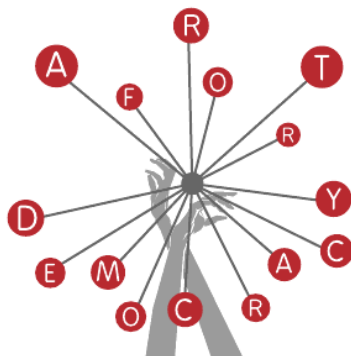


CREATIVITY UNDER PRESSURE: Artistic Freedom of Expression in Azerbaijan





Creativity Under Pressure: Artistic Freedom of Expression in Azerbaijan

Art for Democracy Campaign

Baku, Azerbaijan
April 2014

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Acknowledgements

This is a report of the Baku-based Art for Democracy campaign, which uses all forms of artistic expression to promote democracy and human rights in Azerbaijan. Art for Democracy was launched in December 2012 by the local human rights defenders, and artists, is currently being coordinated individually by Rasul Jafarov, human rights defender based in Baku.

This report was written by local experts involved with the campaign and international expert Rebecca Vincent, based on research conducted by the authors, as well as Art for Democracy campaign staff, including the coordinator. The English version of the report was edited by Rebecca Vincent, and the Azerbaijani version of the report was edited by local expert Idrak Abbasov.

Methodology

This report was compiled based on research conducted by the report authors and other staff of the Art for Democracy campaign. Researchers scrutinized Azerbaijani legislation, international human rights treaties, other relevant documents of international and regional bodies (namely the United Nations and the Council of Europe), and local and international media and NGO reports. Researchers traveled to the Azerbaijani regions of Ganja, Gazakh, Sheki, Shirvan, Sumgayit, as well as to villages outside of Baku, and interviewed artists who had experienced violations of the right to artistic freedom of expression. Researchers also submitted information requests to the Azerbaijani Ministry of Culture and Tourism, although the Ministry failed to respond.

Executive summary

Creativity Under Pressure: Artistic Freedom of Expression in Azerbaijan is a report of the Art for Democracy campaign, which uses all forms of artistic expression to promote democracy and human rights in Azerbaijan. The report examines the situation of artistic freedom of expression in Azerbaijan from 2011 to the time of publication, April 2014.

Despite the fact that Azerbaijan has committed to respect and protect the right to artistic freedom of expression, in practice, the Azerbaijani authorities restrict this right, particularly with regard to alternative artists and artists considered to be critical of the government. The ability of these artists to perform, display, or disseminate their work is limited through direct and indirect means. As a result, few artists remain willing to publicly express critical views or use their work to explore controversial themes, and those who do face serious consequences.

The report is divided into three chapters. The first chapter sets out international standards for artistic freedom of expression, which Azerbaijan has committed to protect and respect through its membership in a number of international organizations and its ratification of or accession to international treaties.

The second chapter covers the domestic legal framework for artistic freedom of expression. Azerbaijani legislation largely conforms to international standards for artistic freedom of expression; however, many of these laws allow for state interference, which could be used as means of censoring artistic expression. Further, the continued presence of criminal defamation provisions in Azerbaijani legislation contradicts international standards and has a chilling effect on freedom of expression, contributing to widespread practices of self-censorship in the country, including in the arts.

The third chapter examines freedom of artistic expression in practice in Azerbaijan, detailing cases of pressure on musicians; film, television, and theater workers; writers, poets, and publishers; human rights defenders who campaign for the right to artistic freedom of expression or who use artistic forms of expression to draw attention to the human rights situation in Azerbaijan; and political activists who use creative means of expressing critical political views.

In publishing this report, the Art for Democracy campaign hopes to draw greater awareness, both within Azerbaijan and at the international level, to ongoing restrictions of the right to artistic freedom of expression in Azerbaijan, and in that regard, to improve the situation in the country.

To that end, the report contains a number of recommendations to the Azerbaijani authorities for concrete steps needed to improve the situation of artistic freedom of expression in the country. Among these are the need to cease politically motivated arrests of persons in connection with their exercise of the right to artistic freedom of expression; to conduct serious and independent investigations into reports of torture and calls for violence against artists; to cease practices of censorship and dismissal of artists working for state bodies; to cease practices of discriminatory treatment of critical and alternative artists; and to decriminalize defamation.

Recommendations

As detailed in this report, in practice, artistic freedom of expression is restricted in Azerbaijan. To that end, the Art for Democracy campaign has developed a set of recommendations to the Azerbaijani government for measures needed to improve the situation of artistic freedom of expression in the country.

Art for Democracy calls on the Azerbaijani government to:

- Immediately and unconditionally release youth activists Ilkin Rustamzade and Bakhtiyar Guliyev and cease politically motivated arrests of persons in connection with their exercise of the right to artistic freedom of expression.
- Conduct a serious and independent investigation into reports of torture against musician Jamal Ali and prosecute the responsible officials.
- Conduct a serious and independent investigation into calls for violence against writer Akram Aylisli, prosecute those responsible, including head of the Modern Musavat Party Hafiz Hajiyevev, and provide Aylisli with adequate protection.
- Drop the criminal charges against composer Huseyn Abdullayev and cinematographers Lala Afendiyeva and Rustam Ibragimbekov, and cease the use of legal pressure against critical artists.
- Drop the criminal case against the Qanun publishing house, and cease pressure against the print industry and bookshop owners, allowing all writers equal chances of publishing and selling their work.
- Cease practices of intimidation and harassment of critical musicians, and cease pressure against the owners of performance venues and recording studios, allowing all musicians equal chances of performing and disseminating their work.
- Create a safe environment and provide adequate protection for exiled artists wishing to return to Azerbaijan.
- Cease pressure on the Art for Democracy campaign, its staff and supporters, and other human rights defenders advocating the right to artistic freedom of expression or using creative means of expression in their work.
- Call on officials of the Presidential Administration and local executive authorities to cease interfering with artistic exhibitions, festivals, and other performances.
- Cease practices of censorship and dismissal of artists working for state bodies, including the State Philharmonic, the State Academic Opera and Ballet Theater, and the State Theater of Young Spectators.
- Invite UN Special Rapporteur in the field of cultural rights Farida Shaheed to undertake a fact-finding visit to Azerbaijan, and allow her unfettered access to artists of all genres.
- Incorporate the recommendations of UN Special Rapporteur Farida Shaheed contained in her report on 'The right to freedom of artistic expression and creativity' into all relevant legislation, policies, and practices.¹
- Cease practices of discriminatory treatment of critical and alternative artists, and create equal conditions for artists of all genres, allowing them the freedom to create and disseminate their work unfettered.

¹ <http://bit.ly/1cVod4z>

- Reduce legal provisions that allow for state interference in artistic activities.
- Simplify the overly cumbersome registration procedures for artistic unions.
- Abolish criminal defamation provisions from Azerbaijani legislation.
- Ensure that the practices of all authorities conform both to Azerbaijani legislation and to international standards for artistic freedom of expression.
- Take immediate and concrete steps to create an environment conducive to freedom of expression more broadly, in accordance with Azerbaijan's obligations under international law.

