



International Protection Considerations Regarding Azerbaijani Asylum-Seekers and Refugees

United Nations High Commissioner for Refugees (UNHCR)
Geneva
September 2003

TABLE OF CONTENTS

I. INTRODUCTION.....	3
II. BACKGROUND	3
1. GENERAL INFORMATION ON AZERBAIJAN.....	3
1.1. <i>General Information on Nagorno-Karabakh</i>	9
2. THE POLITICAL CONTEXT AND ACTORS SINCE 2001.....	10
2.1. <i>Referendum, August 2002</i>	12
2.2. <i>Presidential Elections – October 2003, Outlook</i>	13
2.3. <i>The Nagorno-Karabakh Conflict and Peace Initiatives Since 1999</i>	14
2.4. <i>Regional Implications</i>	20
2.5. <i>Internally Displaced Persons</i>	21
3. REVIEW OF THE GENERAL HUMAN RIGHTS SITUATION IN AZERBAIJAN.....	22
3.1. <i>Freedom of Movement</i>	24
3.2. <i>Organized Crime</i>	25
III. AZERBAIJAN REFUGEES AND ASYLUM SEEKERS	26
1. REFUGEE POPULATION AND MAJOR CHANGES, 2002.....	26
2. ASYLUM APPLICATIONS LODGED IN INDUSTRIALIZED COUNTRIES, 1999 – 2002.....	26
3. LEGAL STATUS AND TYPE OF RECOGNITION, END-2002.....	27
4. ASYLUM APPLICATIONS AND REFUGEE STATUS DETERMINATION, 2002.....	27
IV. UNHCR OPERATIONS 2002-2003	33
V. GROUPS AT RISK.....	35
1. INTRODUCTION.....	35
2. ETHNIC MINORITIES.....	35
3. OPPOSITION PARTIES AND MEDIA.....	37
4. RELIGIOUS MINORITIES.....	39
5. HOMOSEXUALS.....	40
6. DRAFT EVADERS/DESERTERS.....	40
VI. SUMMARY	42
VII. MAP.....	43
VIII. BIBLIOGRAPHY.....	44



LIST OF ACRONYMS

CEC – Central Election Commission
EIU – Economist Intelligence Unit
IMF – International Monetary Found
NAP – New Azerbaijan Party
NDI – National Democratic Institute for International Affairs
NIP – National Independence Party
OSCE – Organization for Security and Co-Operation in Europe
PFA – Popular Front of Azerbaijan
PRCS – Poverty Reduction Country Strategy
SCR – State Committee of Refugees and IDPs
WB – World Bank
ZhAM – Democratic Union Artsakh

I. Introduction¹

1. While there is no doubt that the human rights situation in Azerbaijan has improved in recent years, there remain a number of political and socio-political factors which may, in certain cases, give rise to valid claims to refugee status. Without considering the following as exhaustive, UNHCR suggests that particular attention should be paid to asylum-seekers from Azerbaijan who base their refugee claim on the fact that they are ethnic Armenians, and especially in cases of mixed couples where the partner leaves behind an ethnic Armenian spouse with mixed children who may then be targeted because of their ethnicity. Additionally, claims by prominent political opponents, leaders of other ethnic minorities, members of non-traditional religious groups, draft-evaders/deserters, journalists, and homosexuals should also be carefully considered, as such, people may have valid grounds for claiming refugee status.

II. Background

1. General Information on Azerbaijan

2. Azerbaijan is located on the Caspian Sea, between Iran and the Russia Federation with a total area of 86,600 sq km including the exclave of Nakichevan (Naxcivan) Autonomous Republic and the Nagorno-Karabakh region. Azerbaijan borders Armenia (with Azerbaijan-proper) – 566 km, Armenia (with Azerbaijan-Nakichevan exclave) – 221 km, Georgia – 322 km, Iran (with Azerbaijan-proper) – 432 km, Iran (with Azerbaijan-Nakichevan exclave) – 179 km, Russia – 284 km, Turkey – 9 km. The capital of Azerbaijan is Baku. Azerbaijan is divided into 59 rayons, 11 cities, and 1 autonomous republic (Nakhichevan Autonomous Republic).

3. The number of inhabitants is 7,798,497 (July 2002 est.) and consists of Azeri 90 per cent, Dagestani 3.2 per cent, Russian 2.5 per cent, Armenian 2 per cent, other 2.3 per cent (1998 est.) After the Nagorno-Karabakh conflict, almost all Armenians live in the separatist Nagorno-Karabakh region.² Religion is represented by Muslim 93.4 per cent, Russian Orthodox 2.5 per cent, Armenian Orthodox 2.3 per cent, other 1.8 per cent (1995 est.). The religious affiliation is still nominal in Azerbaijan and percentages for actual practicing adherents are much lower.³ Religion is separate from the State and all religions are equal before the law. There are currently more than 400 officially registered communities operating in Azerbaijan, some 350 of which are Islamic. Orthodox churches, synagogues, and places of worship of other faiths also operate in the country. In recent years, certain non-traditional

¹ This paper is an update to the Background Paper on Azerbaijan prepared by Centre for Documentation and Research in October 1999 and update to Guidelines relating to the eligibility of asylum-seekers from Azerbaijan, UNHCR, November 2001

² Central Intelligence Agency (CIA), The World Fact Book 2002, Azerbaijan, <http://www.odci.gov/cia/publications/factbook/geos/aj.html#Intro>

³ *Ibid.*

religious communities have been registered, such as the Jehovah's Witnesses, the International Society for Krishna Consciousness and others.⁴ Azeri (a Turkish language) is the state language. The use of Russian is being phased out. The Arabic script was used until the 1920s but it was subsequently replaced by the Latin alphabet in 1929. However, ten years later the Cyrillic script was made compulsory. A modified Latin alphabet derived from Turkish was introduced in early 1992 and has been compulsory since 2001. Following independence the Government began to phase out the use of Russian but it is still widely spoken.⁵

4. The Republic of Azerbaijan proclaimed its independence in 1991. Before independence, Azerbaijan was one of the fifteen Soviet Socialist Republics of the former USSR. By early January 1990, nationalist demonstrations and protests threatened to overthrow Soviet power in Azerbaijan. On 19 January 1990, in response to the demonstrations, Soviet troops entered Baku, the capital of Azerbaijan, and at least 120 protesters were killed by the Soviet troops. The failure of the August 1991 coup d'état in Moscow led to renewed calls for independence. In December 1991, the Parliament of Azerbaijan declared independence and the country became a member of the United Nations in March 1992.

5. The results of a census in October 1999 indicated the population of Azerbaijan to be 8 million. In 1989, Azeris constituted 82.7% of the population of the Republic. The rest of the population, at the time, was made up of three significant minority groups: equal numbers of Armenians and Russians⁶ (each about 5.6%) and Dagestani (3.4%, mostly Shiite Lezghins). The International Organization for Migration (IOM) in 1996 estimated the emigration of the Russian minority from Azerbaijan to the Russian Federation at 165,000 between 1990 and 1996.

6. Following the eruption in 1988 of the conflict between Azerbaijanis and Armenians over the disputed territory of Nagorno-Karabakh located in Azerbaijan and pogroms against Armenians in the Azerbaijani cities of Sumgait and Baku, most of the Armenian population of Azerbaijan (with the exception of the Armenians living in the break away Nagorno-Karabakh region) abandoned the country while it was still a republic within the Soviet Union. Nevertheless, according to the results of an unofficial survey conducted in 2003 by a UNHCR Implementing Partner, up to 30,000 ethnic Armenians may still reside in Azerbaijan.

⁴ International Human Rights Instruments, HRI/CORE/1/Add.117, 27 February 2002, <http://www.unhcr.ch/tbs/doc.nsf/0/fdae5b4ca8960910c12569e40054e02a?OpenDocument&Start=1&Count=1000&ExpandView>.

⁵ Economist Intelligence Unit (EIU), Country Profile 2003, Azerbaijan.

⁶ "Since the 1989 census the Russian-speaking and Armenian minorities have greatly declined in numbers. More information is needed on all ethnic groups, their geographical location, and economic and social circumstances. The Committee suggests that the State party analyse the findings of the forthcoming census to throw light on the relatively great emigration from the Russian-speaking and Armenian minorities and on the economic and social situation of the other ethnic groups." Committee on the Elimination of all forms of Racial Discrimination (CERD), CERD/C/304/Add.75, 12 April 2001.

7. The country also hosts a small minority of Tats or Mountain Jews (10,000), an Iranian people who converted to Judaism.

8. According to the 1989 census, Nagorno-Karabakh's population of 185,000 was approximately 75% ethnic Armenian and 25% Azeri. Both Armenia and Azerbaijan argue over the history of Nagorno-Karabakh, which was an autonomous *oblast* in Azerbaijan by Stalin's decision, in 1923. Armenians living in Karabakh allege that they suffered discrimination and had little decision-making power. In 1988, demonstrations in both Yerevan and Hankendi (Stepanakert in Armenian interpretation) called for the union of Armenia and Nagorno-Karabakh. Violence quickly broke out, degenerating into a full-scale conflict by early 1992.

9. By mid-1992, Karabakh Armenian troops had forced out all of Nagorno-Karabakh's Azeri population. Supported militarily by Armenia, the Karabakh Armenian forces made advances into areas surrounding Nagorno-Karabakh and by October 1993 occupied considerable Azerbaijani territory, and leading to internal unrest in Azerbaijan that contributed to two presidential changes. Overall, although the figures used by Azerbaijan and Armenia are contested, over one million people were uprooted. Roughly, some 650,000 were displaced within Azerbaijan from in and around Nagorno-Karabakh; around 188,000 were forced to flee from Armenia to Azerbaijan; and over 300,000 Armenians abandoned Azerbaijan, around two thirds of them going to Armenia.

10. Since the May 1994 cease-fire, Armenian forces have continued to occupy a large area of Azerbaijan's territory (the Azerbaijani Government claims that it amounts to 20 per cent of the total). Although violations of the ceasefire and casualties along the ceasefire line have been intermittently reported, there has been no renewal of large-scale hostilities. Nevertheless, no political solution has yet been found and the two sides remain far apart.

11. In the meantime, Azerbaijan was left with the massive problem of the displaced population on its territory, estimated at being around 10 per cent of the entire total. This includes the refugees from Armenia, the Internally Displaced persons (IDPs) from in and around Nagorno-Karabakh, some 49,000 Meskhetian Turks who were forced to flee from Central Asia in 1989-90, and around 9,000 asylum seekers and refugees who have sought asylum in Azerbaijan since 2000 (mainly Chechens from the Russian Federation, Afghans and some Iranians and Iraqis).

12. After the turmoil of the first years of independence, the period from 1995 to the present was relatively stable. In 1993, Heydar Aliyev, a former Communist leader of Soviet Azerbaijan, was elected president of the country. Since then, he has been consolidating his power and has established "unprecedented political stability". This political continuity seems to have returned order to the country, which was on the verge of disintegration as a result of its defeat in the Nagorno-Karabakh conflict and the collapse of the Communist system.

