

Azerbaijan: Country Report on Human Rights Practices - 2003

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Released by the Bureau of Democracy, Human Rights, and Labour
February 25, 2004

This report gives an overview of the human rights practices, as well as the system of governance, economic state and policies of Azerbaijan, survey of which makes clear why the country rates so high in all international corruption perception ratings.

One of the sad but logical conclusions of the report is that “widespread corruption and patronage reduced competition, and the slow pace of reform limited development outside the oil and gas sector, which accounted for more than 90 percent of export revenues”. This is supported by substantial first hand data, which reflects the “*de facto*” state, in addition to thorough overview of the legislative framework of Azerbaijan.

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Azerbaijan is a republic with a presidential form of government. The Constitution provides for a division of powers between a strong presidency and parliament (Milli Majlis) with the power to approve the budget and impeach the President. The President dominated the executive and legislative branches of Government. Ilham Aliyev was elected President in October in an election marred by numerous, serious irregularities. Parliamentary elections in 2000, 2001, and during the year featured similar irregularities, resulting in some domestic groups regarding the parliament as illegitimate. Opposition members made up only a small minority of the Milli Majlis' 125 deputies. The Constitution provides for an independent judiciary; however, the judiciary did not function independently of the executive branch and was corrupt and inefficient.

The Ministries of Internal Affairs (MIA) and National Security are responsible for internal security and report directly to the President. Civilian authorities maintained effective control of the security forces. Members of the security forces committed numerous human rights abuses.

The Government continued to affirm its commitment to develop a market economy, but economic reform continued to be slow. According to official figures, the population was approximately 8 million, of which an estimated 2 million lived and worked abroad. Widespread corruption and patronage reduced competition, and the slow pace of reform limited development outside the oil and gas sector, which accounted for more than 90 percent of export revenues. Despite the privatization of 98 percent of farmland, commercial agriculture remained weak and subsistence farming dominated the rural economy. The GDP growth rate was 11.2 percent. Poverty nationwide has decreased, but 49 percent of the population still lived below the poverty level. Estimates of unemployment ranged from 15 to 20 percent.

The Government's human rights record remained poor, and it continued to commit numerous serious abuses. The Government continued to restrict citizens' ability to change their government peacefully. Law enforcement officers killed one person at a post-election demonstration on October 16 that turned violent. Police tortured and beat persons in custody, including several opposition members, and used excessive force to extract confessions. In most cases, the Government took no action to punish abusers, although the Government reportedly took disciplinary action against more than 200 police officers. Prison conditions remained harsh and life threatening, and some prisoners died as a result of these conditions. Arbitrary arrest

and detention and lengthy pretrial detention continued to be problems. After the election, authorities conducted a wave of politically motivated detentions and arrests of more than 700 election officials, opposition members, and journalists; more than 100 remained in custody at year's end. The Government continued to hold many political prisoners and infringed on citizens' privacy rights.

The Government continued to restrict some freedom of speech and of the press, and police used excessive force and continued to harass journalists during the year. Government officials sued journalists for defamation. The Government restricted freedom of assembly and forcibly dispersed several demonstrations held without a permit, and law enforcement officers beat protestors at several demonstrations during the year. The Government continued to restrict freedom of association by refusing to register some political parties and harassing domestic human rights activists and nongovernmental organizations (NGOs). There were some restrictions and abuses of religious freedom, and lower-level and local government officials continued to harass some "nontraditional" religious groups. Violence against women, societal discrimination against women and certain ethnic minorities, and limitations of some worker rights remained problems. Trafficking in persons was a problem.

Despite a cease-fire in effect since 1994, minor outbreaks of fighting with Armenia over Nagorno-Karabakh occurred during the year, resulting in the deaths of civilians and combatants. Armenian forces continued to occupy an estimated 16 percent of Azerbaijan's territory (including Nagorno-Karabakh); this fact continued to dominate national politics and undermine democratic and economic development. The Government did not exercise any control over developments in the territories occupied by Armenian forces, and little verifiable information was available on the human rights situation there. Approximately 800,000 Azerbaijani refugees and internally displaced persons (IDPs) left or were forced from their homes in the occupied territories and Armenia.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, including Freedom from:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports of political killings by the Government or its agents; however, law enforcement officers beat one person to death at a post-election demonstration on October 16 that turned violent (see Section 2.b.). Some detainees and prison inmates died, in part as a result of mistreatment by law enforcement personnel and harsh prison conditions. Authorities did not prosecute suspects in these cases (see Section 1.d.).

There was no investigation into the 2002 death of Beylar Kuliyev, who jumped to his death from a window in the General Prosecutor's office following 10 days' imprisonment and interrogation. The Government reported that it closed the criminal case in June 2002, since a forensic examination indicated all bodily injuries resulted from a fall.

The police officer accused of killing Ilgar Javadov in 2001 was convicted in March 2002 and sentenced to 5 years in prison.

During the year, a number of deaths occurred among army conscripts, in which hazing of the victims was suspected. According to press reports, 15 army conscripts died in 2002.

Occasional cease-fire violations by both sides in the conflict with Armenia over Nagorno-Karabakh resulted in 13 deaths and some injuries to both civilians and soldiers during the year.

According to the National Agency for Mine Actions, landmines killed 15 persons and injured 14 during the year.

During the year, the Government suspended the investigation into the 2001 killing of a senior Chechen military commander, having determined that two Chechen nationals killed him and were fugitives.

b. Disappearance

There were no reports of politically motivated disappearances.

The International Committee of the Red Cross (ICRC) repeatedly urged the Azerbaijani and Armenian Governments to provide information on the fate of those missing in action since the fighting over Nagorno-Karabakh began. Since the early 1990s, the ICRC has collected from concerned family members the names of approximately 2,300 missing Azerbaijani citizens allegedly held by Armenia. The Government estimated the number to be closer to 4,922.

Since June 2002, ICRC assisted in the repatriation of six Azerbaijani citizens and three Armenian citizens, at the request of both governments.

c. Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment

The Criminal Code prohibits such practices and provides for up to 10 years' imprisonment for violators; however, there were credible reports that security forces continued to torture inmates and used excessive force to extract confessions. Police beat prisoners during arrest, interrogation, and pretrial detention.

Security officers forcibly disrupted some demonstrations and in some cases harassed, beat, and detained some opposition party members, demonstrators, and journalists, causing injuries, and arrested several persons, whom they sometimes beat in detention (see Sections 2.a. and 2.b.). Following violent disturbances in Baku on October 16, Interior Ministry personnel detained and tortured several opposition leaders. There were credible reports that security personnel beat and tortured Hope Party Chairman Iqbal Agazade, Azerbaijan Democratic Party Secretary General Sardar Jalaloglu, and Azerbaijan Party election secretary Natiq Jabihev (see Section 3). Human Rights Watch (HRW) documented numerous cases in which members of the MIA's organized crime unit used electric shock, severe beatings, and threats of rape to torture detainees. According to HRW, police used severe beatings and torture to extract confessions, and to pressure detainees to sign false statements denouncing the opposition and implicating opposition leaders in the post-election violence.

Police at times beat and harassed members of certain religious groups (see Section 2.c.).

After clashes in Nardaran in June 2002 between protesters and police, authorities detained and, his lawyer alleged, beat Haji Jubrail Alizade (see Sections 1.e. and 2.b.).

Conditions in prisons, which the Ministry of Justice (MOJ) managed, remained harsh and sometimes life threatening. Overcrowding and poor medical care combined to make the spread of infectious diseases a serious problem. Tuberculosis (TB) continued to be the primary cause of death in prisons. By year's end, approximately 800 detainees were undergoing treatment for TB, according to the Government. Due to the absence of systematic screening in prisons, patients often started treatment when already seriously ill. There were widespread and credible reports that authorities withheld medical treatment from selected inmates, particularly political prisoners.

Prisoners had to rely on their families to provide food and medicine, and bribes generally were required for families to gain access to imprisoned relatives. Authorities severely limited lawyer and family visits and exercise in maximum security prisons. Some pretrial detainees were kept in "separation cells" often located in basements, in which food and sleep reportedly were denied to elicit confessions with no physical evidence of abuse. There were separate facilities for men and women, juveniles and adults, and pretrial detainees and convicts. Deaths of inmates occurred, in part due to harsh conditions and in some cases due to mistreatment by law enforcement personnel.

During the year, the Government undertook a program to improve conditions in prisons; they remodeled some and built five new prisons.

