



İqtisadi Tədqiqatlar Mərkəzi

**"Fighting corruption in Azerbaijan":
without genuine CSOs, free media and independent
court system**

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1. INTRODUCTION

Azerbaijan, the oil - gas rich, human rights poor, one of the very corrupt former soviet republic. Today's geopolitics, Azerbaijan is tiny, but crucial. Azerbaijan is a small country sandwiched between Russia and Iran along the coast of the Caspian Sea.

It is nation with a population of the million and geographically about the size of Austria. But, since 1994, in fact 20 per cent of territory under the occupation by armenian forces.



INTRODUCTION

As with many authoritarian regimes, Azerbaijan is characterised by the large concentration of power in the hands of the ruling elite, which blurs the line between business and politics. The ruling family has extended its reach into virtually all lucrative sectors of the economy and patronage networks permeate all spheres of public life and hamper the long-term economic and social development prospects of the country. Oil and gas revenues sustained the regime for many years, contributed to impressive levels of economic growth, expanded the government's room for manoeuvre in both foreign and domestic policy and helped preserve stability in the country.

2. OVERVIEW OF CORRUPTION

Transparency International's 2016 Corruption Perceptions Index (CPI), gives Azerbaijan a score of 30 on a scale from 0 (highly corrupt) to 100 (very clean), which positions the country among the most corrupt tertile in the index (rank 123 out of 176).

The World Bank's control of corruption indicator, which also reflects perceptions of both petty and grand forms of corruption but adds a component of "capture" of the state by elites and private interests, confirms the CPI assessment:

In 2015, Azerbaijan had a score of - 0.82 in a scale from - 2.5 (most corrupt) to 2.5 (least corrupt), which put the country among the top 20 per cent most corrupt countries in the world.

2. PETTY CORRUPTION

Bribery is a prevalent issue in Azerbaijan. Transparency International's 2016 Global Corruption Barometer reveals that 38 per cent of Azerbaijanis paid a bribe in the 12 months prior to the survey in order to obtain a public service.

Moreover, companies interviewed for the World Bank's 2013 Enterprise Survey corroborate the high bribery rates in the country. While only 16 per cent of firms report having paid a bribe, over 40 per cent stated that they are expected to bribe to secure government contracts or obtain construction permits.

GRAND AND POLITICAL CORRUPTION

Political institutions are closely linked to clan structures and the ruling elite. According to the 2012 report on human rights practices, members of the ruling party often enjoy preferential treatment, especially in terms of being granted public positions. Parliament members are often protégés and relatives of oligarchs, and the civil service suffers from endemic clientelism, cronyism and nepotism (Bertelsmann Foundation 2016). Most ministers, including parliamentarians and governors, have bought their jobs, and many are directly related to powerful officials and the presidential family (International Crisis Group 2004).

Oil revenues have provided the government with further opportunities to sustain and expand these patronage networks on which the incumbent regime is based.

