

Azerbaijan's 2005 Elections: Lost Opportunity

I. OVERVIEW

Azerbaijan's elections, in which pro-government parties won an overwhelming majority, once again failed to meet international standards. The opposition cried foul, organising peaceful street demonstrations and filing court complaints. Though President Ilham Aliyev has pledged reforms, his actions remain tentative. If most of the results are confirmed, Azerbaijan will not have the strong pro-reform parliament it needs to push through serious change -- particularly tough anti-corruption measures. The elections were a lost opportunity for a bold step away from post-Soviet autocracy towards a democratic future. Popular apathy suggests grass roots-driven change is unlikely in the near term. If the government fails to organise real dialogue with the opposition and hold new elections in constituencies where rigging was most blatant, however, Western countries and organisations should consider measures to make it clear to President Aliyev that they are serious when they say the quality of relations depends on movement towards genuine democracy.

The oil-rich country failed on 6 November to demonstrate commitment to democracy and reform. Instead, international observers found major nation-wide fraud, including ballot stuffing and improper counting and tabulation. Only 47 per cent of the electorate turned out -- as compared with 69 per cent in 2000, suggesting serious disenchantment with a system that has repeatedly produced fraudulent elections. The opposition vows to convert its political struggle into peaceful street protest but with the government promising to repress any revolution-tinted action, the potential for violence and instability remains.

It did not have to be this way. With a booming economy and solid approval rating, President Aliyev and his administration could have welcomed a more diverse and legitimate parliament. The first stages of the campaign had been promising. Over 2,000 candidates registered, and some 1,550 stood on election day. Access to the media was better, with even some of the most radical opposition figures allowed free airtime. However, violence and refusal to allow the opposition to hold rallies in central Baku kept a lid on the democratic process. Intervention by local officials promoting candidates and warning state employees against supporting the opposition maintained an atmosphere of intimidation. The playing field was always tilted towards pro-government candidates.

President Aliyev is trying to gain acceptance internationally as a reformist leader of a country with significant geostrategic and economic potential and close Euro-Atlantic ties. Under his leadership, some positive measures have indeed been implemented, such as the release of political prisoners and greater diversity in the electronic media. In many other sectors, however, reform has been merely cosmetic. State institutions that should serve as the foundation of a system based on the rule of law and democracy need strengthening. The president has not dismantled the corrupt patronage networks that drive both politics and the economy. Instead, growing oil wealth is reinforcing the position of deeply entrenched, corrupt elites. As long as they are in power, Azerbaijan will remain a rentier state struggling to achieve democratic change.

To wage a systemic anti-corruption effort and maintain stability, the president and his government require a strong popular mandate, a politically active citizenry, and robust judicial and law enforcement bodies committed to upholding the rule of law. Democratic elections are a key component in this equation. The following steps are needed in the next weeks:

- The Central Election Commission (CEC) must adjudicate complaints received by voters, candidates, political parties and observers. A start has been made in a few constituencies but results should be annulled in all where there have been falsifications, and the General Prosecutor should investigate and prosecute where there have been serious complaints of criminal offences before, on or after election day. The courts should swiftly and transparently bring perpetrators to justice.
- The opposition should use all legal means available to seek redress for election violations, including the CEC and the judicial complaint and appeals mechanisms. Any public expressions of dissatisfaction must remain non-violent. The opposition's leaders and senior government officials, including from the presidential administration, should enter a dialogue on how to resolve the impasse over the elections.
- Local authorities should allow freedom of assembly and authorise rallies. Police should apply professional crowd control methods, refraining from excessive force and arbitrary detentions.
- President Aliyev should set a date for repeat elections where results have been annulled and

issue a decree calling for all remaining issues listed as problematic by the Venice Commission (Council of Europe) and the Organisation for Security and Cooperation in Europe (OSCE)/Office for Democratic Institutions and Human Rights (ODIHR) in their October 2005 final opinion on the Election Code to be addressed. He should also dismiss heads of local executive committees who have illegally interfered in the elections process.

Once a democratically elected parliament goes into session, the government as a whole should reinvigorate its reform and anti-corruption efforts.

Azerbaijan's international partners, the U.S., Russia, and the European Union and its member states, have accepted fraudulent elections in the past in the belief that the regime of first the elder Aliyev and then his son would maintain stability, fight terrorism and provide a secure flow of oil. This time the international community has issued more critical statements, and it should continue pressing for a democratic outcome of the 2005 parliamentary elections.

- It should set up an ambassadorial task force in Baku to continue to press on elections-related issues.
- It should urge the CEC and courts to rule fairly on complaints, demand that neither law enforcement nor the opposition instigate violence, and if opposition activists are detained on politically motivated charges, press for their release.
- If the government does not continue to take the steps recommended above to redress election violations, and particularly if it uses violence or arrests against peaceful opposition demonstrators, the following action should be considered:
 - by the EU, putting on hold its talks with the government about its new Action Plan;
 - by the U.S. and others, initiating a diplomatic embargo on visits by President Aliyev and his key ministers; and
 - by the Council of Europe, taking steps toward suspending Azerbaijan's membership.

II. POLITICS UNDER ILHAM ALIYEV

After Ilham Aliyev (43) succeeded his father, Heydar, as President of Azerbaijan in October 2003, there was a widespread belief, especially among outside observers, that he should be given an opportunity to inaugurate a new style of government.¹ Many international decision-

makers took a soft stand on electoral fraud because they believed he could produce reform while guaranteeing stability. So far he has maintained stability, but too often at the expense of fundamental freedoms of assembly and expression and the right to a fair trial.² He has initiated tentative reforms -- in particular to meet commitments to the Council of Europe -- but many are only on paper.³

A. WEAK ELECTIONS: WEAK MANDATE

2003. President Ilham Aliyev entered office with a relatively weak mandate due to the undemocratic nature of the selection process. The 15 October 2003 presidential election "failed to meet OSCE commitments and other international standards...was a missed opportunity for a credible democratic process".⁴ Violations began during the campaign and culminated with "significant irregularities during voting and fraudulent practices during the counting and tabulation of election results".⁵ On the night of 15 October 2003 and on 16 October, police and internal security units used force to break up opposition rallies protesting fraud. Four persons are estimated to have died, and many were injured. A wave of detentions swept at least 625 persons, including about 85 election commission officials, into custody.⁶

Officially Aliyev won 77 per cent of the vote; his close rival, Musavat Party Chairman Isa Gambar, received 14

Resolution 1358, 27 January 2004. For earlier Crisis Group reporting on the political situation, see Crisis Group Europe Report N°156, *Azerbaijan: Turning Over a New Leaf?*, 13 May 2004.

² PACE, "Functioning of Democratic Institutions in Azerbaijan", doc. 10569, 3 June 2005, Andreas Gross and Andreas Herkel co-rapporteurs.

³ As described by the head of the OSCE Mission in Baku, "if legislative changes alone are any guide, Azerbaijan is moving rapidly forward toward achieving its declared aspiration of becoming a modern democracy....[H]owever a desire to implement the spirit of legislation is equally as important as the word of the law", address at the NATO Parliamentary Assembly Rose-Roth Seminar, Baku, 27 November 2004.

⁴ Crisis Group Report, *Azerbaijan*, op. cit.; OSCE/ODIHR, "Republic of Azerbaijan Presidential Election, Final Report", 12 November 2003.

⁵ The 2003 elections featured a heated and negative campaign, pro-government dominance in the election commissions, intervention by local executive bodies in the voting process, lack of media freedom, and restrictions on civil liberties and freedom of assembly. See also Human Rights Watch, "Azerbaijan Presidential Elections 2003", Briefing Paper, 13 October 2003; Human Rights Watch, "Crushing Dissent: Repression, Violence and Azerbaijan's Elections", Vol. 16, No. 1 (D), January 2004.

⁶ Sabine Freizer, "Dynasty and Democracy in Azerbaijan: A Warning for Central Asia?", 8 December 2003, at www.opendemocracy.net.

¹ See for example Council of Europe Parliament Assembly (PACE), "Functioning of Democratic Institutions in Azerbaijan",

per cent.⁷ However this victory was tarnished by election and post-election day developments, including the invalidation of votes from 694 polling stations (which effectively disenfranchised some 20 per cent of the electorate).⁸ International criticism was relatively muted, suggesting that continuity and energy investments were more important than democracy to Azerbaijan's partners. However, several heads of state chose not to congratulate Aliyev immediately, and he has yet to be invited to the White House to meet with President Bush.⁹

The son reappointed his father's entire cabinet and ignored international organisation recommendations to set up an independent and credible investigation into serious electoral violations.¹⁰ No law enforcement officials or persons responsible for the conduct of the elections were prosecuted; indeed, many of those who engaged in fraud in 2003 also oversaw the 2004 and 2005 polls.¹¹

2004. In December 2004 when municipal elections were held, many of the problems that plagued the 2003 vote resurfaced. The government made few of the changes in the election code recommended by the OSCE/ODIHR and Venice Commission.¹² Opposition candidates faced obstacles in registering and holding rallies.¹³ International observers found a consistent pattern of non-transparent and illegal activity in polling stations by election commission members and local executive authorities. Due to irregularities, results in 409 precincts were invalidated.¹⁴ Voter turnout was 49 per cent and

in some municipalities as low as 20 per cent. The ruling Yeni Azarbaycan Party (YAP) won 64.66 per cent of the vote.¹⁵

2005. Expectations were high for the 2005 parliamentary elections, due to better registration procedures, improved media access for the opposition, and numerous public statements from the president committing to a free and fair process. However, as in the past, election commission members and local executive authorities interfered illegally, and counting and tabulation of votes were seriously flawed. Pro-government parties won a majority of seats, with preliminary results giving the opposition only six seats out of 125.

Violations by election commission members, local authorities, and law enforcement officials, during the 2003-2005 election cycle have been carried out with impunity. With no fear of sanctions, and with no election commissions based on parity between pro and anti-government forces, election officials have had no motivation to clean up the process. The elections have done nothing to diminish the strong polarisation of the political scene.¹⁶ Indeed, fraudulent polls have led some in the opposition to believe that the only channel of appeal open to them is in the street. Azerbaijani citizens are clearly the greatest losers of all: indifferent to elections that do not reflect their will, having lost belief in their ability to effect change through the ballot box, less than half -- 46.8 per cent -- even turned out on election day.

B. PAPER REFORMS: TENTATIVE CHANGES

More than elections, institutions are the foundation of a democracy. An independent legal system and media are essential components of an open society and are needed for a serious anti-corruption effort.

1. Respect of fundamental rights and freedoms

The judiciary in Azerbaijan remains weak and closely tied to the executive though there have been some improvements. The right to a fair trial is poorly protected. Public trust in the judicial system is low. Until recently lawyers were restricted by a "closed, tightly controlled criminal defence bar".¹⁷ However, amendments to the Law on Advocacy that went into effect in August 2005 simplify requirements for over 200 formerly licensed lawyers to join the Collegium of Advocates (the bar) and thereby to practise whether or not they have passed a separate bar exam. Legislation was also passed establishing

⁷ After Gambar, Lala Shovkat Hajiyeva got 3.62 per cent, Etibar Mamedov 2.92 per cent, Ilyaz Ismaylov 1 per cent, Sabir Rustamhanli 0.82 per cent, Gudrat Hasanguliyev 0.5 per cent and Hafiz Hajiyev 0.34 per cent. The opposition demonstrated a lack of maturity by not offering a single candidate. OSCE/ODIHR, "Final Report", op. cit., p. 25.

⁸ Ibid, p. 2.

⁹ Michael McFaul and Chingiz Mammadov, "What's a Corrupt Election among Friends?", *Los Angeles Times*, 23 October 2005.

¹⁰ See recommendations in by Crisis Group Report, *Azerbaijan*, op. cit., p. ii; OSCE/ODIHR, "Final Report", op. cit., p. 27; Human Rights Watch, "Crushing Dissent", op. cit., p. 4.

¹¹ Crisis Group interview, OSCE officers, Baku, August 2005.

¹² Crisis Group interview, CEC secretary, Baku, November 2005.

See also Joint Final Assessment of the Election Code of Azerbaijan of 1 September 2003 (CDL-AD(2003)015); OSCE/ODIHR, "Final Report", op. cit.; and Joint Recommendations of 1 June 2004 (CDL-AD(2004)016rev and JR04). Venice Commission is the name informally used for the European Commission for Democracy through Law, the Council of Europe's advisory body, composed of independent experts on constitutional matters, established in 1990 in Venice.

