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Human Rights Watch Submission to the United Nations Committee Against Torture on Azerbaijan

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Introduction

This memorandum, submitted to the United Nations Committee Against Torture (“the Committee”) ahead of its upcoming review of Azerbaijan, highlights areas of concern Human Rights Watch hopes will inform the Committee’s consideration of the Azerbaijani government’s (“the government’s”) compliance with the International Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“the Convention”). It contains information on human rights defenders, journalists, independent political leaders, and other perceived government critics arrested as part of the government’s multi-year crackdown on dissent and whose treatment by the authorities contravenes the government’s obligations under the Convention, and proposes specific recommendations that we hope to see the Committee formulate for the government of Azerbaijan.

Human Rights Watch has closely monitored the human rights situation in Azerbaijan for over two decades. A major area of focus of our work in recent years has been the government’s campaign of harassment, intimidation, arrest, and prosecution on spurious charges against independent activists and other perceived critics. As part of this work, we have documented serious violations of Azerbaijan’s international obligations, including the prohibition on torture and other ill-treatment, and have produced reports and other documents describing our research findings. For more information, please see <http://www.hrw.org/europe/central-asia/azerbaijan>.

Torture and ill-treatment are well-documented, persistent problems in Azerbaijan, and are perpetrated with near impunity. In the cases documented by Human Rights Watch, the

detainees complained to their lawyers, family members or in court that they have been beaten or abusively harassed to force them to sign incriminating confessions or letters of repentance, suffered physical or psychological pressure in prison, or been denied appropriate medical treatment.

Human Rights Watch looks to the upcoming review by the Committee to address these problems in depth and have focused our contribution on pressing individual cases where there are serious, credible allegations of torture or ill-treatment. We consider the Committee's upcoming review of Azerbaijan to be a key opportunity to bring the international attention and engagement we believe are essential to ensure that imprisoned human rights defenders, journalists, and other perceived government critics are protected from torture and ill-treatment and those responsible for abuse of authority are held to account.

Individual Cases

Leyla and Arif Yunus (Convention Articles 10, 12, 13, 16)

Leyla Yunus, 59, one of Azerbaijan's leading human rights activists, is head of the Institute for Peace and Democracy, and her husband, **Arif**, 60, is a historian who was an expert adviser for the group. They were both arrested on July 30, 2014, and although Arif Yunus was initially only under house arrest, on August 5 he was also taken into custody; they have been imprisoned since. A court in Baku on August 13, 2015, convicted Leyla Yunus to eight-and-a-half years in prison and her husband, Arif Yunus, to seven years, for economic crimes, following a purely politically motivated prosecution and a trial that fell far short of international standards. The couple still face charges of treason.

Both of the Yunuses suffer from serious chronic health conditions and require urgent medical care, and their health has deteriorated significantly during more than a year in detention. Their daughter has told Human Rights Watch that neither is in a medical facility, despite their need for treatment, and that both have made credible allegations of ill-treatment while in custody. In a September 30 statement made by telephone from detention to the Turan Information Agency, Leyla Yunus said she feared repercussions for refusing a blood test. She said that she was put into a punishment cell for refusing the test in December 2014. She suffers from severe diabetes for which she requires a special diet, Hepatitis C, gallstones, and hypertension.

In letters to her husband and in meetings with her lawyers, Leyla Yunus made credible allegations that she has suffered ill-treatment by the prison authorities and her cellmate. In a statement, her lawyers reported that on September 23, 2014 a prison official twisted Yunus's arms, took her to an empty cell, and hit her and pulled her hair, pulling some out, while berating her. Yunus reported the incident to prison officials but it was not investigated.

Leyla Yunus also reported that she has been repeatedly attacked and beaten by her cellmate, which she believes was at the behest of the authorities. The authorities have refused to move her to a different cell, and the incidents have not been effectively investigated. Instead, she was reprimanded for banging on the door and calling for help after one attack. She was also barred from making personal phone calls for a month.

Arif Yunus has a heart condition and suffers from severe hypertension. He suffered two strokes when he was temporarily detained at the Baku airport in April 2014. During an August 3, 2015 hearing of his trial, he lost consciousness when his blood pressure spiked. He was heavily medicated throughout, with doctors standing by to administer injections if necessary. He could barely sit up or follow the proceedings and lay in the glass defendants' cage with his head in his wife's lap. The judge did not postpone the proceedings to allow him to receive the treatment he needed.

Ilgar Mammadov (Convention Articles 10, 12, 13, 16)

Ilgar Mammadov, 43, is a prominent political analyst and chair of the opposition group REAL (Republican Alternative), one of Azerbaijan's few alternative political voices. Authorities took Mammadov into pre-trial custody on February 4, 2013 on charges stemming from anti-government riots that broke out in Ismayilli, 200 kilometers from Baku, on January 23 and 24, 2013. In February, prior to Mammadov's arrest, REAL had planned to announce that he would be the movement's candidate in the October 2013 presidential elections. Mammadov was sentenced to seven years in prison after a politically motivated trial that violated due process and other fair trial protections.

Since his arrest, authorities have repeatedly pressured Mammadov to apologize to President Ilham Aliyev and to pledge his support. Mammadov has suffered repercussions for refusing to do so. In the afternoon of October 16, 2015, after a meeting with his lawyer, prison officials took Mammadov to the offices of the prison's administration. According to an account relayed by Mammadov's lawyer, two deputy prison heads attacked

Mammadov, hitting him on the head and chest several times, and then dragged him to the office of Prison Head Eyvaz Asgarov. They pulled Mammadov to the floor and beat and kicked him. He told his lawyer that Asgarov directly threatened him that he would never be released from prison safe and sound.