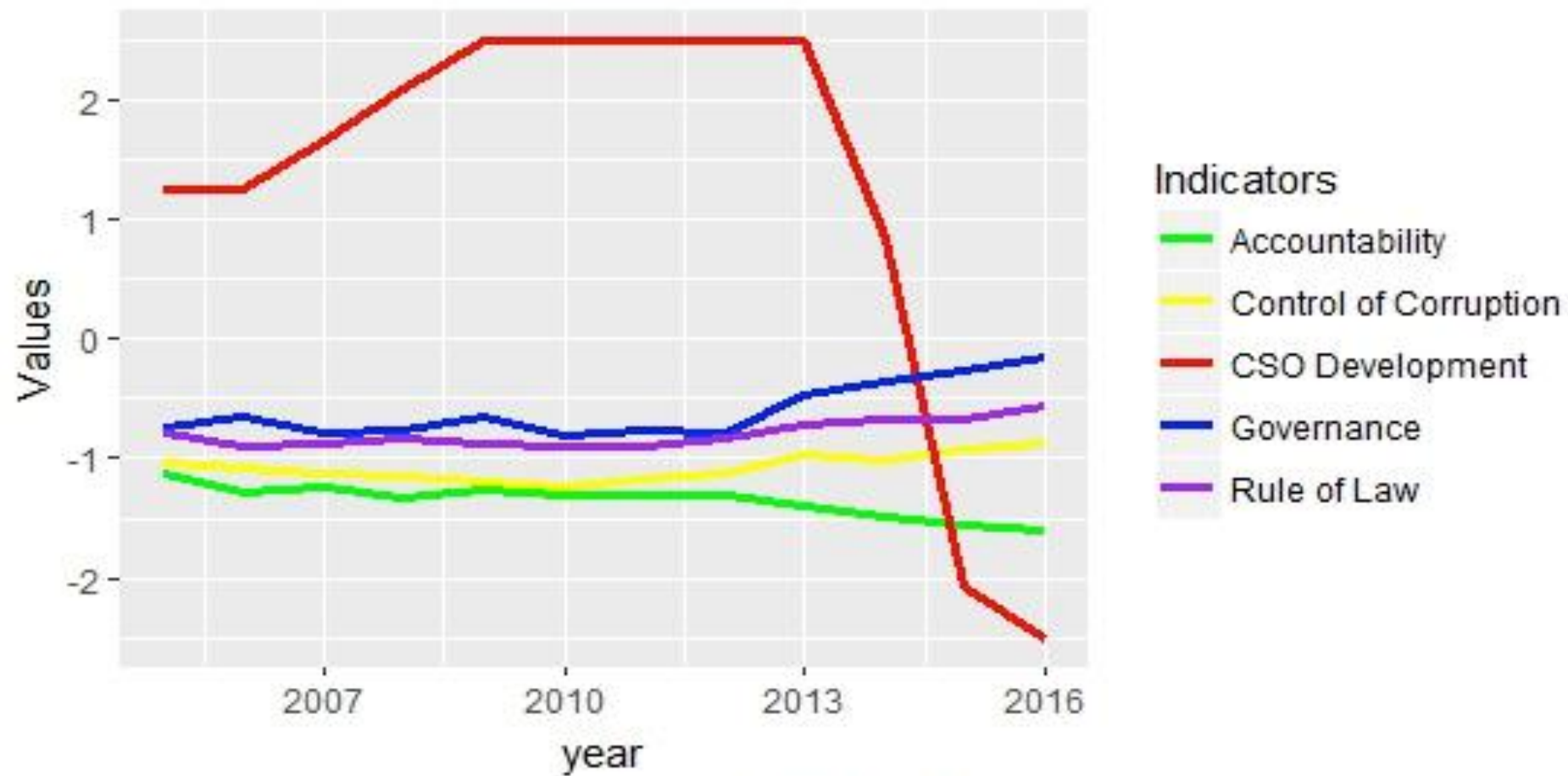
3. MAIN INSTITUTION OF ANTI-CORRUPTION ACTIVITIES

- The Commission on Combating Corruption
- Prosecutor general's office
- Courts
- The Chamber of Accounts
- Financial monitoring services
- Ombudsman
- "Civil society"
- "The media"

4. LEGAL FRAMEWORK

1. The legal framework against corruption is assessed as strong by Global Integrity, which gives a score of 100 out of 100 (Chêne 2013). The Criminal Code criminalises major corruption offences, including active and passive bribery, extortion, attempted corruption, bribery of foreign officials, money laundering and abuse of office, and forbids public officials to receive gifts of a value exceeding US\$55.
2. In terms of its international commitments, Azerbaijan ratified the Council of Europe Criminal and Civil Law Conventions in 2004 and the United Nations Convention against Corruption in 2005. Azerbaijan is also a state party to the United Nation Convention against Transnational Organized Crime since 2003. Azerbaijan was EITI member country from 2004 to 2017.

Azerbaijan	2013	2014	2015	2016	2017	2018
Corruption perception index	127/177 28/100	126/174 29/100	119/167 29/100	123/176 30/100	-	-
Open budget index	42/100	-	51/100	-	34/100	-
Civil Society Sustainability Index	4.7/7	5.1/7	5.8/7	5.9/7	-	-
Freedom index	23/100	22/100	20/100	16/100	14/100	12/100
World press freedom index	156/100 47.73/100	160/180 52.89/100	162/180 58.41/100	163/100 57.89/100	162/180 56.4/100	-



Source: World Bank

5. CAUSES OF CORRUPTION

1. Lack of judicial independence
2. Lack of civic and media participation
3. Limited access to data on management of public funds
4. Lack of transparency in government

5.1. LIMITED ACCESS TO DATA ON MANAGEMENT OF PUBLIC FUNDS

The budgetary documents adopted by the Parliament are not published at accessible public media outlets on timely manner.

Up to 40 per cent of public spending lack economic and functional classification and even members of parliament do not have access to those data.

Founders of legal entities operating in Azerbaijan and taxes paid by them are considered commercial secrets.

The process of an integration of data founders into protected personal information included into Constitutional act through Referendum held in September 2016 and it was adopted.

Beneficial ownership Road Map adopted within the EITI has been cancelled.

