

Discussion Paper ¹

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EU relations with Azerbaijan: More for Less?

The EU's rhetoric on comprehensive engagement and a multi-dimensional Neighbourhood Policy has failed to result in pressure to improve human rights in Azerbaijan. Instead, energy security has regularly trumped human rights concerns as the EU has privileged a narrower set of priorities than those agreed in the joint Action Plan. The expansion of energy cooperation, far from improving governance and transmitting European norms, has resulted in even less willingness to raise these concerns in Baku. EU policy-makers, believing that they lack leverage in the face of hydrocarbon-rich Azerbaijan and insecure about the attractiveness of what the EU has to offer, have not attached conditions to the relationship. Against the background of the Arab Spring and the recent Neighbourhood Policy review, this paper discusses the EU's potential leverage, concluding that a robust EU policy that incorporated human rights would deliver better results. It is time for the EU to link its expectations for political reform to policy consequences.

Background

Azerbaijan is neither an easy nor an obvious partner in Europe's project to integrate its neighbours. Geographically distant, lying on the shores of the Caspian, it has no direct border with the EU. The current government is ambivalent about the country's European alignment and associated norms and values, despite Azerbaijan's pre-Soviet heritage as the first Muslim democracy in the world.²

Nevertheless, following the EU's successful enlargement policy and the colour revolutions in Ukraine and Georgia, Azerbaijan was included in the EU's European Neighbourhood Policy (ENP) when it was launched in 2006 to replace the TACIS programme.³ The ENP is an ambitious policy, combining its approach to enlargement – of encouraging countries to take on EU rules and norms – with the foreign policy goal of creating a ring of stability, prosperity and democracy in states on the EU's borders.

From the start, the ENP's complex policy mix of values and interests met resistance in Azerbaijan. It has proved the least willing of the South Caucasus countries to embrace the EU's transformative agenda and socialisation objectives (including free trade, people-to-people

¹ This Discussion Paper is based on a chapter in Adam Hug, ed. *Spotlight on Azerbaijan*, May 2012, The Foreign Policy Centre (London), available at <http://fpc.org.uk/publications/spotlight-on-azerbaijan>.

² Azerbaijan briefly had a democratic government between 1918 and 1920.

³ The EU started relations with Azerbaijan upon its independence in 1991, and assistance was dominated by the Technical Assistance to the Community of Independent States (TACIS) programme to maintain economic and political links among the post-Soviet states, as well as food aid. This cooperation was essentially based on energy and transportation.

contacts, visa facilitation), let alone objectives on human rights and democratisation. Five years on, EU-Azerbaijan relations have advanced in some areas – notably energy cooperation – but many of the political commitments remain on paper and negotiations on an Association Agreement are proceeding slowly.

Normative failure

The EU's values agenda has seen little if any progress since Azerbaijan committed itself to a number of reforms in a jointly signed Action Plan in 2006. Far from progressing, Azerbaijan has taken backward steps during the lifespan of this new relationship. It has dropped from 135th to 162nd place in the Reporters without Borders Press Freedom Index,⁴ and it is characterised in international indices as highly corrupt and authoritarian and “not free”.⁵ Specific commitments to improve the judiciary, simplify NGO registration and develop independent broadcasting have not been met.

The government's reluctance to embrace reforms has led Azerbaijan to lag behind its South Caucasus neighbours to become, along with Belarus, the lowest performer in the Eastern Partnership.⁶ Whereas relations with Azerbaijan have been formally conducted on a parallel track with Georgia and Armenia, it has increasingly become clear that each has a different vision of their respective relationship with the EU, and that Azerbaijan prefers an interest-based partnership rather than one that involves commitment to EU norms and standards.⁷

The EU-Azerbaijan relationship is a tale of mismatched objectives and ambitions. The EU has, in its written texts at least, tended to seek comprehensive reforms across a range of sectors, while Azerbaijan's interests are more narrowly defined. The Action Plan commitments, additional to the standard contractual Partnership and Cooperation Agreement signed in 1999, projected reforms across a broad range of policy areas. Among the 10 priorities, Nagorno-Karabakh features highly (priority 1), as does energy cooperation – testifying to the government's interests, whereas the EU pushed for priorities 2 and 3 which focus on democratisation and human rights protection.⁸ Successive annual European Commission progress reports and those by independent observers⁹ have highlighted the government's failure to implement even minimally its political commitments. Despite this lack of progress towards safeguarding human rights and consolidating democracy, there are plans to deepen the relationship.