13. A new constitution was adopted in November 1995 by public referendum. Under the constitution, Azerbaijan became a presidential republic with a one-chamber parliament. The

Milli Majlis (National Council) was also elected at the same time. Members of the ruling party, Mr. Aliyev's New Azerbaijan Party (NAP, founded in 1992), and their allies won a clear majority of seats. Foreign observers of the OSCE/UN joint observation team had "serious doubts as to the fairness of the election" and stated that these elections "had in many respects not corresponded to international norms". The report cited the exclusion of several parties from participation and interference from local authorities or police in polling stations. Of Azerbaijan's 31 officially registered parties, only eight were authorized to participate. Among these, only two were opposition parties: the Popular Front of Azerbaijan (PFA), recently re-legalised, and the National Independence Party (NIP).

14. According to the United Nations Human Development Report, about 60 political parties were active in Azerbaijan in 1998. Out of this number, only 32 parties were registered at the Ministry of Justice of Azerbaijan. The largest and leading political party is the Yeni Azerbaijan (New Azerbaijan), which counts some 120,000 members in its ranks. It is the strongest party represented in the Parliament of Azerbaijan is the Yeni Azerbaijan, with an overwhelming majority of 60 deputies.⁷

15. Authorities frequently prevented political parties critical of the Government from conducting indoor congresses and meetings as well outdoor gatherings. However, the Government eased these restrictions beginning in May 1998 as preparation began for the October presidential elections. The Government permitted opposition parties and presidential candidates to organize some rallies but cited questionable security reasons to divert the rallies from the sites of their choice.

16. In 1998, Mr. Aliyev was re-elected president with 76.1 % of the votes.⁸ Most opposition leaders boycotted the election, accusing the ruling party of manipulating the ballot. Ex-president Abulfaz Elchibey and presidential candidate Etibar Mammedov agreed to link their parties (the PFA and the NIP) to protest against the result of the election. The Office for Democratic Institutions and Human Rights (OSCE-ODIHR)⁹ and the National Democratic Institute for International Affairs (NDI), members of an international election observer delegation, stated many improvements had been made in the election process, but that "the quality of the process fell short of the standards set forth in Azerbaijan's presidential election law and international standards for elections."¹⁰ The 1998 elections were evidence of a trend towards more democracy. Especially due to Western criticism of Azerbaijan, some of the worst features of political oppression have disappeared. In spite of harassment of voters and candidates, the electoral campaigns sent out the message that there is a serious alternative to

⁷ United Nations Human Development Report 1998, <http://www.un-az.org/undp/publications.htm>.

⁸ Economist Intelligence Unit (EIU), Country Profile 1998/1999, Azerbaijan, Political background, http://db.eiu.com/reports.asp?title=Country+Profile+Azerbaijan&valname=CP8AZ9&doc_id=126705.

⁹ Organisation for Security and Co-operation in Europe, Office for Democratic Institutions and Human Rights (OSCE-ODIHR), Presidential elections in the Republic of Azerbaijan, 11 October 1998, http://www.osce.org/odihr/documents/reports/election_reports/az/azer2-2.pdf.

¹⁰ National Democratic Institute for International Affairs: Statement of the international election observer delegation to Azerbaijan October 11, 1998, Presidential Election, 13 October 1998, http://www.accessdemocracy.org/library/1046_az_preselect1098.pdf.

the current leaders and that voters do have a choice. In addition, President Aliyev issued amnesties for those political prisoners issued longer sentences.¹¹

17. The Government held the country's first-ever municipal elections on 12 December 1999. However, the electoral process was marred by a pattern of interference from local officials, which allowed them selectively to control the election committees that supervised the elections. The parliamentary elections held in November 2000, however, showed some improvements: monitors reported parties and candidates had better opportunities to conduct campaigns, and opposition parties were represented in election commissions. The elections still, though, did not meet international standards, as international observers reported numerous and serious irregularities.

18. Since the 75-year-old Mr. Aliyev underwent heart surgery in May 1999, in September 1999 questions about the country's future have been raised. The EIU stated, "The strength of Mr. Aliyev's grip on every aspect of policy is such that no-one can replace him even temporarily."¹² The question of the succession of the President has been raised repeatedly. Several personalities, including Mr. Aliyev's son, Ilham, were put forward by observers as possible successors to the head of State and head of the ruling party.¹³ In spite of these rumours, on the 7 September 1999 BBC News reported that the President announced he was considering standing for a third term and therefore would be a candidate for the 2003 presidential elections.¹⁴

19. After a period of decline in the years 1988-1994, Azerbaijan's economy has been growing again. According to the World Bank, due to the more stable political situation and the cease-fire in the conflict with Armenia, the government was able to implement an economic programme supported by the World Bank and the International Monetary Fund. The programme had three principal components: economic liberalization through removal of state control over prices and production, macroeconomic stabilization and privatization. The Parliament of Azerbaijan adopted about 30 laws on ownership, entrepreneurial activities, and private enterprises, 13 tax laws, two banking laws and two agricultural reforms. One of the aims of this programme was to rebuild the infrastructure in order to encourage private foreign investment and to protect the oil-based economy from the effects of oil price fluctuation. The improvements felt in the last five years are mainly the consequence of foreign investment in the oil sector. Life expectancy in Azerbaijan at birth is 71.6 (males 68.6, females 75.1)¹⁵

¹¹ 5th Country of Origin Information Workshop, Bratislava, 13-14 December 1999, Final Report – Azerbaijan, Organized by UNHCR in cooperation with ACCORD and the Slovak Migration Office.

¹² Economist Intelligence Unit (EIU), Azerbaijan, Summary – 3rd quarter 1999, Political scene, http://db.eiu.com/search_view.asp?doc_id=DB466593&action=go&topicid=AZ&pubcode=&search=replace+hi+m+even+temporarily&date_restrict=&hits=25&x=60&y=7.

¹³ *Ibid.*

¹⁴ BBC News, Azerbaijan's president bid for third term, 7 September 1999, <http://news.bbc.co.uk/2/hi/asia-pacific/441070.stm>.

¹⁵ International Human Rights Instruments, HRI/CORE/1/Add.117, 27 February 2002, <http://www.unhcr.ch/tbs/doc.nsf/0/fdae5b4ca8960910c12569e40054e02a?OpenDocument&Start=1&Count=1000&ExpandView>.

20. Azerbaijan shares all the formidable problems of the former Soviet republics in making the transition from a command to a market economy, but its considerable energy resources brighten its long-term prospects. Baku has only recently begun making progress on economic reform, and old economic ties and structures are slowly being replaced. An obstacle to economic progress, including stepped up foreign investment in the non-energy sector, is the continuing conflict with Armenia over the Nagorno-Karabakh region. Trade with Russia and the other former Soviet republics is declining in importance while trade is building with Turkey and the nations of Europe. Long-term prospects will depend on world oil prices, the location of new pipelines in the region, and Azerbaijan's ability to manage its oil wealth.¹⁶ Dual economy is therefore rapidly emerging – a fast-growing, foreign founded oil sector and an overmanned inefficient non-oil sector that suffers from chronic underinvestment. Services which were neglected during the years of the command economy have expanded rapidly often because of investment in the oil sector. Communications have improved and mobile telephony is currently one of the fastest growing sectors. The construction sector has also performed strongly in recent years again largely owing to oil related activities.¹⁷

21. It is clear that the IDPs are a core group of particularly vulnerable people, as they lack assets and their livelihood depends heavily on state transfers and donor assistance. It also appears that the IDP population in Baku is of particular concern, as they tend to be significantly worse-off than the rest of the population in the capital city. However, there is some uncertainty about the extent of income poverty among the IDPs compared to the general population. According to the national household survey results, individuals living in a rural IDP refugee household are more likely to be poor than the average. A possible reason for this may be that IDPs and refugees did not receive land and other agricultural assets in the farm privatization process. However, the results of a more detailed survey focused on IDPs suggest that they do not seem to have significantly lower incomes than the other groups in the same areas with whom they were compared, although the survey did find some substantial differences among the income levels of IDPs.

22. There are also serious concerns about the non-income indicators of poverty, including the quality of health care and education, and access to basic services. Azerbaijan's official health indicators are still mostly better than in many countries of a similar per capita income, but there are major doubts about the quality of the official statistics especially with the increasing reluctance of many people to use government health facilities. Survey data suggest that the actual rates of infant and maternal mortality may be considerably higher than officially reported. A recent survey also found that in Year 2000, nearly 20 per cent of the children were suffering from stunting, with rates as high as 27 per cent for the children from the poorest quintile, down to 13 per cent for those belonging to the richest quintile. Although Azerbaijan is still very close to achieving universal primary education, school enrolment rates decreased a little during the period 1995-2000 and almost 50 per cent of children now drop out of school by the age of 16-17. In particular, the quality of schooling needs to be

¹⁶ Central Intelligence Agency (CIA), The World Fact Book 2002, Azerbaijan, <http://www.odci.gov/cia/publications/factbook/geos/aj.html#Econ>.

¹⁷ Economist Intelligence Unit, Country Profile 2002, Azerbaijan.

improved. Rural households in particular have poor access to public services, especially electricity and gas supplies for heat.¹⁸ In 2002, Azerbaijan reported a 10 percent growth in gross domestic product, but few benefited from it, due to extensive official corruption and to monopoly control by the ruling party of the most profitable sectors of the state economy.¹⁹

1.1. General Information on Nagorno-Karabakh

23. On 24 March 1992, the Organization for Security and Cooperation in Europe (OSCE) became involved in the Nagorno-Karabakh conflict settlement. The “Minsk Group” was created to find a political solution to the dispute. On 12 May 1994, the parties to the conflict agreed to observe an informal cease-fire, which has held since then, apart from minor incidents. A former Defense Ministry aide reported that since the 1994 Nagorno-Karabakh ceasefire, bullying, accidents, infectious disease, and malnutrition had killed or crippled more than 5,000 soldiers. Eighteen soldiers died in a three-week period in August 2001 alone, of suicide, sunstroke, and dehydration.²⁰

24. In early 1996, a preliminary accord was reached, but was finally blocked by Karabakh Armenians. The accord provided for the withdrawal of Karabakh Armenians from occupied territories, except the Lachin corridor linking Armenia to Karabakh, allowing IDPs and refugees to return under international monitoring. OSCE monitors were to be stationed in preparation for a three-thousand-strong peacekeeping force made up from different European countries and the United States. Talks on the final status of Karabakh were then to be held. The accord was however rejected by Karabakh Armenians, who would only agree to a withdrawal in exchange for recognition of their enclave’s breakaway status.

25. In December 1996, at the Lisbon Summit of the OSCE, a statement issued by the Chairman of the Minsk Group, emphasized three principles for the settlement: the territorial integrity of Armenia and Azerbaijan, the definition of the legal status of Nagorno-Karabakh and guaranteed security for Nagorno-Karabakh and its population. Armenia vetoed reference to the Nagorno-Karabakh and only accepted that the Chairman in Office annex a declaration referring to the outgoing negotiation to the Summit declaration.

26. In 1997, the OSCE Minsk Group arranged to split the approach into two stages. The first one would deal with the retreat of Armenian military forces from Azeri occupied territory, the lifting of sanctions on Armenia and the return of refugees. The second part of the peace process would deal with the final status of Karabakh. In 1998, the authorities of Azerbaijan rejected a proposal, made by the Minsk Group for the creation of a “common state” between Karabakh and Azerbaijan.