Introduction

The right to freedom of expression is a fundamental human right enshrined in international law. It is a necessary condition for the realization of many other fundamental human rights. The right to artistic freedom of expression relates more specifically to creative forms of expression and the production of various forms of art. Azerbaijan has committed to protect and respect this right through its membership in organizations such as the United Nations and the Council of Europe, and its ratification of or accession to a number of regional and international human rights treaties.

Despite the fact that artistic freedom of expression is provided for in the Azerbaijani Constitution and domestic laws, in practice, the Azerbaijani authorities restrict this right, particularly with regard to alternative artists and artists considered to be critical of the government. The ability of these artists to perform, display, or disseminate their work is limited through direct and indirect means. As a result, few artists remain willing to publicly express critical views or to use their work to explore controversial themes, and those who do face serious consequences.

This report examines the situation of artistic freedom of expression in Azerbaijan from 2011 to the time of publication, April 2014. It is the first publication of the Art for Democracy campaign, which uses all forms of artistic expression to promote democracy and human rights in Azerbaijan. Since its launch in December 2012, the Art for Democracy campaign, along with its staff and supporters, has faced pressure from the Azerbaijani authorities, and interference in campaign activities. This pressure and interference is a good example of the attitude of the authorities towards those who use artistic expression to explore topics such as democracy, human rights, and corruption – issues that the authorities would prefer not to be discussed.

The report covers cases of pressure on critical and alternative artists from a variety of genres, including musicians, film, television, and theater workers, and writers, poets, and publishers. It also covers pressure against human rights defenders who campaign for the right to artistic freedom of expression or who use artistic forms of expression to draw attention to the human rights situation in Azerbaijan, and political activists who use creative means of expressing critical political views.

The authorities employ a range of tactics to silence critical artistic expression, including harassment, intimidation, threats, interference, legal pressure, arrest, imprisonment, and torture. Youth activists Ilkin Rustamzade and Bakhtiyar Guliyev remain in detention, facing serious jail time, after his initial arrest in connection with a “Harlem Shake” video filmed in Baku. Rocker/rapper Jamal Ali was forced to flee the country for safety after his arrest and torture following his performance at an opposition protest. Writer Akram Aylisli faced widespread calls for violence, including an offer of a cash reward to anyone who would cut off his ear, for publishing a novel. The Qanun publishing house faces closure following a criminal tax evasion case for daring to print critical literature and other materials. Composer Huseyn Abdullayev and cinematographers Lala Afendiyeva and Rustam Ibragimbekov face criminal charges and potential jail time.

It is important to note that these violations of the right to artistic freedom of expression have taken place against the backdrop of an alarming broader human rights situation. For several years, the Azerbaijani authorities have cracked down on the exercise of basic human rights and fundamental freedoms, with an intensity that peaked around the time of the October 2013 presidential election – which did not meet international standards for fair and free elections. In the run-up to, and in the aftermath of the election, the authorities systematically targeted those perceived as government critics, including journalists, bloggers, human rights defenders, political activists, religious followers, and as outlined in this report, artists. There are now nearly 100 persons in detention or prison for political reasons, on the eve of Azerbaijan taking a position of leadership at Europe's oldest human rights organization, as upcoming Chairman of the Committee of Ministers of the Council of Europe from May to November 2014.

In publishing this report, the Art for Democracy campaign hopes to draw greater awareness, both within Azerbaijan and at the international level, to ongoing restrictions on the right to artistic freedom of expression in Azerbaijan. Art for Democracy also hopes that this report will contribute to improvements in the situation of artistic freedom of expression in the country, and to that end, has included a number of recommendations to the Azerbaijani government. Art for Democracy also calls on the international community to increase efforts to hold the Azerbaijani government accountable for its human rights obligations – in particular, the Council of Europe, in light of Azerbaijan's imminent Chairmanship.

Preceding this introduction are the Acknowledgments, Methodology, Executive Summary, and Recommendations sections of the report. Following the introduction, Chapter 1 sets out international standards for artistic freedom of expression. Chapter 2 covers the domestic legal framework for artistic freedom of expression. Chapter 3 examines freedom of expression in practice in Azerbaijan, followed by a conclusion.

For more information on the situation of artistic freedom of expression in Azerbaijan, to experience alternative art from Azerbaijan, and to follow campaign updates, please visit Art for Democracy's new website at www.artfordemocracy.net.

Chapter 1: International standards for artistic freedom of expression

“Artists may entertain people, but they also contribute to social debates, sometimes bringing counter-discourses and potential counterweights to existing power centres. The vitality of artistic creativity is necessary for the development of vibrant cultures and the functioning of democratic societies. Artistic expressions and creations are an integral part of cultural life, which entails contesting meanings and revisiting culturally inherited ideas and concepts. The crucial task of implementation of universal human rights norms is to prevent the arbitrary privileging of certain perspectives on account of their traditional authority, institutional or economic power, or demographic supremacy in society. This principle lies at the heart of every issue raised in the debate over the right to freedom of artistic expression and creativity and possible limitations on that right.”

-UN Special Rapporteur in the field of cultural rights, Farida Shaheed²



Farida Shaheed, UN Special Rapporteur in the field of cultural rights. Photo: www.ohchr.org

The right to freedom of expression is a fundamental human right enshrined in international law. It is a necessary condition for the realization of many other fundamental human rights. Azerbaijan has committed to protect and respect the right to freedom of expression through its membership in organizations such as the United Nations and the Council of Europe, and its ratification of or accession to a number of regional and international human rights treaties, including those outlined in this chapter.

The right to artistic freedom of expression relates more specifically to creative forms of expression and the production of various forms of art. As UN Special Rapporteur in the field of cultural rights Farida Shaheed stated in her report from March 2013 on ‘The right to freedom of artistic expression and creativity,’³ this includes “the right to freely experience and contribute to artistic expressions and creations, through individual or

² <http://bit.ly/1cVod4z>

³ Ibid

joint practice, to have access to and enjoy the arts, and to disseminate their expressions and creations.”

The right to artistic freedom of expression is protected by provisions of international law related to freedom of expression more broadly, as well as those related specifically to artistic expression and creativity, and to cultural rights.

Universal Declaration of Human Rights

The Universal Declaration of Human Rights (UDHR)⁴ sets out the right to freedom of expression in Article 19, which stipulates:

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 27 of the UDHR adds, “everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.”

International Covenant on Civil and Political Rights

The International Covenant on Civil and Political Rights (ICCPR)⁵ elaborates on the definition of the right to freedom of expression in Article 19, specifically including expression “in the form of art.” It stipulates:

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

International Covenant on Economic, Social and Cultural Rights

The International Covenant on Economic, Social and Cultural Rights (ICESCR)⁶ provides for protection of the right to artistic freedom of expression in Article 15 (3), which states “The States Parties to the present Covenant undertake to respect the freedom indispensable for scientific research and creative activity.”