¹³ Ultimately three major opposition parties -- Musavat, Azerbaijan Democratic Party (ADP) and Azerbaijan Popular Front Party (APFP) -- boycotted the elections. Freedom House, "Azerbaijan", *Nations in Transit 2005*, at <http://www.freedomhouse.org/research/nattransit.htm>.

¹⁴ Crisis Group interview, OSCE official, Baku, March and October 2005.

¹⁵ Freedom House, op. cit., p. 13.

¹⁶ While there has been much talk about the need to restore a government-opposition dialogue, efforts have failed.

¹⁷ OSCE Office in Baku and American Bar Association Central European and Eurasian Law Initiative (ABA/CEELI) "Report on the Situation of Lawyers in Azerbaijan", Baku, March 2005.

a new selection process for judges, which international observers assessed as more professional.¹⁸ These steps may strengthen the independence and effectiveness of the courts. Efforts to improve the harsh penitentiary system, including the renovation of some facilities and construction of five new prisons are also positive.¹⁹ The situation inside prisons had reached a critical point in February 2005, when Ministry of Interior troops violently repressed several riots.²⁰ Interrogation practices in pre-trial detention remain of concern, however, since torture and ill treatment of suspects are reportedly frequent.²¹

Azerbaijan was admitted to the Council of Europe in 2001 though it held political prisoners. The Council repeatedly warned that they should be released, or membership might be suspended.²² The number of political prisoners increased when 125 persons were tried and sentenced for their involvement in post-election disturbances in 2003.²³ According to the OSCE, which observed the court

proceedings, "many of the trials of persons accused of various offences relating to the post-election violence in Azerbaijan were not in compliance with a variety of the government of Azerbaijan's OSCE commitments on human rights and rule of law".²⁴ Seven leaders of the main opposition parties -- Musavat, the Azerbaijan Democratic Party (ADP) and the Azerbaijan Popular Front Party (APFP) -- were among those sentenced to prison terms between two and a half and five years in October 2004.²⁵

President Ilham Aliyev, however, released almost all political prisoners during his first eighteen months in office.²⁶ Among those pardoned were the seven political leaders mentioned above, whose convictions were subsequently overturned, making it possible for them to run in the 2005 parliamentary elections. The government and local human rights non-governmental organisations (NGOs) set up a task force on 11 June 2005 to settle the remaining political prisoner cases, some 45 of whom were estimated to remain in detention in October 2005, including four with serious health problems.²⁷

Though the executive appears to maintain effective control over power structures, the Ministry of the Interior's reputation was undermined when a kidnapping and extortion ring run by several of its senior officials was exposed. On 10 March 2005 the Ministry of National Security discovered the kidnapped wife of the president of the International Bank of Azerbaijan in a bunker owned by Hadji Mamedov, a senior police official.²⁸ On 23 March that ministry and the prosecutor-general's office issued a joint statement describing Mamedov's gang and its crimes over eight years including murder, kidnapping and extortion. Several other senior police were implicated, and the first deputy minister of the interior was forced to

¹⁸ The Law on the Judicial Legal Council, as well as the law amending and completing the 1997 Law on Courts and Judges, which entered into force in January 2005. Slightly over 200 candidates (out of some 900) made it to the second examination stage after the multiple choice exams held on 18 September. Essay and interview stages will follow to fill some 100 vacancies. Foreign observers claim the process so far has been fair and transparent, especially compared to the last set of examinations, in 2000. Crisis Group interview, ABA/CEELI Azerbaijan Country Director, Baku, November 2005.

¹⁹ Freedom House, *op. cit.*, p. 17. The Council of Europe plans to start a large program, co-financed with the European Commission, on improving the prison system before the end of 2005. Council of Europe, "Council of Europe Co-operation with Azerbaijan", (draft) discussion paper, DSP (2005) 62, 4 October 2005.

²⁰ Crisis Group observations, Baku, February 2005; see also PACE, "Functioning of Democratic Institutions in Azerbaijan", doc. 10569, *op. cit.*, point 90. Aydin Gasimov, deputy minister of justice in charge of the penitentiary system, was dismissed in early 2005, allegedly due to the appalling conditions in prisons.

²¹ Azerbaijan Committee against Torture, "Final Report of Azerbaijan Committee against Torture about Cases of Torture Revealed within the Year 2004", as distributed during the OSCE Supplementary Human Dimension Meeting on Human Rights and the Fight against Terrorism, Vienna, 14-15 July 2005. See also OSCE/ODIHR, "Report from the Trial Monitoring Project in Azerbaijan 2003-2004", p. 8, at http://www.osce.org/documents/odihr/2005/02/4233_en.pdf.

²² When Azerbaijan joined the Council of Europe in 2001, domestic NGOs drew up a list of 716 presumed political prisoners and submitted it to the PACE. Since then some names have been taken off the list and others added. PACE, "Political Prisoners in Azerbaijan", Resolution 1359, 27 January 2004. The resolution also stated, "if there is no solution to the problem of the political prisoners by the Assembly's autumn 2004 part-session, Azerbaijan's presence within the Council of Europe will have reached a critical stage".

²³ OSCE/ODIHR, "Report from the Trial Monitoring Project in Azerbaijan 2003-2004", *op. cit.*, p. 8.

²⁴ The conclusions added, "some aspects of the conduct of the trials and treatment of defendants, moreover, appeared clearly to contravene Azerbaijan's legal obligations... Of particular concern are pervasive, credible allegations from the accused and trial witnesses of torture and ill-treatment." *Ibid.*, p. 37.

²⁵ Human Rights Watch statement, "Azerbaijan: Opposition Leaders Sentenced after Flawed Trial", 27 October 2004.

²⁶ He issued seven pardon decrees for 274 prisoners, including a former prime minister, a former minister of defence and a former minister of internal affairs. The Council of Europe heralded the action as "the greatest progress in compliance with the undertaking given to the Council of Europe" and underlined that it was "very much the President's doing", Council of Europe Committee of Ministers, Monitoring Group (GT-SUIVI-AGO), sixth Progress Report, CM (2005)1000, 14 September 2005. See also PACE, "Follow up to Resolution 1359 (2004) on Political Prisoners in Azerbaijan", Resolution 1457, 22 June 2005 and Resolution 1350, *op. cit.*

²⁷ Crisis Group interview, Saida Gojamanly, chair of the NGO Human Rights and Legality Respect, Baku, October 2005.

²⁸ "Azerbaijan Police Apprehended in Connection with Kidnappings", RFE/RL, 14 March 2005.

resign.²⁹ It is uncertain whether the affair was a serious effort to eliminate criminality or an attempt by one ministry to downgrade another. A softer measure against low-level corruption was the increase of monthly salaries in September 2005 for regular traffic police to \$350 and for officers to between \$500 and \$700.³⁰ Observers say this has had positive effect.³¹

To meet its Council of Europe commitments, Azerbaijan also established a public service broadcast, transforming the second state television (AzTV2) while retaining the first channel under state control.³² Parliament approved the nine members of the new Public Broadcasting Council. The general director it appointed, Ismail Omarov, was criticised by journalists favourable to the opposition and NGO representatives as a strongly pro-government parliamentarian, former senior administrator of AzTV1, and strident anti-opposition spokesman.³³ The new public TV (ITV) was supposed to help break the state's control of the media, promote pluralism, and help bridge divisions between pro-government and pro-opposition press, but the way it was established suggested it could not meet these goals, at least in the short term.³⁴ It began broadcasting nation-wide on 29 August 2005. During the election campaign, its coverage was indistinguishable from other pro-government channels; it devoted 68 per cent of prime time news coverage to Aliyev, the government and the ruling party.³⁵

²⁹ "Dismissals in the Ministry of Internal Affairs Will Continue", *Musavat* (in Azeri), 24 March 2005.

³⁰ Rufat Abbasov and Gulnaz Guliyeva, "Azerbaijan: Traffic Cops' Pay Rise Unlikely to Curb Graft", Institute for War and Peace Reporting (IWPR), 1 October 2005. Figures denoted in dollars (\$) in this briefing refer to U.S. dollars.

³¹ Crisis Group interview, Rena Safaraliyeva, executive director of Transparency Azerbaijan, Baku, 2 November 2005.

³² Law on Public TV and Radio passed in September 2004. The new public TV shares the premises and equipment of the first state TV channel and will be funded by the state budget until 2010, when it will become dependent on subscription fees. The Law of Azerbaijan Republic on Public TV-Radio Broadcasting, Articles 31.1 and 35.2. PACE expressed "regret" that the controlling package of the shares of AzTV1 remains in state hands. PACE report, doc. 10569, op. cit.

³³ Crisis Group interview, Azer Hesret, secretary general of the Azerbaijani Journalists' Confederation, Baku, 3 November 2005. See also Rufat Abbasov and Gulnaz Guliyeva, "Azerbaijan: Election Coverage Fuels TV Row", IWPR, 8 September 2005; Emil Guliev, "Azeri Journalists Boycot New Channel", IWPR, 27 April 2005.

³⁴ That the public TV will receive \$3.5 million from the state budget did nothing to increase public confidence in its independence. Crisis Group interview, Azer Hesret, secretary general of the Azerbaijani Journalists' Confederation, Baku, 3 November 2005.

³⁵ The opposition election bloc Azadlig received 23 per cent of the airtime, of which 53 per cent was assessed as negative and 1 per cent positive. OSCE/ODIHR Election Observation Mission, "Parliamentary Elections 6 November 2005, Republic of Azerbaijan", Interim Report No. 3 (8-21 October). According to

Opposition media is often subjected to legal and administrative harassment.³⁶ On 2 March 2005 Elmar Huseynov, editor-in-chief of the weekly magazine *Monitor*, was shot dead in front of his home.³⁷ Though the government swiftly denied involvement and President Ilham Aliyev called the murder a provocation against the state,³⁸ the perpetrators have yet to be apprehended.³⁹ This contributes to the perception of a climate of impunity for violence against journalists.

There are many print outlets, but they tend to have a small readership and lack professional staff and funding,⁴⁰ and most people receive news from electronic media. Some of Azerbaijan's most respected independent journalists and

the Najafov Foundation, a local NGO also carrying out pre-election media monitoring, ITV more than any other channel gave election-related news. Most of its programs covered the ruling New Azerbaijan Party and political forces close to it. Six times less coverage was dedicated to the opposition Azadlig bloc. The YeS bloc got even less coverage. "Most of Public TV Programs on Elections 'Cover Ruling Party'", Azemews, quoting the director of the Najafov Foundation, 3 November 2005.

³⁶ Karin Deutsch Karlekar, "Freedom of the Press 2005: A Global Survey of Media Independence, Azerbaijan", Freedom House, New York, 2005; Human Rights Watch, "Azerbaijan: Media, the Presidential Elections and the Aftermath", 4 August 2004; PACE, "Functioning of Democratic Institutions in Azerbaijan", doc. 10569, op. cit., points 54-74.

³⁷ Crisis Group observations, Baku, March 2005. *Monitor* has since folded. Set up in 1996, it relentlessly sought to expose corrupt officials and opposition leaders. Authorities launched some three courts cases against the magazine and staff, resulting in heavy fines. *Monitor* was shut down twice, and Huseynov served six months in prison. See also Shahin Rzayev, "Azerbaijan: Rage at Editor's Murder", IWPR, 9 March 2005; Human Rights Watch, "Azerbaijan: Editor of Independent Weekly Shot Dead", New York, 4 March 2005.

³⁸ "Elmar Huseynov's Murder -- Provocation against Azerbaijani State, Says Ilham Aliyev", Turan News Agency, 3 March 2005.

³⁹ On 3 May 2005 the ministries of national security and interior and the general prosecutor issued a joint statement blaming the murder on a Georgian citizen. Since then a second Georgian citizen has been accused. Allegedly the prosecutor-general of Georgia has refused Azerbaijan's 28 July extradition request for the two men on the grounds that the country's law does not allow for Georgian citizen to be handed over to the security services of another country. One Azerbaijani has been sentenced to two years in prison for assisting the alleged Georgian assassins. Crisis Group interview, Shahbaz Khuduoglu, chief editor of *Qanun* journal and member of the Public Investigation Group on the Murder of Elmar Huseynov, Baku, November 2005.