The ICRC has had access to all prisons since June 2000; and in 2002 the Government extended its

agreement on access to all places and to all detainees, both sentenced and unsentenced. The ICRC has had access to prisoners of war (POWs) and civilians held in relation to the conflict over Nagorno-Karabakh. Foreign observers regularly received permission to enter maximum security prisons to meet with alleged political prisoners. During the year, one domestic human rights organization reported that authorities restricted their access to police stations and detention centers, though not prisons.

d. Arbitrary Arrest, Detention or Exile

The Constitution prohibits arbitrary arrest and detention; however, arbitrary arrest and detention were problems.

The MIA and Ministry of National Security are responsible for internal security and report directly to the President. The MIA oversees the local police forces in Baku and in the regions; it also maintains internal troops trained in civil defense. The Ministry of National Security has a separate security force.

In most cases, the Government took no action to punish abusers, although the Government reported that it took disciplinary action, including dismissals, against more than 200 police officers for the violation of human rights and civil liberties during the year. By year's end, the Government did not arrest any police officers or announce the results of an investigation of police in connection with a clash with journalists and opposition activists on September 8. The Government also did not arrest or announce the findings of an investigation of police in connection with violent disturbances in Baku on October 15 and 16, during which several police officers and demonstrators were injured and one demonstrator was killed. The Government did not undertake investigations or punitive action against those named in the HRW report that documented numerous cases of torture and abuse of post-election opposition detainees by the MIA's Organized Crime Department, which reports directly to the Minister. Low wages throughout the police and law-enforcement community contributed to the general problem of police corruption, which mainly consisted of informal "fines" for traffic and other violations and the payment of protection fees to neighborhood police.

Authorities often arbitrarily arrested and detained persons without legal warrants. Police may detain and question persons for 3 hours without a warrant. The Constitution states that persons detained, arrested, or accused of a crime should be advised immediately about their rights, reasons for arrest, and the institution of criminal proceedings against them; however, authorities often did not inform detainees of the charges against them. The Constitution provides for access to a lawyer from the time of detention; however, access to lawyers was poor, particularly outside of Baku. Authorities often restricted family visitations and withheld information from detainees' family members; frequently, days passed before relatives were able to obtain information. Bail commonly was denied, and lengthy pretrial detention was a serious problem.

Members of opposition parties and their families were more likely to experience arbitrary arrest and detention than other citizens. Police forcibly disrupted unsanctioned protests and detained participants, opposition party activists, and journalists after several demonstrations throughout the year (see Sections 1.c. and 2.b.). Following violent demonstrations in Baku after the October election, police detained more than 700 persons across the country. Most of those detained were members of opposition parties, primarily the Musavat Party. Approximately 120 members of opposition parties remained in detention at year's end, during a court ordered 3-month investigation. During the year, Musavat Party reported that close to 800 of its members were detained for short periods (3 to 15 days), and the Azerbaijan Democratic Party (ADP) claimed more than 700 members had been briefly detained. On October 27, police arrested Rauf Arifoglu, Deputy Chairman of the Musavat Party and Chief Editor of the New Musavat newspaper, for his alleged involvement in post-election demonstrations; he remained in detention at year's end pending investigation of his activities in the party. The Popular Front and Azerbaijan National Independence (AMIP) parties each reported that approximately 100 members had been detained for 1 to 15 days on administrative charges. At year's end, 4 to 6 members of the Popular Front party remained in jail. Popular Front Party chairman Ali Karimli's cousin, Ingilab Karimov, was arrested in July for hooliganism and given 3 years' conditional release in September.

Five relatives of former parliamentary speaker and ADP leader Rasul Guliyev, who were convicted for

various alleged crimes related to corruption allegations against Guliyev during his parliamentary membership, remained in jail at year's end. Police also continued to harass several other Guliyev associates and ADP figures. On September 5, authorities detained ADP Secretary Taliyat Aliyev and held him for 7 days in the counter-terrorism and organized crime unit of the MIA on charges of stockpiling weapons with intent to overthrow the Government. Authorities in the same division detained Eldar Guliyev, a member of the AMAL movement, from September 3 to 6 on charges of verbally insulting the police, and Deputy Chairman of the Umid ("Hope") Party Habil Rzayev from September 6 to 11, during which time he said police physically and emotionally tortured him without due process, notification of his family, or access to a lawyer. Rzayev was outspoken on human rights issues as the leader of the People's Defense Committee.

On December 1, authorities arrested Ilgar Ibrahimoglu, the Imam of the independent Juma Mosque and a human rights activist with the Center for Protection of Conscience and Religious Persuasion Freedom (DEVAMM), allegedly in connection with the violent demonstration on October 16; he remained in custody at year's end (see Sections 2.c. and 4).

Chechens residing in the country reported some arbitrary detentions during the year (see Sections 2.d.).

After a court convicted and sentenced 15 residents of Nardaran arrested in connection with the 2002 protests over living conditions, all were released from custody by year's end (see Sections 1.e. and 2.b.).

During the year, a total of three POWs were released, one from Azerbaijan and two from Armenia.

The law prohibits forced exile, and the Government did not employ it.

e. Denial of a Fair and Public Trial

The Constitution provides for an independent judiciary; however, in practice, judges did not function independently of the executive branch, and the judiciary was widely believed to be corrupt and inefficient.

Judges preside over and direct trials. The President appoints Supreme and Constitutional Court judges, whom Parliament confirms. The President appoints lower-level judges without confirmation. Qualifying exams for judges were administered periodically as part of a judicial reform effort; however, credible allegations persisted that judgeships were bought and sold. Low salaries for judges and lawyers increased the incentives for bribe taking and undermined the rule of law. The Government organizes prosecutors into offices at the district, municipal, and republic level. They are responsible to the Minister of Justice, appointed by the President, and confirmed by Parliament.

Courts of general jurisdiction may hear criminal, civil, and juvenile cases. District and municipal courts try the overwhelming majority of cases. The Supreme Court may not act as the court of first instance. A panel consisting of one judge and two lay assessors hears cases at the district court level. A 2002 referendum amended the Constitution to provide all citizens the right to appeal to the Constitutional Court. Citizens also have the right to appeal to the European Court of Human Rights.

The Constitution provides for public trials except in cases involving state, commercial, or professional secrets, or matters involving confidential personal or family matters. The Constitution provides for the presumption of innocence in criminal cases and defendants' rights to confront witnesses and present evidence at trial, a court-approved attorney for indigent defendants, and appeal (for both defendants and prosecutors). Foreign and domestic observers generally were allowed to attend trials. Although the Constitution prescribes equal status for prosecutors and defense attorneys, in practice, prosecutors' prerogatives outweighed those of the defense. By year's end, the 2001 Law on Advocates and Advocate Activity, which was expected to reform the legal profession, had not been implemented and no independent bar association had been created. The law limits representation in criminal cases to members of state-controlled Collegium and therefore restricts the public's access to legal representation.

The Constitution prohibits the use of illegally obtained evidence; however, investigations often focused on obtaining confessions rather than gathering evidence against suspects. No judge has dismissed a case based

on a prisoner's claim of abuse, and there was no independent forensic investigator to determine the occurrence of abuse (see Section 1.c.). Judges frequently sent cases unlikely to end in convictions back to the prosecutor for "additional investigation." Authorities sometimes dropped or closed such cases, occasionally without informing either the court or defendant.

The Government continued to hold a number of political prisoners. Some local NGOs reported that the Government held approximately 180 political prisoners, although others claimed the number was much higher. Estimates of the number of prisoners varied and were inconsistent as to the definition of a political prisoner. The Council of Europe (COE) created a list of 8 citizens it considered to be political prisoners according to a definition it adapted for Azerbaijan and Armenia; it also has another list of approximately 180 prisoners considered by local NGOs to be political prisoners, whom COE experts have been unable to verify. Estimates of the number of prisoners varied due to inconsistent definitions of the term. A number of these individuals were convicted of alleged participation in armed efforts to overthrow the Government. In June, the Parliamentary Assembly of the Council of Europe criticized the Government's non-cooperation on the release of political prisoners. During the year, then President Heydar Aliyev issued 3 pardons that resulted in the release of 283 prisoners and reduced sentences for 25 others. President Ilham Aliyev issued a decree that resulted in the release of 160 prisoners and reduced the sentences of 5 others. Many of those released were on lists of political prisoners developed by NGOs and the COE, including Isgender Hamidov, a former Minister of Internal Affairs convicted for appropriating state property. The Government permitted international humanitarian NGOs access to alleged political prisoners.

Faina Kunqurova and Jan Mirza-Mirzoyev continued to serve 3- and 8-year terms, respectively, after allegedly politically motivated trials in 2001.

The trial of the 15 defendants arrested in Nardaran in September 2002 took place between December 2002 and April 2003; all 15 defendants were found guilty (see Sections 1.c. and 2.b.). On April 1, the Court of Serious Crimes handed down sentences to the 15 defendants. Four were sentenced to prison, while the remaining 11 were given 2- to 3-year suspended sentences and released from custody. During the year, the four imprisoned defendants were pardoned and released. On November 14, Jabrail Alizade, the village elder arrested in Nardaran in 2002, was released from prison; he had been sentenced to 8 years in prison.