27. In February 1998, the Armenian President Mr. Ter-Petrossian resigned, following criticism of his acceptance of the staged peace process proposed in 1997 by the Minsk Group.

¹⁸ World Bank, Human Development Sector Unit, South Caucasus Country Unit, Europe and Central Asia Region, Azerbaijan Republic Poverty Assessment, 4 June 2003.

¹⁹ Human Rights Watch, Azerbaijan 2002, covers events from November 2001 to November 2002.

²⁰ Human Rights Watch World Report 2002 – Azerbaijan, <http://www.hrw.org/wr2k2/europe3.html>.

The President had publicly admitted that Nagorno-Karabakh could expect neither to gain complete independence, or be reattached to Armenia. His successor Mr. Robert Kocharian, the former Armenian Prime Minister since March 1997, was also President of Nagorno-Karabakh from November 1995 to March 1997.

28. In June 1999, serious clashes between Armenian and Azerbaijan forces along the Nagorno-Karabakh border raised the spectre of renewed war. The EIU reported in September 1999 that this has been the “biggest clash since the cease-fire was signed in 1994”, adding accounts of events differed, but it is clear that hundreds of troops took part, unlike in previous clashes, in which individual units have fired at each other along the frontline. It was unclear whether the incident was another such confrontation which got out of hand or whether it forebodes a new phase of escalating violence”.²¹ In spite of these incidents, the cease-fire was upheld.

29. In July and August 1999, agreements of principles were made on strengthening the cease-fire regime on the Nagorno-Karabakh border and on continuing the peace talks, as the presidents of Armenia and Azerbaijan, Mr. Kocharian and Mr. Aliyev, met several times in Geneva to discuss a dispute settlement. Mr. Aliyev on his return home stated, “Azerbaijan and Armenia are determined to find a political solution.”

30. At the same time, both presidents called for the resumption of negotiation within the framework of the Minsk Group. These direct talks between Armenia and Azerbaijan focused on specific areas, in order to “preserve and build an atmosphere of incipient trust, rather than to conceal the magnitude of the differences between the two sides.” However, no consensus was reached.

31. Despite the categorical requirements of the United Nations Security Council and other organizations, Armenia continues to the present day to occupy areas of Azerbaijan and to build up its military potential in those areas.²²

2. The Political Context and Actors Since 2001

32. The 5 November 2000 elections took place within an improved legislative framework that incorporated a number of recommendations proposed by the international community. However, deficiencies remain and legal provisions were applied in a partisan manner.

33. Two aspects of the election process indicate improvement over previous elections: (1) the Law on the Central Election Commission (CEC) provided multi-party election commissions at all levels; and (2) although initially obstructed, a number of opposition parties were

²¹ Economist Intelligence Unit (EIU), Azerbaijan, Summary – 3rd quarter 1999, Political scene, http://db.eiu.com/search_view.asp?doc_id=DB466593&action=go&topicid=AZ&pubcode=&search=replace+hi+m+even+temporarily&date_restrict=&hits=25&x=60&y=7.

²² International Human Rights Instruments, HRI/CORE/1/Add.117, 27 February 2002, <http://www.unhcr.ch/tbs/doc.nsf/0/fdae5b4ca8960910c12569e40054e02a?OpenDocument&Start=1&Count=1000&ExpandView>.

registered for the nation-wide contest. However, these improvements were tempered by interference and pressure from the authorities in the election process.

34. Generally, the election dispute resolution and appeals process was flawed both in the pre-election period and during the post-election phase. In most cases, the Central Election Commission (CEC) and the judiciary failed to address complaints effectively, refusing to hear witnesses or examine evidence presented by plaintiffs. Contrary to the provisions of the law, the CEC referred almost all complaints to the courts instead of deciding itself. Overall, opposition parties were able to campaign more effectively than in previous elections, despite the late registration of some political parties, which unsettled their election preparations and affected their ability to conduct a full campaign. In the run up to Election Day, they experienced bureaucratic obstruction and harassment of party activists. In contrast with past elections, the media provided for a diversity of political views and the legal provisions for distributing free airtime were respected. Political parties were able to present their platforms and freely express their opinions. Nevertheless, a strong bias in favour of the incumbents could be noted outside the free airtime in the State-owned media.²³

35. New legal provisions regulating the accreditation of domestic non-partisan observers were less liberal and represented a step back from previous experience. On Election Day, voting was conducted in a generally calm atmosphere. Observers reported ballot box stuffing, manipulated turnout results, and pre-marked ballots. Additionally, party proxies frequently suffered intimidation, harassment, and even arrest. Unauthorised local officials often controlled the process and sought to influence voters. In several instances, international observers were denied access to polling stations and some were expelled from election commission premises. The vote counting and aggregation of results processes were completely flawed and manipulated. Following this and as a step in the right direction, the CEC and the Constitutional Court cancelled the results in 11 constituencies where serious violations were found, and ordered repeat elections only for the single-mandate contests. While the decision to cancel these results was prompt, some officials responsible for the violations were dismissed, and a few prosecuted under the criminal code, the majority of complaints arising from the 5 November 2000 ballot were not addressed transparently and in accordance with the rule of law. In addition, as the partial repeat elections were limited to the single-mandate contests, some 16 per cent of the electorate was disenfranchised as far as the nation-wide proportional ballot was concerned. The measures undertaken for the repeat elections were insufficient to restore full confidence in the process and to convince most of the main opposition parties to participate in the repeat elections. As a result, only one major opposition party took part in the repeat balloting with four candidates. In a marked improvement, the CEC addressed complaints on candidate registration for the repeat elections more efficiently than during the run-up to the 5 November 2000 ballot, reinstating 10

²³ Organization for Security and Co-operation in Europe, Office for Democratic Institutions and Human Rights (OSCE ODIHR), Republic of Azerbaijan, Parliamentary Elections 5 November 2000 and 7 January 2001, Final Report, Warsaw, 15 January 2001, http://www.osce.org/odihr/documents/reports/election_reports/aze2000fin.pdf

candidates whose registration had been denied. Local authorities again interfered in the election process, instructing and exerting pressure on election commissions.²⁴

36. On 7 January 2001, polling took place in a calm and orderly manner, and in contrast to 5 November 2000, observers were generally able to conduct their work unhindered. However, observers again noted a number of irregularities, including some cases of ballot stuffing and a flawed counting and tabulation process.²⁵

37. The political scene has been relatively stable under Heydar Aliyev, who has been president of Azerbaijan since 1993. Although the Economist Intelligence Unit expects the status quo to be maintained for as long as Mr. Aliyev remains in office, stability cannot be guaranteed once he steps down or dies. The government, which is dominated by Mr. Aliyev, has failed to foster either the civil institutions or the type of society necessary for long-term stability. Instead, Mr. Aliyev has entrusted his son, Ilham Aliyev, with increasing responsibilities over the past few years. More recently, he amended the constitution in a way that indicates that he is grooming his son for the presidency, although he has not formally designated him as his successor. Constitutional changes that were introduced in August 2002 specify that, if the president is unable to complete his term in office, presidential responsibilities are to fall to the prime minister rather than the speaker of parliament, as was the case before. This opens the way for Ilham Aliyev to be appointed prime minister in the near future. To ensure that he is elected president when the time comes, the proportion of votes that a presidential candidate requires has been reduced from two-thirds to a simple majority.²⁶

2.1. Referendum, August 2002

38. Serious voting irregularities marred the August 24 referendum on changes proposed by President Aliyev to the 1995 Constitution. International observers saw widespread irregularities, including voter list fraud, multiple voting, voter intimidation, and ballot box stuffing. The Government continued to restrict domestic non-partisan observers. However, a series of televised roundtables, hosted by the OSCE and including government and opposition representatives, was held to educate the public on the issues of the referendum.²⁷

39. According to the Government, the amendments proposed in the referendum were designed to address a number of suggestions by the Council of Europe to democratize the country's political system – although the Government did not consult with the Council of Europe on the content of the referendum. Some of the amendments, such as the requirement that the President be elected by 50 per cent plus one (rather than a two-thirds majority), could

²⁴ Organization for Security and Co-operation in Europe, Office for Democratic Institutions and Human Rights (OSCE ODIHR), Republic of Azerbaijan, Parliamentary Elections 5 November 2000 and 7 January 2001, Final Report, Warsaw, 15 January 2001, http://www.osce.org/odihr/documents/reports/election_reports/az/aze2000fin.pdf

²⁵ *Ibid.*

²⁶ Economy Intelligence Unit, Country Report 2003, Azerbaijan, June 2003.

²⁷ U.S. Department of State Country Report on Human Rights Practices 2002 – Azerbaijan, <http://www.state.gov/g/drl/rls/hrrpt/2002/18353.htm>.

contribute to bringing the Government's practice into conformity with international standards and enhance democratization. However, two amendments were seriously criticized. One of the amendments proposed eliminating the proportional representation system required for 25 of the 125 seats in the Milli Majlis (National Council). NGOs and other groups alleged that this amendment could threaten opposition representation in Milli Majlis altogether. Another controversial amendment replaced the Chairman of the Milli Majlis with the Prime Minister in the line of succession to the presidency. Some domestic and international groups argued that this would make it easier for the President to pass on power to his preferred successor. The Government's claims of 95 to 96 per cent approval of each of the eight clusters of constitutional amendments and 83.6 per cent voter turnout were highly questionable. International election observers raised concerns with senior government officials and the Central Election Commission about the conduct of the referendum.²⁸

40. The Election Code was adopted on 27 May 2003. This Code unified existing laws governing elections and referenda in Azerbaijan.

41. The referendum approved 36 amendments to the Constitution. Some of these arose out of Azerbaijan's commitments made in view of becoming a member of the Council of Europe. For example, one of them moved further towards the introduction of a civilian alternative to military service. However, legislation to implement this reform had not been enacted by the end of the year. Twenty-two prisoners serving life sentences sought to make use of one of the amendments, which broaden access to the Constitutional Court, including for individuals and the newly created Ombudsperson's institution. The prison administration reportedly refused to forward 21 of these appeals to the Court. The exception was that of the political prisoner Alakram Alakbar oglu Hummatov. In December, the Milli Majlis (parliament) passed legislation in a second reading to implement the right of individual complaint to the Constitutional Court.²⁹

2.2. Presidential Elections – October 2003, Outlook

42. Concerns about the concentration of power in the presidency and about the presidential succession increased in view of President Heydar Aliyev's age and health, and the presidential elections due in October 2003.³⁰ The 80-year-old president was believed to be in poor health after he collapsed during a live televised address in April 2003. Since then he became less active in political life limiting himself to short public appearances.

43. After his hospitalization in Turkey in July 2003, President Aliev was seen publicly for a few times only. State media, however, continued delivering positive messages regarding the successful treatment of the president, first in Turkey and then in the USA.

44. At the Milli Majlis session on August 4, President Aliev's son and possible heir was appointed prime minister following the incumbent president's instruction. Shortly after, it

²⁸ *Ibid.*

²⁹ Amnesty International Report 2003. This report covers the period January to December 2002.