⁴⁰ Newspapers are often hampered in printing and distribution. From October 2003 to January 2004, the state printing press stopped servicing six opposition papers. In the last quarter of 2003, heavy fines were imposed on the papers linked to the Musavat Party, ADP and APFP after libel cases forced them to suspend publication. The selling of opposition papers in metros and underground walkways was also banned until May 2005. Crisis Group interview, general director of *Musavat* newspaper, Baku, November 2005.

political figures pledged in early 2005 to set up their own independent broadcasting channel (Yeni TV).⁴¹ The attempt failed due to the minister of justice's rejection of the registration application and their inability to raise sufficient funds. An attempt by the opposition to set up a satellite program, "Azadlig TV", in September barely got off the ground before its reception was scrambled.⁴²

2. Anti-corruption efforts

Though the president has pledged to fight corruption, and new laws have been passed, additional efforts are needed to combat the problem seriously. For example, the criminal code does not define penalties for most corrupt activities other than bribery. The number of those charged and sentenced for corrupt practices has not significantly increased, especially among middle and senior level officials. In 2005, Transparency International ranked Azerbaijan 137th on its index of the 159 most corrupt nations.⁴³

Legislation in 2004 includes the law on combating corruption⁴⁴ and the State Program on Fighting Corruption 2004-2006.⁴⁵ The former defines corruption and who can be accused and outlines official responsibilities.⁴⁶ It only came into force in January 2005, leading some to speculate corrupt officials were given time to conceal illegal practices.⁴⁷ An anti-corruption commission was set up

in April 2004,⁴⁸ led by Ramiz Mehtiyev, head of the presidential administration and composed equally of presidential, parliamentary and constitutional court appointees. The absence of civil society and media representatives cast doubt on its impartiality and commitment to fighting fraud.⁴⁹ Its tasks include helping formulate policy, coordinating state bodies, collecting and analysing information, and issuing recommendations.⁵⁰ It created an ad hoc Anti-Corruption Legislative Working Group to recommend laws⁵¹ and has met four times in eighteen months without direct effect on any cases. It is mandated to send findings to the General Procurator's Office, which has a reportedly understaffed anti-corruption division.⁵²

B. THE CURSE OF BLACK GOLD

Azerbaijan has a booming economy due to substantial increases in oil and gas production but these resources are finite and risk being squandered if the state does not address deeply entrenched problems of corruption, patronage and uneven financial and monetary management.

⁴¹ Including former Presidential Adviser Eldar Namazov, Turan News Agency Director Mehman Aliyev, Media Rights Institute Director Rashid Hadjily, Editor-in-Chief of "Ayna/Zerkalo" Elchin Shikhly, member of Azerbaijan's Academy of Science Irada Bagirova and Chief Editor of *Gun* newspaper Arif Aliyev. Rashid Hadjily was the driving force behind the initiative, pledging to set up a satellite TV station broadcasting from Prague after the Ministry of Justice turned down their application. Fundraising continues. Liz Fuller, "New Media Outlets Debut in Run-up to Parliamentary Elections", RFE/RL, 8 March 2005, at <http://www.rferl.org/reports/mm/2005/03/6-080305.asp>.

⁴² Azadlig TV belongs to the opposition bloc Azadlig. Crisis Group interview, Azadlig activist, Baku, November 2005; "Pressures Continue on Azadlig TV", *Yeni Musavat*, 18 October 2005.

⁴³ Transparency International, "2005 Corruption Perception Index", at <http://www.transparency.org/cpi/2005/cpi2005.sources.en.html>. The 2005 Global Corruption report ranked Azerbaijan 140th out of 146 countries.

⁴⁴ President Aliyev endorsed that law in a March 2004 decree.

⁴⁵ "State Program on Fighting Corruption (Years 2004-2006)" approved by presidential decree on 3 September 2004.

⁴⁶ However, the law forbids a government official from receiving gifts valued in excess of approximately \$55, holding other jobs (besides in teaching or the arts) and "being engaged in business activity directly, indirectly or through proxies". Law on the Fight against Corruption, Article 8; Crisis Group interviews, international organisation representatives, March and October 2005.

⁴⁷ Implementation of the law has also been stalled by technical inadequacies; for example, property declaration forms still need to be drawn up. Crisis Group interview, executive director of

Transparency Azerbaijan, Baku, 2 November 2005. See also, Transparency International, "Global Corruption Report 2005", op. cit.

⁴⁸ The full name is the "Commission on Combating Corruption under the State Council on Management of Civil Service of the Republic of Azerbaijan", set up according to Article 4.2 of the law on combating corruption.

⁴⁹ Notably, the fifteen commission members are from institutions that are publicly perceived as the most corrupt. Transparency Azerbaijan, "Country Corruption Assessment: Public Opinion Survey in Azerbaijan", Baku 2004. To complicate matters further, the commission was set up under the Council of Public Service, which in turn was created under the Law on Public Service (Article 5.2). Ramiz Mehtiyev heads both council and commission.

⁵⁰ The commission's statute was approved by a law dated 3 May 2005. Crisis Group interview, member of the anti-corruption commission, 1 November 2005. Also see the commission's webpage, at http://www.commission-anticorruption.gov.az/eng/about_2.html.

⁵¹ The Legislative Working Group is staffed with thirteen government officials, three NGO representatives and two foreign experts from ABA/CEELI and the OSCE. However, the NGO and international organisation representatives do not have voting rights. Crisis Group interview, Baku, November 2005. Other working groups have also been created but seem to be less active.

⁵² Established by the presidential decree "On Application of Anti-Corruption Law" of 3 March 2004. Crisis Group interview, international expert, 2 November 2005. Experts are wary of the legislative amendments that ban anonymous complaints of corrupt activities while there is no effective legal protection for witnesses.

1. Macro-economic development

Azerbaijan has one of the world's fastest growing economies, largely owing to foreign investments in the energy sector, rising energy production and booming oil prices. Cross Domestic Product (GDP) is projected to grow almost 19 per cent and the external current account deficit to decline significantly in 2005.⁵³ Foreign direct investments in the hydrocarbon sector have stimulated rapid growth in construction, transportation and services since 2003. By the end of the third quarter of 2004, Azerbaijan had attracted net foreign direct investment of \$10.7 billion, the equivalent of 12.6 per cent of GDP.⁵⁴ On 21 October 2005, the parliament sent to the president for review a preliminary \$3.7 billion budget for 2006 that envisages a 67 per cent increase in expenditures.⁵⁵

Hydrocarbon production is expected to peak by 2010 and then decline. Therefore, further economic growth largely depends on effective management of current oil and gas income.⁵⁶ After the opening of the Baku-Tbilisi-Ceyhan (BTC) pipeline⁵⁷ and further exploitation of the Shah Deniz gas field, hydrocarbon revenues are expected to double the country's economy by 2008.⁵⁸ Hydrocarbon

exports were over 82 per cent of total exports in 2004, accounting for nearly 50 per cent of budget revenues.⁵⁹ The September 2004 decree, "On the Approval of the Long-Term Strategy on the Management of Oil and Gas Revenues", envisaged special measures for balanced economic development of the non-oil sector through utilisation of oil and gas revenues.⁶⁰

The late President Heydar Aliyev created the State Oil Fund of Azerbaijan (SOFAZ) in 2000, which operates under presidential authority and is managed by an expert committee.⁶¹ Oil revenue paid into it has been used for education, poverty reduction, assistance to internally displaced persons (IDPs), and efforts to raise rural living standards. In March 2005, SOFAZ reported assets of \$994 million, a \$179 million increase from the end of 2004.⁶² However, many experts expressed concerns over the potential for institutionalised corruption presented by such great wealth.⁶³ A recent International Monetary Fund (IMF) report noted that policy coordination on raising social standards has remained weak, and progress on energy and banking sector reforms has been slow.⁶⁴

Precisely because of the economy's heavy dependence on the energy sector, some experts fear there is a risk of the "Dutch disease" -- over-dependence on the oil and gas sector, causing prices to rise to the detriment of the overall economy.⁶⁵ Although the authorities have been pursuing a tight fiscal policy, inflation reached 14 per cent in April 2005, well above the year's 5 per cent target.⁶⁶ There was a major crisis on 17 September, when the exchange rate of the Azerbaijani manat to the U.S. dollar fell almost 20 per cent (from 4,600 to 3,800 manat to the dollar) in a few hours. Some economists explained this by increased government oil revenues, which in turn created an excess of dollars in the Azerbaijani market and thus appreciated the local currency. But high inflation may also be attributed

⁵³ International Monetary Fund (IMF), "Azerbaijan Republic country report", No. 05/260, July 2005. The Economist Intelligence Unit (EIU) gives the figure of 20 per cent anticipated increase by the end of 2005, "Country Report: Azerbaijan", August 2005, p. 3. Turan News Agency reported on 24 October 2005 21.8 per cent real GDP growth in the first nine months of 2005.

⁵⁴ EIU, "Azerbaijan: Country Profile 2005", p. 26.

⁵⁵ "Azerbaijan Parliament Approved State Budget for Fiscal Year 2006", Turan News Agency, 24 October 2005. According to Finance Minister Avaz Alekperov, priorities in state expenditures in 2006 will be pension and salary growth of 33.3 per cent, a military spending increase of 83.3 per cent, and a doubling of state investments. Ibid.

⁵⁶ According to U.S. Department of Energy statistics, Azerbaijan's oil production averaged 319,000 barrels per day (bbl/d) in 2004. Until that year, petroleum production had risen by approximately 4 per cent per year. Total liquids production rose almost 7 per cent on an annual basis during the first five months of 2005. "Azerbaijan Country Analysis Briefs", June 2005, at <http://www.eia.doe.gov/emeu/cabs/azerbjan.html>. Estimates of crude oil reserves range between 7 and 13 billion barrels. The lower figure is from BP; Azerbaijan government sources make higher claims. Azerbaijan also has proven natural gas reserves of 30 trillion cubic feet and the potential for even more.

⁵⁷ On 12 October 2005, the presidents of Azerbaijan, Georgia and Turkey inaugurated the Georgian section of the BTC oil pipeline. The U.S.-backed, \$4 billion pipeline is scheduled to start pumping Caspian oil from Azerbaijan through Georgia to a Turkish Mediterranean port for further export to the West by the end of this year. "Presidents Launch Georgian BTC-Pipeline Section", RFE/RL, 12 October 2005.

⁵⁸ "Azerbaijan Country Analysis Briefs", op. cit. In 2006, real GDP growth is expected to accelerate to 25 per cent. EIU, "Country Report: Azerbaijan", August 2005.

⁵⁹ Ibid, pp. 5, 11.

⁶⁰ While many saw the decree as a positive step insuring balanced development, other experts viewed the planned 67 per cent increase of expenditures in the 2006 budget as contradictory. Crisis Group interview, international expert, Baku, October 2005.

⁶¹ The director of SOFAZ is Samir Sharifov, a former vice president of the National Bank, who is also in charge of overseeing Azerbaijani funding for the BTC and BTE (natural gas) pipelines.

⁶² State Oil Fund of Azerbaijan website (Reports and Statistics), at: <http://www.oilfund.az/reports.php>.

⁶³ Caspian Revenue Watch, "Caspian Oil Windfalls: Who Will Benefit?", Open Society Institute, New York, Central Eurasia Project, 2003.

⁶⁴ IMF, "Azerbaijan Republic Country Report", No. 05/19, January 2005, p. 9.

⁶⁵ European Commission, "The EU's Relations with Azerbaijan: Overview", July 2005, at http://europa.eu.int/comm/external_relations/azerbaidjan/intro/.

⁶⁶ IMF, "Azerbaijan Republic Country Report", No. 05/260, July 2005, p. 5. The IMF has consistently called on the government to pursue a tight anti-inflation strategy.

to the influence of monopolies, which control the prices of goods in the markets in order to maximize their profit.⁶⁷ Constraints on imports, which former Minister Farhad Aliyev tried to eliminate before he was fired,⁶⁸ may further exacerbate "Dutch disease".⁶⁹

Azerbaijan risks developing a dual economy: a fast-growing energy sector with its associated construction and service elements, which accounts for most investment and exports, and an inefficient non-oil-related sector that suffers from chronic under-investment. The non-oil sector is expected to increase by 8 per cent in 2005, compared to 13 per cent in 2004.⁷⁰ Some observers see this as a consequence of a deteriorating investment climate caused by rampant corruption, internal squabbles among the ruling elite, and lack of banking reform, particularly in the provision of loans for small and medium-sized businesses.⁷¹ A recent U.S. State Department report noted that corruption remains a significant deterrent to foreign investment, especially in the non-energy sector, and identified the State Customs Committee and Ministry of Taxation as the institutions of greatest concern to foreign business.⁷²

2. Persistent poverty

As a result of rapid economic growth and increased social spending, the percentage of the population below the poverty level fell from 49 per cent in 2001 to 40 per cent in 2004.⁷³ Though the economy is booming, a significant part of the middle class claims it is still difficult to make ends meet.⁷⁴ In early 2001 the authorities started a comprehensive structural reform program, supported by the IMF through a Poverty Reduction and Growth Facility (PRGF).⁷⁵ Within this, Baku has taken certain progressive steps designed to improve transparency of government spending, including by establishing clear rules for the operation of the Oil Fund and creating a supreme audit

institution.⁷⁶ The IMF program was concluded in June 2005, and authorities are considering a follow-on ten-year poverty reduction program.⁷⁷ Although the minimum wage has increased five-fold, it is still less than \$35 per month.⁷⁸

Azerbaijan has only begun to translate oil-based income into better lives for most citizens. Rural conditions are distinctly worse than in Baku. Some 40 per cent of the population is engaged in poorly paying agriculture.⁷⁹ President Aliyev has underlined his intention to invest oil funds in infrastructure, roads, health and education, agriculture and environmental programs.⁸⁰ Since 2001, over \$110 million has been allocated from the State Oil Fund to assist victims of the Nagorno-Karabakh conflict. However, the allegations that corruption has crept into the construction of homes for IDPs points to the danger that big social projects will line the pockets of the few rather than benefit the many.⁸¹ The 2006 draft budget allocates some \$600 million for provincial infrastructure and social development projects⁸² but the state must now make the difficult choice between spending heavily on social projects -- with inflationary risks -- and retaining funds for future generations.