The Government completed three retrials requested by the COE for political prisoners accused of plotting against the Government in the early 1990s; two of three prisoners remained in prison or detention at year's end. After his retrial in July, the sentence of Isgender Hamidov was reduced from 14 to 11 years before he was pardoned by presidential decree in December. The courts maintained a life sentence for Alikram Humbatov and reduced from life imprisonment to 15 years in prison the sentence of former Defense Minister Rahim Gaziyev--who was convicted and sentenced to death in 1995 for abuse of power in war conditions, large-scale embezzlement of state properties, and illegal storage and possession of weapons. Authorities rejected repeated appeals in 2002 by the defendants, foreign embassies, and international organizations to move these retrials to Baku from Gobustan prison, where observer access was difficult, but foreign and domestic observers were not otherwise hindered in attending these trials.

f. Arbitrary Interference with Privacy, Family, Home or Correspondence

The Constitution prohibits arbitrary invasions of privacy; however, the Government restricted privacy rights in practice. The Constitution provides for secrecy of correspondence and telephone conversations, subject to limits provided by law in criminal investigations or in the prevention of a crime; however, it was believed widely that the Ministry of National Security and other security entities monitored telephones and Internet traffic, particularly those of foreigners and prominent political and business figures. The Constitution allows searches of residences only with a court order or in cases provided by law; however, authorities often conducted searches without warrants, particularly after the October election. Police continued to intimidate and harass family members of suspects, particularly those belonging to opposition parties (see Section 3).

Some local officials continued to prevent Muslims from wearing headscarves (see Section 2 a)

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press and specifically outlaws press censorship; however, the Government restricted these rights in practice. The Government harassed and attacked the media, particularly in the run-up to and aftermath of the October presidential election. Nonetheless, except for state television, there was lively public debate and criticism of government policies in a variety of areas, and direct criticism of the President was common.

Most newspapers were printed in government publishing houses, and government associates owned many of the private publishing houses. There were more than 40 independent newspapers and magazines. The finances of most independent and opposition newspapers were precarious, and they had continued problems meeting their wage and tax payment obligations. Private advertisers were intimidated and harassed into removing their advertisements from some independent and opposition publications, forcing them to subsist on newsstand sales alone and adding to the financial pressures on newspapers that do not benefit from government financial support. In January, a presidential decree suspended newspaper debts owed to the state-owned printing house--reportedly a cumulative \$300,000 (1.47 billion manat)--until 2005. These unpaid debts continued to put pressure on the opposition newspapers. In November, private printing houses reported a newsprint shortage that left them unable to publish the major opposition newspapers for 3 days.

Government-run and independent kiosks distributed government, opposition, and independent publications during the year. However, independent and opposition newspapers only sporadically were available in regions outside of Baku; according to some Baku-based journalists, authorities in the exclave of Naxchivan actively prevented distribution of opposition newspapers. The editor of independent newspaper Bizim Naxchivan was harassed and temporarily forced to cease publication. A number of editors continued to report that government-run kiosks refused to carry their newspapers, or claimed to have sold all received copies while actually retaining many unsold copies in stock, leading some newspapers to depend on independent distributors. Gaya, the country's largest independent distributor, reported continued government harassment. In 2002, the company's manager complained that some of its most profitable newsstands had been torn down arbitrarily in Baku and in regional cities in an effort to run the company out of business. Gaya was unable to reopen these newsstands during the year, and authorities closed an additional two kiosks, one each in Baku and Naxchivan. Authorities confiscated the kiosk it closed in Naxchivan and took it to a military unit. By the end of the year, Gaya reported that it retained only 39 newsstands throughout the country, of the 55 that it had previously. As a result, there were no independent newsstands in Naxchivan and other parts of the country. Opposition newspapers continued to face economic pressure from the Government, which did not allow state businesses to buy advertising in opposition newspapers and pressured private businesses not to buy advertising. Unable to make a profit solely from newsstand sales, many opposition newspapers were vulnerable to printing lapses when the state printing house periodically refused to print opposition newspapers that had unpaid debts.

A large number of opposition and independent media outlets functioned during the year. Government-controlled radio and television were the main sources of information for much of the population. The Government periodically used state television to conduct campaigns of denunciation and harassment against political parties and leaders critical of the Government. Most international observers agreed that television coverage on both state and independent networks was overwhelmingly biased in favor of Ilham Aliyev and against opposition presidential candidates, although Azerbaijan State Television provided each candidate 10 minutes of free air time per week for their campaigns. Privately run television channels broadcast views of both government and opposition officials, but their programs were not available in all parts of the country. A new local television station in Ganja (Alternative TV) continued to broadcast during the year. Radio was oriented largely to entertainment, but one independent station broadcast programs on political topics. Radio Free Europe/Radio Liberty and the Voice of America operated without restriction, and there were no restrictions on reception of foreign stations via satellite.

Violence against journalists continued during the year. The Azerbaijan Committee for the Protection of

Journalists (RUH) reported more than 170 incidents of physical attacks or harassment against journalists during the year. After journalists alleged harassment in 2002 and during the year, government investigations determined that police wrongfully detained journalists and that appropriate disciplinary action was taken against the responsible members of police (see Section 1.d.).

Police used excessive force against journalists at several pre- and post-election events. On September 8, police harassed or struck journalists from seven news services in front of the Baku police station as they gathered to witness the arrival of the Deputy Chairman of the Popular Front party, whom authorities had summoned for questioning after a televised altercation during an election debate. On September 21, police physically harassed and arrested a journalist from Millat, the Azerbaijan National Independence Party (AMIP) newspaper, and struck or detained four other journalists at a meeting of AMIP and Popular Front voters in Lenkoran. On election day, police and unidentified civilians detained and harassed several journalists.

Journalists were also injured during violent demonstrations in Baku after the election, in some cases as a result of police beating them. The Azerbaijan Journalists Confederation and RUH reported that police beat 54 journalists, detained or arrested 18, and broke the equipment of 6. Rauf Arifoglu, Chief Editor of the New Musavat newspaper and Deputy Chairman of the Musavat Party, was arrested in connection to his position in the party (see Sections 1.d. and 3). At year's end, no journalists were in detention, other than Rauf Arifoglu, who was in detention in connection with his party position, not his status as a member of the press.

The Organization for Security and Cooperation in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR) reported that the Government restricted freedom of the media prior to the presidential election. Coverage of candidate Ilham Aliyev in his official capacity as Prime Minister dominated broadcast media, although media coverage of the election was lively. Some opposition newspapers faced lawsuits as a result of their criticism of government officials, which observers viewed as an effort by authorities to silence criticism. The Prosecutor General and Ministry of Justice issued a public statement calling for the opposition press to stop printing "libelous materials" about then President Heydar Aliyev. ODIHR reported that other restrictions of the opposition press included systematic harassment and intimidation of journalists, including physical and verbal attacks, detentions, life-threatening phone calls, and editorial interference that amounted to censorship.

According to Internews, there were no new television stations licensed during the year; at least three license requests for entertainment-oriented television stations were pending at year's end. In Tovuz one local television station was reopened after being closed for 3 years. The Law on Television and Radio failed to ensure transparency in licensing or independence from state organs, and it established content requirements for programs and advertisements. According to the law, the President appoints all members to the regulatory body, thus limiting its independence. Television and radio stations continued to require a license to operate, and the Government used this requirement in the past to prevent several independent stations from broadcasting; however, this was not a problem during the year.

Libel laws allow for fines and up to 3 years' imprisonment. According to the RUH, a total of 40 lawsuits suits were brought against 18 journalists or media outlets during the year, resulting in fines of approximately \$325,000 (1,592.5 million manat). Journalists and media outlets were fined an additional \$149,000 (730.1 million manat) as a result of decisions made during the year on lawsuits brought in 2002. Authorities postponed 11 of the 38 libel suits made in 2002, primarily against Yeni Musavat, while several others resulted in monetary fines and the freezing of a Yeni Musavat bank account. In 2002, 38 libel suits were brought against 16 journalists or media outlets, of which 8 were later dropped. Authorities brought 11 new lawsuits against Yeni Musavat during the year, and 3 criminal charges brought in 2002 against Yeni Musavat's editor-in-chief Rauf Arifoglu were still pending at year's end. Three libel suits were brought against Mukhalifat newspaper in during the year, of which one remained pending at year's end. In the two cases tried by year's end, the newspaper was fined \$10,000 (50 million manat), and an editor was sentenced to 5 months in prison but later pardoned.