The EU and Azerbaijan are currently negotiating an Association Agreement and a possible Roadmap of future policy reforms; the EU again looking for a comprehensive partnership while Azerbaijan is more interested in cherry-picking areas for collaboration. Nagorno-Karabakh and

⁴ Reporters Without Borders Press Freedom Index. Figures given here are for 2006 and 2010 respectively.

⁵ Transparency International Corruption Perception Index 2010, Freedom House Nations in Transit, 2010.

⁶ The Eastern Partnership was launched by the EU as a multilateral layer for the ENP East. Recent Comparative Analysis of the 6 Eastern Neighbours ranks Azerbaijan 5th in its ‘Linkage and Approximation to EU structures and Management of EU integration processes’. Belarus is in 6th place, Moldova comes top. European Integration Index, Open Society Foundations, November 2011.

⁷ See Memorandum of Understanding on a Strategic Partnership between EU and Azerbaijan on Energy (December 2006).

⁸ The Action Plan's 10 priorities are: conflict resolution on Nagorno-Karabakh; strengthen democratisation, (with particular focus on a transparent and fair electoral process), strengthen human rights protection; improve business and investment climate (esp. fight against corruption). Improve customs, economic development, diversification, rural development and protection of environment, Convergence of economic legislation and administration; EU-Azerbaijan energy bilateral cooperation regional cooperation, cooperation in the field of justice freedom and security; including in the field of border managements (visa and readmission), regional cooperation. EU/Azerbaijan Action Plan, 14 November 2006, available at http://ec.europa.eu/world/enp/pdf/action_plans/azerbaijan_enp_ap_final_en.pdf.

⁹ Jos Boonstra, *How Serious is the EU about supporting democracy and human rights in Azerbaijan*, ECFR Working Paper, 29 May 2012.

the issue of territorial integrity are a sticking point in official negotiations, alongside Azerbaijan's resistance to discussing political questions, particularly human rights.¹⁰

Energy security versus human rights

One area where the partners' interests converge is on energy cooperation. The EU will rely on external imports for more than 70% of its energy supply by 2030. The 2006 Russia-Ukraine gas crisis prompted broad consensus among the EU27 on the need to diversify supply away from Russia, *inter alia*, through a Southern Gas Corridor that is hoped to supply 10-20% of EU gas demand by 2020.¹¹ Azerbaijan has 2.5 trillion cubic metres of gas reserves and is projected to have an output of 28.2 billion cubic metres in 2012.¹² Against this context, the signing of a Memorandum of Understanding on Energy in a parallel process to the launching of the Action Plan was significant.¹³ Energy concerns have driven the higher level political relationship, whilst the job of policing the Action Plan commitments has been left to the technocrats at working level.

European Commission President Barroso and Commissioner Oettinger paid several visits to Baku related to negotiations for a Transcaspian Gas Pipeline Agreement that was signed in September 2011.¹⁴ On human rights the EU has generally preferred quiet diplomacy to outspoken critical statements or sanctions, preferring to bury its criticism in bureaucratic reports.¹⁵ The thirst for Azerbaijani oil and gas is an interest which overrides, or is seen to be hampered by, asserting EU values. The result has been contradictions between the pronouncement and pursuit of policy goals: rhetorical commitment to human rights is consistently trumped by interest in Caspian energy.

Where human rights have been raised, they have been emphasised to differing degrees by various arms of the EU. The Commission has not been a unitary actor. Its Directorates-General for Enlargement and Neighbourhood and for Energy have different approaches; the latter taking the policy lead following the appointment to the European External Action Service of an EU ambassador who had previously worked with the Energy Commissioner. Other actors in Brussels have not performed any better. The European Parliament has championed individual human rights cases, for example protesting the murder of journalist Rafiq Tagi, but also produced a resolution favourable to Azerbaijan on the EU-Azerbaijan association agreement that recognised Azerbaijan's 'territorial integrity' and praised its contribution to the Eastern

¹⁰ For example, Azerbaijan, unlike Georgia and Armenia, has still not formally agreed to a Human Rights Dialogue. A discussion takes place in a technical committee linked to Justice Liberty and Security cooperation.

¹¹ See the EU Second Strategic Energy review and "The EU Energy Policy: Engaging with Partners beyond Our Borders" September 2011.

¹² Official State Oil Company of Azerbaijan Republic (SOCAR) figures.