Experience elsewhere suggests that:

[Sudden oil and gas wealth can be] used to keep entrenched elites in power, to postpone reforms, to underwrite the lavish lifestyles of the privileged, to engage in spending sprees on arms, to build showy and unnecessary projects, and to placate powerful special interests. Among the undesirable consequences have been profligate spending and borrowing, corruption, inequality, repression, and overvalued exchange rates that retard the non-energy sectors of economies.⁸³

⁶⁷ Alman Mir-Ismaïl, "Sharp Drop in Dollar Rate Panic[s] Azerbaijan and Raises Political Questions", *Eurasia Daily Monitor*, vol. 2, No. 176, 22 September 2005, at http://jamestown.org/edm/article.php?article_id=2370248.

⁶⁸ For more on his dismissal and arrest, see below.

⁶⁹ Yelena Kalyuzhnova, "Economies and Energy," in Yelena Kalyuzhnova, Amy Myers Jaffe, Dov Lynch and Robin C. Sickles (eds.), *Energy in the Caspian Region: Present and Future* (Hampshire, 2002), p. 79.

⁷⁰ Crisis Group interview, international expert, Baku, October 2005.

⁷¹ *Ibid.*

⁷² They also report that many companies, including some major Western firms, have been driven from the Azerbaijan market. U.S. Department of State, "2005 Investment Climate Statement -- Azerbaijan", at <http://www.state.gov/e/eb/afd/2005/41980.htm>.

⁷³ IMF, "Azerbaijan Republic Country Report", No. 05/260, July 2005, p. 5.

⁷⁴ Transparency Azerbaijan, "Country Corruption Assessment: Public Opinion Survey in Azerbaijan", 2004, p. 3.

⁷⁵ On the PRGF in Azerbaijan and the IMF's July 2005 review see <http://www.imf.org/external/pubs/ft/scr/2005/cr05260.pdf>

⁷⁶ IMF, "Azerbaijan Republic Country Report", No. 05/19, January 2005, p. 9.

⁷⁷ EIU, "Country Report: Azerbaijan", August 2005, p. 5.

⁷⁸ "Ministry of Economic Development and United Nations Evaluate Implementation of State Poverty Reduction Program of Azerbaijan as Successful", *Turan News Agency*, 17 October 2005.

⁷⁹ The State Statistical Committee of the Azerbaijan Republic, "Azerbaijan in Figures 2005", at http://www.azstat.org/publications/azfigures/2005/en/005_4.shtml. According to the committee, 1.46 per cent of the economically active population is unemployed. This encompasses only the officially registered unemployed, however.

⁸⁰ "Azerbaijan Succeeding in Cutting Poverty, President Ilham Aliyev Says", *UNDP Insights*, Europe and CIS regional newsletter, 12 May 2005, at <http://news.undp.sk>. See also "Interview of the President of the Republic", *op. cit.*

⁸¹ For more on the programs to assist IDPs, see Crisis Group Report Europe Report N°166, *Nagorno-Karabakh: Viewing the Conflict From the Ground*, 14 September 2005.

⁸² Rovshan Ismailylov, "New MPs in Azerbaijan Will Face Budgetary Challenges", *EurasiaNet*, 3 November 2005.

⁸³ Robert Ebel and Rajan Menon (eds.), *Energy and Conflict in Central Asia and the Caucasus* (Maryland, 2000), p. 13.

To escape this, Azerbaijan must urgently increase respect for rule of law, encourage democratisation and freedom of the media, combat corruption, and implement sound monetary and investment policies.

III. SHAKING UP THE GOVERNMENT

Azerbaijan is governed under a highly centralised presidential system. After gaining a five-year mandate, President Ilham Aliyev became the head of state and commander-in-chief of the armed forces, with the power to appoint ministers, regional heads of executive committees (ExComs), judges, the general prosecutor and a host of other officials. He also heads the YAP, which in the 1995 and 2000 elections won large parliamentary majorities. These powers guarantee him the ability to effect change among all cadres and levels of government. When he became president, optimists believed he would use them to root out corruption, dismantle stifling patronage networks based on kinship and regional ties and appoint a new generation of technocratic officials. High approval ratings suggested he would have had public support to move fast on reforms.⁸⁴

From the onset, Ilham Aliyev was hesitant to make significant changes to his father's cabinet. Four exceptions were the appointments of Foreign Minister Elmar Mammadyarov (45),⁸⁵ Minister of Agriculture Ismet Aliyev (51),⁸⁶ Minister of Communication and Information

Ali Abbasov (52),⁸⁷ and Minister of National Security Eldar Makhmudov (47). The new ministerial appointments were primarily people with Nakhichevan and Yeraz connections⁸⁸ and a loyal track record. Of those who were dismissed, only former Minister of National Security Namik Abbasov had ever been seen as a powerful figure, even a possible rival in the succession to Heydar Aliyev.⁸⁹ He was a minister for ten years, known as pro-Western and critical of Iran and Russia, and more balanced in his approach to the opposition than other cabinet members. In firing Abbasov, Aliyev demonstrated determination to take charge of his government, though no clear explanation was given. The new minister, Makhmudov, who previously headed the anti-drugs department of the interior ministry, embarked on large-scale staff changes, promoting former police colleagues.

Seventeen days before the 2005 elections, Azerbaijan woke up to the news that two of the country's most prominent officials had been dismissed, arrested and charged with attempting to overthrow the government, planning massive disturbances, abuse of power, and misappropriation of state funds. Farhad Aliyev, the former minister of economic development, and Ali Insanov, the former minister of health, were radically different personalities. Farhad Aliyev (42 and not related to the president) was seen as a reformer, liked by the diplomatic and international business communities, and apparently struggling to break the stranglehold of monopolies and promote new enterprises. His efforts to reduce customs barriers on imports had brought him into direct confrontation with Kamaladdin Heydarov, head of the State Customs Department.⁹⁰ In August 2005 press stories

⁸⁴ Polling data is notoriously unreliable in Azerbaijan. Government officials regularly say the president's approval rating is about 70 per cent. See, for example, Elin Suleymanov, "Letter to the Editor", *The New York Times*, 5 November 2005. A poll conducted by the International Republican Institute (IRI) found that 56 per cent of the 1,200 surveyed in June 2005 were satisfied with the status quo, while 31 per cent were dissatisfied. Crisis Group interview, IRI staff member, Baku, November 2005. A poll by InterMedia found a 60 per cent approval rating for President Aliyev, http://www.intermedia.org/news_and_publications/publications/Azerbaijan%20News%20Release%203.pdf.

⁸⁵ Mammadyarov replaced Vilayat Guliyev, who had held the post since 1999. Mammadyarov has a doctorate from Brown University (U.S.) and served from 1998 to 2003 as chargé d'affaires of the Washington embassy and then as Ambassador to Italy.

⁸⁶ Former Agriculture Minister Irshad Aliyev was dismissed on 25 October 2004 after deterioration in relations with Turkey resulting from the agriculture ministry's failure to repay some \$4 million in debts to the Turkish company Saka Korkmaz Pazarlama. After a court ruling in favour of the Turkish company, Turkish authorities impounded two Azerbaijani Airlines planes and seized two merchant ships. In September 2004, the Azerbaijani side agreed to pay its debts. "Debt Dispute Resolved", Assa Irada news agency, 23 September, 2004.

⁸⁷ Abbasov had previously been rector of the University of Economics. He replaced former Minister Nadir Ahmedov on 20 February 2004. "New Minister Promises Reforms", *525-ci qazet*, 22 February 2004.

⁸⁸ The Azerbaijani government is considered to be dominated by two regional clans, the Yeraz, who originally came from Armenia, and the Nakhchivanis. Former President Aliyev often advanced the interests of both regional clans to the detriment of others. Promotion of Farhad Aliyev and his family was an exception to the rule as they are from south eastern Jalilabad.

⁸⁹ Magsud Karimov, "Azerbaijan: Ilham Tightens His Grip", *IWPR*, 4 August 2004.

⁹⁰ The conflict between Farhad Aliyev and Heydarov had been seething since at least the last quarter of 2004 when Aliyev launched an anti-monopoly campaign. Crisis Group interviews, representatives of international organisations and diplomats, Baku, October 2005. Both are wealthy oligarchs. Farhad Aliyev is widely believed to control cement and companies dealing with cement and aluminium production and electricity distribution, luxury stores and telecommunications. Heydarov is said to own banks, construction enterprises, fisheries, part of the mobile communications network and media outlets. Crisis Group interviews, representatives of international organisations and Azerbaijani media, Baku, March and October 2005; Rovshan Ismayilov, "Azerbaijani Minister Fired, Allegedly Arrested for

began to link Farhad Aliyev with APFP leader Ali Kerimli.⁹¹ Early that month he appealed to the general prosecutor, claiming he was receiving death threats.⁹² A month later, the president transferred the responsibility of overseeing privatisation from his ministry to the re-created State Property Committee, led by Kerem Hasanov, allegedly a Heydarov ally.⁹³ Even though his powers were significantly weakened in 2005, Farhad Aliyev remained influential. His brother, Rafik Aliyev, who was also arrested on 19 October, was a top business leader as president of the petrol giant Azpetrol.⁹⁴

Ali Insanov (59) was widely disliked, blamed for robbing the health services for personal gain.⁹⁵ According to a senior member of the presidential administration, international representatives and the president's own advisers had been strongly encouraging Ilham Aliyev to dismiss him.⁹⁶ He had been considered untouchable as a founder of YAP, close confidant of Heydar Aliyev, and a prominent member of the Yeraz clan. His main conflict was with the head of the presidential administration, Ramiz Mehtiyev, also a Yeraz.⁹⁷

Much more surprising than the firings was their arrest on the charge of conspiring with the exiled Azerbaijan Democratic Party chairman, Rasul Guliyev, and other officials and businessmen, to organise a coup at the time of the elections. Government sources allege Farhad Aliyev and Ali Insanov paid Guliyev's supporters to carry out massive riots leading to a coup after Guliyev's anticipated return to Baku from abroad on 17 October. Guliyev did

not land in the capital on that date; he was detained for three days in the Crimean city of Simferopol by Ukrainian authorities before they refused Azerbaijan's extradition request. Once the government learned of opposition plans to send 50,000 people to greet Guliyev at Baku airport on 17 October, the security forces mounted a large operation, imposed restrictions on movement, and detained dozens of activists. In the days following, Akif Muradverdiyev, a presidential administration official responsible for financial issues, Fikrat Sadikov, a parliamentarian and director of the state-owned Azerkimya petrochemical company, and Eldar Salayev, the former president of the National Academy of Sciences, were arrested for financing the failed plot.⁹⁸ Overall, some twelve officials were taken into custody.

The arrests boosted the public standing of the president, who had been considered too weak to take on such influential officials.⁹⁹ Nevertheless, they revealed deep divisions within the government and suggested his grip on power might be slipping -- talk of coups d'état is not normally a symptom of stable government. Moreover, the detentions appear to have been politically motivated and based on questionable evidence. According to media reports, much of it was garnered from former Finance Minister Fikrat Yusifov, detained on 16 October and thereafter kept in the notorious Department for the Struggle against Organised Crime.¹⁰⁰ That the former officials were corrupt seems highly likely; that they planned to lead a coup together seems much less plausible. The fact that neither Rasul Guliyev, the alleged leader, nor any of his close associates in the opposition have similarly been charged also tends to make the story less credible.