³⁰ *Ibid.*

was announced that Ilham would run for office alongside his ailing father. The Central Electoral Commission abruptly authorized the candidacy of Ilham Aliev, just before nominations closed. Ten commission members voted in favour of his candidacy, and five against. There was a growing conviction in society that Aliyev junior was the strongest presidential contender at that moment.

45. Aliev junior's presidential bid sparked a heated debate within the electoral commission, with opposition members suggesting his name should not go on the candidate list. Commission secretary and opposition activist Vidadi Mahmudlu complained that Ilham Aliev's papers had arrived just 30 minutes before the board meeting, and that he had not had time to read them.

46. Yusif Bagirzade, a commission member from the opposition Democratic Party, objected that the younger Aliev cannot run for president as he holds dual Azerbaijani and Turkish citizenship. Moreover, he said, Aliev is implicated in a court case currently being reviewed by a New York court. Ilham Aliev was allowed, nevertheless, to run as the nominee of an "initiative group" of voters from his home region of Nakhichevan. His father, Heidar Aliev, was to run on the ticket of the ruling Yeni Azerbaijan party. His surprise entry into the race is clearly associated with his father's ill health. The president, who suffers from a recurring heart problem, has never fully recovered from his public collapse on 21 April 2003.

47. At the same time, the electoral commission rejected the candidacy of a leading opposition candidate, former speaker of parliament Rasul Guliev, who is chairman of the Democratic Party. It is widely believed that Guliev, who was once an ally of Aliev but now lives in exile in the United States, is one of the very few political figures with enough power to challenge the ruling Aliev family.

48. The situation may become still more confusing if a third Aliev, the president's brother Jalal, decides to join in the race. According to Russia's *Nezavisimaya Gazeta* newspaper, groups were being formed in the Sabirabad and Saatli districts of central Azerbaijan to rally support for Jalal, a 75-year old academician.

49. Another opposition leader, Ali Kerimli, the leader of the "reformist" wing of the Popular Front Party of Azerbaijan, interpreted the multiple candidatures as a sign of disarray within the ruling regime. Government officials continue to insist that Heidar Aliev is still their candidate.

2.3. The Nagorno-Karabakh Conflict and Peace Initiatives Since 1999

50. Nagorno-Karabakh (4,400 sq km, capital Hankendi – Stepanakert in Armenian interpretation)³¹ is a self-declared republic with a presidential polity and claimed population of 144,500, almost 100 per Armenian.³² With Christian Armenians constituting more than 95

³¹ Armenians on the Internet, 10 July 2002, http://www.hyeetch.nareg.com.au/republic/karabagh_p1.html.

³² Institute for War and Peace Reporting, Caucasus Country Profiles, Nagorno-Karabakh, official figures 2002, http://www.iwpr.net/index.pl?caucasus_profile_azerbaijan.html.

percent of the territory's population, the Armenian Apostolic Church is the predominant religion. Industrial capacity remains limited, with high unemployment forcing many residents to leave for neighbouring countries in search of work. Widespread corruption, a lack of substantive economic reforms and the control of most economic activity by powerful elites limit equality of opportunity for most residents.

51. Full-scale military operations commenced in late 1991 and early 1992. Armenian military units launched combat operations in Nagorny Karabakh with the use of the latest weapons and these culminated in February 1992 with the seizure of the town of Khojaly, in the course of which more than 600 civilians were killed, including women, children and old people, and with the occupation in May 1992 of the town of Shusha and of Shusha district. Following these actions, the entire Azerbaijani population was expelled from Nagorny Karabakh and the occupation of the territory was completed. With the seizure of Lachin in May 1992, the territory of Nagorny Karabakh was joined to Armenia.³³

52. As a result, Armenian aggression against the Republic of Azerbaijan led to the occupation of more than 17,000 square kilometres, constituting some 20 per cent of the country's territory, more than 50,000 people were wounded or left disabled and more than 18,000 people killed, and 877 settlements, 100,000 homes, more than 1,000 economic facilities, more than 600 schools and colleges, 250 medical centres and most of the architectural monuments situated within the occupied area were looted or destroyed. As a result of Armenian aggression and ethnic cleansing of Azerbaijanis, both from the territory of Armenia itself and from occupied Azerbaijani lands, there are now some 1 million refugees and displaced persons in Azerbaijan.³⁴

53. While Yerevan insists that Nagorno-Karabakh should be left outside Azeri jurisdiction, Baku maintains that the territory may be granted broad autonomy while remaining a constituent part of Azerbaijan. Azerbaijan also has refused to negotiate with President Arkady Ghukasian, who has demanded direct representation in the peace process.

54. The majority of those who fled the war continue to live in squalid conditions in refugee camps in Azerbaijan, while international aid organizations are reducing direct assistance to the refugees. One fifth of Azerbaijan's territory captured during the war remains occupied by Armenia. Sniper attacks and land mine explosions continue to result in casualties each year.

55. Residents of Nagorno-Karabakh technically have the means to change their government democratically. Parliamentary elections in 1995 and 2000 were regarded as generally free and fair, as were the 1996 and 1997 presidential votes. However, the elections were considered invalid by most of the international community, which does not recognize Nagorno-Karabakh's independence. Nagorno-Karabakh's electoral law calls for a single-mandate

³³ International Human Rights Instruments, HRI/CORE/1/Add.117, 27 February 2002, <http://www.unhcr.ch/tbs/doc.nsf/0/fdae5b4ca8960910c12569e40054e02a?OpenDocument&Start=1&Count=1000&ExpandView>.

³⁴ *Ibid.*

system to be used in parliamentary elections; lawmakers rejected the opposition's demands for the inclusion of party-based lists.

56. While internationally mediated efforts to find a lasting settlement to the protracted Nagorno-Karabakh dispute showed signs of progress in early 2001, the negotiations quickly lost momentum by midyear. Initially promising discussions in Key West, Florida, in April³⁵ failed to lead to a comprehensive agreement at year's end. Despite criticism from the Council of Europe that municipal elections scheduled for September 2001 could further undermine peace efforts, the republic held the local vote as planned, in which the ruling Democratic Union Artsakh (ZhAM) party captured most of the local government body posts.

57. In June 1999, president Arkady Ghukasian dismissed Prime Minister Zhirayr Pogosian amid allegations that a surveillance device discovered in the president's office had been planted by Pogosian, possibly on the order of powerful Defense Minister Samvel Babayan. Some analysts speculated that Pogosian's dismissal indirectly targeted Babayan, with whom Ghukasian had become increasingly involved in a power struggle; Babayan was removed as defence minister the same month. Anushavan Danielian, a former deputy parliamentary speaker in Ukraine's Autonomous Republic of Crimea, was named the new prime minister.

58. In the territory's June 2000 parliamentary vote, 123 candidates, representing five parties, competed in single-mandate constituencies for the national assembly's 33 seats. The ruling ZhAM party, which supports Ghukasian, enjoyed a slim victory, winning 13 seats. The Armenian Revolutionary Federation-Dashnaktsutium won 9 seats; the center-right Armenakan Party captured 1 seat, and formally independent candidates, most of whom support Ghukasian, won 10. Approximately 50 election monitors from several countries observed the poll, including representatives from the British Helsinki Human Rights Group. International observers described the electoral campaign and voting process as calm and largely transparent, although problems were noted with the accuracy of some voter lists.

59. On March 22, 2000, President Ghukasian was seriously wounded by two gunmen during a failed assassination attempt. Police quickly arrested dozens of suspects, including Babayan and a number of his inner circle. While some welcomed the detention of Babayan, who had been accused of corruption and reportedly wielded considerable political and economic power in the territory, his supporters insisted that the arrest was politically motivated. Along with 15 other defendants, Babayan, who was charged with organizing the attack in order to seize power in the republic, was put on trial in mid-September in Hankendi (Stepanakert in Armenian interpretation). In February 2001, Babayan was found guilty and sentenced to 14 years in prison, while the other defendants received various prison terms or short suspended sentences. The presiding judge announced that the verdict had been based on pre-trial testimony in which Babayan confessed to the charges, even though he later retracted his admission of guilt, claiming that it had been obtained under duress. In a separate case, Babayan's brother, former Nagorno-Karabakh interior minister and Hankendi Mayor Garen

³⁵ U.S. Department of State Bureau of European and Eurasian Affairs, Washington DC, 11 September 2002, Fact Sheet, The United States and Nagorno-Karabakh, <http://www.state.gov/p/eur/rls/fs/13502.htm>.

Babayan, was convicted in November of corruption, abuse of power, and illegal arms possession and was sentenced to five and a half years in prison.

60. Nearly 2,000 candidates contested legislative and executive posts in 223 municipalities during Nagorno-Karabakh's local elections on 5 September 2001. Voter turnout was estimated at 60 per cent. Members of ZhAM were elected to head local government bodies in at least 140 towns and villages. ZhAM candidate Hamik Avanesian, who had been Hankendi's municipal head during the Soviet period, defeated five challengers with 53 per cent of the vote to become mayor of the territory's capital city. While no major irregularities were reported during the elections, Avanesian reportedly received significant support from the republic's authorities, including in the dominant state-run media. The Council of Europe warned that the elections were not legitimate and could undermine peace process efforts, and Azerbaijan called the poll illegal.³⁶

61. The Nagorno-Karabakh presidential election held on August 11, 2002 was conducted freely and transparently. Nagorno-Karabakh has made demonstrable progress in building democracy and its authorities have made a serious effort to conduct the 2002 polls by democratic means. The voters and candidates have demonstrated a great commitment toward bringing democracy to Nagorno-Karabakh. The voting environment was calm and absent any reports of intimidation. Voters generally had opportunity to hear directly from candidates in rallies held throughout the country. The emphasis placed on the need for democratically elected authorities to exercise civilian control over the military was one of the most positive developments of the election campaign.

62. The strong start made by Nagorno-Karabakh in establishing a foundation for further democratization could be vulnerable to future political distortion if fundamental structural changes are not made to election procedures. In particular, the Central Election Commission needs to become a fully independent organization that is not beholden to the government and is represented by a much more diverse composition. The composition of the country's eight regional commissions and 266 divisional commissions should also reflect this aim. Further, the restraints on political party full participation in proposing candidates to the commission and their ability to monitor all polling sites represent a serious shortcoming.³⁷ Re-elected President Gukasyan took 88.4 percent of poll while his nearest rival, former parliamentary speaker Artur Tovmassian, received 8.1 percent, local officials said. The figures were based on a count of 95 percent of the vote, also fought by two other candidates, Christian Democratic leader Albert Kazaryan and the chief of the republic's Unity party Grigory Afanasyand. Officials said 73 percent of the 90,000 electors turned out. It was the third "presidential" election in the enclave claimed by both Armenia and Azerbaijan. The

³⁶ Freedom House, Armenia/Azerbaijan Nagorno-Karabakh 2001-2002, <http://www.freedomhouse.org/research/freeworld/2002/countryratings/armenia-azerbaijan.htm>.

³⁷ Report of the Independent American Monitoring Commission – Nagorno-Karabakh Presidential Elections, August 11, 2002.