¹³ Initially oil, and now Shah Deniz gas has been the background to the relationship. Heydar Aliyev signed an oil deal in 1994 with 11 companies, including many Europeans, which was dubbed the Contract of the Century.

¹⁴ The Transcaspian Pipeline would ship gas from Turkmenistan via Azerbaijan to Europe.

¹⁵ The ENP Progress reports have diplomatically raised concerns in their overall assessments. For example in the 2009 ENP progress report the EU began by noting that Azerbaijan "made some progress in the implementation of the ENP Action Plan notably in areas related to economic and social governance" and went on to address these aspects before tackling political reforms, and then did so factually SEC(2010) 519 (12 May 2010). The 2011 ENP progress report has a stronger tone, noting that "Azerbaijan needs to make significant further efforts" to meet democracy and human rights commitments, and lists recommendations SWD(2012) 111 final (May 2012).

Partnership.¹⁶ For their part the member states have pursued bilateral relations according to their commercial interests.¹⁷

The assumption driving this policy incoherence, namely that human rights, democracy and a rule of law-based agenda are incompatible with the pursuit of energy interests, has been challenged by events in the EU's Southern Neighbourhood. The Arab Spring illustrated how pursuing energy and commercial deals at the expense of human rights had disconnected the EU from the aspirations of those societies. The reputational and political cost to the EU prompted a review of its policy towards its neighbours which placed promising new emphasis on supporting civil society groups and human rights and democracy. As yet these innovations are largely geared towards the Southern Neighbourhood.¹⁸

Azerbaijan has therefore become a blind spot in the EU's field of vision. Notwithstanding efforts by the Commissioner for Enlargement and the Neighbourhood, and recent local statements by the upgraded EU Delegation in Baku aimed at protecting human rights defenders and targeted individuals,¹⁹ the EU has yet to draw consistent links between energy, trade and human rights policy both in terms of ensuring coherent messaging towards Azerbaijan, or outlining negative policy consequences. This lack of policy coherence threatens to become a strategic issue at the multilateral level. For example, Azerbaijan is ranked below Belarus in the 2011 Economist Intelligence Unit Democracy Index.²⁰ Whereas energy-poor Belarus receives consistent criticism and sanctions and its government barred from participating in the EU's Eastern Partnership, the EU has not responded to Azerbaijan's crackdown on dissent with sanctions.

Leverage concerns and dependency narrative

Much EU discourse and policy is shaped by the perception that the EU needs hydrocarbon-rich Azerbaijan more than the reverse. Officials frequently bemoan the EU's lack of leverage, pointing to its gas reserves and a "supply diversification" strategy. From 2007, Azerbaijan has emerged as a decisive broker for a number of gas deals involving competing commercial entities from different EU member states (initially a three-way competition but since opening up to other consortia),²¹ as well as transit deals with Turkey. At the same time, the country has been slow to take up the EU's offer to its neighbourhood, characterised by the EU's High Representative for Foreign Affairs and Security Policy as "money, markets and mobility". As a non-WTO member Azerbaijan's interest in EU plans for a Deep and Comprehensive Free Trade Agreement is limited. The country has not shown a clear interest in visa facilitation – and indeed toughened its own visa rules in the last 2 years. EU budget support financing has also lacked appeal. Azerbaijan has been reluctant to sign off financing agreements under the European Neighbourhood Partnership Initiative worth €122.5 million from 2011-13, a level of aid which is negligible in light of Azeri oil and gas revenues.

¹⁶ Resolution on EU-Azerbaijan Association Agreement, 19 April 2012. In addition to the resolution on Rafiq Tagi (December 2011), the Parliament voted a highly critical urgency on human rights in Azerbaijan in May 2011.

¹⁷ For example, visits by the UK's Prince Andrew in a Business Envoy role.

¹⁸ HR/VP-Commission Joint Communication, "A New Response to a Changing Neighbourhood: A review of European Neighbourhood Policy", Brussels, 25/05/2011, COM(2011) 303.

¹⁹ See for example, local human rights statement on the case of Khadija Ismayilova.

²⁰ In the Economist Intelligence Unit: Democracy Index (2011), Azerbaijan is ranked 140/167 with a 3.15 score, with Belarus considered marginally less authoritarian, at 3.16, where 10 is a 'full democracy'.

²¹ The original three-horse race between Nabucco, Italy-Turkey-Greece-Interconnector (ITGI), Trans-Adriatic-Pipeline (TAP) has recently opened up following possible Azerbaijani SOCAR endorsements to include the BP sponsored SEEP and a mooted joint Turkish-Azerbaijani Trans-Anatolian Pipeline (TANAP).