In November 2002, Monitor magazine lost an appeal of the lower court's decision to fine the publication

approximately \$7,000 (35 million manats) after two high-ranking Ministry of Defense officers brought a successful suit against it in 2002 for printing an article about poor conditions and hazing in the military. Monitor appealed to the Supreme Court, which had not reached a decision by year's end. During the year, Monitor was published and available for purchase, although no distribution companies could sell it openly, and it twice stopped publication for short periods. During the year, the chief editor of Monitor was fined approximately \$26,000 (127.4 million manat), of which \$6,000 (27.4 million manat) was forgiven.

All Internet providers in the country were required to have formal links with the Ministry of Communications. A number of Internet service providers and vendors existed, and Internet access cost less than \$1 (4,800 manats) per hour. Internet usage grew, particularly in Baku, which had numerous Internet cafes, but it was less common in other parts of the country. Many observers believed that the Government monitored Internet traffic, particularly that of foreign businesses, opposition leaders, and intellectuals (see Section 1.f.).

The Government did not restrict academic freedom. Several professors with tenure were active in opposition parties, although some faculty and students experienced political pressure. In the aftermath of the October election, a number of professors and teachers alleged that they were dismissed due to their membership in opposition political parties. In October, officials at Lenkoran State University allegedly dismissed Yadigar Sadigov for his membership in the Musavat Party, although they reinstated him in November after pressure from international observers. According to Physicians for Human Rights, Ilqar Altay, a forensic specialist who investigated the June 2002 confrontation between police and residents in Nardaran, was dismissed from his job in October 2002 at Azerbaijan International University for "activities against the state." During the year, police threatened, intimidated, and detained for short periods Elnur Sadikhov, a correspondent of the Popular Front's Azadliq newspaper in Ganja, and Ganja State University suspended his enrollment.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly; however, the Government restricted this right on occasion. Laws permit citizens to assemble, associate with others, and organize demonstrations, processions, and pickets (demonstrations with less than 50 participants), "provided that they notify respective governmental bodies in advance." A permit was required in advance from local government authorities (such as the mayor's office in Baku or the local executive authority in other cities) to stage a demonstration or picket. However, while both sanctioned and unsanctioned protests took place throughout the year, the Government denied permission for some assemblies and, in some cases, forcibly disrupted unsanctioned protests.

Several large-scale demonstrations and political meetings took place in Baku and other cities during the year, including leading up to, during, and after the October election. At these rallies, demonstrators numbering up to an estimated 25,000 gathered to support opposition presidential candidates, demand free and fair elections, and call for action in Nagorno-Karabakh. The majority of these rallies proceeded peacefully; however, police and MIA officers harassed, beat, and detained several opposition party members, demonstrators and journalists, causing injuries, and arrested several persons, whom they often beat in detention (see Sections 1.c., 1.d., and 2.a.).

In November, the nongovernmental National Press Council created a joint monitoring group together with representatives from the MIA to examine relations between the police and journalists during mass actions. The monitoring group was working on the development of an identification card and special clothes for journalists to distinguish them from demonstrators.

At a joint Popular Front and AMIP rally in Lenkoran on September 21, local authorities blocked roads and set up police lines to prevent the opposition candidates and their supporters from gathering at an approved location. Police then beat opposition supporters with sticks, injuring many, and detained at least 20. On October 15, Musavat Party supporters gathered outside the party's headquarters to protest the presidential election results, and security forces harassed and beat many protesters.

On October 16, a large crowd gathered for an unsanctioned demonstration in downtown Baku that turned violent. Protestors marched from Musavat headquarters to Azadliq Square and along the way beat dozens of security officers, destroyed security forces' vehicles, and damaged government buildings. As several thousand security forces surrounded the square, a group of protestors attacked the security forces, who stormed the demonstrators with tear gas and truncheons, while unknown demonstrators drove a stolen military truck into police lines. Security forces responded with excessive force, beating many demonstrators, sometimes to the point of unconsciousness and even after they were trying to leave the area or were detained, killing one and reportedly injuring at least 300 persons.

On February 5, a special task force of the MIA entered the Baku area village of Nardaran and assaulted a tent on the main square where approximately 60 villagers were holding a vigil to protest the continued imprisonment of 15 Nardaran residents since a June 2002 demonstration. Human rights organizations reported that the task force fired guns in the air, used gas and smoke grenades, and beat villagers in the tent, causing injuries such as severe head trauma and broken ribs in several persons. The task force arrested and later released eight persons. During the year, authorities released all of the 15 prisoners arrested in June 2002, after the Chairman of the Caucasus Muslim Board, Sheikh Allahshakur Pashazade, worked as an intermediary to resolve the dispute (see Sections 1.c. and 1.e.).

Authorities occasionally prevented political parties critical of the Government from conducting indoor meetings as well as outdoor gatherings. Local authorities in the regions frequently prevented opposition parties from holding rallies in central locations, occasionally using roadblocks or police lines to discourage local opposition supporters from attending. Authorities cited security considerations in banning larger demonstrations by opposition parties in central Baku during the year, although authorities increasingly granted permits to hold demonstrations outside the city center in the run-up to the presidential election. Pro-government provocateurs sometimes disrupted opposition rallies.

The Constitution provides for freedom of association; however, the Government continued to restrict this right. A number of provisions enabled the Government to regulate the activities of political parties, religious groups, businesses, and NGOs, including a requirement that all organizations register to function normally. Registration was necessary for an organization to rent property, open a bank account, and generally act as a legal entity. Vague, cumbersome, and nontransparent registration regulations resulted in long delays and inaction that, in effect, limited citizens' right to association. There were more than 40 registered political parties (see Section 3.).

c. Freedom of Religion

The Constitution provides for freedom of religion; however, there were some abuses and restrictions. The Law on Religion expressly prohibits the Government from interfering in the religious activities of any individual or group; however, there are exceptions, including cases where the activity of a religious group "threatens public order and stability." Some officials at times discriminated against members of minority religions, although there were improvements.

Police reportedly arrested and beat some Muslim worshippers in the northern city of Khachmaz on suspicion of links to terrorism and beat other Muslim worshippers, who denied any wrongdoing and complained to authorities. Police also called in some family members of the accused for questioning.

A number of legal provisions enable the Government to regulate religious groups, including a requirement in the Law on Religion that religious organizations be registered by the State Committee for Work with Religious Associations (SCWRA). Government authorities gave SCWRA and its chairman, Rafig Aliyev, sweeping powers for registration; control over the publication, import, and distribution of religious literature; and the ability to suspend the activities of religious groups violating the law. Registration enables a religious organization to maintain a bank account, rent property, and generally act as a legal entity. Lack of registration exposed groups to charges that they were illegal and made it more difficult, but not impossible, for a religious group to function. The process was burdensome, and there were frequent, lengthy delays in obtaining registration. Religious groups may appeal registration denials to the courts. The Government

registered 73 groups during the year. The SCWRA registered the Baku International Fellowship Church in April after a multi-year battle and an Adventist church in Naxchivan after the MOJ revoked its earlier registration.

By year's end, several religious groups continued to report that they had not been registered; however, this did not prevent them from functioning. Other churches, including Greater Grace Baptist Church, the Baptist community in Neftchala, and Protestant churches in Sumgayit, remained unregistered after months of applying. Unregistered groups were more vulnerable to attacks and closures by local authorities.

On December 1, police detained Ilgar Ibrahimoglu, a human rights activist with DEVAMM, head of the Baku Chapter of the International Religious Liberty Association, and Imam at the independent Juma Mosque in connection with the election disturbances on October 15 and 16. Ibrahimoglu says that police also questioned him about his activities at the mosque and his advocacy on behalf of Baptists and other Christians. He was charged with organizing violence and resisting or using violence against representatives of the authorities and remained in prison at year's end. On December 16, authorities gave the Juma Mosque congregation 15 days to vacate the premises, based on allegations of the Imam's political activities, and declared that the mosque would be either returned to the Soviet-era status of a carpet museum or given to the official Muftiate. Although the mosque belongs to the city of Baku and the congregation pays no rent for its use, the mosque was renovated at its members' expense and registered in the early 1990s; however, it has experienced problems reregistering.

Authorities continued to require members of the Jehovah's Witnesses to serve in the military, although this contradicted their religious beliefs. Parliament began consideration of a draft Law on Alternative Military Service to correct this problem. Members also reported that authorities interfered with their ability to rent public halls for religious assemblies.

Some officials at times discriminated against members of minority religions and harassed nontraditional religious groups. In many instances, abuses by officials reflected the popular prejudice against conversion to Christianity and other nontraditional religions (see Section 5).