Mammadov's lawyer, who was only allowed to see him on October 19, said that there were visible marks and other injuries on Mammadov's neck and head and that he is suffering severe headaches as a result of the beating. After the meeting, his lawyer filed a written appeal to the Minister of Justice, the Prosecutor General, and the Ombudsman to investigate the incident and Mammadov's treatment. Prison officials, without explanation, refused to allow Mammadov to speak with his family or make telephone calls for a month, although he is apparently now allowed to make calls. A prison doctor reportedly only examined Mammadov some five days after the beating and has not made his findings available to his family. A representative of the Ombudsman's office visited Mammadov some ten days after the beating and apparently concluded that since he could not see any visible marks on Mammadov he was not beaten. Mammadov's wife visited him in late October, and said that one of his teeth was broken as a result of the beating and that he continued to have persistent pain in his head.

In another incident, on July 29, 2015, Mammadov's cellmate attacked him, striking him on the head several times. According to a statement from the REAL movement, Mammadov's lawyer said that the attack was to pressure Mammadov to write an apology letter. In August, Mammadov was placed in solitary confinement, and his lawyer said it could be in retaliation for speaking out about the attack by his cellmate.

On May 22, 2014, the European Court of Human Rights issued a strongly worded judgment that the authorities detained Mammadov without any evidence to reasonably suspect him of having committed the offence with which he was charged, and concluded that the actual purpose of his detention "was to silence or punish [Mr. Mammadov] for criticizing the Government." The Committee of Ministers of the Council of Europe has called for Mammadov's immediate release as part of Azerbaijan's execution of the Court's ruling, including in its decision adopted in June and September interim resolution. Despite paying the damages, Azerbaijan has failed to rectify the rights violations and release Mammadov.

Intigam Aliyev (Convention Articles 10, 12, 13, 16)

Intigam Aliyev is Azerbaijan's leading human rights lawyer and chair of the Legal Education Society, which litigated human rights cases in domestic courts. He was one of the first Azerbaijani lawyers to bring cases to the European Court of Human Rights and has also trained Azerbaijan's new generation of human rights lawyers. Authorities arrested him in August 2014 on politically motivated charges of tax evasion, illegal business activities, embezzlement, and abuse of authority. Baku's Grave Crimes Court convicted him on April 22, 2015 and sentenced him to seven years and six months in prison.

Aliyev has faced harassment, ill-treatment, and degrading treatment in prison, including poor conditions. Aliyev also suffers from serious health problems and had difficulties sitting straight during the trial and on one occasion had to be taken back to the remand prison by an ambulance. According to his family and one of his lawyers, he is not provided with adequate medical care in custody.

NIDA Youth Activists (Convention Articles 10, 12, 13, 16)

In March and April 2013 authorities arrested seven members of the youth opposition movement NIDA on drugs and other charges related to an alleged plan to instigate violence at a peaceful protest. The activists, Bakhtiyar Guliyev, Shahin Novruzlu, Mahamad Azizov, Uzeyir Mammadli, Rashadat Akhundov, Zaur Gurbanly, and Rashad Hassanov, were convicted in May 2014 and sentenced to prison terms ranging from six to eight years. President Aliyev pardoned Uzeyir Mammadli and Zaur Gurbanly in December 2014, and Shahin Novruzlu and Bakhtiyar Guliyev in October 2014, after they wrote letters of repentance and praised the ruling party. Some of the released activists were subjected to public humiliation by having to bring flowers to the grave of the late President Heydar Aliyev to demonstrate their loyalty to the government.

The investigations and legal processes in the cases against the men have been characterized by numerous irregularities, violations of due process, and allegations of ill-treatment. For example, in the initial days following their arrests, their families and lawyers did not know the whereabouts of Azizov, Guliyev, and Novruzlu because the authorities, while acknowledging their detention, refused to give the families or lawyers information about where they were being held. For ten days the three were denied access to a lawyer of their choosing. Two days after their arrest, on March 9, nearly all Azerbaijani television channels, including the state channel and the public broadcaster, showed a

police video of Guliyev and Azizov allegedly confessing to a plan to use Molotov cocktails during a public protest to challenge police and destabilize the situation. Azizov said that he gave the incriminating confession under police duress and later retracted it. At a trial, Azizov stated that after the retraction, Ministry of National Security officials punched him and beat him with clubs. As a result he could not walk for four days and lost hearing in his left ear.

Azerbaijani authorities failed to effectively investigate any of the allegations.

Recommendations

Human Rights Watch encourages the Committee to use the upcoming review to:

- Ask the Azerbaijan government to explain what steps have been taken to investigate the credible and well-documented allegations of ill-treatment and torture by Leyla and Arif Yunus, Ilgar Mammadov, Intigam Aliyev, Bakhtiyar Guliyev, Shahin Novruzlu, Mahamad Azizov, Rashadat Akhundov, and Rashad Hassanov, the status of investigations, if any, and their results.
- Urge the authorities to release, immediately and unconditionally, Leyla and Arif Yunus, Ilgar Mammadov, Intigam Aliyev, Mahamad Azizov, Rashadat Akhundov, and Rashad Hassanov and ensure thorough, independent investigations into their allegations of ill-treatment, including improper denial of medical care.
- Urge the government to end its crackdown on civil society and human rights work, ensuring independent civil society groups and activists can operate without undue hindrance or fear of persecution, including by repealing the laws severely restricting civil society, unfreezing bank accounts of nongovernmental groups and their leaders, and allowing access to foreign funding.
- Ask the government to outline what steps it has taken, or is taking, to investigate promptly and impartially all allegations of torture or ill-treatment, including denial of proper medical care, by law enforcement and prison officials and prosecute to the fullest extent of the law, in a court that meets international fair trial standards, any official against whom there is credible evidence of involvement in ordering, carrying out, or acquiescing to torture or ill-treatment.