The Committee on Economic, Social and Cultural Rights examined Azerbaijan’s implementation of its ICESCR commitments in May 2013. In its Concluding Observations,⁷ the Committee expressed concern about the persecution of artists and writers in Azerbaijan:

The Committee is concerned about the persecution and lack of protection for several artists and writers in exercising their right

⁴ <http://bit.ly/1bD6w35>

⁵ <http://bit.ly/1bNeudO>

⁶ <http://bit.ly/11E1V3>

⁷ <http://bit.ly/1ewTbea>

to fully take part in cultural activities. The Committee is also concerned about the use of hate speech and behaviours against them (art. 15).

The Committee urges the State party to fulfil its commitment to guarantee the security of artists and writers and to cease detention and to take the necessary measures to prevent their social persecution in connection with their creative work, to guarantee adequate protection from threats and to prohibit the use of hate propaganda.

UNESCO guidelines

UNESCO's 'Recommendation concerning the Status of the Artist'⁸ is perhaps the most explicit UNESCO document outlining principles for Member States to create a climate conducive to freedom of artistic expression, such as the following:

Member States, recognizing the essential role of art in the life and development of the individual and of society, accordingly have a duty to protect, defend and assist artists and their freedom of creation. For this purpose, they should take all necessary steps to stimulate artistic creativity and the flowering of talent, in particular by adopting measures to secure greater freedom for artists, without which they cannot fulfill their mission, and to improve their status by acknowledging their right to enjoy the fruits of their work.

The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions⁹ also provides for the right to artistic freedom of expression. Article 2 stipulates:

Cultural diversity can be protected and promoted only if human rights and fundamental freedoms, such as freedom of expression, information and communication, as well as the ability of individuals to choose cultural expressions, are guaranteed. No one may invoke the provisions of this Convention in order to infringe human rights and fundamental freedoms as enshrined in the Universal Declaration of Human Rights or guaranteed by international law, or to limit the scope thereof.

Article 7 outlines measures to be taken by parties to the convention to promote cultural expressions:

1. Parties shall endeavour to create in their territory an environment which encourages individuals and social groups:

- (a) to create, produce, disseminate, distribute and have access to their own cultural expressions, paying due attention to the special circumstances and needs of women as well as various social groups, including persons belonging to

⁸ <http://bit.ly/1c8zhoG>

⁹ <http://bit.ly/1kieQey>

minorities and indigenous peoples;

(b) to have access to diverse cultural expressions from within their territory as well as from other countries of the world.

2. Parties shall also endeavour to recognize the important contribution of artists, others involved in the creative process, cultural communities, and organizations that support their work, and their central role in nurturing the diversity of cultural expressions.

European Convention on Human Rights

The European Convention on Human Rights (ECHR)¹⁰ provides for the right to freedom of expression in Article 10, which stipulates:

Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

The European Court of Human Rights has issued judgments in a number of cases acknowledging that Article 10 applies to artistic freedom of expression. For example, in the *Case of Müller and Others v. Switzerland* (Application no. 10737/84),¹¹ the Court states specifically that Article 10 “includes freedom of artistic expression - notably within freedom to receive and impart information and ideas - which affords the opportunity to take part in the public exchange of cultural, political and social information and ideas of all kinds.”

The document ‘Cultural rights in the case-law of the European Court of Human Rights,’¹² examines the Court’s broader role in protecting the right to artistic freedom of expression:

The Court has underlined the importance of artistic expression in the context of the right to freedom of expression (Article 10 of the Convention). Generally, it has applied a high level of protection when it has dealt with artistic works such as novels, poems, paintings, etc. On the one hand, artistic works afford the opportunity to take part in the exchange of cultural, political and social information and ideas of all kinds, which is essential for a democratic society. On the other hand, when assessing the character of some of the expressions contained in the artistic work which might justify the interference of the State, the Court has taken into account the limited impact of the form of artistic expression at stake (especially novels or poems, compared to films), which generally appeals to a relatively narrow public compared to, for example, the mass media.

¹⁰ <http://bit.ly/1foTq0D>

¹¹ <http://bit.ly/1cVX9lB>

¹² <http://bit.ly/1hgoVWS>

Limitations on the right to artistic freedom of expression

Limitations on the right to artistic freedom of expression must generally conform with standards for possible limitations of freedom of expression more broadly, which must be prescribed by law and necessary in a democratic society.

Article 19 of the ICCPR¹³ stipulates that restrictions “shall only be such as are provided by law and are necessary: (a) For respect of the rights or reputations of others; [or] (b) For the protection of national security or of public order (ordre public), or of public health or morals.”

Article 10 of the ECHR¹⁴ similarly states: “The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.”

Article 4 of the ICESCR¹⁵ addresses restrictions of rights contained in that covenant: “The States Parties to the present Covenant recognize that, in the enjoyment of those rights provided by the State in conformity with the present Covenant, the State may subject such rights only to such limitations as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society.”

As noted by UN Special Rapporteur Farida Shaheed in her aforementioned report,¹⁶ she “considers that States have the challenge of ensuring the full implementation of artistic freedoms and resort to limitations only when absolutely necessary. States shall bear in mind that they shall not single out some individual conceptions of the beautiful or sacred for official protection, as all persons are equal before the law and are entitled without any discrimination to the equal protection of the law (article 26 of ICCPR).”

Shaheed concluded, “The effects of art censorship or unjustified restrictions of the right to freedom of artistic expression and creativity are devastating. They generate important cultural, social and economic losses, deprive artists of their means of expression and livelihood, create an unsafe environment for all those engaged in the arts and their audiences, sterilize debates on human, social and political issues, hamper the functioning of democracy and most often also impede debates on the legitimacy of censorship itself.”

She further noted, “In many cases, censorship is counterproductive in that it gives wider publicity to controversial artworks. However, the fear censorship generates in artists and art institutions often leads to self-censorship, which stifles art expression and

¹³ <http://bit.ly/1bNeudO>

¹⁴ <http://bit.ly/1foTq0D>

¹⁵ <http://bit.ly/11E1V3>

¹⁶ <http://bit.ly/1cVod4z>

impoverishes the public sphere. Artistic creativity demands an environment free from fear and insecurity.”

As the following chapters will show, the Azerbaijani government has acted to restrict the right to artistic freedom of expression. To that end, the Art for Democracy campaign has developed a number of recommendations to the government to improve the situation in the country and allow for greater artistic expression and creativity, which can be found at the beginning of this report.

Chapter 2: Domestic legal framework for artistic freedom of expression

"We must make sure that the younger generation grows in the national spirit, is patriotic and loyal to the motherland, and works for the country. This requires a strong sense of patriotism and the national spirit. And the national spirit is based on national traditions, music, literature and language. Therefore, this area is generally very important for the future development of our country."