In October 2002, the Supreme Court supported the 2001 SCWRA decision to liquidate the ethnic Azeri "Love" Baptist Church, which followed accusations that Pastor Sari Mirzoyev insulted Muslim fasting traditions in a sermon during the holy month of Ramadan. The Church continued to hold services despite the revocation of its registration.

There was official concern regarding "foreign" (mostly Iranian and "Wahhabist") Muslim missionary activity. In May, authorities sentenced several members of the religious extremist group Hizb-ut-Tahrir to 6 to 7 years' imprisonment for allegedly planning terrorist attacks against targets that included a foreign embassy. There were reports that the Government closed down Muslim groups and organizations with alleged ties to terrorists. In December, the military Court for Grave Crimes ordered the Abu-Bekr Mosque closed for its involvement in illegal activities, after 13 persons who reportedly attended the mosque were convicted of training to fight for Chechens in Chechnya. In April and September, the Court for Grave Crimes sentenced six Muslim clerics in Ganja to between 3 and 7S years' imprisonment for allegedly preparing a forcible seizure of power. In November 2002, security forces detained Imam Kazim Aliyev of Juma Mosque in Ganja on charges of preparing a coup d'etat. According to Forum 18, the Chairman of the SCWRA closed 22 of the country's 26 Islamic schools in 2002.

The law prohibits foreigners from proselytizing, and the Government enforced this provision. Authorities deported several Iranian and other foreign clerics operating independently of the organized Muslim community for alleged violations of the law.

Although there were no legal restrictions on large religious gatherings, local authorities discouraged them. Both the Jehovah's Witnesses and the Pentecostal "Cathedral of Praise" reported that authorities interfered with their ability to rent public halls for religious assemblies.

Some local officials continued to prevent Muslim women from wearing headscarves; and the International

Religious Liberty Association reported that women were still prohibited from wearing them in identification and passport photos, which complicated voter registration.

The Government at times restricted or delayed importation of religious materials. In March, a bookstore that had previously been denied permission to import 400 religious books received permission to import the books with the assistance of a local church, as well as on two other occasions during the year.

During the year, several newspapers and television broadcasts depicted nontraditional religious groups as a threat to the identity of the nation. Some of these attacks extended to humanitarian organizations operating in the country that were linked to foreign religious organizations.

Hostility also existed toward foreign (mostly Iranian and "Wahhabist") Muslim missionary activity, which partly was viewed as seeking to spread political Islam and thus a threat to stability and peace. Pro-government media targeted some Muslim communities that the Government claimed were involved in illegal activities.

Ethnic Azerbaijanis have fled areas of the country controlled by ethnic Armenians, and mosques in this area not already destroyed did not function. Animosity toward the Armenian population elsewhere in the country forced most Armenians to depart, and all Armenian churches, many of which were damaged in ethnic riots that took place more than a decade ago, remained closed. As a consequence, the estimated 10,000 to 30,000 Armenians who remained in the country were unable to attend their traditional places of worship.

For a more detailed discussion, see the [2003 International Religious Freedom Report](#).

d. Freedom of Movement within the Country, Foreign Travel, Emigration and Repatriation

The Constitution provides for these rights; however, at times, the Government limited freedom of movement. The internal residence regime from the Soviet system ("propiska") still was imposed on IDPs--i.e., those forced from their homes following the Armenian occupation of western areas of the country--who were required to register with the authorities and could reside only in approved locations. The Government required IDPs to have a "propiska" registering their temporary residence in order to find them to provide the assistance and subsidies to which the IDPs are entitled. A passport was required for travel abroad. There were no exit visa requirements.

Residents of border areas in both Azerbaijan and Iran traveled across the border without visas. Law required draft-age men to obtain documents from military officials before they could travel abroad, and some restrictions were placed on military personnel with access to national security information. Citizens with pending criminal charges could also not travel abroad.

The number of refugees and IDPs from the Nagorno-Karabakh conflict was approximately 800,000; more than 200,000 of these were refugees, and, according to the State Statistics Committee, 572,000 were IDPs. There were credible reports that Armenians, including ethnic Armenian immigrants from the Middle East and elsewhere, had settled in parts of Nagorno-Karabakh and possibly other Azerbaijani territories occupied by Armenian forces. Approximately 20,700 Armenians, almost exclusively persons of mixed descent or mixed marriages, remained in the country (in addition to Armenians residing in occupied territories). While official government policy allowed ethnic Armenians to travel, low-level officials seeking bribes have harassed citizens of Armenian ethnicity who sought to obtain passports. According to the International Organization for Migration (IOM), more than 20 Armenians of mixed descent reported to an Azeri NGO problems with officials in the passport and registration department when seeking identification cards; applicants who applied with Azeri surnames encountered no problems aside from regular bribe-taking. The Armenian Government continued to prevent the hundreds of thousands of Azerbaijanis who were forced out of their homes in occupied territories from returning; the Armenian government did permit the return of some ethnic Armenians.

The Government's care for refugees and IDPs, which continued to decline, depended on international assistance. During the year, the Government budgeted for the transfer of \$27.9 million (136.7 billion

manats) from the country's oil fund to the IDP and Refugees Committee to improve the social and economic conditions of IDPs and refugees. Of that, the Government transferred and spent \$16.8 million (82.3 billion manats) during the year for housing, social infrastructure development, and financial grants to IDPs and refugees. At year's end, \$11 million (54 million manats) remained budgeted to be transferred from the Oil Fund to the IDP and Refugees Committee. According to IOM, approximately 60,000 IDPs continued to live in camps, 60,000 in underground dugout shelters, and 20,000 in railway cars at below-subsistence levels, without adequate food, housing, education, sanitation, or medical care; the Government made efforts to move IDPs from railway cars and camps into special settlements. At the same time, 40,000 IDPs lived in settlements provided by the European Union, 40,000 lived in houses provided by the U.N. High Commissioner for Refugees (UNHCR), and the rest were scattered among unfinished buildings, hostels, public health facilities, or at relatives' homes.

The law provides for the granting of asylum and refugee status to persons who meet the definition in the 1951 U.N. Convention relating to the Status of Refugees and its 1962 Protocol. In practice, the Government provided some protection against refoulement, but did not grant refugee status or asylum during the year. The Government cooperated with the UNHCR and other humanitarian organizations in assisting refugees. Such organizations reported full and unrestricted access to the refugee population. During the year, the State Committee on Refugees and IDPs received training from UNHCR and reviewed 48 applications for refugee status--all from Afghan nationals who have lived in Azerbaijan for many years--of which 10 were rejected and 38 were pending at year's end.

Approximately 8,000 Chechens who fled from Russia resided in the country. By year's end, the UNHCR had registered 8,975 asylum seekers/refugees, 84 percent of whom were from Chechnya. Approximately 1,100 Afghans who fled their country have registered with UNHCR and have lived in the country for many years. A small number of new Afghans, Iranians, Iraqis, and refugees of other nationalities also registered during the year.

The Laws on Place of Residence and Registration and the Legal Status of Refugees and IDPs did not apply to Chechens; the Government did not consider Chechens to be legal residents and required them to register with the police. Chechens may receive 3-month visas, but not residence permits. While arbitrary harassment, detention, and arrests of undocumented Chechens continued to be a problem, UNHCR personnel noted fewer cases during the year. A new governmental decree allowed Chechen children to attend public schools as of September 1, and more than 500 children out of an estimated population of 3,000 were attending public schools. Children also attended unofficial classes organized by the Chechen community. Some improvements were made regarding access to medical services by Chechen refugees. Chechens accused of criminal offenses were extradited to Russia; Chechens not registered with UNHCR were not provided with letters of concern.

According to the IOM, the Government continued to deport illegal Iranian immigrants during the year.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution and the law allow citizens to change their government by peaceful means; however, the Government continued to restrict citizens' ability to do so by interfering in local and national elections. The country is a republic with a strong presidency, and the Constitution provides for an independent legislature. However, in practice, Parliament's independence was minimal, and it exercised little legislative initiative independent of the executive.

The October 15 presidential election failed to meet international standards due to a number of serious irregularities. These included the lack of a level playing field in the pre-election campaign--including a flawed candidate registration process, unequal access to state media, and harassment of the opposition; police violence in the pre- and post-election periods; and partisan election commissions. While individual domestic observers were allowed, NGOs receiving foreign assistance were barred from observing, in

contrast to the 1998 presidential election, and some observers reported harassment and impediments to observing the process. The Government did not accept all of the recommendations made by the COE's Venice Commission regarding composition of the Central Election Commission (CEC). On election day, observers witnessed serious irregularities, including the disenfranchisement of voters through inaccurate voter lists, intimidation of voters and election commission members, ballot box stuffing, and serious irregularities in vote counting and tabulation. In the days prior to the announcement of preliminary results, the CEC denied OSCE/ODIHR observers access to its documents and activities, resulting in a lack of transparency during the final stage of vote tabulation.