European Union however regards the poll as illegal, joining with Russia in denouncing it as a challenge to Azerbaijan's territorial integrity.³⁸

63. President Heider Aliyev of Azerbaijan and President Robert Kocharian of Armenia started a direct dialogue in 1999 and have met over a dozen times in an effort to bring peace and stability to the South Caucasus. Their most recent meetings were in 2002, on 26-27 January and 4-5 March in Paris, where they met alone and with French President Jacques Chirac and on 15 May 2002 in Prague, where the talks were convened and chaired by the OSCE Minsk Group Co-Chairmen. At these meetings, the sides engaged in useful discussions³⁹, but no breakthrough was achieved.⁴⁰ When Presidents Kocharian and Aliyev met on 14 August 2002 in Sadarak, Nakhichevan Republic and, later (for the 22nd time), on 7 October 2002 during the CIS summit in Chisinau, the usefulness of the Minsk Group in peace negotiations was brought up for discussion. Both the Armenian and the Azeri delegations dropped hints that, in the opinion of their states, the ten-year-long OSCE mediation had not been effective enough.⁴¹

64. The NATO Secretary General commented also on Nagorno-Karabakh conflict when he arrived in Azerbaijani capital Baku 15 May 2003. Addressing the Azeri parliament, the NATO chief urged Azerbaijan and Armenia to a compromise and start working together. Secretary General Robertson said that Northern alliance has no plans of involvement in the settlement of the Nagorno-Karabakh conflict. Armenia maintains close military ties with Russia and unlike its neighbours Georgia and Azerbaijan does not want to become a member of NATO.⁴²

65. As to whether Nagorno-Karabakh constitutes a so-called "internal flight alternative" for ethnic Armenians in Azerbaijan proper or for mixed couples of Azeri or Armenian ethnicity, it must be noted that the territory of Nagorno-Karabakh is virtually inaccessible from Azerbaijan due to landmines and low intensity but ever-present military confrontations along the frontline. Moreover, the security situation inside Nagorno-Karabakh itself continues to remain unstable, without a peace agreement in sight. Therefore, the so-called "internal flight alternative" is not a relevant consideration for the above-mentioned group in the context of determining refugee claims.

66. 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

³⁸ Relief Web, Karabakh enclave re-elects "president" Gukasyan, 12 August 2002, <http://www.reliefweb.int/w/rwb.nsf/f303799b16d2074285256830007fb33f/0f8ab731ca4a33b8c1256c13003477da?OpenDocument>.

³⁹ OSCE Press Release, 15 May 2002, Personal representatives of Armenian and Azeri Presidents held Nagorno-Karabakh talks in Prague, http://www.osce.org/news/generate.php3?news_id=2458.

⁴⁰ Economist Intelligence Unit (EIU), Country Profile 2002, Armenia, http://db.eiu.com/reports.asp?title=Country+Profile+Armenia&valname=CPCAMD&doc_id=1109490&x=20&y=11.

⁴¹ Centre for Eastern Studies, Armed Conflicts in Post-Soviet Region. Present Situation. Prospects for Settlement. Consequences. Warsaw, June 2003.

⁴² Radio Free Europe/Radio Liberty (RFE/RL), 15 May 2003, <http://www.armenialiberty.org/armeniareport/report/en/2003/05/F8D0BC31-189A-4DC5-A9C2-3C5D6B8C755B.asp>.

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 5,000.⁴³ On 6 August 2002, the de facto authorities of Nagorno-Karabakh signed an agreement with the ICRC granting the organization's delegates access to all places of detention and all categories of detainees being held in Nagorno-Karabakh. Visits to places of detention are conducted in accordance with the ICRC's standard working procedures, which include holding private interviews with detainees and repeating the visits as frequently as is deemed necessary. The ICRC welcomes the signing of this agreement and is looking forward to strengthening further its dialogue on humanitarian issues with the de facto authorities of Nagorno Karabakh. The ICRC has been visiting persons detained in Nagorno-Karabakh in connection with the conflict in the region since 1992.⁴⁴

67. An upsurge in shooting incidents across the Armenian-Azerbaijani armistice line is worrying international negotiators. As Azerbaijan prepares for a presidential election in October and an expected change of regime due to the ill health of President Heidar Aliyev, the region is bracing itself for new tensions in the unresolved Armenian-Azerbaijani dispute over Nagorno Karabakh. President Aliyev flew to the United States on 6 August 2003 for more medical treatment.

68. The last two months have seen some of the worst violence for many years. The most serious reports of ceasefire violations have come from the village of Garakhanbeili in the Fizuli region of southern Azerbaijan. However, there have also been reports of incidents across the Armenia-Nakhichevan border and the northern frontier between Armenia and Azerbaijan. Estimates of the number of casualties vary. The Armenians admit to the death of only one of its soldiers and the wounding of two others in July. The Azerbaijanis give much more dramatic figures, saying 11 of their soldiers have been lost in the last two months, with more than 30 killed in the year so far and 18 counted as missing. An official close to the talks, speaking on condition of anonymity, said that if current trends continue, the losses across the front line for 2003 could be three times worse than last year, when around 20 soldiers were killed. That would make it the worst year of violence since 1996.

69. The problems on the ceasefire line have done more damage to international efforts to keep the peace process for Nagorno Karabakh alive. The three international co-chairs of the Organisation for Security and Cooperation in Europe's Minsk Group, which is the main mediating body for the conflict, are expressing concern over what is going on. The co-chairs have not been able to make a single trip to the region this year – although they have met the Armenian and Azerbaijani presidents elsewhere. Ultimately, however, the mediators are

⁴³ U.S. Department of State Country Report on Human Rights Practices 2002 – Azerbaijan.

⁴⁴ International Committee of the Red Cross (ICRC) – Nagorno Karabakh: ICRC granted access to all detainees, 9 August 2002, <http://www.icrc.org/web/eng/siteeng0.nsf/iwpList265/DBEA689B6D93B8ECC1256C10002B1842>.

playing a secondary role and it is the politicians on the ground who will decide what happens with Karabakh.⁴⁵

70. Azerbaijan on 20 August 2003 accused Armenian forces of firing on its troops, but Armenia said the attack came from the Azeri side first. The incident was the latest in a series of firefights between forces of the two former Soviet republics in recent months, which have claimed several lives and left the decade-old ceasefire between the two sides under strain. The firefight on 19 August 2003 forced observers from the Organization for Security and Co-operation in Europe (OSCE) to abandon a visit to the area to monitor the ceasefire, according to the Azeri defence ministry. An OSCE spokesperson said he could not confirm the report, but Armenia officials denied that they had opened fire first. Andrzej Kasprzyk, the OSCE's special envoy for Nagorno-Karabakh, who was in the area for a routine inspection of the ceasefire line, cut short his visit because of the shooting.⁴⁶

2.4. Regional Implications

71. The discovery and development of new oil fields in the Caspian Sea and construction of new pipelines westward has enhanced Azerbaijan's geopolitical significance. Indeed, the status of resource-rich Caspian Sea has become a priority topic for all of the littoral states, with Russia reaching agreement with Kazakhstan and in September 2002 with Azerbaijan. Azerbaijan has also reached agreement with Kazakhstan, Turkey, Russia, Iran, and the United States are all important players in the region's politics and Azerbaijan has to delicately balance its policy towards them. Azerbaijan perceives Turkey as its closest friend, which is hardly surprising considering the cultural, linguistic, and historic ties between them. The Aliev leadership has pursued a pro-western orientation, opening up the development of Azerbaijan's oil industry to western companies and supporting the United States in its campaign against terrorism and military intervention in Iraq.

72. Relations with Russia have improved in the last few years, though the conflict across the northern border of Azerbaijan, in Chechnya in the Russian Federation, and the use of Azerbaijan as a refuge by thousands of Chechen asylum seekers, has weighed on the relationship. Ties with Iran are somewhat problematic. Iran contains a sizeable Azeri minority and there are apparently Azeris on both sides of the border who aspire towards unification of ethnic Azeri territory. The Iranian military gestures over the exploration of oil resources in a disputed area of the Caspian Sea in the summer of 2001 were a stark reminder of the volatility of the region. Azerbaijan and Iran while still not trusting each other moved to de-escalate the confrontation. Presidential Aliev's visit to Tehran in the spring of 2002, while hailed at the time as a breakthrough, seems not to have brought the countries much closer.⁴⁷

⁴⁵ Institute for war and peace reporting, Caucasus Reporting Service No. 190, "Karabakh Ceasefire Under Strain", http://www.iwpr.net/index.pl?archive/cau/cau_200308_190_1_eng.txt.

⁴⁶ RFE/RL, Armenia liberty, 20 August 2003, Fresh Firefight Reported On Armenian-Azeri Border, <http://www.armenialiberty.org/armeniareport/report/en/2003/08/CAB901BD-89E6-44BA-841E-FF0FA17204D6.asp>.

⁴⁷ European Commission, Background Briefing Azerbaijan, February 2003, <http://www.europarl.eu.int/meetdocs/delegations/caus/20030409/02.pdf>.

2.5. Internally Displaced Persons

73. In addition to some 9,000 asylum-seekers, mainly from Chechnya and Afghanistan, Azerbaijan hosts one of the largest IDP populations per capita in the world (some 570,000 persons). In building the basics of an asylum and refugee status determination system, important progress has been made both with the main Government partners (State Committee for Refugees and IDPs, Ministries of Interior, of National Security and of Foreign Affairs and Border Guards), and with the local authorities. The latter are, along with NGOs, the first point of contact for asylum-seekers on arrival in Azerbaijan.

74. According to the U.S. Committee for Refugees at the end of 2002⁴⁸ there were more than 576,000 people who remained internally displaced from the western regions of Azerbaijan that have been under Armenian occupation since 1993. In addition, about 270,000 persons were living in refugee-like circumstances. These included about 220,000 ethnic Azeris from Armenia and about 50,000 Meskhetian Turks from Uzbekistan. During 2002, UNHCR registered about 1,834 asylum seekers in Azerbaijan, most of whom were Chechens. Nearly 4,900 persons from Azerbaijan applied for asylum in other European countries that year, up about 29 per cent from the previous year.

75. Those remaining displaced in 2002 included about 40,000 persons from Nagorno-Karabakh and more than 530,000 from regions just outside Nagorno-Karabakh, including Agdam (127,000), Fizuli (126,000), Lachin (68,000), and Kelbajar (61,000). The overwhelming majority are ethnic Azeris. However, about 4,000 Kurds, from the Lachin and Kelbajar regions, and several hundred ethnic Russians also live among the displaced.

76. Although the Committee notes that the Constitution guarantees the enjoyment, without discrimination, of most of the rights mentioned in article 5 of the Convention, it remains acutely concerned about the effective enjoyment of these rights by persons belonging to ethnic groups, in particular by persons belonging to the Armenian, Russian and Kurdish minorities when seeking employment, housing, and education.⁴⁹

77. Although most of the displaced persons originated from rural areas, about 55 per cent settled in urban areas after being displaced, mostly in Sumgait and the capital, Baku. More than half of the displaced persons still lived in temporary shelter at year's end, such as public buildings (81,000 persons), hostels (80,000), schools and day-care centers (42,000), abandoned railroad cars (5,000), partially constructed buildings (5,000), sanatoriums (26,000), camp settlements (41,000), and makeshift roadside settlements (16,000). The more fortunate lived with relatives or host families (121,000 persons), in houses built by humanitarian agencies (36,000), or houses built by the State Committee for Refugees (10,000). Another 24,000 were living in apartments that they occupied illegally.