The government should, of course, fight corruption. However the timing of the arrests, immediately before the elections, suggest they were driven more by politics and a desire to eliminate potential rivals,¹⁰¹ than a genuine

Coup Attempt", 19 November 2005, at www.eurasianet.org/departments/insight/articles/eav101905.a.shtml.

⁹¹ "F. Aliyev is Accused of Secretly Financing APFP", Turan News Agency, 20 August 2005.

⁹² "Azerbaijani Minister Fears for His Life", RFE/RL report in Azerbaijan daily digest, 26 August 2005.

⁹³ Ismayilov, "Azerbaijani Minister Fired", op. cit.

⁹⁴ Azpetrol is the first private oil company in Azerbaijan. It owns more than 60 gas stations throughout the country, two oil terminals, controls the "Azertrans" transportation company and has a near monopoly on the sale of gas. Azpetrol company groups includes the "Azertrans" carrier service, which is the major partner of oil giants Statoil, Itochi, Turkish Petrol, Amerada Hess, Azerbaijan-Azeri-Chirag-Guneshli Ltd, SOCAR and Inpeks. Moreover, Azpetrol controls Ilkbank and the Bank of Baku, which were amalgamated in 2005 to create one of the country's largest banks. Azpetrol built 50 fuelling stations in Moldova and an international oil terminal over the Danube -- a \$250 million project. "Azpetrol's Bank Accounts Were Frozen", *Realny Azerbaijan* (in Azeri), 21 October 2005.

⁹⁵ A Transparency International survey found healthcare institutions to be the most corrupt in the country, with the likelihood that bribes would be demanded for medical treatment over 80 per cent. Transparency Azerbaijan, "Country Corruption Assessment", op. cit., p. 5.

⁹⁶ Crisis Group interview, high level government official, Baku, October 2005.

⁹⁷ Crisis Group interview, government official, Baku, October 2005.

⁹⁸ The case of Eldar Salayev (72) is different from that of the other former government officials detained in that he had left the Academy of Sciences in 1997. He was Rasul Guliyev's public advocate in the election and made a court application to serve as a personal guarantor for Guliyev in October 2005. He remains a highly respected intellectual. Due to precarious health, he was transferred from police custody to house arrest on 16 November 2005. His son is the ADP deputy chairman for international affairs and was an Azadlig candidate in Sumgait. Crisis Group interviews, ADP official, Baku, November 2005.

⁹⁹ Nair Aliyev in Jean-Christophe Peuch, "Azerbaijan: Government in Control as Opposition Falls Behind", RFE/RL, 24 October 2005.

¹⁰⁰ Under the Ministry of Internal Affairs, the department has been singled out as a site where physical abuse and torture are applied to exert confessions. See Human Rights Watch, "Crushing Dissent", op. cit. pp. 27-35.

¹⁰¹ Some local analysts allege that Farhad Aliyev and Ali Insanov had been financially supporting their own parliamentary candidates. Crisis Group interviews, Azerbaijani analysts, Baku, November 2005.

anti-corruption commitment. It is essential that the investigations be transparent and impartial and the accused receive fair trials. The trials should not become the newest stage for playing out clan rivalries. Every effort should be made to replace the arrested ministers with men or women of integrity.

IV. 2005 PARLIAMENTARY ELECTIONS

The 2005 parliamentary elections were heralded in advance as "a decisive test",¹⁰² "historical chance"¹⁰³ and "crucial opportunity for the Azerbaijani authorities to show that they have the political will and ability to organise democratic elections".¹⁰⁴ They were the last electoral test before the 2008 presidential contest and important for determining who will manage the country's oil and gas wealth.

Significantly, the 6 November 2005 vote was the first parliamentary election since the 2002 constitutional referendum, which abolished the proportional system.¹⁰⁵ Candidates competed instead for 125 single mandate seats in one round. The high number of candidates in each constituency and the lack of a turnout threshold meant that relatively few votes could determine outcomes.

A. THE PRE-ELECTION PERIOD: TENTATIVE PROGRESS

1. Electoral administration and legislation

Preparations began positively on 11 May 2005 with a presidential decree, "On Improvement of Election Practices", that acknowledged "a number of mistakes and deficiencies" during previous elections, and put the blame upon "unprofessional officials and members of election commissions", and, in general, the country's "post-Soviet mentality".¹⁰⁶ The decree called on election authorities and local officials to implement the election code fully. It included instructions to officials to ensure freedom of

assembly, deliver voter cards to all, and compile exact voter lists, and warned them they would be held legally responsible if they interfered in the election process.¹⁰⁷

Parliament amended the Unified Election Code in June; however, the changes did not include several crucial Council of Europe Parliamentary Assembly (PACE) Venice Commission and OSCE/ODIHR recommendations relating to the composition of the election commission, venues for elections rallies, right to campaign, NGO observation, complaints and appeals, intimidation of election staff, and inking of voters' fingers. The OSCE/ODHIR and the Venice Commission concluded that the election code "does not fully meet OSCE commitments and Council of Europe standards for democratic elections and is insufficient to develop the necessary public confidence in the electoral legislation and practice in Azerbaijan".¹⁰⁸

Less than two weeks before the elections, on 25 October, President Aliyev issued another decree on urgent measures to boost preparations.¹⁰⁹ It addressed the two requirements most demanded internationally for ensuring a free and fair vote: allowing inking of fingers and local NGO monitoring. The first is a relatively simple but important safeguard against multiple voting, which the government had called irreconcilable with national culture and pride.¹¹⁰ The second lifted a ban on observation by local NGOs who received 30 per cent or more of their funding from international sources.

The decree was welcomed by the U.S. and the Council of Europe¹¹¹ but came too late to be implemented in full.¹¹² Georgia and Denmark provided invisible ink and ultraviolet lamps for its detection but it was impossible to organise training for election commission members. The changes increased the technical complexities of procedures at a time when the OSCE/ODIHR EOM observed "widespread uncertainty and confusion on the interpretation of legal and procedural issues" among

¹⁰² Council of the European Union, "Declaration by the Presidency on Behalf of the European Union on the Final Days of the Election Campaign in Azerbaijan", Brussels, 28 October 2005.

¹⁰³ The U.S. Ambassador in "The Authorities Should Not Interfere in the Election Process and Opposition Should Refrain from Instigation", Turan News Agency, 27 October 2005.

¹⁰⁴ PACE, "Parliamentary Elections in Azerbaijan Offer an Opportunity that Should Not Be Missed", Strasbourg, 13 October 2005. PACE also called the polls "a decisive test for the democratic credibility of the country". See PACE, doc. 10569, 3 June 2005, op. cit.

¹⁰⁵ Previously 20 per cent of parliamentarians (25 out of 125) were elected on the basis of party lists.

¹⁰⁶ Executive Order of the President, "On Improvement of Election Practice in the Republic of Azerbaijan", 11 May 2005.

¹⁰⁷ Ibid.

¹⁰⁸ Venice Commission and OSCE/ODIHR, "Draft Final Opinion", op. cit., Point No. 59.

¹⁰⁹ Executive Order of the President, "On Urgent Measures in Connection with Preparation and Conducting of the Elections to the Milli Majlis of the Republic of Azerbaijan", 25 October 2005.

¹¹⁰ Crisis Group interview, CEC members, Baku, September and October 2005.

¹¹¹ "Richard Cheney Hopes for Strengthened US-Azerbaijan Strategic Relationship After Parliamentary Elections", State Telegraph Agency of the Republic of Azerbaijan (Azertac), 29 October 2005; The Venice Commission statement, 5 November 2005.

¹¹² Liz Filler, "Eleventh Hour Concession Unlikely to Influence Outcome of Azerbaijan Vote", RFE/RL, Caucasus Report, vol. 8, No. 39, 4 November 2005.

Constituency Election Commissions (ConECs) and Precinct Election Commissions (PECs).¹¹³

2. Candidate registration

Compared with previous experience, registration of candidates went smoothly. Over 2,000 representing some 48 parties and blocs were registered by the CEC for 125 parliamentary seats.¹¹⁴ OSCE/ODIHR preliminary reports found no significant violations.¹¹⁵ Unlike previous elections, two of the most famous opposition exiles, former president Ayaz Mutallibov, and former parliament speaker Rasul Guliyev, were allowed to register.

The political landscape before the vote remained starkly polarised between pro-government and opposition parties. Party development is relatively weak, based more on personalities than ideology. The strongest parties have all developed out of the nationalist movement of the late 1980s/early 1990s and tend to rely on family and regional networks for members and financing. None, including the ruling YAP, articulated a clear platform.

The YAP was founded in 1992 by former President Heydar Aliyev and has won every election since 1995. Together with a handful of smaller pro-government parties, it controlled more than 70 per cent of the seats in the previous parliament. YAP has never been monolithic, however, and divisions along regional, financial, and generational lines have become particularly obvious after Heydar Aliyev's death.¹¹⁶ Although some analysts predicted its disintegration at that time, it has kept a semi-unified front and nominated 101 parliamentary candidates.¹¹⁷ Some of the most prominent were Mehriban Aliyeva, the president's wife, Jalal Aliyev, his uncle, Murtuz Aleskerov, the current speaker and Ali Akhmedov, the party's general secretary. Candidates tended to use slogans heralding continued economic growth and calling

for gradual reforms, especially improved delivery of social benefits.

For the first time leaders from the three main opposition parties -- Musavat, the progressive wing of the APFP and the ADP -- united in a common pre-election bloc, Azadlig (Freedom), which registered candidates in 116 constituencies.¹¹⁸ In the previous parliamentary elections Musavat and APFP won eight seats¹¹⁹ -- but four of those elected had since left the parties, while the others have boycotted sessions since 2003. The bloc called for free and fair elections and a complete change of political leadership, in particular criticising the government for failure to solve the Nagorno-Karabakh conflict and distribute oil funds widely.

YeS (Yeni Siyaset, New Politics) was a less radical, "soft opposition" bloc, uniting the Azerbaijan National Independence Party (ANIP), the Social-Democratic Party of Azerbaijan, and a few individual politicians. It put forward 71 candidates and was largely seen as a loose coalition of strong personalities with different political views, including former President Mutallibov and Eldar Namazov, once an aide to Heydar Aliyev. The Liberal Party of Lala Shovkat was closely associated with YeS initially but withdrew to back 70 of its own candidates.¹²⁰ The inability of all opposition forces to agree on common candidates divided the protest vote.

An unprecedented number of independent candidates registered, over 1,500,¹²¹ though the majority of these had close ties to the ruling party.¹²² Some were YAP members

¹¹³ OSCE/ODIHR Election Observation Mission, Republic of Azerbaijan, "Parliamentary Elections 2005", Interim Report No. 3, 8-21 October 2005, p. 2.

¹¹⁴ Registration of candidates ran from 24 July 2005 to 7 September; the procedures were significantly simplified and required only 450 valid signatures. During the 2000-2001 parliamentary elections only 408 candidates were registered, while 409 were denied registration.

¹¹⁵ ODIHR Election Observation Mission, Republic of Azerbaijan, "Parliamentary Elections 2005", Interim Report No. 1, 5-23 September 2005.

¹¹⁶ For more on trends within YAP see Crisis Group Report, *Azerbaijan*, op. cit.

¹¹⁷ The YAP officially nominated candidates in 101 out of 124 constituencies but more than 400 registered candidates identified themselves as YAP members. Other pro-government parties include Ana Vatan (the Motherland Party, eleven candidates), The Social Welfare Party (six candidates), Modern Musavat (sixteen candidates) and Alliance for Azerbaijan Party (44 candidates), CEC website, www.cec.gov.az.

¹¹⁸ An agreement between the three parties was signed on 7 July 2005. Musavat was created in 1992 by then Parliamentary Speaker Isa Gambar; ADP was established in 1993 by Sadar Jalaloglu, now its deputy chairman. Since 2000 the party has been chaired by the exiled speaker of the parliament, Rasul Guliyev; APFP was created in 1989 as part of the national liberation movement. Former President Abulfaz Elchibey (1992-1993) chaired it. His death in 2000 split the party into conservative and progressive wings. The latter is chaired by a 39-year-old lawyer, Ali Kerimli. For more on political parties, see EurasiaNet, *Azerbaijan Elections 2005*, Party profiles, op. cit. For accounts of the histories of the parties and their leaders, see Thomas Goltz, *Azerbaijan Diary* (M. E. Sharpe, 1998), and Karen Dawisha and Bruce Parrott (eds.), *Conflict, Cleavage and Change in Central Asia and the Caucasus* (Cambridge, 1997).