There were some improvements in the October election, including the new Unified Election Code (UEC), a multiparty choice for voters, and technical improvements that made fraud difficult to hide. The CEC cancelled election results in 694 polling stations due to reports of irregularities; however, it did not do so in many other precincts where serious violations occurred. In a positive development, the Government posted election results on the Internet; however, the observed irregularities and insufficient transparency in vote counting and tabulation led to serious doubts about the accuracy of the 77 percent of the vote officially recorded for Ilham Aliyev. The Government granted 30 long-term OSCE/ODIHR election observers from 18 OSCE member states access to political rallies, polling stations, and most of the proceedings related to the October presidential elections. Approximately 700 short-term observers under the OSCE umbrella also observed voting and vote counting during the October 15 election.

Fraud and ballot box stuffing also marred parliamentary by-elections held in March in Ismayili, Qaradag, and Khanlar-Dashkesan, although international observers noted improvement from previous elections.

Voter list irregularities, multiple voting, and observer intimidation marred the April 2002 by-elections in Baku, Ganja, and Ali Baramli.

Serious voting irregularities marred the August 2002 referendum on then President Heydar Aliyev's proposed amendments to the 1995 Constitution. International observers saw widespread irregularities, including voter list fraud, multiple voting, voter intimidation, ballot box stuffing, and restriction of domestic nonpartisan observers. The Government's claims of 95 to 96 percent approval of each of the eight clusters of constitutional amendments and 83.6 percent voter turnout were highly questionable.

Two amendments that passed in the 2002 referendum continued to be the subject of controversy. One of the amendments eliminated the proportional representation system required for 25 of the 125 seats in Parliament. Another controversial amendment replaced the Chairman of the Parliament with the Prime Minister in the line of succession to the presidency, which made it easier for the President to pass on power to his preferred successor. On August 4, then President Heydar Aliyev named his son, Ilham, Prime Minister. In this office, Ilham Aliyev unofficially assumed the responsibilities of president due to his father's ill health and was therefore acting as president during the October elections, which he won. Officially, he was on a leave of absence for much of the campaign period due to a legal requirement that presidential candidates other than incumbents take a leave of absence during the campaign.

The November 2000 parliamentary election showed some improvement over the 1998 presidential and 1999 municipal elections, according to OSCE/ODIHR; however, they did not meet international standards due to numerous serious irregularities. Only after international pressure did authorities allow all major parties, including some disqualified as a result of alleged falsifications in voter petitions, to run candidates for office. Some opposition candidates were harassed, and some were beaten or detained. The law prohibited domestic NGOs that received foreign funding from monitoring the election. Individual parties and some NGOs were able to post their own monitors at the polls, but intimidation, harassment, and even arrests of the observers took place.

During the year, authorities harassed and evicted opposition political parties from their headquarters. HRW documented more than 100 cases of job dismissals of opposition members or their relatives throughout the country. Many of those dismissed reported that their employers had warned them before the election and explicitly told them the reason for their dismissal was their opposition activity or that of their relatives.

There were also credible reports of dismissals of some election commission members who refused to sign falsified vote tallies.

At least 20 of the 42 registered political parties were considered opposition parties (see Section 2.b.). Unregistered political parties continued to function openly; however, authorities occasionally prevented political parties critical of the Government from conducting indoor meetings as well as outdoor gatherings (see Section 2.b.). Members of unregistered political parties may run for president but must be sponsored by a registered party or an independent "voters' initiative group." Members of unregistered parties may run for parliament; however, anti-government opposition members occupied only 5 of the Parliament's 125 seats.

In May, Parliament passed and the President signed into law the UEC, which was scheduled to take effect until the parliamentary election of 2005. The code combines four existing laws governing the conduct of elections and referenda in the country and was drafted partially in consultation with the international community, including the International Foundation for Election Systems, the COE, and OSCE/ODHIR. The law permitted the creation of election commissions structured in favor of the ruling party and did not change provisions in separate legislation on NGOs prohibiting domestic NGOs that receive foreign funding from observing elections.

There were no legal restrictions on women's participation in politics; however, traditional social norms limited women's roles in politics, and they were underrepresented in elective offices. The practice of "family voting," where men cast the votes of their wives and other female members of their families, persisted. There were 12 women in the 125-seat Parliament and several women in senior government positions, including Deputy Chairman of Parliament, Chairman of the Supreme Court, and Deputy Chairman of the CEC; Lala Shovket, the founder of the Liberal Party, placed third in the October presidential election.

There were no restrictions on the participation of minorities in politics. Several Lezghins, Talysh, and Avars continued to serve in Parliament and Government.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Some NGOs wholly independent of the Government were objective and effective conduits of information to local officials, the diplomatic community, and such international institutions as the Council of Europe. The Government maintained ties to some of the human rights NGOs and responded to inquiries. However, the Government occasionally criticized and intimidated some human rights NGOs and activists, and the MOJ routinely denied or failed to register many groups, including human rights NGOs (see Section 2.b.).

On September 20, Baku police and legal officials confiscated office documents without a warrant from the Director of the Committee for the Prevention of Torture, Elchin Behbudov, and his wife. Police later called him to say that the incident was a mistake.

Several NGOs reported that the Government and police officers refused to provide protection from, and sometimes incited, "provocateurs" who harassed, attacked, and vandalized NGO activists and property. On February 24, Ilham Aliyev, then a Member of Parliament, publicly insulted Leyla Yunus as "pro-Armenian" for her work on Nagorno-Karabakh and called for "an end to the accomplices of our enemy." In February and March, government-run television stations aired open calls by private citizens and some local NGOs for violent action against the Chairman of the Human Rights Center of Azerbaijan (HRCA), Eldar Zeynalov, and the Director of the Institute of Peace and Democracy, Leila Yunus, for their work on Nagorno-Karabakh. In late April, police did not intervene on several occasions when approximately 30 picketers threw eggs and broke windows at the HRCA. In September, the Committee for the Protection of Women's Rights reported that government security officials at the Nakchivan airport were unwilling to assist a group of human rights activists whom a crowd of women struck several times, throwing eggs and tomatoes; the activists were visiting Nakchivan to conduct pre-election training sessions and attend the launch of an

independent newspaper.

A law on NGOs makes registration a cumbersome process and was vague on the procedures for liquidation. During the year, new amendments to several laws on NGOs and grants further complicated requirements for registering grants and made them subject to a cumulative social security tax of 29 percent on employees' salaries. Grants from a few countries that had bilateral agreements were subject to only 2 percent tax on employees' salaries. NGOs continued to be exempt from the value added tax under the Tax Code.

In September, the MOJ revoked the registration of Islam-Ittihad, a Muslim NGO focused on alcoholism, narcotic abuse, orphans, and children with thalassemia, on charges of religious propaganda and aiming to establish a religious regime in the country. The directors of Islam-Ittihad, Azer Ramizoglu and Ilgar Ibrahimoglu, who were also active on religious freedom issues, appealed the decision and subsequently faced harassment by the MIA in October. On December 1, authorities arrested Ilgar Ibrahimoglu (see Section 1.d.).

The Government accused some human rights activists of working in the interests of foreign governments. The Government has alleged that some domestic activists provided inaccurate lists of political prisoners to visiting foreign government officials. Physicians for Human Rights reported that harassment and intimidation of Ilqar Altay, an NGO commission's forensic specialist, ceased during the year.

The local diplomatic community, the ICRC, and delegations from the COE enjoyed access to prisons and conducted meetings with inmates throughout the year (see Section 1.c.). During the year, the Government received more positively Andreas Gross, one of the Rapporteurs for Azerbaijan at the COE who visited the country to monitor pre-election conditions and met with Prime Minister and presidential candidate Ilham Aliyev, who had called Gross "pro-Armenian" in 2002. The Government allowed OSCE/ODIHR and other international observers to monitor the October election, but prevented domestic NGOs that receive foreign assistance from monitoring the election (see Section 3).

In October 2002, Parliament approved the first Ombudsman. Citizens of the country may appeal to the Ombudswoman for violations of their human rights committed by state bodies or individuals. The Ombudswoman may refuse to handle a case if it happened more than a year before it was submitted to the office. The Ombudswoman also does not handle anonymous complaints and may not become involved in complaints that are being addressed by the judiciary branch. The Ombudswoman traveled to many of the regions in the country to hear complaints and cooperated with the human rights activities of foreign embassies. The Ombudswoman presented her annual report on her activities to parliament at the end of December but did not make the report publicly available.

Both Parliament and the MOJ had human rights offices that heard complaints from citizens and followed up with investigations and recommendations to the relevant government bodies. The Ministry of Foreign Affairs has a human rights office under the direction of a Deputy Foreign Minister and conducted regular meetings with the diplomatic community.