⁴⁸ U.S. Committee for Refugees, World Refugee Survey 2003 – Azerbaijan, <http://www.refugees.org/world/countryindex/azerbaijan.cfm>.

⁴⁹ Committee on the Elimination of all forms of Racial Discrimination (CERD), CERD/C/304/Add.75, 12 April 2001, <http://www.unhcr.ch/TBS/doc.nsf/0/80256404004ff315c125638c005d01ee?OpenDocument>.

78. The Government of Azerbaijan has granted prima facie refugee status and conferred citizenship rights on two groups: close to 190,000 ethnic Azeris who fled from Armenia and almost 50,000 Meskhetian Turks – deported en masse from Georgia to Central Asia by Stalin in 1944 – who fled ethnic violence in the Ferghana Valley region of Uzbekistan in 1999. These two groups, ethnic Azeris and formerly deported Meskhetian Turks, have largely integrated into Azerbaijan, are eligible for citizenship under the 1998 Citizenship Law, and face no threat of forced repatriation or expulsion from Azerbaijan. By the end of 2001, UNHCR estimated that most eligible Azeris and Meskhetian Turks were believed to have naturalized or be in the process of doing so. Because the Government has not been able to provide statistics on persons who have naturalized, the U.S. Committee for Refugees counts them as persons in refugee-like circumstances.⁵⁰

79. As of July 2003, there were still 577,179 internally displaced persons in Azerbaijan and 2,461 Meskhetian Turk refugees from Uzbekistan of concern to UNHCR in the country. No refugees had been returned in 2002 or before.

3. Review of the General Human Rights Situation in Azerbaijan

80. The Azerbaijan Constitution⁵¹ provides for freedom of speech and of the press and specifically outlaws press censorship. Television and radio stations require a license to operate, and the Government has used this requirement to prevent independent stations from broadcasting by delaying the issuance of permission papers. Over four hundred newspapers and journals are circulating in the country. In June 2000, President Aliyev signed a new law on the media. Although an improvement over the previous law, in many respects it falls short of international standards: in particular, there is a provision in the new media law that permits the Government to shut down a newspaper after it loses three lawsuits. Media outlets have claimed that the threat of disproportionate fines and lawsuits forces them to exercise self-censorship. It is worth noting that more than 60 separate incidents of harassment or intimidation of journalists were reported during 2000.

81. The constitution also provides for an independent judiciary even though in practice judges do not seem to function independently of the executive branch with the exception of the Constitutional Court, which made a number of crucial decisions demonstrating its independence.

82. The constitution further provides for the presumption of innocence in criminal cases and numerous other due process safeguards, including an exclusionary rule barring the use of illegally obtained evidence and the right to legal counsel. The constitution also prescribes equal status for prosecutors and defence attorneys before the courts, even though in practice prosecutors' prerogatives outweigh those of defence attorneys. The government generally has observed the constitutional provisions for public trials and both domestic and foreign

⁵⁰ U.S. Committee for Refugees, World Refugee Survey 2003 – Azerbaijan, <http://www.refugees.org/world/countryindex/azerbaijan.cfm>.

⁵¹ See Refworld 2003, CD 3 Legal Information/National Legislation or www.unhcr.org/refworld.

observers generally are able to attend trials. However, the implementation of due process safeguards throughout the criminal justice system is reportedly still problematic.

83. Prison conditions are reported to be harsh. The quality of food, housing, hygiene, and medical care is poor. Tuberculosis is a widespread problem. Torture is illegal but there are reports that the police apply different methods of torture against detainees/prisoners during arrest, interrogation, and pre-trial detention. Prison guards also reportedly torture inmates. A new Criminal Code adopted in September 2000 criminalized torture as a specific offence and stipulated a five to ten years prison sentence for officials found to have used torture to extract confessions. However, there are reports that police continues to torture or ill-treat detainees with relative impunity. In March 2000, the President signed a decree permitting the ICRC to begin prison visits to all places of detention and to all categories of prisoners within the latter's mandate. In addition, national human rights organizations were able to continue their monitoring visits to selected prisons. It is widely believed that the presidential decree has slightly improved the conditions for the ICRC and human rights organizations to occasionally visit some of the prisons, although more needs to be done in institutionalizing and making these visits a nation-wide practice.

84. In December 2001, the Milli Majlis passed legislation on the creation of the institution of an Ombudsman. The Milli Majlis approved the first Ombudsman on 2 July 2002. Citizens of the country, foreigners, and stateless persons may appeal to the Ombudsman concerning violations of their human rights committed by state bodies or individuals. The Ombudsman may refuse to handle a case if it happened more than a year before it was submitted to the office.

85. Azerbaijan's entry into the Council of Europe in 2001 produced legislation in 2002 to bring the country more in line with European standards, including an amended press law that came into effect in mid-March.

86. Procedure for starting up and registering new publications was simplified and the protection of journalists' sources strengthened. Bans and sanctions against newspapers can now only be ordered by a court. However, the independence of the legal system was not guaranteed and the government was still able to exert pressure on non-government media. A broadcasting law, drawn up in consultation with the Council of Europe, came into effect on 8 October 2002 and provided for a National Broadcasting Council appointed by the president to assist the growth of privately-owned TV stations. The Council should issue operating licenses, monitor compliance with the rules, and when necessary impose fines or brief suspensions.⁵²

87. By the end of the year, a law to abolish the state-run TV station had still not been approved. The proposed law did not guarantee establishment of a truly independent public TV station, despite the government's promise to the Council of Europe that it would.

⁵² Reporters Without Borders, Azerbaijan, Annual Report 2003, 2 May 2003.

88. At the same time, new laws and amendments to old ones gave the government more power to monitor journalists and what they wrote. On 17 May 2002, parliament amended laws on communication and criminal investigations. Phone taps and interception of postal and electronic mail were made easier in cases of criminal investigation and fighting terrorism. President Heidar Aliev issued a decree on 28 August about media responsibility in revealing state secrets that violated the principle of protection of journalists' sources. After strong protests by the media and human rights groups, the measure was watered down.⁵³

89. At the end of the year, a new wave of libel suits increased pressure on independent newspapers, already the target of an advertising boycott. Huge fines were imposed and due process was weak. Hundreds of journalists demonstrated in December and the Council of Editors asked the Organisation for Security and Cooperation in Europe (OSCE) and the Council of Europe to intervene.⁵⁴

90. Since Azerbaijan is a State Party to the 1951 Refugee Convention and its 1967 Protocol⁵⁵ a new national Law on Refugees was adopted in May 1999, which superseded the 1992 Refugee Law. In November 2000, the Refugee Status Determination Procedure was adopted by means of a presidential decree. However, the Law has not yet been implemented. Currently, UNHCR is working closely with the Government to assist it to establish adequate structures to enable the implementation of the law on refugees.⁵⁶

91. Since European Convention on Human Rights (ECHR) is ratified, individuals – whether citizens or foreigners, stateless or refugees – will have the right of individual application to the European Court of Strasbourg to complain against violations of the Convention allegedly committed by the Azerbaijani authorities. If successful, individuals will be awarded restoration of the violated rights and/or compensation for the violation suffered. Although the ECHR does not guarantee a right to asylum *per se*, the European Court's jurisprudence has established in a number of cases that extradition or deportation may amount to a violation of the Convention where substantial grounds have been shown for believing that the person concerned faces a real risk of torture or inhuman or degrading treatment in the receiving country (violation of Article 3: freedom from torture or inhuman or degrading treatment or punishment). In addition, when deportation separates a person from his family, it may be found to violate Article 8 of the ECHR (Right to respect for private and family life).

3.1. Freedom of Movement

92. The Constitution of Azerbaijan provides for the right to free movement and choice of residence. Azerbaijan continues to require all residents, whether permanent or temporary, to

⁵³ *Ibid.*

⁵⁴ *Ibid.*

⁵⁵ “The Republic of Azerbaijan is a party to all the major multilateral human rights treaties and regularly submits reports on its implementation of the provisions of those treaties to the appropriate treaty bodies.” International Human Rights Instruments, HRI/CORE/1/Add.117, 27 February 2002.

⁵⁶ See Refworld 2003 CD ROM or www.unhcr.org/refworld.

obtain a registration according to the place of residence. In 1996, the Parliament adopted a new Law on Registration According to the Place of Residence and Sojourn. Pursuant to Article 1 of this Law, citizens of Azerbaijan, foreigners and stateless persons shall be registered according to their permanent residence and sojourn in the Azerbaijan Republic. Residents of Azerbaijan must apply to the Ministry of Interior for a *propiska*.

93. To obtain the *propiska*, they must demonstrate that they have either housing or other reasons to reside in Azerbaijan with a fixed address. In principle, the Law does not discriminate between citizens, foreigners, refugees, internally displaced persons, asylum seekers, or stateless persons. In theory, local policlinics are to serve only persons living within their districts. Yet, in practice, only very few policlinics in Azerbaijan observe this rule and it is not necessary to show one's *propiska* to receive medical treatment. Access to employment is preconditioned by registration. Moreover, the registration stamp is entered into the ID cards that have replaced former Soviet passports.

94. Recognised *prima facie* IDPs from areas in the occupied parts of Azerbaijan who live in camps and settlements and who now have "defunct" *propiskas* are unable to change their residence permits as they have no contractual agreements for housing. Although their "defunct" *propiskas* are not valid as they have residence permits in camps and settlements. This enables them to obtain social services from local policlinics and records from their local Executive Committees in Exile. IDPs can only obtain humanitarian assistance in a camp or settlement where they were initially assigned, limiting their ability officially to establish residence in areas where they wish to migrate in search of better economic opportunities. Those IDPs who are not living in camps and settlements are able to obtain new *propiskas* if they can provide evidence of a rental or other agreement. Likewise, military service is also based on their "defunct" *propiskas*.

95. While the Government of Azerbaijan does not use *propiskas* to discriminate against non-citizens, only those few asylum seekers with valid passports and registered lease agreements are able to obtain *propiskas*. The large majority of asylum seekers cannot obtain this document. Undocumented asylum seekers who arrived in the country illegally have no freedom of movement until determination of their status by UNHCR. As a result, they face risk of detention for illegal entry into Azerbaijan and for lack of legal documents.

3.2. Organized Crime

96. High level officials, influential or wealthy and well-protected persons involved in criminal activities (drug smuggling, trafficking, illegal trade or, more commonly, corruption) could easily be in a position to exercise pressure that could amount to persecution on any individual, if the individual has knowledge of their activities. Being aware of an affluent person's illegal activities could constitute a danger for them because of that person's governmental or social influence. Such pressure could be exercised either with the active complicity of corrupted authorities (police, judiciary or other) or because the authorities may not be willing or capable to interfere and protect those individuals.