5.2. LACK OF JUDICIAL INDEPENDENCE

Azerbaijan's Constitution guarantees judicial independence. However, in practice, there are strong links between the judiciary and the government. The selection of judges, for instance, is administered by the Judicial Legal Council, but the majority of its members is appointed by the government. Moreover, the Council is presided over by the Minister of Justice. These elements give the government significant control over the entire judiciary. Additionally, the judges of the Constitutional Court are not directly selected by a purely judicial, independent and impartial body, but by the President of the Republic. Furthermore, the Azerbaijani law and the legal culture of the judiciary and prosecution enable the executive branch to use the justice system to systematically persecute journalists, human rights activists and political leaders.

The political decisions in the courts are being adopted with direct instructions from presidential administration, whereas civil and business decisions are mainly made through bribe.

5.4. LACK OF CIVIC PARTICIPATION

The crackdown on independent civil society has had a profoundly negative effect on the ability of NGOs and civic activists to engage in, let alone promote the policy of anti-corruption in Azerbaijan. In the case of a number of independent CSOs, their bank accounts and even the personal accounts of senior staff were seized by court decisions adopted without any opportunity for the NGO leaders to defend themselves. Dozens of members of independent COSs groups were interrogated by the Prosecutor's Office, and criminal cases were opened against several NGOs. Under this pressure, sizeable numbers of independent NGOs working on anti-corruption, environment issues were compelled to suspend their activities.

NGOs and their alliances functioning in the field of anti-corruption in Azerbaijan has been weakened considerably in recent years. It should be noted that majority of independent CSOs has fully suspended its operation. Despite the fact that the expert group specialized in the field of anti-corruption in Azerbaijan has stopped its operation, however, comments and views of experts in this direction are published in periodic media outlets.

Currently, government is willing to fill this gap through funding pro-governmental NGOs (GONGOs) and nominal alliances as well.

5.5. LACK OF FREE MEDIA PARTICIPATION

Azerbaijan has a long record of state antagonism toward independent and opposition media. In the last three years, the authorities have undertaken a **vicious crackdown** on the media, imprisoning independent and opposition journalists in retaliation for critical reporting. At least ten journalists and bloggers are currently in prison on politically motivated charges. Media professionals operate in a highly repressive environment, and freedom of the press is routinely and systematically violated.

Besides jailing critical journalists, Azerbaijani authorities permanently block websites of some major media outlets critical of the government, including Radio Free Europe/Radio Liberty, Azadlig newspaper, and Meydan TV, and have **proposed** new legislative changes to tighten control over online media.

In Azerbaijan, president Aliyev can get any local award he wants. He gifted some 250 free apartments to the country's journalists in 2 months ago. So far, construction of 2 buildings has been completed and is being provided up to 500 apartments for "journalists".

Ilham Aliyev has to do much more than give free apartments to prove he is a true friend to journalists. In return, the Press Council, a local media organization, awarded him the title of a "friend of journalists," his third since 2013.



Mehman Huseynov

is an Azerbaijani human rights defender and journalist who documents the extensive corrupt practices and violations of human rights in Azerbaijan.

His recent campaign, “Hunt for Corrupt Officials”, exposes documented corruption in the high echelons of Azerbaijan’s ruling establishment.



Mehman Huseynov was arrested on 9 January 2017 when five off-duty policemen in plainclothes forcibly dragged the defender to an unmarked vehicle where his mouth was sealed with tape, a bag was put over his head and he was beaten and tasered.

On 3 March 2017, the Surakhansky District Court of Baku found Mehman Huseynov guilty of “slander, which equates to an accusation of committing a very serious crime” under Part 2 of Article 147 of the Criminal Code of Azerbaijan and sentenced him to two years imprisonment.

Khadija Ismayilova

is a prominent journalist and human rights defender in Azerbaijan and is well known for her investigative reports on corruption in Azerbaijan, including the President's family's involvement. Khadija Ismaylova was arrested on 5 December 2014, sentenced to seven years and six months in prison, under fabricated charges of misappropriation, embezzlement, illegal business and abuse of power.

On 25 May 2016, she was released on probation. The Court did not drop the indictment against her, resulting in her facing 3.5 years on probation, a two-year ban on professional activity, a travel ban and other restrictions.



6. VICTIMS OF CORRUPTION

- Ordinary, particularly poor people
- Business representatives
- Free media, especially investigative journalists
- Independent experts, genuine CSOs leaders and civic activists
- Low and middle level civil servants

7. CONCLUSION

1. Corruption in Azerbaijan is endemic and systematic: it is present in all levels and aspects of the society.
 2. Corruption negatively impacts the enjoyment of the fundamental human rights (civil and political rights as well as economic social and cultural rights).
 3. Only civil society and free media led anti corruption efforts have had on indirectly reducing corruption and increasing state responsiveness.
 4. Free media's role in preventing corruption is indisputable.
- ~~5. Without an independent judiciary no effect combating corruption.~~

THANKS FOR YOUR ATTENTION

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