Section 5 Discrimination Based on Race, Sex, Disability, Language or Social Status

The Constitution provides for equal rights without respect to gender, race, nationality or national origin, language, social status, or membership in political parties, trade unions, or other public organizations; however, in the wake of the Nagorno-Karabakh conflict, there was widespread anti-Armenian sentiment in society.

Women

Violence against women, including domestic violence, continued to be a problem. In rural areas, women had no real recourse against assaults by their husbands or others; no laws exist regarding spousal abuse or spousal rape. The Criminal Code prohibits rape, which is punishable by up to 15 years in prison. According to the State Statistics Committee, there were 46 rapes and attempted rapes reported during the year. According to an NGO, most

rape victims knew their assailants, but did not report incidents due to the associated stigma.

There were no government-sponsored or funded programs for victims of domestic violence or rape. A women's crisis center in Baku, opened by the Institute for Peace and Democracy, provided free medical, psychological, or legal assistance to more than 2,500 women. During the year, the Institute also produced, with Internews, a six-segment television series regarding women's rights.

Prostitution was a serious problem, particularly in Baku. The legal age of consent was 16. Prostitution is not a crime under the Criminal Code; however, pimps and brothel-owners may be convicted for up to 6 years in prison.

Trafficking in women was a problem (see Section 6.f.).

Women nominally enjoy the same legal rights as men; however, societal discrimination was a problem, and traditional social norms and poor economic conditions continued to restrict women's roles in the economy. Representation of women was significantly lower in the higher levels of the work force, and there were few women in leading business positions. The Labor Code prohibits pregnant women and women with children under the age of three from working at night; pregnant women and women with children under 18 months of age from working more than 36 hours per week; and all women from working in tunnels, mines, or underground.

There were approximately 50 registered NGOs that addressed women's issues. The Society for the Defense of Women's Rights, one of the most active women's NGOs in the country, provided speech and communication training for women from all political parties and urged party leadership to appoint women in high-ranking positions.

Children

The Constitution and laws commit the Government to protect the rights of children to education and health care; however, difficult economic circumstances limited the Government's ability to carry out these commitments. Public education was compulsory, free, and universal until the age of 17. According to the Ministry of Education, 100 percent of school-age children attended school during the year; however, according to UNICEF, 91 percent of children attended school. The Government provided minimum standards of health care for children, although the quality of medical care overall was very low.

The Criminal Code mandates severe penalties for crimes against children; although there were reports of abuse of children, children generally were treated with respect regardless of gender. An NGO reported that three children were used in the making of a pornographic film during the year.

Prostitution was a serious problem, particularly in Baku. The legal age of consent was 16. During the year, there were 18 reports of women under age 18 involved in sexual activity that may or may not have been prostitution. The Ministry of Foreign Affairs referred three court cases of "coercion of minors into prostitution or immoral activities" during the year. A clinic that assists women reported that there were 11 patients under the age of 18 who sought assistance for sexually transmitted diseases.

Trafficking of children continued to be a problem (see Section 6.f.).

A large number of refugee and IDP children lived in substandard conditions in refugee camps and public buildings (see Section 2.d.). In some cases, children were unable to attend school; in impoverished rural areas, large families sometimes prioritized their sons' education so that their daughters could work at home. Poverty at times compelled families

to force their children to beg on the streets (see Section 6.d.).

A coalition of more than 20 local NGOs are working with the Government to protect children's rights by implementing a National Plan of Action for Children.

Persons with Disabilities

The law gives priority to persons with disabilities in obtaining housing, as well as discounts for public transport and pension supplements; however, the Government did not have the means to fulfill these commitments. There are no special provisions in the law mandating accessibility to public or other buildings for persons with disabilities, and such access was not a government priority.

National/Racial/Ethnic Minorities

Many indigenous ethnic groups live in the country. The Constitution provides for the right to maintain one's nationality and to speak, be educated, and carry out creative activity in one's mother tongue or any language, as desired. However, some groups have complained that authorities restricted their ability to teach or print materials in indigenous languages. Separatist activities undertaken by Farsi-speaking Talysh in the south and Caucasian Lezghins in the north in the early 1990s engendered some suspicions in other citizens and fostered occasional discrimination. Meskhetian Turks displaced from Central Asia, as well as Kurdish displaced persons from the Armenian-occupied Lachin region, also complained of discrimination. A senior government official was responsible for minority policy. Some members of other ethnic groups also complained credibly about discrimination; preventing this discrimination was not a government priority.

Some Armenians and persons of mixed Armenian-Azerbaijani descent complained about being unable to register their residences, find work, and get access to medical care and education due to their ethnicity. The approximately 30,000 citizens of Armenian descent complained of discrimination in employment, schooling, housing, and other areas. They also complained of workplace discrimination and harassment and of the refusal of local authorities to pay pensions. Most shielded their identity or tried to leave the country. Some changed their nationality, as reported in their passports. Authorities revoked some Armenian widows' permits to live in Baku. In September, the Government denied entry visas to three foreign citizens of Armenian ancestry on the grounds that the Government could not guarantee their safety in Baku. Some persons of mixed Armenian-Azerbaijani descent continued to occupy government positions. Public figures whose parents reportedly were of mixed-Armenian and Azerbaijani marriages, or had such marriages, were attacked publicly by colleagues in the press.

In the area of the country controlled by ethnic Armenian forces, the Armenians forced approximately 600,000 ethnic Azerbaijanis to flee their homes (see Section 2.d.). The regime that controlled these areas effectively banned them from all spheres of civil, political, and economic life.

Section 6 Worker Rights

a. The Right of Association

The Constitution and laws provide for freedom of association, including the right to form labor unions; however, there were some limits on this right in practice. Police, customs, and military personnel are prohibited from forming unions. The law also prohibits managerial staff from being members of a trade union; however, in practice, managers in state industries often had union dues automatically deducted from their paychecks. The law prohibits unions from engaging in political activity, but government-aligned unions were

politically active. Individual members of trade unions were not restricted from political activity. The law allows trade unions to participate in drafting legislation regarding labor, social, and economic matters, but most trade unions did not participate in this.

The overwhelming majority of labor unions still operated as they did under the Soviet system and remained tightly linked to the Government; one exception were independent journalists' unions. Most major industries were state-owned, although the Government opened several industries to privatization. The Azerbaijan Trade Union Confederation (ATUC) had approximately 1.5 million members, including 26 Labor Federations in various industrial sectors, 30 percent of whose members were active. The ATUC was registered independently, but some workers considered it a "yellow trade union" because of its close alignment with the Government. The Union of Oil and Gas Industry Workers continued to operate without a vote by rank and file workers, and membership remained mandatory for the State Oil Company's (SOCAR) 60,000 workers, whose union dues (1 percent of each worker's salary) were automatically deducted from their paychecks. An independent group of oil workers, the Oil Workers Rights Defense Committee (ORDC), operated outside of established trade union structures and promoted the interests of workers in the petroleum sector; the ORDC had 5,000 anonymous members but sought to defend the rights of all oil workers and did not charge dues.

According to the International Confederation of Trade Unions' (ICFTU's) Annual Survey of Violations of Trade Unions Rights, one of the most serious problems facing unions in the country was that union dues rarely were transferred to them. As a consequence, the unions did not have the resources to carry out their activities effectively. According to a local NGO, various government entities seized ATUC property--financed through union funds--for government use.

The Law on Trade Unions and the Labor Code prohibit antiunion discrimination and requires employers to reinstate workers who are fired because of election to a trade union body. There were no reports of government antiunion discrimination, but there were unofficial reports of antiunion discrimination by foreign companies operating in Baku. Foreign oil companies did not allow union membership, and there was no effective recourse for oil workers. The Labor Code requires that individual labor disputes be handled in a court of law; under the law, employers and trade unions can also, through collective agreement, establish independent bodies (reconciliation commissions, arbitrators, or mediators) to consider collective labor disputes before taking them to court. Labor disputes were primarily handled by local courts, which were widely considered corrupt. The ATUC and representatives of local unions sometimes helped plaintiffs with lawyers and legal advice. The ORDC pressured oil companies through alternate means to respect labor rights and rehire dismissed workers, for example through media pressure.