-Azerbaijani President Ilham Aliyev¹⁷



Ilham Aliyev, President of Azerbaijan. Photo: www.president.az

As outlined in the previous chapter, Azerbaijan is bound by international law to ensure respect for and protection of the right to freedom of expression, including the right to artistic freedom of expression. Stemming from its international commitments, the Azerbaijani Constitution and domestic law contain many provisions guaranteeing the right to freedom of expression for all citizens.

Azerbaijani legislation largely conforms to international standards for artistic freedom of expression. However, many of the laws pertaining to artistic activity allow for state interference, which could be used as means of influencing and censoring artistic expression. Such provisions should be minimized. Further, the registration process for artistic unions is overly cumbersome, requiring these unions to follow the same procedures as non-governmental organizations. The registration process should be simplified, similar to the procedures for commercial organizations.

Art for Democracy underscores the fact that the continued presence of criminal defamation provisions in Azerbaijani legislation contradicts international standards and effectively restricts the exercise of freedom of expression, including artistic freedom of expression. Criminal defamation has a chilling effect on freedom of expression, and contributes to widespread practices of self-censorship in the country, including in the

¹⁷ <http://bit.ly/1h1mmKx>

arts. Art for Democracy calls for the immediate decriminalization of defamation in Azerbaijan.

Recommendations to the Azerbaijani authorities to improve the situation of artistic freedom of expression in the country, including legal steps, have been included at the beginning of this report.

Azerbaijani Constitution

Article 47 of the Constitution of the Republic of Azerbaijan¹⁸ first sets out the right to freedom of expression. It states:

- I. Everyone may enjoy freedom of thought and speech.
- II. Nobody should be forced to promulgate his/her thoughts and convictions or to renounce his/her thoughts and convictions.

Article 51 of the Constitution provides for freedom of creative activity. It states:

- I. Everyone is free to carry out creative activity.
- II. The state guarantees freedom in literary-artistic, scientific-technical and other kinds of creative activity.

Relevant domestic laws

Article 4.0.2 of the Law on Culture of the Republic of Azerbaijan¹⁹ guarantees enforcement of everyone's rights and equal opportunities for culture and creativity as a key principle of state policy in this field. Article 14.1 notes that the right to make use of cultural institutions and cultural resources in Azerbaijan is guaranteed by the state. Article 6.2 and Article 43.0.5 stipulate that it is prohibited to restrict fundamental human rights and freedoms in the area of culture, irrespective of gender, race, nationality, religion, language, social affiliation, position of employment, faith, and affiliation with public unions.

Article 11 of the Law on Cinematography of the Republic of Azerbaijan²⁰ guarantees the freedom of creativity of professional creative employees and collectives engaged in cinematography. Article 12 outlines the rights and status of professional creative workers and collectives, which include: 1) the right to realize and deliver the results of cinematographic creative activity to a wide audience; 2) the right to protect and implement creative ideas through various means; 3) the right to carry out new and original cinematographic works; 4) the right to decide independently the fate of the works they create; 5) the right to establish cinematographic institutions, funds, and creative unions, and public associations (including on an international scale) on their own initiative, and to the right to join such organizations.

¹⁸ <http://bit.ly/1lDsYiQ>

¹⁹ <http://bit.ly/OGxcLo>

²⁰ <http://bit.ly/1gx0HWD>

According to Article 4.0.2 of the Law on Theater and Theater Activity of the Republic of Azerbaijan,²¹ one of the key principles of state policy with regard to theater is the guarantee of the independence of theaters. Articles 8 through 16 of the Law outline the rights and responsibilities of theaters, actors, authors, and producers. Article 8.1 affirms the independence of the theater in artistic creativity and selection of works to perform. Restriction of artistic creativity is prohibited, with the exception of certain cases set out in Article 8.2. Article 18.2 indicates that theaters may be established by the state, municipalities, legal entities, and individuals.

In 2009, President Aliyev issued an order initiating a state program titled “Azerbaijani theater in 2009-2019.”²² One of the stated aims of the program is to support talented young persons in all genres and professional directions of theater. The use of new information and communication technologies in the theater is another important aim of the program. According to Article 1.4 of the document, the following results are expected from the program, within a concrete timeframe: improvement of legislation pertaining to theater (between 2009 and 2013); the involvement of more young, talented and professional staff in theater (between 2009 and 2019); and the creation of a theater training center (in 2014), among other goals.

On 15 February 2014, President Aliyev signed an Order to approve the ‘Culture Concept of the Republic of Azerbaijan.’²³ The concept is aimed at ensuring the development of Azerbaijani culture, its protection from internal and external threats, its integration into the world system of cultures, and strengthening of the protection of human rights and freedoms in the field of culture. Under the presidential order, the Cabinet of Ministers is required to submit to the President a draft plan for implementation of the concept within six months.

According to the draft ‘Culture Concept of the Republic of Azerbaijan,’ prepared by the Ministry of Culture and Tourism, and currently being considered by a specially established inter-ministerial working group, there are seven general cultural policy objectives to be pursued in the medium term:

1. Development of legal guarantees:
 - 1.1 Complex improvement of national cultural policy legislation;
 - 1.2 Enhancement of the implementation mechanisms of international conventions and bilateral agreements;
 - 1.3 Improvement of existing practices on the protection of cultural rights and authors’ rights.
2. Implementation of modern methods in the administration of culture and arts:
 - 2.1 Optimization of the decentralization processes in state administration by managing the balance between the central and local executive authorities;
 - 2.2 Realization of de-monopolization by forming systems for arts-management and producer institutes, and promotion of contemporary administration;

²¹ <http://bit.ly/1cFLSFv>

²² <http://bit.ly/1dZXX71>

²³ <http://president.az/articles/11022>

2.3 Sustainable democratization in order to form civil society, preserve national identity, and encourage private initiatives.

3. Diversification of financial sources:

3.1 Assessment of the optimal scope of the state budget for arts and culture;

3.2 Attracting alternative sources of finance (such as sponsors, patrons, and other supporters);

3.3 Implementing up-to-date marketing practices in order to improve the system of paid cultural services.

4. Enhancement of information provision:

4.1 Conducting methodological research and public opinion polls, holding specialized conferences, seminars, and etcetera;

4.2 Generating databases, and drafting and implementing relevant concepts, programs and projects;

4.3 Presenting information about the national arts and culture in national and international mass media and on the Internet.

5. Human resources development:

5.1 Provision for the moral and material requirements of cultural workers;

5.2 Perfecting the educational and professional training systems;

5.3 Discovering young talent by holding specialized competitions, exhibitions, festivals, and etcetera.

6. Modernization of the material and technical bases:

6.1 Construction of specialized buildings and rehabilitation of cultural institutions;

6.2 Equipping cultural enterprises with modern engineering and information communication technologies;

6.3 Providing cultural institutions with stage costumes, musical instruments, and etcetera.

7. Development of international cooperation:

7.1 Promoting multilateral collaboration in the framework of international organizations;

7.2 Strengthening bilateral relations with leading European, American, Asian and African states;

7.3 Supporting Azerbaijani national cultural centers functioning abroad.

The Code on Administrative Offenses and the Criminal Code²⁴ include articles which prohibit film-making in privately protected buildings and other venues (Article 348-2.0.6 of the Code on Administrative Offenses), and illegal manufacturing with the intent to distribute or advertise pornographic materials or subjects, as well as illegal trade in printed editions, movie or videos, images or other objects of a pornographic nature (Article 242 of the Criminal Code).