¹¹⁹ Musavat and APFP initially won 6 seats in 2000, APFP captured an additional two in 2001 re-runs.

¹²⁰ The Liberal Party was established in 1994, when Lala Shovket resigned as state secretary after criticising President Heydar Aliyev's administration as corrupt. EurasiaNet, *Azerbaijan Elections 2005*, op. cit.

¹²¹ Shahin Abbasov and Khadija Ismailova, "Parties and Blocs to Dominate Azerbaijan's Parliamentary Polls", Eurasia Insight, 30 September 2005.

¹²² Rovshan Ismayilov, "Azerbaijan's Parliamentary Election: When is an Independent Candidate Truly Independent?", Eurasia Insight, 31 October 2005. Measuring the independence

who were not on the official list,¹²³ including eleven of the 26 candidates running in one Baku constituency.¹²⁴ A senior YAP official told Crisis Group this was a tactic to encourage many YAP members to stand so that weekly polling could be conducted to determine the strongest candidate, after which the others were encouraged to withdraw.¹²⁵ Some of the genuinely independent candidates were successful entrepreneurs or NGO and media representatives, but even their impartiality could be questioned because of strong governmental control over those fields. By election day over 500 candidates had pulled out of the race.¹²⁶

3. The campaign

While opposition candidates had greater opportunity to present their message to voters than in the past, the playing field remained tilted in favour of government supporters. There was an active campaign with election posters, media advertisements, and rallies evident throughout the country. Yet, it was marred by widespread arrests and intimidation of opposition party members and supporters.¹²⁷

Though Azerbaijan's legislation guarantees freedom of assembly and the right to organise public rallies,¹²⁸ local authorities often put limitations on those rights, including through use of excessive force. This was observed in Baku on four separate occasions¹²⁹ when Azadlig was denied authorisation to hold a public gathering in a central location. Hundreds of people were detained, often for short periods, but in some instances for several days. Rally participants, as well as police, were reportedly injured during the altercations.¹³⁰ Campaign activities

of political activists in Azerbaijan is tricky. One third of the previous parliament (37 members) were elected as independents, though in practice almost all supported the government. Rovshan Ismayilov, op. cit.

¹²³ CEC website, www.cec.gov.az.

¹²⁴ Rovshan Ismayilov, op. cit.

¹²⁵ Crisis Group interview, senior YAP official, Baku, October 2005.

¹²⁶ In its third interim report, the OSCE observation mission noted serious allegations of pressure upon candidates to withdraw, including death threats. OSCE/ODIHR Election Observation Mission, Republic of Azerbaijan, "Parliamentary Elections 2005", Interim Report No. 3, 8-21 October 2005, p. 6.

¹²⁷ Ibid, p. 1.

¹²⁸ Article 49, Constitution of the Republic of Azerbaijan.

¹²⁹ On 25 September, 1, 9, and 23 October 2005.

¹³⁰ Crisis Group observations, Baku, September and October 2005. For more on interference and detentions during rallies, see OSCE/ODIHR Election Observation Mission, Republic of Azerbaijan, "Parliamentary Elections 2005", Interim Report No. 3, 8-21 October 2005, pp. 4-5 and Interim Report No. 2, 24 September-7 October 2005, pp. 3-4. According to the authorities, some 35 police were injured during the four unauthorised rallies organised by Azadlig. Statements by the ministry of internal affairs, ministry of national security

encountered fewer problems in the provinces, though police and local authorities obstructed some opposition events despite the presidential decrees of May and October 2005 which had ordered authorities to ensure freedom of assembly.¹³¹ PACE stated that "the disproportionate violence and brutality, bordering on outright cruelty, displayed by police forces while breaking up public rallies...is unacceptable in a democratic society".¹³²

The violence and obstruction of rallies inflamed the environment and focussed debate on the "lawfulness" of the process. While opposition leaders may have tried to use the bans on meetings in Baku to attract international support, the authorities miscalculated, trying to use the confrontations to portray the opposition as irresponsible and bent on violence.

As in past polls, international observers noted significant intervention by the authorities.¹³³ This included campaigning for YAP candidates, using state resources to support YAP campaigns, putting pressure on state employees to vote for particular candidates and not attend opposition events.¹³⁴ As noted, the May presidential decree had said officials who interfered with the campaign would have to answer before the courts.¹³⁵ The October decree complained of illegal intrusion by authorities and use of administrative resources by candidates.¹³⁶ President Aliyev orally reprimanded ExCom regional authorities for allowing some candidates to use state resources to gain an unfair advantage. Close to election day, the OSCE

and the general prosecutor's office, 1 November 2005, at www.mia.gov.az.

¹³¹ For example, in his 25 October 2005 decree the president charged the Ministry of Internal Affairs and local law enforcement to create "all necessary conditions for the carrying out in the established places of mass actions and pre-election campaign". Executive Order of the President, "On Urgent Measures in Connection with Preparation and Conducting of the Elections to the Milli Majlis of the Republic of Azerbaijan", Baku, 25 October 2005. Nevertheless, on 30 October Azadlig was denied permission to organise a rally and concert in Baku.

¹³² PACE, "Parliamentary Elections in Azerbaijan Offer an Opportunity that Should not be Missed", Strasbourg, 13 October 2005.

¹³³ In apparent violation of Article 115 of the Election Code, Articles 39-48 of the Administrative Code and Articles 159-161 of the Criminal Code.

¹³⁴ "Azerbaijan Parliamentary Elections 2005 Lessons Not Learned", Human Rights Watch Briefing Paper, 31 October 2005, p. 11. PACE, "Parliamentary Elections in Azerbaijan Offer an Opportunity that Should not be Missed," op. cit. OSCE/ODIHR Interim Report No. 3, op. cit., p. 4.

¹³⁵ Executive Order of the President, "On Improvement of Election Practice in the Republic of Azerbaijan", Baku, 11 May 2005.

¹³⁶ Executive Order of the President, "On Urgent Measures in Connection with Preparation and Conducting of the Elections to the Milli Majlis of the Republic of Azerbaijan", Baku, 25 October 2005.

observation mission found that "the continuing failure of election commissions and the prosecuting authorities to address or redress serious violations by executive authorities and candidates has had a marked and negative effect on the election process".¹³⁷ Outside Baku, where a large part of the population is dependent on the state for employment or services, voters were more vulnerable to efforts to influence or intimidate.

Compared with past elections when they had little or no access to the media, opposition candidates were given significant free airtime.¹³⁸ Nevertheless, most prime time news and other information programs presented heavily favourable coverage to pro-government candidates.¹³⁹ From 17 to 20 October, AzTV banned live broadcasts by Azadlig candidates, and the CEC did not address the complaint.¹⁴⁰ In contrast to the other five main channels -- AzTV, Public TV, Space TV, Lider TV and ATV -- the private broadcaster, ANS, generally provided more balanced coverage,¹⁴¹ including a greater diversity of views and more time for the opposition.¹⁴²

To promote independent and constructive news coverage of the elections, media organisations signed a Code of Ethics in July. Nevertheless, both pro-government and pro-opposition media outlets continued to employ unethical methods.¹⁴³ The media environment was also negatively effected by harassment and beatings of

journalists covering the campaign.¹⁴⁴ In a clearly politically motivated move, the Sheki regional studio of ANS CHM Radio was closed on 30 September after broadcasting a daily 30-minute news program with interviews and debates with a range of local candidates.¹⁴⁵

B. ELECTION DAY DEBACLE: WHAT WENT WRONG?

6 November 2005 was a disappointment for those who had hoped the elections would be free and fair. The OSCE observation mission said in its preliminary statement that:

[They] "did not meet a number of OSCE commitments and Council of Europe standards for democratic elections... Voting was generally calm, but the election day process deteriorated progressively during the counting and, in particular, the tabulation of the votes."¹⁴⁶

The U.S. Department of State supported the OSCE findings.¹⁴⁷ President Aliyev responded that "the elections were held in a free and democratic atmosphere... the results of the election reflect totally the will of the people".¹⁴⁸ Representatives from all the main opposition blocs rejected this positive assessment. After reviewing data from 113 Constituency Election Commissions and 4,000 observers in polling stations, Azadlig published a litany of violations and concluded that "it does not recognise results of the... parliamentary election and declares that it will start a continuous and systematic... campaign using peaceful and non-violent means... to

¹³⁷ OSCE/ODIHR Interim Report No. 3, op. cit., p. 3.

¹³⁸ During the pre-election campaign, political parties with more than 60 candidates were entitled to free airtime on state-funded television. The ruling YAP, the Azadlig bloc, the Liberal Party of Azerbaijan and YeS benefited. However, the regulation discriminated against smaller coalitions and independent candidates. All candidates could also purchase airtime.

¹³⁹ International Election Observation Mission, "Statement of Preliminary Findings and Conclusions", Baku, 7 November 2005. p. 8. This document is usually known as the Preliminary Statement. Its drafter, the International Election Observation Mission, is a joint undertaking of the OSCE/ODIHR, the OSCE Parliamentary Assembly (OSCE PA), the Parliamentary Assembly of the Council of Europe, the European Parliament, and the NATO Parliamentary Assembly.

¹⁴⁰ OSCE/ODIHR, Interim Report No. 3, op. cit., p. 6.

¹⁴¹ Six national television and five radio companies operate in Azerbaijan. Two, including public television, are funded from the state budget. The rest are privately owned and funded by personalities with political or business interests often close to the ruling authorities. ANS is generally considered the most independent. See Crisis Group Report, *Azerbaijan*, op. cit., pp. 13-14.

¹⁴² ANS provided the YAP and Azadlig with approximately equal positive or neutral prime time news coverage. OSCE/ODIHR, Interim Report no 3, op. cit., p. 7.

¹⁴³ Rufat Askerov and Minsal Muradova, "Television is a Campaign Battleground", EurasiaNet, 28 October 2005, at <http://www.eurasianet.org/departments/civilsociety/articles/ev102805a.shtml>.

¹⁴⁴ OSCE/ODIHR, Interim Report No. 3, op. cit., p. 7. Reporters Without Borders, "Fourteen Journalists Beaten by Police Covering Opposition Demonstration", press release, 11 October 2005. Reporters Without Borders, "Four Journalists Beaten by Police Covering Opposition Demonstration", press release, 27 September 2005.

¹⁴⁵ The National Television and Radio Broadcasting Council explained that ANS did not have the proper license to transmit in the region and threatened revocation of its national license. The minister for communication and information technologies did not agree with the Council's decision, stating that ANS was in conformity with the law. Crisis Group interview, ANS journalist, Baku, October 2005. See also Human Rights Watch, "Azerbaijan Parliamentary Elections", op. cit., p. 3, and OSCE/ODIHR, Interim Report No. 2, op. cit., p. 6.

¹⁴⁶ International Election Observation Mission, "Elections in Azerbaijan Did Not Meet International Standards Despite Some Improvements," Press Release, Baku, 7 November 2005.

¹⁴⁷ U.S. Department of State, "Azerbaijan Parliamentary Elections", press statement, Adam Ereli, deputy spokesman, Washington DC, 7 November 2005.

¹⁴⁸ "Azeri Poll 'Totally' Reflects People's Will: President", Agence France-Presse, Baku, 7 November 2005.

cancel these results, for restoration of justice and holding new parliamentary elections".¹⁴⁹

Some election day violations could have been avoided and trust in the system increased if Azerbaijan had implemented the recommendations of international experts for parity of representation on election commissions.¹⁵⁰ Voting in Azerbaijan is administered by a three-tiered administration, the CEC, 125 Constituency Election Commissions (ConECs) and over 5,000 Precinct Election Commissions (PECs).¹⁵¹ The CEC has fifteen members, elected by the parliament using a convoluted formula which effectively gives an overwhelming majority to the ruling YAP and other pro-government parties.¹⁵² Lower level election commissions are composed based on a similar formula, but with nine ConECs and six PECs members. The YAP nominates all commission chairpersons and with its supporters has a commanding two-thirds majority to push through all decisions. During past elections, opposition PEC and ConEC members were detained, intimidated, fired from jobs and forced to sign flawed and fraudulent protocols.¹⁵³ Confidence in the neutrality and impartiality of the commissions is weak. The government's refusal to create balanced commissions led PACE to conclude that "any serious irregularities on election day...could be construed as a lack of political will on behalf of the authorities".¹⁵⁴

The most serious violations occurred during counting and tabulation.¹⁵⁵ The OSCE observers assessed the ballot

counting process as bad or very bad in 43 per cent of counts observed in polling stations and in 31 per cent of the ConECs visited.¹⁵⁶ Repeatedly party and NGO observers were intimidated, unauthorised persons were present during the count, the final tabulation was not completed in pen in front of observers immediately after the count or was not transferred directly to the ConEC, and results were not posted in polling stations. Crisis Group observed all these violations as well as ballot stuffing in a suburban Baku polling station.¹⁵⁷ Other international observers saw cases of modification of results.¹⁵⁸

In an effort to prevent multiple voting, a problem in past elections,¹⁵⁹ the CEC implemented a series of measures. Unfortunately these did not help. While voter cards were issued for the first time to stop multiple voting, the head OSCE observer singled them out as the biggest problem in the preparatory phase.¹⁶⁰ Until 6 November it remained unclear whether voter cards would be required to vote. Ultimately they were not. Another controversial and ultimately unsatisfactory reform was the late decision to use invisible ink. On election day there were reports that observers were not allowed to test the ink and allegations that water was substituted. Inking procedures were not

considered to have many significant problems and 25 per cent a few significant problems. During the tabulation, less than 8 per cent of the ConECs observed were perceived as functioning without problems. OSCE/ODIHR, "Final Report", 2003, op. cit., pp. 19, 23.