Unions were free to form federations and to affiliate with international bodies. The ATUC was a member of the ICFTU, and the Government, ATUC, and the nongovernmental Employers' Confederation represented the country in the International Labor Organization (ILO). The Government also cooperated with the Russian Federation of Independent Trade Unions. During the year, the EKO-IS Trade Union joined the Commonwealth of Independent States Forestry Workers Trade Union Federation and the Forestry and Construction Workers Trade Union Federation in Switzerland.

b. The Right to Organize and Bargain Collectively

The Law on Trade Unions provides for trade unions to conduct their activities without interference and independent of state bodies, institutions, political parties and public associations; however, in practice, most trade unions were not independent. According to a local NGO, during the year the Ministry of Labor and Social Welfare took over the ATUC's

legal and technical inspection responsibilities. The NGO also reported that the ATUC voted as a block for the ruling party in the 2002 parliamentary elections and the year's presidential election, and the ATUC chairman is a deputy in parliament. According to the ORDC, the Azerbaijan Union of Oil and Gas Industry Workers required its members to join the ruling New Azerbaijan Party.

Laws provide for collective bargaining agreements to set wages in state enterprises, but they did not produce an effective system of collective bargaining between unions and enterprise management. Government-appointed boards ran the major state-owned firms and set wages in accordance with the Unified Tariff Schedule. Unions did not effectively participate in determining wage levels.

The Constitution and the Law on Trade Unions provide for the right to strike; however, according to the ICFTU and the ILO, the Criminal Code restricted that right by imposing penalties of up to 3 years' imprisonment on striking workers who aimed to disrupt public transportation. The Labor Code prohibits retribution, such as dismissal or replacement, against strikers. Some classes of workers--including high-ranking executive and legislative officials, law enforcement and court employees, and health, electric power, water supply, telephone, fire fighting, and railway and air traffic control workers--are prohibited from striking. During the year, there were two large peaceful strikes to demand payment of unpaid wages.

There are no export processing zones.

c. Prohibition of Forced or Bonded Labor

The Constitution allows forced or bonded labor only under states of emergency or martial law or as the result of a court decision affecting a condemned person; a law permits compulsory work in connection with the military or extreme situations based on legislative authorization and under governmental supervision. Although there were no reports of slavery or prison labor imposed by administrative or legislative authority, there were reports of forced or bonded labor, including trafficking of persons (see Sections 6.d and 6.f.). Two departments in the General Prosecutor's Office (the Department of Implementation of the Labor Code and the Department for Enforcement of the Law on Minors) were responsible for enforcing the prohibition on forced or bonded labor.

HRW reported in 2002 that officers in some military units secretly used conscripts as unpaid laborers on construction projects. According to a local NGO, this situation worsened during the year; private companies bribed detachment commanders to force their soldiers to work on the construction of government buildings and homes of governmental officials.

d. Status of Child Labor Practices and Minimum Age for Employment

Under the Labor Code, children at the age of 15 may be party to an employment contract. With the consent of their parents, children at the age of 14 can work in family businesses or after-school jobs that pose no hazard to their health; 14-year-olds may not perform heavy or dangerous work or work at night. Children under the age of 16 may not work more than 24 hours per week; children between 16 and 18 years of age may not work more than 36 hours per week. The law prohibits employment of persons younger than 18 years old in jobs with difficult and hazardous work conditions. The Ministry of Labor and Social Security had primary enforcement responsibility for child labor laws. With high adult unemployment, there were few, if any, complaints of abuses of child labor laws. The ILO requested during the year that the Government more specifically limit access to employment of children under the age of 16 in compliance with the 1973 Convention on Minimum Age.

At year's end, the Government had not ratified the ILO Convention 182 on the worst forms

of child labor.

There were reports that some parents forced their children to beg.

e. Acceptable Conditions of Work

According to a new presidential decree, as of September 1, the minimum wage of \$5.60 (27,500 manats) was raised to \$9.20 (45,000 manats) per month and would be raised again to \$12.25 (60,000 manats) on January 1, 2004. The minimum wage for calculating pensions was \$17.35 (85,000 manats) per month. Several presidential decrees during the year raised the minimum wage of most government employees between 50 and 100 percent. The minimum wage was not sufficient to provide a decent standard of living for a worker and family. The recommended monthly wage level to meet basic subsistence needs was estimated to be \$96 (470,400 manats) per person. Most workers earned more than the minimum wage, and the average actual salary was \$73.50 (360,000 manats). Many relied on the safety net of the extended family or on remittances from relatives working in Russia. Combinations of these and other strategies were the only way for broad sectors of the urban population to reach a subsistence income level.

The Labor Code limits the legal workweek to 40 hours, and the maximum daily work shift is 12 hours. The Labor Code prohibits laborers in physically, chemically, or biologically hazardous industries from working more than 36 hours per week. The Labor Code requires lunch and break periods, which were determined by labor contracts and collective agreements. The Government attempted to enforce this law in the formal sector, but not in the informal sector, where the majority of persons worked.

Health and safety standards existed but were widely ignored; the Government weakly and ineffectively inspected working conditions on a regular basis. The Law on Trade Unions provided for unions to monitor compliance with labor and trade regulations, including safety and health conditions and workers' standard of living; according to the ATUC, from 1997 to 2002, it inspected 2,000 enterprises and organizations and found 14,000 legal and technical violations. The outcome of these inspections was virtually invisible to most workers. No official complaints were registered during the year. Workers could not leave dangerous work conditions without fear of losing their jobs. According to the ORDC, two SOCAR workers at Gum Adasi ("Sand Island") were lost at sea on March 25, after falling from separate platforms in the absence of rescue equipment; the ORDC reported that eight oil workers died under similar circumstance in 2002.

The law provides foreign workers the same rights as citizens. During the year, the Government drafted a migration management policy, which included programs regarding forced migration and labor resources.

f. Trafficking in Persons

There are no laws that specifically prohibit trafficking in persons, although traffickers may be prosecuted under articles prohibiting forced prostitution, forced labor, and forgery of travel documents; trafficking in persons remained a problem. There were unconfirmed reports that corruption by officials facilitated trafficking.

Under the Criminal Code, the act of forcing an individual into prostitution carries a 10- to 15-year jail term, which is a harsher sentence than in the previous code. The Criminal Code provides penalties for persons who enslave, rape, or coerce children into prostitution. The Criminal Code is not limited to citizens, but it has no extra-territorial effect. The October presidential election slowed the response of the presidential administration to begin modifying the Criminal Code to include anti-trafficking legislation in compliance with the

Protocol.

During the year, there were 17 cases of "coercion into prostitution" and 3 cases of "coercion of minors into prostitution or immoral activities" referred to the courts. In 2002, four persons whom international organizations considered to be traffickers were prosecuted under forgery laws in the Criminal Code.

According to the IOM, the country was primarily a country of origin and a transit point for trafficked women, men, and children. In a 2002 report, the IOM documented approximately 32 cases of trafficking victims from the country. The IOM reported that Azeri, Russian, and Georgian women were most often trafficked from, or via, the country to the United Arab Emirates (UAE) and Turkey for work in the sex industry. There were also reports of internal trafficking from the rural regions to the capital of Baku. Primarily Iranians, Iraqis, Afghans, and migrants from south Asia were smuggled via the country to Europe--particularly Germany, Sweden, France, and the Netherlands--and possibly the United States, where they may have had their passports confiscated, been subjected to forced labor, and/or sought asylum. Traffickers generally targeted women; however, there also were cases in which men and children were victims of trafficking.

Traffickers identified by the IOM were either foreigners or ethnic Azerbaijanis who acted in loose international networks, probably without central coordination. Victims were approached directly and indirectly through friends and relatives. Traffickers also used newspaper advertisements offering false work abroad. According to the Society for the Defense of Women's Rights, draft-age men seeking to escape military service in 2000 were invited by local traffickers to work in the hotel industry in Turkey, but ended up in male brothels; however, the IOM was not aware of such reports. Another NGO reported that families of young women had been approached by individuals claiming that visiting Iranian businessmen had seen their daughters and wished to marry them. Following parental permission for such marriages, the women were transported to Iran to work as prostitutes. According to the IOM, families sometimes willingly married their daughters to wealthy men in Iran and turned a blind eye to their outcomes.

There was no evidence of government complicity in the facilitation of the trafficking of persons; however, NGOs suspected that lower-level civil servants accepted bribes from traffickers in exchange for overlooking to their activities.

The MIA, the Ministry of Labor and Social Protection, the Ministry of National Security, and the Border Guards were responsible for antitrafficking efforts. There were no government antitrafficking campaigns. There was no mechanism to return trafficked women to Azerbaijan; according to the IOM, there were deportations of Azerbaijani and third country nationals back to the country for trafficking or prostitution, particularly by Turkey and UAE, but the Government had no program to assist trafficked victims who were returned to the country, pending implementation of the national plan of action.

Several NGOs and the State Committee for Women's Issues dealt with the problems of trafficking in women and prostitution. The IOM provided training to domestic NGOs to operate emergency hotlines and secure accommodations for trafficking victims and conducted awareness campaigns; in 2002, it completed a study of trafficking in the country.