²⁴ <http://bit.ly/1dhWj2Q>

Article 283 of the Criminal Code stipulates that actions aimed at inciting national, racial or religious hatred, or humiliation of the national advantage, as well as actions directed to restrict citizens' rights, or establish the superiority of citizens on the basis of their national or racial belonging or creed, committed publicly or with the use of mass media, are punishable by a penalty at a rate from one up to two thousand of the nominal financial unit, or by restriction of freedom for up to three years, or imprisonment from two to four years. It also stipulates that the same acts committed with the use of violence or threat of violence, by a person with the use of a service position, or by an organized group, is punishable by imprisonment from three to five years.

Article 121 of the Labor Code²⁵ regulates the entitlement to vacation of certain artists. Artistic directors and actors at theatrical and entertainment establishments, and artistic directors and actors on television, radio, and at movie establishments are granted 42 calendar days of vacation, and stagehands are granted 35 calendar days of vacation.

The Law on Mass Media²⁶ regulates the rights and responsibilities of all staff of the mass media, and prohibits state censorship. The Law on Libraries, Code on Town-building and Construction, the Law on Museums, the Law on Publishing, the Law on Protection of Folklore Models, and the Law on Copyrights and Related Rights²⁷ also contain provisions related to artistic freedom of expression in Azerbaijan.

Despite the fact that artistic freedom of expression is provided for in the Azerbaijani Constitution and domestic laws, in practice, the Azerbaijani authorities do not respect the right to freedom of artistic expression of musicians, actors, photographers, writers, and other artists considered to be critical of the government. The following chapter examines the situation for critical and alternative artists in Azerbaijan.

²⁵ <http://bit.ly/1gNTzZQ>

²⁶ <http://bit.ly/Nzi1CL>

²⁷ <http://bit.ly/1ghmmY3>

Chapter 3: Freedom of artistic expression in practice

"The reason why I left Azerbaijan is the feeling of danger. I worry first of all for my family. And also I feel that I couldn't explain myself completely to the people. That the government wouldn't give that chance. I would like to encourage everyone who reads this, who still has a brain and a free mind, not to close their eyes on the censorship of musicians around the world. It's very important that we pay attention to it and act against it. Otherwise things will get worse."

-Azer Cirttan, exiled Azerbaijani rock musician²⁸



Azer Cirttan, singer in exile. Photo: Azer's facebook page

Despite the fact that Azerbaijan is bound by international law to respect and protect the right to freedom of expression – including artistic freedom of expression – and that this right is guaranteed by the Azerbaijani constitution and domestic laws, in practice, the Azerbaijani authorities restrict the right to artistic freedom of expression, particularly with regard to alternative artists and artists considered to be critical of the government. In addition to facing various forms of political pressure, critical artists do not enjoy the same economic conditions as artists in the government's favor. Their ability to perform, display, or disseminate their work is limited through direct and indirect means. As a result, few artists remain willing to publicly express critical views or use their work to explore controversial themes, and those who do face serious consequences.

In addition to the more overt means of restricting freedom of artistic expression outlined below, unofficial means of censorship create many obstacles for alternative artists in Azerbaijan. Several musicians have spoken to the Art for Democracy campaign about studios refusing to record songs related to human rights, political freedoms, social issues, or other topics considered to be critical. Art for Democracy has faced difficulty in securing venues for exhibitions and other events organized as part of the campaign, due to venue owners who feared being pressured themselves. Art for Democracy has also, at times, struggled to find artists who were comfortable being publicly associated with campaign materials, such as a video encouraging Azerbaijanis to take part in the electoral process during the October 2013 presidential election. As

²⁸ <http://bit.ly/1eF89lD>

with other areas of freedom of expression in Azerbaijan, self-censorship is widespread among the artistic community.

Economic conditions for artists



Firudin Allahverdi, composer. Photo: Art for Democracy

The Azerbaijani authorities closely monitor and control opportunities for mainstream performance, display, or dissemination of most forms of art. As a result, critical and alternative artists experience unequal opportunities and conditions to more traditional artists and those in the state's favor. To hold a musical festival, for example, an application must be sent to President Aliyev. The

Ministry of Culture and Tourism rarely organizes music festivals and tours, citing a lack of financial resources, despite the fact that the ministry has managed to make arrangements for more traditional theatrical productions.

Owners of concert venues, recording studios, and cinemas often face pressure from the authorities, and are prevented from allowing critical musicians to perform or record, or critical films to be screened. Such restrictions are more common in Azerbaijan's regions outside of the capital of Baku. Printing houses face pressure for publishing the work of critical writers, and authorities use a range of tactics to interfere with the sale of books.

The state allocates a large sum of funding to support cultural and artistic activities – a total of over 134 million in 2013, and more than 140 million in 2014.²⁹ Approximately 64 percent of this is reportedly spent on salaries; however, the salaries of many artists and creative workers remain extremely low. In conducting research for this report, Art for Democracy interviewed a range of artists about the economic conditions they faced.

Young composer Firudin Allahverdi described the difficult conditions faced by many musicians. While musicians who perform at wedding ceremonies or perform traditional mugham music fare slightly better, salaries for classical and rock musicians are very low, and for jazz musicians, even worse. For example, salaries for musicians employed by the State Symphonic Orchestra, considered to be the most elite orchestra in the country, range from 400 to 600 AZN per month. Film and theater music composers have received the same low honoraria for many years, despite the steady inflation in the country.

The situation is similar for actors and other artists. Naiba Allahverdiyeva, an actress with the Theater of Young Spectators, reported that her monthly salary is only 200 AZN. Novruz Qartal, an actor with the Musical Theater, said his salary was 255 AZN per

²⁹ <http://bit.ly/1hkPHR2>

month. “People’s Artist” Rafael Dadashov, who receives a presidential stipend, reported that his monthly salary is only 350 AZN.

Presidential awards for artists are used as a form of economic pressure, as they carry with them a stipend. Such awards are not granted to critical artists, and if an artist crosses certain lines, such as in the case of writer Akram Aylisli outlined below, the titles and stipends can be revoked.

Pressure on musicians

Musicians whose songs – or even genres – are considered to be critical of the government, or who perform at events organized by the political opposition, face serious pressure in Azerbaijan – in particular, rap and rock musicians. They are harassed and threatened, prevented from performing, and in some cases, arrested and tortured. At least two musicians have left Azerbaijan since 2011 because of the pressures they faced.