Frequent official insistence that the EU has no leverage has been both an excuse for inaction on human rights and a strategic blunder. The EU's position as an energy consumer has been misinterpreted as one of energy dependence (despite the fact that the EU market of 500 million people gives it considerable clout), while the EU's political embrace of grand infrastructure projects, notably the Nabucco pipeline, has allowed its foreign policy to be tied to the notoriously fickle energy markets,²² with implications for geopolitics as well as human rights. Recent developments testify to the lack of success: for all the high politics of the Southern Gas Corridor and its once flagship contender, Nabucco, the EU and its Commission-led Caspian Development Corporation has been largely sidelined by commercial ventures involving its member states. Far from defeating Russia at its own foreign energy policy game, the EU has allowed its soft power to be overshadowed and has so far emerged with little to show for its concessions.

The other component to the dependency myth is that by intensifying cooperation the EU will enhance leverage to effect transformative change. In the case of Azerbaijan, the experience of recent years shows how this assumption breaks down. European engagement with the country has increased from the mid-1990s onwards. As self-confidence has grown with its rapidly rising GDP, supported by oil and gas deals with European companies, it is authoritarianism that has become entrenched rather than the protection of rights and the promotion of the rule of law. Presidential and Parliamentary Elections in 2008 and 2010 fell well short of international standards, and were characterised by a restrictive media environment, withdrawal of opposition parties owing to obstacles to equitable coverage, and a complete lack of a level-playing field. Abuses of property rights relating to pipeline construction continue, as the State Oil Company of Azerbaijan Republic (SOCAR) acts with increasing impunity,²³ all while the EU becomes less disposed to raise critical concerns.

If linkage is to lead to leverage, it can only be through the exercise of strict benchmarking (delivered publicly) and the development of redlines (conditionality by another name). EU insecurity about the attractiveness of its offer and its perception of dependency has resulted in a lack of political conditions. This self-fulfilling dependency narrative and engagement without conditions has been both geopolitically and commercially un-strategic. The EU risks undermining its credibility, as happened in the Arab world, while the failure to tackle impunity, lack of rule of law (and its bedfellow, rampant corruption), will blight commercial opportunities gained further down the line. Companies are still leaving Azerbaijan. In March 2012, Nestlé, the world's largest food company, announced it was severing all ties because of rampant corruption impeding its business. Unless Azerbaijan tackles corruption, others may follow.

Breaking the dependency myth – more for more

The ENP review brings a chance to rebalance the relationship and for the EU to have a more coherent and consistent approach towards Azerbaijan. The first step is to recognise that, despite its self-confident rhetoric, Azerbaijan needs the EU. Brussels and member state capitals, far from lacking leverage, are key targets for the government and civil society. For the government, Brussels is an increasingly important element in a policy of balancing geopolitical interests. Azerbaijan has poor relations with Iran and there is a perceived imbalance (in Armenia's favour)

²² Since the launch of the Southern Gas Corridor and the endorsement of the Nabucco pipeline in particular, the markets have been transformed by the rise of liquefied natural gas (LNG), shale gas and tight gas technologies.

²³ On 18 April, two journalists were beaten when trying to film the demolitions of homes by employees of SOCAR, <http://www.amnestyusa.org/sites/default/files/uaa11012.pdf>.

of Russia's relations in the region.²⁴ This leaves Azerbaijan in need of cooperation with the EU and potentially Euro-Atlantic structures in the event of a regional conflict. Baku depends on international efforts, and increasingly on EU engagement, to solve its dispute with Armenia over Nagorno-Karabakh.

The EU is also a key economic player and is Azerbaijan's leading trading partner, accounting for nearly 50% of Azerbaijani exports in 2010.²⁵ Azerbaijan's westward energy policy and largely undiversified economy²⁶ leave its oil and gas exports dependent on the EU market. The country has an interest in avoiding the resource curse through implementing regulatory reforms and a diversification strategy as oil output in particular continues to decline.²⁷ Finally, prestige projects such as the Eurovision song contest, Azerbaijan's campaign for a UN Security Council seat and its ambition to host the Olympics in 2020 reveal the importance of international legitimacy and prestige to the authorities, in sharp contrast to the absence of legitimacy conferred by the domestic democratic process.

