit Law, [http://www.icnl.org/programs/eurasia/7-20\\_AzerAssess\\_Eng.pdf](http://www.icnl.org/programs/eurasia/7-20_AzerAssess_Eng.pdf)

<sup>14</sup> Opinion on the Compatibility with Human Rights Standards of the Legislation on Non-Governmental Organisations of the Republic of Azerbaijan, European Commission for Democracy Through Law (Venice Commission), [http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2011\)035-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2011)035-e)

<sup>15</sup> Article 298.11 and 298.22 of the Administrative Offences Code

<sup>16</sup> Index on Censorship interview with a young political activist, Baku, 20 September 2013

of online slander or insults.<sup>17</sup> This constituted a severe step back for Azerbaijani government that had committed to decriminalise defamation in its National Action Programme in 2011.<sup>18</sup> In August 2013, a court prosecuted a former bank employee who had criticised the bank on Facebook. The court found him guilty of libel and sentenced him to 1-year public work, also withholding 20% of his monthly salary (see section in internet censorship).

### 3. Media diversity, ownership and the squeeze on the opposition press

The clampdown on independent and critical media continues, while nearly all broadcast media remain owned by the state or controlled by the authorities.<sup>19</sup> The independent press has faced economic discrimination, with editors claiming the authorities regularly pressure advertisers not to place ads in critical papers.<sup>20</sup> Meanwhile, Azerbaijani public officials have used criminal and civil defamation to stifle critical journalists.

Most of the nine national TV channels are either directly owned by the state or controlled by the authorities. The regulatory authority, Azerbaijan's National Television and Radio Council – also charged with delivering broadcast licenses – is fully funded from the state budget and the president directly appoints all of its nine members.<sup>21</sup> Journalists Index spoke to believe audiences are inundated with state propaganda, even through channels that offer no direct coverage of current events or political news.

Critical newspapers are barred from press distribution networks, which are controlled by state officials. Over 70 % of the distribution has fallen under government control and 42% of the population has no access to press kiosks with, on average, one retail stand for 11,250 inhabitants.<sup>22</sup> Journalists and editors interviewed by Index expressed concerns over the election code that makes no provisions for balanced coverage of candidates and political parties in news and current affairs programs, including for public newspapers and broadcasters.

The first interim report of the OSCE/ODIHR Election Observation Mission reported that there were some concerns over the shortening of the official campaign period, which limits opposition candidates' access to media and gives the incumbent president a disproportional advantage.<sup>23</sup>

17 Document – Azerbaijan: Restriction to the Right to Freedom of Expression, Association and Assembly Obstructs the Work of Civil Society and Political Activists, Amnesty International Public Statement, 20 September 2013, <http://www.amnesty.org/en/library/asset/EUR55/008/2013/en/0eaa14b0-ef37-4d45-8e80-ddc141dc6231/eur550082013en.html>

18 National Programme for Action to Raise Effectiveness of the Protection of Human Rights and Freedoms in the Republic of Azerbaijan, 27 December 2011, <http://en.president.az/articles/4017>

19 State control and the media in Running scared. Azerbaijan's Silenced Voices, International Partnership Group for Azerbaijan report, 2012

20 Index on Censorship interview with Rahim Ajiyev, acting editor-in-chief of Azadliq newspaper, Baku, 18 September 2013

21 "Media Landscapes of the Eastern Partnership Countries", [http://fes.ge/images/Fes\\_Files/2011-Publ-AM/web\\_medialandscapes\\_eng.pdf](http://fes.ge/images/Fes_Files/2011-Publ-AM/web_medialandscapes_eng.pdf)

22 WAN-IFRA Press Freedom Mission to Azerbaijan, 22 to 24 September 2009, <http://www.wan-press.org/pfreedom/articles.php?id=5168>

23 Interim Report No. 1, 28 August – 12 September 2013, OSCE Office for Democratic Institutions and Human Rights, Election Observation Mission, Republic of Azerbaijan, <http://www.osce.org/odihr/elections/104995>

Along with the state's control over the main media channels, the Azerbaijani regime keeps suppressing dissent or critical voices through defamation legal actions. According to Rashid Hajili from the Media Rights Institute, in the first six months of 2013, 36 defamation suits were brought against media outlets or journalists, four of which were criminal defamation suits.<sup>24</sup> While courts have rejected all four criminal defamation suits, they have ordered media outlets and journalists to pay hefty fines in civil defamation cases. For example in June 2012, a court ordered Azadliq newspaper to pay 30,000 manat (USD 36,000) to the head of the Baku Metro Service, for an article published on 8 April 2012 about an increase in metro fares. In May 2012, a court fined Ramin Deko, investigative journalist at Azadliq, 3,000 manat (USD 3,800) for allegedly defaming Novruzali Aslanov, a pro-government member of parliament.<sup>25</sup> Ramin Deko says: "Because of the fines, investigative journalism is at risk. There is an allergy to free expression in this country. In April 2011, I was abducted and beaten up, but defamation fines are equally chilling. It is another intimidation tactic and it interferes with my personal life."<sup>26</sup>