In 2011, rock singer **Azer Cirttan (Mammadov)**, chose to leave Azerbaijan because of the serious pressures he had experienced as a critical musician, including a perceived threat to himself and his family. Cirttan faced particular obstacles in trying to organize concerts due to venue owners facing pressure. In one case, a venue canceled just before his scheduled performance, and Cirttan received a call from the Presidential



Jamal Ali, singer in exile. Photo: Art for Democracy

Administration informing him the concert had been banned. Cirttan also feared he was being stalked after he was followed by unknown persons in Baku. Cirttan and his family continue to live in exile abroad.³⁰

In March 2011, **Araz Elses**, an ethnic Azeri singer from Iran, was similarly prevented from performing when his concert venue canceled on the day of the performance, without

explanation. The head of the National Salvation Party’s Grand Assembly commented to the press that he believed the Azerbaijani authorities had prevented the performance under pressure from Iran.³¹

In May 2012, rocker/rapper **Jamal Ali** was forced to leave Azerbaijan for safety after he was detained for 10 days and tortured by police officers. Ali had been arrested at an opposition protest that he had performed at with his band, Bulistan, in Baku, where he

³⁰ <http://bit.ly/1eF89lD>

³¹ <http://bit.ly/1jmUDHF>

had made insulting remarks about President Aliyev's mother. He reported that police placed a bag on his head and beat him with a truncheon, before threatening him with a longer jail term and pressuring him to leave the country. Ali continues to live in exile abroad.³²

In February 2013, rapper **Dado (Said Aliyev)** was arrested following the release of a song titled "Y.P.X. Avtosh,"³³ which was critical of Azerbaijan's traffic police. On 27 February, Aliyev was summoned to the Traffic Police Office in Baku, allegedly for questioning related to a traffic accident. When he was leaving the building, an unknown, plain-clothed man hit Aliyev with his shoulder. The man then said he was a police officer and claimed that Aliyev had hit him. Aliyev was then taken to the Nasimi District Police Station, where he was questioned with a lawyer present. Later that day, he was sentenced by the Nasimi District Court to 10 days of administrative detention for resisting a police officer. In detention, Aliyev reported that he was insulted and degraded, forced to clean the police station with a rag.³⁴

In March 2013, photos were leaked and posted online showing an order from the director of the **Azerbaijan State Philharmonic**, Murad Adigozelzade, to employees concerning their use of social media networks. Adigozelzade condemned critical comments posted by performers of the State Choir about an International Mugham Festival to commemorate the 90th anniversary of late former President Heydar Aliyev. Adigozelzade claimed the posts were "contrary to the nature of cultural workers and not acceptable for staff of the Philharmonic," and he issued a "serious warning" to the choir's manager and art director, and a "last warning" and "grave reprimand" to five others – one step before dismissal. He further instructed all managers of the Philharmonic to keep an eye out for similar incidents in the future and prevent comments on social media networks that were critical of "the Republic."³⁵

In June 2013, a criminal case was opened against composer and former parliamentarian **Huseyn Abdullayev**, after he released a song called "Susma" (Don't Keep Silent).³⁶ A day after the song was released, the composer's brother, Azer Abdullayev, was dismissed from his job. Shortly thereafter the prosecutor opened a criminal case against Huseyn Abdullayev, investigating him for alleged tax evasion. It was also reported that members of the "Sheron" band, which performed the song, had been taken into the Ministry of Internal Affairs' notorious Organized Crime Unit, where they were pressured, although band members later denied these reports.³⁷ Abdullayev has reported that a criminal case has also been opened against his parents, and that other relatives are being pressured by top Azerbaijani officials. Abdullayev is currently residing abroad. The Azerbaijani authorities have reported him as a "wanted person" through Interpol.

In February 2014, Baku police prevented a concert of rapper **Kabus (Ghost)** from taking place. The concert was planned to be held in the Vetan cinema and had been advertised

³² <http://bit.ly/1g3BM1M>

³³ <http://bit.ly/1m2mTfW>

³⁴ <http://bit.ly/NKm3bw>

³⁵ <http://bit.ly/1pyLZU0>

³⁶ <http://bit.ly/1nUfsvU>

³⁷ <http://bit.ly/1gRZ1GW>

for two weeks. However, just a few hours before the concert, Nasimi district police officers came to the cinema and announced that the concert was banned for unspecified security reasons. They claimed the organizers should have notified the police, the Baku Executive Authority, or the Ministry of Internal Affairs. There is no such legal requirement in effect.³⁸

In addition to individual performers, bands whose music or genres are considered to be



"Tengri" rock group. Photo: Art for Democracy

critical also face a range of pressures. This is particularly the case with rock bands. Togrul Ahmadov, a member of the rock group **Tengri**, spoke to Art for Democracy about the hardships the band has experienced. Despite having been established in 2008, and releasing an album and a number of singers, Tengri has never appeared on television and its music has rarely been played on

the radio. Ahmadov explained that start-up and running costs for

bands were particularly high in Azerbaijan, presenting obstacles particularly within rock, a genre that appeals largely to the country's poorer demographic as well as dissidents.

Rock bands also experience problems in securing venues for performances. Although Tengri was initially invited to perform in the first-ever rock festival in Azerbaijan in 2013, they were later informed that all performers would have to write a letter appealing to President Aliyev for permission to take part in the festival – meaning groups and individuals that did not receive permission would not be permitted to participate. Tengri considered this a form of political pressure, and refused to take part. After some time organizers decided not to organize rock festival at all.

Pressure on film, television, and theater workers

Film, television, and theater workers are another category of artists who experience pressure if they express opinions critical of the authorities or perform works considered to be critical. They face interference from the authorities, dismissal from their jobs, and other forms of pressure.

In November 2012, actor **Ilgar Jahangir** was fired from his position with the State Theater of Young Spectators in connection



Ilgar Jahangir, actor. Photo: Art for Democracy

³⁸ <http://bit.ly/1i1nego>

with his criticism of the government, in particular President Aliyev and Minister of Culture and Tourism Albufaz Garayev. Prior to his dismissal, Jahangir had made comments to the media such as “Our minister is so engaged in tourism that he has forgotten culture,” and “I want to see my people educated and brave.”³⁹



Shahriyar Jafarov, well-known dancer. Photo: Art for Democracy

In autumn 2012, international award-winning dancer and choreographer **Shahriyar Jafarov** faced pressure from managers and employees of the Azerbaijan State Academic Opera and Ballet Theater. Jafarov said he had resigned because of pressure following his objection to the dismissal of some of the theater’s actors and to the choice of works performed. He also objected to the requirement that dancers working for the State Philharmonic give twenty percent of their income to the institution. Jafarov also expressed opinions critical of Minister of Culture and Tourism Albufaz Garayev.⁴⁰

Screenwriter, film producer, and Head of the Union of Cinematographers **Rustam Ibragimbekov** has faced a number of pressures by the authorities since 2012, in

particular since a criminal case was opened against him in November 2012. The pressure coincided with Ibragimbekov’s increasing criticism of the government ahead of the country’s October 2013 presidential election, for which Ibragimbekov briefly served as the chosen united opposition candidate until he was unable to rescind his Russian citizenship in time to register as a candidate. In November 2012, the Ministry of Taxes opened a tax evasion case against Ibragimbekov under Article 213.1 of the Criminal Code. The ministry also opened a case against Union of Cinematographers member **Lala Afendiyeva**, who was the organizer of the East-West International Film Festival in Baku.