III. Azerbaijan Refugees and Asylum Seekers – Global Trends

1. Refugee Population and Major Changes, 2002

97. In the beginning of 2002 there were 270,603 refugees from Azerbaijan worldwide of which 50,589 (18.7 per cent) were assisted by UNHCR. The biggest number of refugees from Azerbaijan had been staying in Armenia (264,327; 97.7 per cent), the second largest group in the United States of America (2,092; 0.77 per cent) and the third in Germany (1,843; 0.7 per cent). In other countries there were in total 2,341 (0.87 per cent) Azerbaijani refugees.

98. In 2002, the number of refugees from Azerbaijan increased in all the countries of asylum of refugees from Azerbaijan with 979 individual recognition (0.36 per cent), 121 resettlement (0.04 per cent) and 11 others (0.004 per cent), which means an increase in total 1,111 (0.41 per cent).

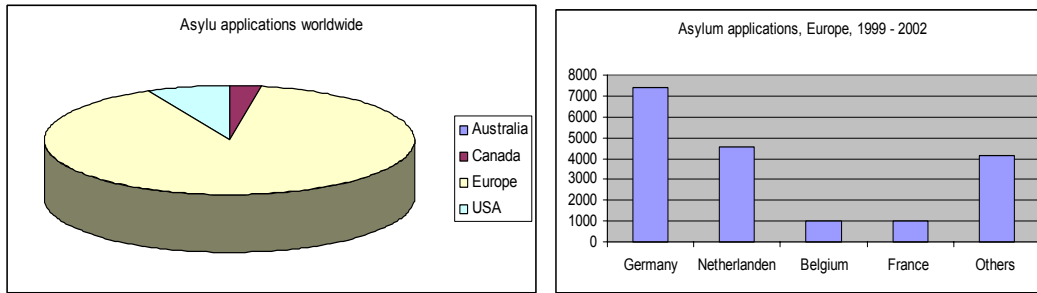
99. The decrease in refugees from Azerbaijan during 2002 was represented by 9,211 (3.4 per cent) of naturalised refugees and by 7,731 (2.86 per cent) of others, which represented the total decrease of 16,957 (6.27 per cent).

100. The total result of different aspects of increase and decrease of refugees from Azerbaijan in 2002, described in paras 2. and 3., lead to the final result at the end of the year 2002, when there were 254,732 (-5.87 per cent in comparison with the figures in the beginning of 2002) of refugees from Azerbaijan worldwide of which 50,492 (-0.19 per cent) were UNHCR assisted (see Table 1).

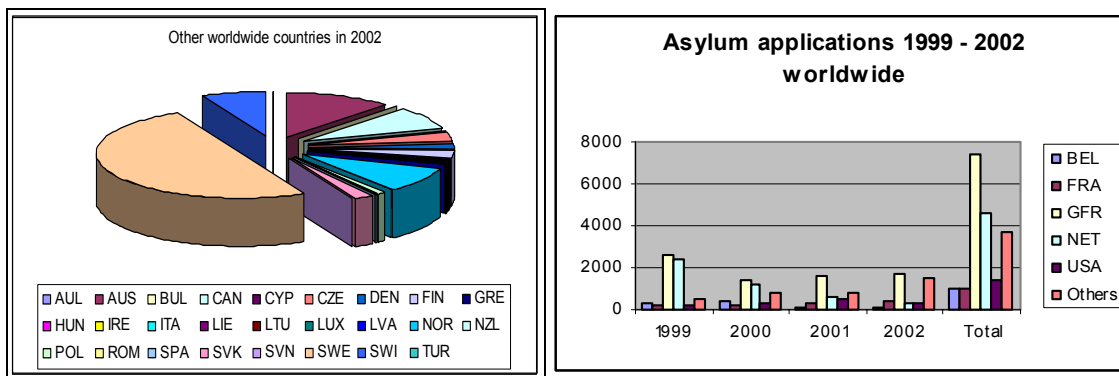
2. Asylum Applications Lodged in Industrialized Countries, 1999 – 2002

101. From 1999 to 2002, asylum seekers from Azerbaijan lodged some 19,049 asylum claims worldwide, from which 17,128 (89.9 per cent) were asylum claims in Europe, 1,371 (7.2 per cent) in the United States of America, 545 (2.87 per cent) in Canada and 5 (0.03 per cent) in Australia.

102. The biggest number of asylum applications in Europe in the followed period of 1999 – 2002 went to Germany (7,380; 43.1 per cent of the total claims in Europe), Netherlands (4,573; 26.7 per cent), Belgium (1,034; 6.04 per cent), and France (1,000; 5.8 per cent). All the other European countries shared 3,141 (18.3 per cent) of the asylum applications lodged in Europe.



103. In the European countries of asylum, there is a visible decrease of asylum claims in 2000 – 2002 in comparison with 1999 and in the period 2000 – 2002, the number remains in constant figures in all countries worldwide. In 2002, there is a significant increase of applications claimed in Sweden (in 492.5 per cent in comparison with 2001). Other figures remain not significantly changed (see Table 2).



3. Legal Status and Type of Recognition, End-2002

104. Besides Armenia, 247,538 refugees from Azerbaijan were granted “prima facie” refugees according to the Convention, there were 5,491 refugees with legal status under the 1951 Convention, 157 under UNHCR Mandate and 1,269 under other⁵⁷ legal status worldwide. From the total number 254,455 refugees from Azerbaijan 247,538 were recognized “prima facie” in Armenia (see above) and 6,917 in 28 countries worldwide individually (see Table 3).

4. Asylum Applications and Refugee Status Determination, 2002

105. During 2002, Azerbaijani citizens lodged some 5,084 asylum applications in 36 countries worldwide. In total some 7,531 refugee status determinations were taken, 603 (8 per cent) of which resulted in refugee status, whereas another 414 Azerbaijani asylum-seekers

⁵⁷ The category “other/unknown” includes asylum-seekers allowed to remain for humanitarian reasons.



were granted humanitarian status (5.5 per cent). In total, 13.5 per cent of all decisions taken during 2002 were positive (see Table 4). In comparison with 1999, this number represents an increase in positive decisions in 2002 of 70.6 per cent.

Table 1

Refugee population and major changes, 2002																	
												Query date: 24 July 2003					
All figures are provisional and subject to change. A dash ("-") indicates that the value is zero or not available.																	
Source: UNHCR/Government. Compiled by: UNHCR, Population Data Unit, PGDS.																	
In the absence of reliable Government figures, UNHCR has estimated the refugee population based on refugee arrivals and asylum-seeker recognition over a 10-year period for the following countries:																	
Austria, Denmark, Finland, Germany, Iceland, Ireland, Italy, Netherlands, Norway, Portugal, Spain and UK and over a 5-year period for the following countries: Australia, Canada, New Zealand and USA.																	
* Voluntary repatriation departures reported by the asylum country are often significantly lower than returnee arrivals reported by the country of origin (see sheet 'ret') due to spontaneous refugee returns.																	
In case of discrepancies between the reporting by the country of asylum and that of return, UNHCR generally reports the highest figure, which is often provided by the country of return.																	
Cntry. of asylum (code)	Population begin year		Increases during the year					Decreases during the year								Population end-year	
	Total	of which: UNHCR-assisted	Spont. arrivals		Resettle-ment arrivals	Other	Total	Voluntary repatriation*		Resettlement		Cessa-tion	Natura-lization	Other	Total	Total	of which: UNHCR-assisted
			Prima facie	Individual recogni-tion				Total	of which: UNHCR-assisted	Total	of which: UNHCR-assisted						
ARM	264,327	50,000	-	-	-	-	-	-	-	4	4	-	9,055	7,730	16,789	247,538	50,000
AUL	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2	-
AUS	22	-	-	7	-	-	7	-	-	-	-	-	-	-	-	29	-
BEL	2	-	-	1	-	-	1	-	-	-	-	-	-	-	-	3	-
BLR	17	1	-	4	-	-	4	-	-	-	-	-	-	-	-	21	-
BUL	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2	-
CAN	153	-	-	94	-	-	94	-	-	-	-	-	-	-	-	222	-
CZE	27	27	-	3	-	-	3	-	-	-	-	-	-	-	-	30	30
DEN	51	-	-	16	-	-	16	-	-	-	-	-	-	-	-	67	-
ECU	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-
FIN	27	-	-	1	-	-	1	-	-	-	-	-	-	-	-	28	-
FRA	160	-	-	-	-	-	-	-	-	-	-	-	-	-	-	253	-
GEO	13	-	-	-	-	-	-	-	-	-	-	-	-	-	-	13	-
GFR	1,843	-	-	70	-	-	70	-	-	-	-	-	-	-	-	1,913	-
GRE	-	-	-	6	-	-	6	-	-	-	-	-	-	-	-	6	-
HUN	-	-	-	1	-	-	1	-	-	-	-	-	-	-	-	1	-
IRE	9	-	-	1	-	-	1	-	-	-	-	1	-	1	14	-	-
ITA	7	-	-	-	-	-	-	-	-	-	-	-	-	-	-	7	-
KAZ	3	3	-	-	-	-	-	-	-	-	-	-	-	-	-	3	-
MDA	4	4	-	-	-	-	-	-	-	-	-	-	-	-	-	4	4
NET	901	-	-	394	-	-	394	-	-	-	-	-	-	-	-	1,283	-
NOR	46	-	-	3	6	-	9	-	-	-	-	-	-	-	-	55	-
POL	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-
ROM	4	-	-	-	-	-	-	-	-	-	-	-	-	-	-	4	-
RUS	456	456	-	1	-	11	12	-	-	11	11	-	155	-	166	302	302
SPA	49	-	-	4	-	-	4	-	-	-	-	-	-	-	-	53	-
SVK	-	-	-	1	-	-	1	-	-	-	-	-	-	-	-	1	1
SWE	47	-	-	-	-	-	-	-	-	-	-	-	-	-	-	68	-
SWI	8	-	-	-	-	-	-	-	-	-	-	-	-	-	-	8	-
TKM	95	95	-	51	-	-	51	-	-	-	-	-	-	-	-	146	146
UKR	233	2	-	-	-	-	-	-	-	-	-	-	-	1	1	232	2
USA	2,092	-	-	315	115	-	430	-	-	-	-	-	-	-	-	2,415	-
UZB	1	1	-	2	-	-	2	-	-	-	-	-	-	-	-	3	3
YUG	-	-	-	4	-	-	4	-	-	-	-	-	-	-	-	4	4
Total	270,603	50,589	-	979	121	11	1,111	-	-	15	15	-	9,211	7,731	16,957	254,732	50,492