## 4. Internet censorship

Several activists have been arrested for their protest activities on social networks. In public statements, high-ranking officials aggressively attack social media, calling it a "harmful phenomenon." Fazail Agamaly, an Azerbaijani MP, publicly called for access to social networking websites in Azerbaijan to be blocked during a speech in the country's parliament, calling Facebook and social networks "a threat to Azerbaijan's statehood."<sup>27</sup> The "war declared by the regime on social media" became more serious after street protests — organised by young people through Facebook — on 10 March 2013. On 16 March, president Ilham Aliyev allocated 5 million Azerbaijani manats (about USD 6.7 million) to fund activities of pro-government youth organisations on social networks.<sup>28</sup> At the same time, seven members of the NIDA movement — a youth movement calling for more democracy in Azerbaijan — were arrested on charges of drug possession and inciting hatred. In May, the parliament adopted repressive legislation to extend criminal defamation laws to online content.

Rashid Hajili from the Media Rights Institute said: "Internet is growing and offers opportunities as well as challenges. The first steps toward prosecution for criminal defamation on Facebook last August [2013] are concerning."<sup>29</sup> In August, Astara District Court convicted Mikail Talibov for sharing critical information on Facebook. Previously, Talibov worked at AccessBank, a bank with headquarters in Baku. Following his dismissal, he created a Facebook page where he harshly criticized the bank's activity. The bank considered the Facebook page libelous and demanded the court to bring Talibov to justice for libel. The court considered the former bank employee guilty and charged him to 1-year public work, also withholding 20% of his monthly salary. The court also ruled Talibov to refute his criticism on Facebook. Many Azerbaijani civil

24 Index on Censorship interview, Baku, 19 September 2013 and semi-annual report "Legal Environment for Media in Azerbaijan," Media Rights Institute, July 19, 2013,

[http://www.mediarights.az/docs/mri\\_sr2013.pdf](http://www.mediarights.az/docs/mri_sr2013.pdf)

25 Tightening the Screws. Azerbaijan's Crackdown on Civil Society and Dissent, Human Rights Watch Report, 2013, [http://www.hrw.org/sites/default/files/reports/azerbaijan0913\\_ForUpload\\_0.pdf](http://www.hrw.org/sites/default/files/reports/azerbaijan0913_ForUpload_0.pdf)

26 Index on Censorship interview, Baku, 18 September 2013

27 Fazail Agamali: Facebook Access is a Serious National Security Threat!, azeri report, [http://azerireport.com/index2.php?option=com\\_content&do\\_pdf=1&id=3901](http://azerireport.com/index2.php?option=com_content&do_pdf=1&id=3901)

28 Azerbaijan's Facebook fight, Index on Censorship, <http://www.indexoncensorship.org/2013/04/how-to-prepare-for-an-election-in-azerbaijan/>

29 Index on Censorship interview, Baku, 19 September 2013

organisations have condemned this ruling, with the Media Rights Institute calling it a “harsh punishment for expressions on internet forums”.<sup>30</sup>

Defamation laws and monitoring of social media content are particularly chilling free expression online in Azerbaijan. Turgut Gambar, youth activist and member of NIDA, told Index that an increased number of young people refrain from expressing their opinion online due to the monitoring of social media and punishment of those who criticize the regime.<sup>31</sup> However, Gambar counts on the internet to empower the youth and complement traditional action for the democratisation of the country. “In March [2013], NIDA was able to mobilize and attract people who usually are not politicised thanks to social media”, says Gambar, “Internet is complementary to other forms of action such as graffiti, songs, or distribution of stickers”. The seven NIDA members arrested in March and April 2013 were particularly active on social media and known for their criticism of the authorities. The repression of free speech online is seen as an attempt to suppress activism on the last remaining haven for independent expression.<sup>32</sup>

## 5. Azerbaijan and the Council of Europe

In the run up to the elections, on 26 January 2013, the Parliamentary Assembly of the Council of Europe (PACE) failed to pass a resolution on political prisoners. The inaction of PACE has made Azerbaijan confident and since that failure at the PACE, Azerbaijan has felt emboldened to arrest more journalists and activists. On 1 October 2013, the Baku-based Human Rights Club released a new list of political prisoners counting 142 persons currently in detention or imprisoned for politically motivated reasons. The Human Rights Club notes that the number of politically motivated detentions and imprisonments has increased sharply since the defeat on 26 January 2013 of the key PACE resolution on “The follow-up to the issue of political prisoners in Azerbaijan.” At the time of the vote, there were 60 cases of alleged political prisoners included in then-rapporteur Christoph Strässer’s list.<sup>33</sup>

It is of concern that the PACE has failed to hold Azerbaijan accountable for its Council of Europe obligations.<sup>34</sup> According to interviewees, the resolution’s defeat has tarnished the Council of Europe’s credibility in Azerbaijan as an institution supposed to protect, promote and ensure human rights.