¹⁵⁶ International Election Observation Mission, "Statement of Preliminary Findings and Conclusions," Baku, 7 November 2005, pp. 11-12.

¹⁵⁷ On election day Crisis Group observed serious violations in ConEC 10 (Binegadi) in precincts (PECs) 1, 3, 5 and 7. Three political party observers were detained. The atmosphere was chaotic due to the presence of a large number of unauthorised persons, including some who appeared to be intimidating voters. In PEC 3 Crisis Group observed ballot stuffing. After initially refusing to open the ballot box in front of observers, the Chairman of the PEC took the ballot boxes into his room where he proceeded to open them in front of Crisis Group. When he did so a large number of the ballot envelopes fell on the floor. He picked them up, unashamedly mixing them with dozens of extra ballot envelopes which had been conveniently stashed under his desk. Not surprisingly, the official tally of 512 votes cast in the precinct was rather larger than the figure of 365 voters who local observers actually saw casting their ballots.

¹⁵⁸ Crisis Group observations and observations of other international groups.

¹⁵⁹ OSCE/ODIHR, "Final Report", 2003, op. cit., p. 18.

¹⁶⁰ Crisis Group interview, head of OSCE Election Observation Mission, Baku, October 2005. The PACE pre-election mission, which visited from 11 October to 13 October 2005, noted that the distribution of voters' cards "has proved to be problematic, and a proper audit trail for these cards is lacking. Therefore, the effectiveness of the voters' cards as a mechanism to prevent multiple voting is questionable". PACE, "Parliamentary Elections in Azerbaijan Offer an Opportunity that Should Not be Missed", Strasbourg, 13 October 2005.

¹⁴⁹ Freedom Bloc, Parliamentary Election 6 November 2005, "Preliminary Report" (Executive Summary), Baku, 7 November 2005.

¹⁵⁰ As noted in the Venice Commission statement of 5 November 2005 which refers to the OSCE/ODIHR, "Final Opinion on the Amendments to the Election Code of the Republic of Azerbaijan", Opinion No. 336/2005, Warsaw, Strasbourg, 25 October 2005.

¹⁵¹ Election commissions are responsible for, inter alia, preparing voter lists, providing voter cards, registering candidates and observers, counting votes, and publishing the results. For the full list of responsibilities, see Articles 25, 26.4, 31, and 37 of the Election Code.

¹⁵² OSCE/ODIHR, Interim Report No. 1, op. cit. The composition was six members from YAP; three parliamentarians elected from single-mandate territories; three members representing the opposition Musavat, ANIP, and ADP parties; and three members from the parliamentary minority, including the reformist wing of APFP, the Party of Civic Solidarity and the Communist Party (the latter two being pro-government).

¹⁵³ OSCE/ODIHR, "Final Report", op. cit., p. 26. Human Rights Watch, "Crushing Dissent: Repression, Violence and Azerbaijan's Elections", op. cit., pp. 36-39. The protocol is an official document attesting the results of each polling station, signed by the members of the Precinct Election Commission.

¹⁵⁴ PACE, "Parliamentary Elections in Azerbaijan Offer an Opportunity That Should Not Be Missed", Strasbourg, 13 October 2005.

¹⁵⁵ This was also the experience in past elections. In 2003, 30 per cent of the 212 polling stations observed by the OSCE were

uniformly applied, reducing their effectiveness as a control on multiple voting.¹⁶¹

Two days after the elections, the CEC issued preliminary results, according to which the YAP won 63 seats; independents 41; the pro-government Ana Vatan (Motherland) party two; Musavat four; the APFP two; and the pro-opposition Civil Solidarity Party two. The small Democratic Reform Party, Great Revival Party, Umid (Hope) Party, and Whole Azerbaijan Popular Front Party each got one mandate. Candidates not representing any party won three seats.¹⁶² Thus the "radical" opposition gained six places, two fewer than in the outgoing parliament. The 46.8 per cent turnout, slightly more than two million voters, was significantly less than in the last parliamentary elections.¹⁶³ In most cases winners polled less than 40 per cent and some as little as 18 per cent.¹⁶⁴ Predictions that the elections would bring in a wave of young, independent reformers were not borne out. Close to half those elected were incumbents,¹⁶⁵ and the 2005-2010 parliament will look very much like its predecessor. Immediately after the elections, it was announced that Murtuz Aleskerov (77), speaker since 1996, would again chair the assembly.¹⁶⁶

C. POST ELECTION DEVELOPMENTS

Immediately after the elections the CEC began to consider some 550 voting-related complaints. The CEC chairperson stated that results in twenty constituencies should be declared invalid and violators punished,¹⁶⁷ while President Aliyev cited shortfalls in seven or eight constituencies the day after the elections.¹⁶⁸ The CEC annulled results in two constituencies on 8 November, a third on 13 November,

and a fourth on 15 November.¹⁶⁹ It also invalidated the votes in 42 polling stations.¹⁷⁰ The opposition, which refused to recognise the election results, considered these to be negligible changes and demanded that at least 100 constituencies be re-run if altogether new elections could not be held country-wide.¹⁷¹

In the week after the 6 November elections, the opposition under a new common banner, the Democratic Popular Front -- including Azadlig, YeS, National Unity and the Liberal Party -- announced a boycott of the parliament, stating that it did not recognise its legitimacy. It claimed that Azadlig had been robbed of some 38 to 40 seats, and the opposition as a whole of some 50. It organised a first demonstration in Baku on 9 November, followed by a second on 13 November and the announcement that more would follow, including on 19 November. Precise participation numbers were impossible to gauge. Police reported 5,000 on the 9th and 4,500 on the 13th,¹⁷² while the opposition claimed over 25,000 both times.¹⁷³ Crisis Group observers considered the turnouts lower than those for the biggest rallies of the 2003 campaign,¹⁷⁴ certainly not a critical mass of average citizens for a city of over three million. The opposition insists that if such a critical mass is reached, it will set up tents and move to a round-the-clock protest.¹⁷⁵ Police warn that this would be illegal and not permitted.¹⁷⁶ Smaller protests also spread to the towns of Zagatala, Bilasuvar, Nardaran and Surakhani, where some activists were allegedly briefly detained.

The post-election situation developed more-or-less along the same lines as the aftermath of the contested parliamentary poll of 2000. Like his father then, President Ilham Aliyev cancelled results in a few constituencies and fired a handful of ExComs with illegal interference in the elections process.¹⁷⁷ In 2000 this was enough to persuade the Council of Europe and other Western partners that the

¹⁶¹ Crisis Group observations and observations of other international groups.

¹⁶² "Ruling Party Tops the Polls", *Azernews*, 7 November 2005.

¹⁶³ It was 68.8 per cent in 2000 compared with 46.8 per cent in 2005. In Georgia during the November 2003 parliamentary elections, turnout was 60 per cent, and 64 per cent in the March 2004 re-run. In Germany 77.7 per cent voted in the 2005 Bundestag election; in France 80 per cent voted in the 2002 legislative election. Low turnout suggests that many Azerbaijani citizens did not feel that they had a stake in the vote. See Jahan Aliyeva, "Observers: Dip in Azerbaijani Voter Turnout Signals Apathy", *Eurasianet*, 14 November 2005.

¹⁶⁴ Mehriban Aliyeva received the highest percentage, over 92 per cent.

¹⁶⁵ 54 members of the new parliament served in the previous body.

¹⁶⁶ For more on Murtuz Aleskerov, see http://www.caucas.com/home_eng/breve_contenu.php?id=66.

¹⁶⁷ "Azerbaijani Election Commission Says 20 Constituencies Invalid", *AFP*, 7 November 2005

¹⁶⁸ "Aliyev Praises Parliament Elections, Vows to Study Shortfalls," *AssA-Irada information agency*, Baku, 7 November 2005.

¹⁶⁹ "Four ConEC Results Have Been Cancelled" (ConEC #110 in Zagatala, ConEC #42 in Sumgait, ConEC #9 in Binegadi, and ConEC #38 in Ganja).

¹⁷⁰ Crisis Group interview, CEC Secretary, Baku, November 2005.

¹⁷¹ Crisis Group interviews, opposition activists, Baku, November 2005.

¹⁷² "Opposition Back to Streets", *Azernews*, 13 November 2005.

¹⁷³ Crisis Group interviews, opposition activists, Baku, November 2005.

¹⁷⁴ Most notably in comparison with the 12 October 2003 Musavat rally. When some 50,000 were estimated to have attended (100,000 according to opposition figures). Crisis Group observations, Baku, October 2003.

¹⁷⁵ Crisis Group interviews, opposition activists, Baku, November 2005.

¹⁷⁶ "Main Police Board Hold Extraordinary Meeting on Opposition Rally", *ANS TV*, 9 November 2005; also see "General Also Spoke", *Realniy Azerbaijan*, 15 November 2005.

¹⁷⁷ Three ExComs or regional governors have been fired, in Sabirabad, Surakhani and Zagatala.

government was acting in good faith.¹⁷⁸ The opposition decried the steps as mere tokens but ultimately all except two elected from Musavat took their seats in the parliament. Opposition parties other than Musavat also agreed to contest eleven 2001 re-runs. This time the opposition insists that it will not participate in any re-runs unless there are at least 100 and the composition of the election commissions is changed.¹⁷⁹ The question is whether opposition-government negotiations can now forge a compromise on the number of re-runs.¹⁸⁰ The government will undoubtedly try to implement its normal strategy of dividing the opposition to secure a deal, probably gradually increasing the number of opposition seats by selectively annulling some results and allowing new votes in a few constituencies where the opposition is strong.¹⁸¹

The CEC and the courts will continue to process complaints and appeals until 26 November, after which the Constitutional Court has ten days to confirm the final results.¹⁸² The president would have to appoint a date for any re-runs -- most likely in early 2006.¹⁸³ Opposition protests are likely to continue at least until the reruns are held and perhaps for a few additional months. But if much larger numbers of citizens do not turn out, these are not likely to worry the regime greatly.

D. THE INTERNATIONAL REACTION

During the pre-election period, Azerbaijan's partners were much more critical of violations than they had been in the past. However, much of the criticism focussed on technical aspects, not more fundamental weaknesses in the electoral process or political system. Several rather optimistic Western analysts, including some diplomats in Baku, have

suggested that fifteen years after the end of the Soviet Union, Azerbaijan remains a country in transition which should be congratulated for such small steps as it has taken towards democratisation rather than criticised for the remaining substantial shortcomings. Others believe that with political will it could do much better.¹⁸⁴

EU External Relations Commissioner Benita Ferrero-Waldner made a highly critical analysis of the pre-election environment and the prospects for democratic parliamentary elections.¹⁸⁵ The EU Presidency, which had issued a pre-election declaration on 28 October,¹⁸⁶ published a short, neutral statement on 8 November, noting that "these elections have shown some improvements on the Presidential election of November 2003" but the Presidency of the EU was "concerned at reports of serious problems in the counting and tabulation of votes...and at report[s] of interference".¹⁸⁷ The Council of Europe's Parliamentary Assembly has consistently urged deeper election reform. After the elections, PACE co-rapporteurs on Azerbaijan strongly criticised fraud, going so far as to hint that the PACE might consider suspending Azerbaijan's membership during its next session in early 2006.¹⁸⁸

The OSCE observation mission's preliminary statement immediately after election day and agreed by the heads of its main constituent parliamentary delegations from the EU, Council of Europe and NATO, was more critical than its statement on the 2003 presidential election had

¹⁷⁸ On 2000-2001 developments, see Kemal Ali, "Azerbaijani Opposition 'Betrayed' by Europe," Institute for War and Peace Reporting (IWPR), 5 January 2001; Liz Fuller, "Can Azerbaijan's Opposition Continue to Cooperate", RFE/RL, Caucasus Report, 8 December 2000.