In December 2012, Ibragimbekov’s diplomatic passport and tourist passport were taken from him at the Baku international airport. Ibragimbekov was told something was being investigated, and he was held for two hours before being allowed to leave the country. He was told the incident was due to his lack of respect for President Aliyev. Ibragimbekov again faced problems leaving the Baku airport in January 2013, when he was made to wait due to an alleged technical problem. Also in January 2013, 10 tax ministry employees searched the Union of Cinematographers’ office and confiscated financial documents, copies of which had already been provided to the ministry in 2009. Less than a week later, without advance notice or any explanation, the union was evicted from its office located in the Government House by employees of the Baku Executive Authority.

At the same time, the state-controlled Azerbaijani media conducted a smear campaign against Ibragimbekov, accusing him, without evidence, of misappropriation of union funds. Other union members also experienced pressure. As a result of this pressure, in

³⁹ <http://bit.ly/1gtWV4H>

⁴⁰ <http://bit.ly/1beh4LM>

January 2013 Union of Cinematographers Secretary Rasim Balayev resigned from his post and issued a statement, along with other members of the union's secretariat, in support of President Aliyev. Ibragimbekov continues to reside in Russia, and the criminal cases against him and Lala Afendiyeva remain open.

In December 2013, the **Oda theater group** in Baku was shut down for two days after



*Elmin Badalov -performance at "Oda" theater.
Photo: Famil Mahmudbayli*

Nasimi district police officers and severe plain-clothed officials visited the venue "Zirzami," where the group had been performing. Police confiscated the key from staff. Group founder Ilgar Jahangir, whose separate case is detailed above, and head of the group's company of actors Elmin Badalov were taken to the police station for questioning before being released. Police attributed the closure of the theater to complaints

allegedly filed by local residents, one of whom later dismissed the claim in comments to the press.⁴¹ The group continues to face occasional pressure, such as a water pipeline being cut just before their performance of a play called "Suicide" on 5 April 2014.

Pressure on writers, poets, and publishers

Writers and poets are another category of artists who face pressure in Azerbaijan when covering controversial topics or not conforming to the government's position on issues like the Nagorno-Karabakh conflict.

In June 2012, well-known post-modernist writer **Ali Akbar** left Azerbaijan as a result of pressure he faced in connection with his writing. Akbar, who has published six books in the past 10 years, was known to be critical of the government, including President Aliyev himself, and tackled controversial topics such as what he viewed as fake patriotism. Akbar's children received messages with questions such as "Isn't your father ashamed of what he writes?" Akbar said there was an attempt to falsely accuse him of installing cameras in journalist Khadija Ismayilova's apartment; Ismayilova was subjected to a blackmail attempt and gross invasion of her privacy in March 2012 when a sex video of her taken by hidden camera was posted online. Akbar reported that his children were also facing pressure in connection with his writing. He remains in exile abroad.⁴²



*Bakhtiyar Hidayat, poet from Qazakh region.
Photo: Art for Democracy*

In November 2012, poet **Bakhtiyar Hidayat** faced pressure in connection with his publication of a book of poems titled "White

⁴¹ <http://bit.ly/1hxyuiW>

⁴² <http://bit.ly/PRPZUV>

darkness,” which contained some poems that were critical of the government. The “Akademkitab” bookshop in Baku removed the book from its shelves and informed the poet that they had been instructed not to sell the book because of its political nature. Hidayat had previously been arrested in 2003 on trumped up charges related to his political activity, and was released on parole after five months of detention.

From January 2013, writer **Akram Aylisli** faced serious pressure in connection with his publication in December 2012 of a novel, “Stone dreams,” including threats of violence and death. The novel addresses the Nagorno-Karabakh conflict in a manner that critics viewed as sympathetic to the Armenian position. In February 2013, Hafiz Hacıyev, the head of the pro-governmental Modern Musavat Party publicly offered 10,000 AZN to anyone who would cut off Aylisli’s ear and bring it to him. Representatives of the ruling New Azerbaijan Party called for the revocation of Aylisli’s Azerbaijani citizenship. They urged Aylisli to denounce his novel and apologize to the Azerbaijani people. Two days later, a group of around 70 people gathered in front of Aylisli’s home, burning his photo and shouting things such as “Akram, leave the country,” and “Shame on you.” Although police were present at the scene, they made no attempt to disperse the protesters. In several cities and regions of the country, Aylisli’s books were set on fire; some of these actions were organized by the ruling party.

In February 2013, several Members of Parliament criticized Aylisli during a parliamentary session and called for revocation of his honorary title of “People’s Writer,” as well as other awards that had been granted to Aylisli during his long and



Support flashmob to "Qanun". Photo: "Dalgha" Youth Movement

distinguished career. Less than a week later, President Aliyev signed a decree removing Aylisli’s “People’s Writer” title, as well as a stipend that had been awarded to the writer. The decree stated that Aylisli had misused his position of trust and distorted the

realities of Azerbaijani history.⁴³ Around the same time, Aylisli's wife and son were dismissed from their jobs, both being forced to sign a statement of "voluntary" resignation. In March 2014, a group of international academic figures signed a request asking the Nobel Prize committee to nominate Aylisi for a Nobel Peace Prize.⁴⁴

Shortly after the October 2013 presidential election, a criminal tax evasion case was opened against the **Qanun publishing house**. In March 2014, the Ministry of Taxes ordered Qanun to pay a fine of 150,000 AZN, which will likely force the publisher into bankruptcy and closure. Civil society groups believe that Qanun has been targeted for printing critical literature, as well as independent and opposition newspapers, and materials of NGOs and political parties, as well as campaign materials of the united opposition candidate for the October 2013 presidential election, Jamil Hasanli. In making it impossible for Qanun to operate, the authorities have removed the opportunity for many critical writers to publish their works.⁴⁵

Pressure on human rights defenders

In addition to artists themselves, human rights defenders who campaign for the right to artistic freedom of expression, or who use artistic forms of expression, such as film or photography, to draw attention to the human rights situation in Azerbaijan, face interference and other forms of pressure from the authorities.

Since the launch of the **Art for Democracy** campaign in December 2012, the Azerbaijani authorities have exerted pressure on the campaign and its staff. To

date, the Art for Democracy campaign, and the earlier campaign it stemmed from, Sing for Democracy, have been the only civil society initiatives in Azerbaijan to work specifically on the right to artistic freedom of expression.



Rebecca Vincent, international expert on human rights and Rasul Jafarov coordinator of the campaign.