The government of Azerbaijan works particularly hard to influence opinion at the PACE, or to paralyse its action.<sup>35</sup> Christoph Strässer, a German PACE delegate who was the Special Rapporteur tasked with examining the situation of political prisoners in Azerbaijan, has been refused a visa to conduct a fact-finding mission to Azerbaijan. This refusal has angered German parliamentarians to the extent that the

30 On criminal prosecution for expressions on Facebook, Media Rights Institute statement, 14 August 2013, <http://www.mediarights.org/index.php?lngs=eng&id=79>

31 Index on Censorship interview, Baku, 20 September 2013

32 Azerbaijan locks up journalists as it prepares for “election”, Index on Censorship, <http://www.indexoncensorship.org/2013/10/azerbaijan-locks-journalists-prepares-election/> and Governments Grow Increasingly Repressive Online, Activists Fight Back, Freedom House report, September 2012, <http://www.freedomhouse.org/article/new-report-governments-grow-increasingly-repressive-online-activists-fight-back>

33 Azerbaijan: an updated list of political prisoners, Civic Solidarity, 1 October 2013, <http://civicsolidarity.org/article/800/azerbaijan-updated-list-political-prisoners>

34 PACE’s failure to hold Azerbaijan accountable for its Council of Europe obligations leads to sharp increase in political arrests, Platform London, 1 October 2013, <http://platformlondon.org/2013/10/01/paces-failure-to-hold-azerbaijan-accountable-for-its-council-of-europe-obligations-leads-to-sharp-increase-in-political-arrests/>

35 Azerbaijan’s image problem, in Running Scared. Azerbaijan’s Silenced Voices, International Partnership Group for Azerbaijan report, 2012

Bundestag's Committee on Human Rights and Humanitarian Aid drafted a resolution demanding Strässer be granted a visa. Such is the influence of the government of Azerbaijan in Germany that the draft resolution was leaked to the country's ambassador.<sup>36</sup>

## The Council of Europe has failed to hold Azerbaijan accountable for its international obligations.

Azerbaijan pursues its lobbying at the Council of Europe (COE) and at national government level to persuade parliamentarians that the lack of a free media or its political prisoners are not worthy of special attention – or can be justified in the context of the ongoing Nagorno-Karabakh conflict. This distortion of the truth makes the work of human rights defenders all the more difficult, especially as space to express critical views in Azerbaijan has

been gradually and progressively curtailed since Azerbaijan joined the COE in 2001. While Azerbaijan is preparing to assume the Chairmanship of the COE, it is of paramount importance for the Council of Europe to take tougher line against Azerbaijan's crackdown on fundamental rights and freedoms.<sup>37</sup>

“In eight months, Azerbaijan will run Europe's official human rights organisation. The Council of Europe must take care about who speaks on its behalf. We are not saying that the council should prevent Azerbaijan from taking the chair, but it should take a tougher line vis-à-vis implementation of human rights commitments. If member states are allowed to get away with blatant violations and fail to comply with the Council of Europe rules and treaties, human rights become a dead letter”, says Emin Huseynov, Chair and CEO of the Institute for Reporters' Freedom and Safety (IRFS).<sup>38</sup>

<sup>36</sup> A Dictator's Dream: Azerbaijan Seeks to Burnish Image Ahead of Eurovision, Spiegel Online, <http://www.spiegel.de/international/world/0,1518,806769,00.html>

<sup>37</sup> Azerbaijan will assume the chairmanship of the COE's Committee of Ministers from July 2014

<sup>38</sup> Index on Censorship interview, Baku, 18 September 2013 and article 'Council of Europe should take tougher line against Azerbaijan', International Media Support, 1 October 2013, <http://www.i-m-s.dk/council-of-europe-should-take-tougher-line-against-azerbaijan-rights-group/>

# Recommendations

In the run-up to the 2013 presidential elections in Azerbaijan, the situation for freedom of expression has deteriorated. Index on Censorship makes the following recommendations:

- Ensure the immediate release of all persons imprisoned for exercising their right to freedom of expression
- Promptly investigate and prosecute all cases of violence, threats of violence, and blackmail against journalists, political activists and human rights defenders
- Respect and protect the right to freedom of expression offline and online, including by ceasing the practice of targeting social media users involved in organising protests
- Promote the development of public service broadcasting that is independent of government interests and acts in the public interest, with particular attention paid to the regions outside of Baku
- Cease the practice of pressuring and interfering with the work of NGOs, human rights defenders and lawyers
- Reform the law to protect the freedom of association





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