¹⁷⁹ Crisis Group interviews, opposition leaders and activists, Baku, November 2005.

¹⁸⁰ Or on seats to be given to the opposition, according to Rovshan Ismayilov, "Opposition-Government Negotiations: So Much for the Revolution?", Eurasianet, 11 November 2005.

¹⁸¹ For example, in ConEC 31 in Surakhany, results were annulled in ten polling stations to provide APFP head Ali Kerimli a victory.

¹⁸² The deadline can be extended if the court so decides. If the results of the elections are not completely approved, the Constitutional Court is required to adopt a decision regarding new elections. The date for such elections is then set by the president. The Election Code of the Azerbaijan Republic, Articles 171 and 145.

¹⁸³ According to international and local experts the timing of parliamentary re-runs is not prescribed in the election code. Crisis Group interviews, CEC and IFES representatives, Baku, November 2005.

¹⁸⁴ Crisis Group interviews, diplomats, Baku, October and November 2005. Svante Cornell, "Azerbaijan's Parliamentary Elections: A Step Forward," texts of remarks presented at the W.P.Carey Forum, Central Asia-Caucasus Institute, John Hopkins University - SAIS, 7 November 2005. Vladimir Socor, "Azerbaijan's Electoral Campaign: Freer, Fairer, and Awaiting Fair Judgement," Eurasia Daily Monitor, 27 October 2005. Vladimir Socor, "Opening of the Political System Defines Azerbaijan's Imperfect Elections," Eurasia Daily Monitor, 9 November 2005.

¹⁸⁵ Commissioner Benita Ferrero-Waldner, speech before the plenary of the European Parliament, Strasbourg, 26 October 2005. Ahto Lobjakas, "Azerbaijan: EU Doubtfull of Baku's Commitment to Democracy", RFE/RL, 27 October 2005.

¹⁸⁶ Council of the European Union, "Declaration by the Presidency on Behalf of the European Union on the Final Days of the Election Campaign in Azerbaijan," 13648/05 Press (275), Brussels, 28 October 2005.

¹⁸⁷ Statement of the Presidency of the European Union, 10 November 2005.

¹⁸⁸ Co-rapporteur for Azerbaijan Andreas Herkel stated after the elections, "CoE membership of a number of countries undermines the authority of this organisation. However, expulsion of Azerbaijan may destroy the emerging roots of democracy, implanted here with so much effort". J. Bayramova, "Election Results in a Number of Constituencies Should Be Annuled", *Zerkalo*, 8 November 2005.

been,¹⁸⁹ just as each of its three pre-election interim reports was more critical than the last. However, some discord appeared within the OSCE on 9 November when the chairman in office (CiO), Minister Dimitrij Rupel (Slovenia), published a newspaper editorial stating "the parliamentary elections were less than perfect but marked an improvement...[T]he priority is now to prevent the country from slipping into violence".¹⁹⁰

The Commonwealth of Independent States (CIS) mission, in contrast, concluded that the elections accorded with Azerbaijani law, would stabilise the socio-political environment, intensify democracy building, and integrate Azerbaijan into international structures. Having visited some 3,000 precincts, it observed that "the vote proceeded in a calm and good working atmosphere in [the] majority of precincts" and that "certain violations and misgivings in the pre-election campaign process were not massive, and did not significantly effect the free expression of voters' will and the results of the polls". The CIS mission had an unprecedented 640 observers, including 42 long-term observers.¹⁹¹ Russian President Putin was swift to congratulate his Azerbaijani colleague on the "successful completion of the parliamentary elections held in a democratic atmosphere".¹⁹²

Russia also openly expressed dissatisfaction with the OSCE mission's findings and conclusions. The foreign ministry criticised its preliminary statement, saying "we have always spoken out against such rushed assessments, which show bias, ...we are against one-sided, black-and-white interpretations of complicated and sensitive election processes".¹⁹³ A Russian short-term observer (a department director in the foreign ministry), issued a dissenting opinion on the statement of the OSCE mission, which he called "non-objective".¹⁹⁴ Russia had sent 81 short-term observers

(STOs) to the OSCE mission, its largest delegation and the first time in OSCE observation history that Moscow had such substantial presence. Relations between the Russian and other STOs were often collegial, and some Russian STOs expressed dismay at the dissenting opinion that was put out in their name.¹⁹⁵

The Russian foreign ministry clearly intends to increase its influence in election observation missions in the future. It sought to have one of its observers at the table to finalise the preliminary statement with the OSCE, PACE, NATO and EU delegation heads. When this was denied, it claimed that the preliminary statement was "personal opinion made by individuals, but not the opinion of the OSCE -- i.e. of its 55 participating states".¹⁹⁶ Preliminary statements are written and issued by observation missions but Russia has in the past requested that they be voted on in Vienna at the Permanent Council. This would require them to be agreed by consensus, significantly, perhaps irremediably, delaying their issuance. Russia is also seeking to modify the way OSCE election observation missions operate in line with proposals made in 2004 in the CIS Moscow Declaration.¹⁹⁷

The U.S. said the polls "were an improvement over previous elections in some areas. However, we share the preliminary assessment of the OSCE Observer Mission that, despite these improvements, the elections did not meet a number of international standards".¹⁹⁸ The U.S. Ambassador in Baku regularly attempted to serve as a facilitator between the government and the opposition, both before and after the elections. Several ambassadors met with opposition leaders at the UK embassy on 11 November and reportedly offered to recommend that the government give twenty seats to the opposition. When opposition leaders turned this down, they upped the proposal to 30 seats.¹⁹⁹ This suggests that embassies are engaged in horse-trading, which aims to appease the opposition but does not ensure that the elections honestly

¹⁸⁹ Crisis Group interview, officers, OSCE ODIHR Election Observation Mission, Baku, November 2005.

¹⁹⁰ Dimitrij Rupel, "To Plant Reforms, Azeris Need Stable Soil", *The Wall Street Journal Europe*, 9 November 2005.

¹⁹¹ CIS "Statement of the International Observers from CIS States on the Results of Election Preparation and Election Day Observation of the Elections to the Milli Majlis of Azerbaijan Republic", 7 November 2005. Russia sent the largest number of observers to the umbrella OSCE/ODIHR Election Observation Mission.

¹⁹² Announcement of Presidential Press Service, Azertac, 8 November 2005.

¹⁹³ M. L. Kaminin, official representative of the Russian foreign ministry, "Statement in Response to the Statement by the Representative of the OSCE PA Mr A. Hastings, on the Parliamentary Elections in Azerbaijan", 8 November, 2004 (in Russian).

¹⁹⁴ "Commentary by the Coordinator of the Team of Russian Short-term Observers within the OSCE/ODIHR Election Observation Mission in Azerbaijan", Department Director of the Russian Ministry of Foreign Affairs, Aleksandr Vasilyevich Chepurin", distributed on 8 November 2005 in Baku (in Russian) This went against OSCE/ODIHR practices. Dissenting opinions

are discouraged, and the observation mission generally revokes the accreditation of short-term observers who issue them.

¹⁹⁵ Crisis Group interview, OSCE ODIHR Election Observation Mission official, Baku, November 2005.

¹⁹⁶ Kaminin, op. cit.

¹⁹⁷ On 3 July 2004 heads of nine CIS states signed the "Declaration of CIS members states on the Situation in the OSCE", generally referred to as the "Moscow Declaration". It heavily criticised the OSCE "for applying double standards" and singled out OSCE/ODIHR, accusing its election monitoring missions of being politicised and not taking into consideration the specific characteristics of individual states. The full text can be found at <http://www.cis.minsk.by/main.aspx?uid=2096>. For analysis see Robert L. Barry, "The OSCE at a Turning Point", *Basic Notes*, Occasional Papers on International Security Policy, 7 September 2004.

¹⁹⁸ "Azerbaijan Parliamentary Elections," U.S. Department of State press statement, op. cit.

¹⁹⁹ Crisis Group interview, opposition activists, Baku, November 2005.

reflect the will of the voters. Their role instead should be to continue working with the authorities and opposition to insure that elections are implemented fully according to international standards and the commitments Azerbaijan has made to the Council of Europe. They could usefully establish an ambassadorial-level working group²⁰⁰ to press the CEC and the courts to consider complaints fairly and cancel fraudulent results. Before re-runs are held, the group should also call for full implementation of Venice Commission and OSCE/ODIHR recommendations on modifying the election code, in particular establishment of balanced election commissions.

V. CONCLUSION

Before election day, some observers were suggesting that Azerbaijan was ripe for a colour revolution like those in Georgia, Ukraine and Kyrgyzstan if the polling was unfair. However, the state's monopoly on power and its readiness to use force put the country in a different league. Hydrocarbon wealth provides the means to co-opt potential rivals and assure the loyalty of the governing network. The development of new political elites, independent journalists and civil society activists has been stunted. The absence of a true government-opposition dialogue and power-sharing practices has made politics a zero-sum game, played out all too often in the streets rather than in state institutions. The biggest differences between Azerbaijan and those ex-Soviet states where post-election revolutions have happened in the past two years are the lack of popular engagement in electoral politics and citizens' weak belief in their ability to effect change.

Compared to the 2000 election, there has been somewhat greater cohesion this year among opposition parties, which were encouraged by the Georgian and Ukrainian experiences. The U.S., the EU and its member states and some Western institutions have been more outwardly critical but at this point seem disinclined to put serious pressure on the Azerbaijani authorities to meet the oppositions' demands at least halfway or suffer consequences of some sort in bilateral relations. Rather they appear likely to concentrate on persuading the opposition to abandon its boycott and agree to contest repeat elections in January in a handful of constituencies. A tougher stance is only probable if peaceful opposition rallies are broken up violently by police, resulting in large-scale casualties.

If Azerbaijan wants to be accepted as a genuine political and economic regional leader with close Euro-Atlantic ties rather than merely an oil cash cow and anti-terrorism gendarme, however, it needs to do better. Those who

control its government have an exaggerated fear of losing financial and political power, reflected in their obsession with coup attempts and hesitancy to enact reforms. They need greater confidence in their country's future as a democratic state, where rule of law is assured and poverty reduced, and to treat the opposition as a partner not an enemy. Elections should be seen as an opportunity and not a threat.

In October 2005, President Bush reportedly wrote to President Aliyev to the effect that if Azerbaijan's elections were free and fair, a consequence would be to "elevate our countries' relations to a new strategic level", implicitly including a state visit to Washington and closer military and political ties.²⁰¹ The 6 November 2005 parliamentary elections clearly did not meet the test. Washington should draw the appropriate conclusions. If the government does not continue to take the steps recommended in this report to redress election day violations, and in particular if the 2003 post-election situation repeats itself with violence against and arrests of opposition activists, measures considered by the international community should include a diplomatic embargo by the U.S. and others on visits by President Aliyev and his key ministers, the EU holding back on Action Plan talks, and the Council of Europe initiating moves that could lead to Azerbaijan's suspension early in 2006 if matters are not set to right over the elections.

It is not too late for the U.S. and others in the international community to help save some of the opportunity the election day should have represented. But if they are to do so, they will need to be prepared to adopt a common voice and act tougher about the consequences of continued authoritarianism.

Baku/Brussels, 21 November 2005

²⁰⁰ A similar body played a crucial role in the elections process in Georgia in 2003.

²⁰¹ Jackson Diehl, "An Oil-Rich Test for Bush", *The Washington Post*, 24 October 2005.



International Headquarters

149 Avenue Louise, 1050 Brussels, Belgium · Tel: +32 2 502 90 38 · Fax: +32 2 502 50 38
E-mail: brussels@crisisgroup.org

New York Office

420 Lexington Avenue, Suite 2640, New York 10170 · Tel: +1 212 813 0820 · Fax: +1 212 813 0825
E-mail: newyork@crisisgroup.org

Washington Office

1629 K Street, Suite 450, Washington DC 20006 · Tel: +1 202 785 1601 · Fax: +1 202 785 1630
E-mail: washington@crisisgroup.org

London Office

Cambridge House - Fifth Floor, 100 Cambridge Grove, London W6 0LE · Tel: +44 20 7031 0230 · Fax: +44 20 7031 0231
E-mail: london@crisisgroup.org

Moscow Office

ul. Fadeeva 6-1-32 - Moscow 125047 Russia · Tel/Fax: +7 095 251 44 85
E-mail: moscow@crisisgroup.org

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