Photo: Art for Democracy

Following Art for Democracy's launch event in December 2012, Art for Democracy Advocacy Director **Rebecca Vincent** was effectively expelled from the country. Vincent, an American-British human rights defender who was living in Baku, left Azerbaijan for a holiday just days after the launch event. After she left the country, she was notified that her Azerbaijani residence permit had been revoked, with no official explanation. This prevented Vincent from returning to Azerbaijan, separating her from her family. Diplomatic negotiations later confirmed that the move was politically motivated, in

⁴³ <http://bit.ly/1IMPypZ>

⁴⁴ <http://bit.ly/1IQjDY6>

⁴⁵ <http://bit.ly/1dR26qN>

connection with Vincent's human rights work in the country. She remains abroad, unable to return to Azerbaijan.⁴⁶

Other Art for Democracy staff and supporters were targeted following the launch event, including film director **Ulvi Mehdi**, who was detained and questioned for more than two hours in connection with his attendance at the event. Although police claimed that Mehdi's detention was related to documents that two diplomats supposedly had lost at the event, the official police response to an information request about the incident confirmed that there were no missing documents.⁴⁷

Also following Art for Democracy's launch event, the official newspaper of the ruling party ran articles harshly criticizing the campaign and the foreign embassies whose representatives had attended the launch event. The newspaper described the Art for Democracy campaign as an "anti-national" campaign aimed at damaging Azerbaijan's image.

The Art for Democracy campaign and other human rights NGOs have experienced interference when attempting to show photos or films related to human rights issues. In March 2013, a photography exhibition organized by the **Human Rights House Foundation** was closed just half an hour after it opened. The manager of the event venue, the Khatai Art Center in Baku, told the organizers the space for the exhibition had been given in error.⁴⁸

The organizers of the **CAUCADOC film festival** – which include the Czech NGO People in Need, Sakdoc Film, and Internews Media Support – faced interference while attempting to screen documentary films related to human rights in the region of Lankaran in April 2013. Although a representative of the local executive authority attended the first day of the film festival, the following day he returned with two other officials and informed the organizers that the festival could not continue as they had not obtained permission from the executive authority. There is no legal provision requiring permission, and the event had been publicly announced ahead of time, with representatives of the executive authority being directly invited.⁴⁹

In January 2014, **Art for Democracy** was prevented from screening a documentary film on artistic freedom of expression⁵⁰ when a suspicious power cut took place at the Park Inn Hotel in Baku. The power was cut only to the floor of the building where the film was to be screened. Hotel employees claimed that it was due to a technical problem, although some employees later unofficially admitted that the power cut was the result of pressure on hotel management.⁵¹

⁴⁶ <http://bit.ly/1diFu7y>

⁴⁷ <http://bit.ly/1lMPqgg>

⁴⁸ <http://bit.ly/1nU1dHz>

⁴⁹ <http://bit.ly/Q7Gm4l>

⁵⁰ <http://bit.ly/1eFiCBK>

⁵¹ <http://bit.ly/1gmthzP>

Pressure on political activists



Ilkin Rustamzade, youth activist, member of Nida Civic Movement. Photo: Art for Democracy

Finally, political activists who use creative means of expressing critical political views are also subject to pressure from the authorities, such as detention in at least two cases so far.

In May 2013, Azad Genclik (Free Youth) Organization activist **Ilkin Rustemzade** was arrested on hooliganism charges connected with a “Harlem Shake” video filmed in Baku.⁵² Although Rustemzade did not appear in the video, he was standing near the camera at the time it was filmed, and authorities allege that he was involved in production.

Producing or participating in such videos does not have criminal liability in Azerbaijan,

and other “Harlem Shake” videos were filmed in the country without consequence. Rustemzade was later presented with a more serious charge of inciting protest, and faces up to 12 years in jail if convicted,

along with seven members of the NIDA civic movement, including **Bakhtiyar Guliyev**, who appeared in the same “Harlem Shake” video. Rustemzade and the NIDA activists remain in detention while their trial is ongoing.

In October 2013, just ahead of Azerbaijan’s presidential election, multimedia journalist and youth activist **Mehman Huseynov** was detained and questioned for six hours at the Prosecutor General’s

Office in Baku in connection with a satirical video he had posted to YouTube.⁵³ The video contained a scene from the film “300 Spartans” with a dubbed-over audio clip with the voice of opposition presidential candidate Jamil Hasanli telling a pro-government candidate “Ilham Aliyev’s government is up to its knees in corruption and Aliyev himself is up to his throat in it.” The prosecutor’s office claimed that the video’s call for the government to resign was illegal. Huseynov was released, but remains subject to a travel ban and faces potential jail time in connection with another politically motivated criminal case against him.



Mehman Huseynov, well known photographer and videoblogger. Photo: Art for Democracy

Art for Democracy has included a number of recommendations to the Azerbaijani authorities for steps needed to improve the situation of artistic freedom of expression in the country at the beginning of this report.

⁵² <http://bit.ly/OUV8uN>

⁵³ <http://bit.ly/1gCqh1L>

Conclusion

As this report shows, although the Azerbaijani government has committed to promote and protect the right to artistic freedom of expression, this right is not respected in practice. Critical artists in Azerbaijan do not enjoy the same conditions and opportunities as artists in the state's favour, and the authorities limit their ability to perform, display, or disseminate their work through direct and indirect means. As a result, few artists remain willing to publicly express critical views or use their work to explore controversial themes, and those who do face serious consequences. This has led to self-censorship among artists – a problem that also plagues the media and other communities in Azerbaijan.

As with addressing the many other widespread and systemic human rights violations taking place in Azerbaijan, creating an environment truly conducive to the right to artistic freedom of expression is a question of political will. However, rather than progressing in the fulfillment of Azerbaijan's human rights obligations and stated commitment to democratization, the authorities have been steadily backsliding for a number of years. At present, there is little hope of positive reforms being implemented in the near future.

To address the violations outlined in this report, and the broader alarming human rights situation in the country, there is a need for more serious efforts by the international community to hold the Azerbaijani government accountable for its human rights commitments. In particular, the Council of Europe should take immediate steps to ensure the Azerbaijani government is fulfilling its obligations as a member state, in light of Azerbaijan's imminent Chairmanship of the Committee of Ministers in May 2014.

Art for Democracy also believes the situation of artistic freedom of expression could be improved through genuine cooperation with UN Special Rapporteur in the field of cultural rights Farida Shaheed. Art for Democracy has called on the Azerbaijani government to invite Shaheed to undertake a fact-finding visit to the country, and to allow her unfettered access to artists of all genres. The campaign has further called on the Azerbaijani government to incorporate the recommendations contained in Shaheed's report on 'The right to freedom of artistic expression and creativity'⁵⁴ into all relevant legislation, policies, and practices.

In the meantime, in the face of ongoing repression, there is a need for greater support to independent artists in Azerbaijan. There are many talented young photographers, cartoonists, painters, musicians, actors, filmmakers, writers, and artists of other genres, who cannot effectively disseminate their work to the broader public due to politically motivated restrictions and interference from the authorities. To learn more about these artists and to experience their work, please visit Art for Democracy's new website at www.artfordemocracy.net.

⁵⁴ <http://bit.ly/1cVod4z>