Azerbaijan has still managed to maintain a robust civil society, including a younger, well educated blogger generation that looks to the EU for inspiration and support. Ahead of May's Eurovision song contest, many groups called for the EU to be more vocal about human rights concerns and are seeking EU support for their democratic aspirations.²⁸ The EU's recent rhetoric in its ENP review on a "partnership with societies"²⁹ is timely and offers a chance for the recently upgraded delegation to reach out further, unshackled by government prescriptions about who should be invited to sit around the table, as was unfortunately the case during an EU-Azerbaijan civil society seminar in June 2011.³⁰ The EU can also afford to move beyond quiet diplomacy to speak out more often: recent local delegation statements (in particular the case of the persecution of journalist Khadija Ismayilova) provided important protection for the victims and a morale boost for local activists and should now form part of a consistent post-Arab Spring strategy of talking beyond governments.

New funding via the Civil Society Facility worth €22 million a year (shared among the 16 neighbourhood countries) also brings a chance to provide additional funding to independent NGOs following years of limited cooperation through the small EU assistance office. A proposed European Endowment for Democracy already sends a strong signal. If it becomes a reality, it will enable more cutting-edge and less risk-averse funding to pro-democracy projects in Azerbaijan. The EU could also use increased flexibility in its new funding instrument, the European Neighbourhood Instrument, to move funds across substantive areas, and also to redirect funding to independent civil society if there is mismanagement of funds or backsliding, or if the government fails to take up funding. In particular, this could involve a reinvigorated and peer-vetted National Platform of the Eastern Partnership Civil Society Forum. Support for innovative projects like those the EU and its member states currently undertake for Belarus (such as BelSat independent TV) would keep the EU consistent in its democratisation activities across its Eastern neighbourhood, while responding to the needs and aspirations of broader society. Targeted use of the Erasmus Mundus External Window for young dissidents would

²⁴ Notably the Russian military base in Gyumri, Armenia whose lease was extended in 2010 to 2044.

²⁵ DG Trade figures: http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_113347.pdf.

²⁶ Oil and oil products constituted 92 % of Azerbaijan's exports in the first 10 months of 2011 according to the Centre for Economic and Social Development, Baku.

²⁷ See Oil Boom and Resource Curse, Centre for Economic and Social Development, Baku.

²⁸ See www.Singfordemocracy.org.

²⁹ Op.cit., Joint Communication, May 2011.

³⁰ The June 2011 seminar, on the subject of civil society development, was organised by GONGOs and independent NGOs were specifically excluded.

provide opportunities for those denied funds through the government's state-run diplomatic academy programme.

Alongside funding support, the EU could usefully develop, ideally through a public and transparent process, a common and strategic understanding of what it will and will not accept from Azerbaijan, as it does with other Caspian hydrocarbon-rich states. This *less for less* policy will help the "more for more" promise emerge as a consistent and targeted policy. Such an EU policy has the potential to create a virtuous circle whereby the competition created by its differentiated approach to its partners in the neighbourhood will encourage competition and best performers, rather than allowing countries like Azerbaijan to become a lowest common denominator (the 'more for less' scenario).³¹ Over the long term, developing clearer rules and conditions for engagement will also safeguard the EU against being drawn into relationships of perceived dependence on unreliable or unreformed states. Short-term expediency should no longer come at the cost of long-term political and commercial sustainability.

Civil society actors in Baku frequently remind observers that yesterday's Tunisia is today's Azerbaijan. The EU can ill afford a Caspian repetition of its failed pre-Arab Spring policy. This is avoidable, in part, if the EU adopted a smarter approach to civil society through: more comprehensive engagement with a cadre of well educated young people and non-governmental actors, including dissidents; less government interference in EU-civil society interactions; and more civil society participation in policy processes linked to the ENP. The dividend for this approach will be national NGOs who become internal amplifiers of the EU's soft power. This is the essence of the EU's new move towards a partnership with societies. Support and engagement at a substantive and policy level, showing in practice how consultation works, may lead to the elusive 'normative' goal that was absent from purely commercial relations. Engagement along political as well as economic lines, and an unequivocal policy stance on human rights, would enable the EU to become a more coherent, consistent and, above all, credible partner for Azerbaijani society.

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³¹ In the ENP review, the "differentiated" approach is used both *within* and *between* countries. Within countries by ensuring that where targeted policy measures against governments engaged in human rights violations result in curtailed relations, the EU "will not only uphold but strengthen further its support to civil society"; and between countries, referring to a calibrated approach "according to the specific needs as well as the level of ambition of each partner". Op.cit., Joint Communication, May 2011.