Table 2

Asylum applications lodged in industrialized countries, 1993-2002											Query date: 24 July 2003
Figures generally refer to applications lodged in first instance.											
All 2002 figures are provisional and subject to change. A dash ("-") indicates that the value is zero or not available.											
Source: UNHCR/Governments. Compiled by: UNHCR, Population Data Unit, PGDS.											
Country	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	Total
AUL	-	-	-	-	1	-	1	-	3	1	6
AUS	-	-	-	-	4	10	53	24	85	182	358
BEL	11	8	21	35	34	82	349	440	148	97	1,225
BUL	-	-	-	-	-	2	-	-	1	-	3
CAN	3	13	23	40	27	34	84	178	151	132	685
CYP	-	-	-	-	-	-	-	-	7	-	7
CZE	18	-	4	-	5	9	10	9	89	48	192
DEN	-	2	1	11	10	12	37	146	27	29	275
FIN	-	2	8	-	-	6	4	6	2	46	74
FRA	-	-	-	23	28	53	174	198	253	375	1,104
GFR	564	368	423	866	1,245	1,566	2,628	1,418	1,645	1,689	12,412
GRE	-	-	-	-	-	1	13	3	5	1	23
HUN	-	-	-	-	-	2	13	-	4	5	24
IRE	-	3	-	-	3	-	7	14	14	6	47
ITA	-	-	-	-	-	1	11	10	4	12	38
LIE	-	-	-	-	-	5	6	-	3	-	14
LTU	-	-	-	-	-	4	4	2	-	1	11
LUX	-	-	-	-	-	-	1	-	5	1	7
LVA	-	-	-	-	-	2	4	-	-	-	6
NET	23	104	129	185	315	1,268	2,450	1,163	634	326	6,597
NOR	4	1	-	2	2	15	39	35	100	145	343
NZL	-	-	-	-	-	-	-	-	1	-	1
POL	-	-	5	33	37	16	45	140	70	14	360
ROM	-	-	-	-	-	4	1	-	-	-	5
SPA	9	21	3	15	13	42	72	61	18	7	261
SVK	-	-	-	-	-	-	-	-	1	31	32
SVN	-	-	-	-	-	-	-	5	-	-	5
SWE	13	-	11	14	2	27	46	60	158	778	1,109
SWI	3	-	-	7	24	41	67	78	102	110	432
TUR	-	15	-	-	-	-	3	-	-	-	18
USA	-	-	-	-	-	-	203	335	523	310	1,371
Total	648	537	628	1,231	1,750	3,202	6,325	4,325	4,053	4,346	27,045
Notes											
* DEN: Includes applications lodged at embassies abroad.											
** GFR: 1995-1997 includes re-opened applications.											
Figures for the USA and UK refer to cases.											
On average, there are some 1.3 persons per asylum case in the United Kingdom and 1.4 persons per case in the USA.											

Table 3

Legal status and type of recognition, end-2002						Query date: 24 July 2003			
All figures are provisional and subject to change. A dash ("-") indicates that the value is zero or not available.									
Source: UNHCR/Governments. Compiled by: UNHCR, Population Data Unit, PGDS.									
¹ The category "Other/unknown" includes asylum-seekers allowed to remain for humanitarian reasons.									
*** In the absence of reliable Government figures, UNHCR has estimated the refugee population based on refugee arrivals and asylum-seeker recognition over a 10-year period for the following countries: Austria, Denmark, Finland, Iceland, Ireland, Italy, Netherlands, Norway, Portugal, Spain and UK; and over a 5-year period for the following countries: Australia, Canada, New Zealand and USA.									
Country of asylum	Legal status ¹					Type of recognition			
	1951 UN Convention	1969 OAU Convention	UNHCR Mandate	Other/unknown	Total***	Prima Facie	Individual	Other/unknown	Total***
ARM	247,538	-	-	-	247,538	247,538	-	-	247,538
AUS	29	-	-	-	29	-	29	-	29
BLR	21	-	-	-	21	-	21	-	21
BUL	2	-	-	-	2	-	2	-	2
CAN	222	-	-	-	222	-	222	-	222
CZE	30	-	-	-	30	-	30	-	30
DEN	48	-	-	19	67	-	67	-	67
ECU	1	-	-	-	1	-	1	-	1
FIN	1	-	-	22	23	-	23	-	23
GEO	13	-	-	-	13	-	13	-	13
GFR	1,781	-	-	132	1,913	-	1,913	-	1,913
GRE	-	-	-	6	6	-	6	-	6
HUN	-	-	-	1	1	-	1	-	1
IRE	10	-	-	-	10	-	10	-	10
MDA	-	-	4	-	4	-	4	-	4
NET	314	-	-	969	1,283	-	1,283	-	1,283
NOR	22	-	-	36	58	-	58	-	58
POL	1	-	-	-	1	-	1	-	1
ROM	-	-	-	4	4	-	4	-	4
RUS	302	-	-	-	302	-	302	-	302
SPA	35	-	-	18	53	-	53	-	53
SVK	1	-	-	-	1	-	1	-	1
SWE	11	-	-	57	68	-	68	-	68
SWI	-	-	-	5	5	-	5	-	5
TKM	-	-	146	-	146	-	146	-	146
UKR	232	-	-	-	232	-	232	-	232
USA	2,415	-	-	-	2,415	-	2,415	-	2,415
UZB	-	-	3	-	3	-	3	-	3
YUG	-	-	4	-	4	-	4	-	4
Total	253,029	-	157	1,269	254,455	247,538	6,917	-	254,455

Table 4

Asylum applications and refugee status determination, 2002													Query date: 24 July 2003		
All figures are provisional and subject to change. A dash ("-") indicates that the value is zero or not available.															
Source: UNHCR/Governments. Compiled by: UNHCR, Population Data Unit, PGDS.															
Statistics on admissibility outside the asylum procedure are not included.															
* Procedure:															
T=Type of procedure: G=Government; U=UNHCR; V=Various/unknown															
A=Type of application: NA=New application; RA=Repeat application															
L=Level of procedure: FI=First instance; AR=Administrative review/appeal; JR=Further (judicial) review; CA=Cantonal regulations (Switzerland);															
EO=Executive Office for Immigration Review (USA); IN=Immigration and Naturalization Service (USA); RA= Further review ('re-examen'-France).															
** Protection indicators (calculated by UNHCR):															
Refugee recognition rate: Recognized divided by total of Recognized, Other positive and Rejected * 100%.															
Total recognition rate: Recognized plus Other positive divided by total of Recognized, Other positive and Rejected * 100%.															
Otherwise closed rate: Otherwise closed divided by Total no. of decisions * 100%.															
Change in pending cases: Cases pending as at 31 December minus Cases pending as at 1 January divided by Cases pending as at 1 January * 100%.															
Country of asylum (code)	Procedure*			Cases pending as at 1 Jan.	Applied since 1 Jan.	Decisions since 1 January					Cases pending as at 31 Dec.	Protection indicators**			
						Positive		Rejected	Otherw. closed	Total		Recognition rates		Other-wise closed rate	Change in pending cases
	Recog-nized	Other (hum.)	Ref. status			Total									
ARE	U			-	1	-	-	1	-	1	-	-	-	-	..
ARG	G	NA		2	-	-	-	-	-	-	2	..	..	..	0.0
AUL	G			-	1	-	-	-	-	-	1	..	..	..	..
AUS	G	RA		-	182	7	-	17	83	107	-	29.2	29.2	77.6	..
BEL	G		AR	-	14	-	-	4	1	5	-	-	-	20.0	..
BEL	G		FI	-	97	1	-	12	-	13	-	7.7	7.7	-	..
BLR	G	NA		26	15	4	-	-	9	13	28	100.0	100.0	69.2	7.7
BUL	G	NA		17	-	-	-	-	-	-	17	..	..	..	0.0
CAN	G			209	132	94	-	53	3	150	190	63.9	63.9	2.0	-9.1
CUB	U			-	2	-	-	-	-	-	2	..	..	..	..
CYP	U	RA	AR	5	-	-	-	2	-	2	3	-	-	-	-40.0
CZE	G	NA	AR	1	3	-	-	2	-	2	2	-	-	-	100.0
CZE	G	NA	FI	56	48	3	-	3	61	67	37	50.0	50.0	91.0	-33.9
DEN	G	NA	AR	-	-	12	4	83	-	99	-	12.1	16.2	-	..
DEN	G	NA	FI	-	29	-	-	51	-	51	-	-	-	-	..
FIN	G	NA	FI	1	46	-	1	5	1	7	-	-	16.7	14.3	-100.0
FRA	G		AR	-	172	-	-	-	-	-	-	..	..	..	..
FRA	G		FI	-	375	32	-	225	-	257	-	12.5	12.5	-	..
FRA	G		RA	-	22	61	-	-	-	61	-	100.0	100.0	-	..
GFR	G	NA		874	1,689	58	8	1,596	43	1,705	837	3.5	4.0	2.5	-4.2
GFR	G	RA		49	201	1	3	3	187	194	59	14.3	57.1	96.4	20.4
GRE	G	NA		1	1	-	6	-	-	6	(4)	-	100.0	-	-500.0
HUN	G	NA		-	5	-	1	2	1	4	1	-	33.3	25.0	..
IRE	G	RA	AR	-	7	5	-	4	3	12	-	55.6	55.6	25.0	..
IRE	G	NA	FI	-	6	1	-	6	8	15	-	14.3	14.3	53.3	..
ISR	V	RA		1	-	-	-	-	-	-	1	..	..	..	0.0
ITA				-	12	-	-	-	-	-	-	..	..	..	..
LTU	G	NA		-	1	-	-	-	-	-	1	..	..	..	..
LUX	G			-	1	-	-	-	-	-	-	..	..	..	..
MDA	U			-	1	-	-	-	-	-	1	..	..	..	..
NET	G		AR	2,602	-	20	319	2,042	167	2,548	352	0.8	14.2	6.6	-86.5
NET	G		FI	430	326	3	52	620	51	726	145	0.4	8.1	7.0	-66.3
NET	G		JR	685	-	-	-	-	-	-	1,981	..	..	..	189.2
NOR	G	NA	FI	-	145	-	3	113	60	176	-	-	2.6	34.1	..
PAK	U	NA		5	-	-	-	-	5	5	-	..	..	100.0	-100.0
POL	G	NA	AR	-	-	-	-	1	-	1	-	-	-	-	..
POL	G	NA	FI	-	14	-	-	84	9	93	-	-	-	9.7	..
RUS	G	NA		-	23	1	-	2	-	3	20	33.3	33.3	-	..
SPA	G			-	7	4	-	9	6	19	-	30.8	30.8	31.6	..
SVK	G	NA		-	31	-	-	2	6	8	23	-	-	75.0	..
SVN	G	RA		1	-	-	-	-	1	1	-	..	..	100.0	-100.0
SWE	G	NA	AR	-	-	-	5	50	-	55	-	-	9.1	-	..
SWE	G	NA	FI	-	778	4	12	153	25	194	-	2.4	9.5	12.9	..
SWI	G	NA	FI	85	110	-	-	39	53	92	96	-	-	57.6	12.9
TKM	U			143	21	51	-	68	44	163	1	42.9	42.9	27.0	-99.3
USA	G		EO	179	251	38	-	36	167	241	189	51.4	51.4	69.3	5.6
USA	G		IN	222	310	198	-	119	105	422	143	62.5	62.5	24.9	-35.6
UZB	U	RA		14	-	1	-	4	4	9	5	20.0	20.0	44.4	-64.3
YUG	V	NA	FI	-	5	4	-	-	-	4	1	100.0	100.0	-	..
Total				5,608	5,084	603	414	5,411	1,103	7,531	4,134	9.4	15.8	14.6	-26.3

IV. UNHCR Operations 2002-2003

106. In September 1999, UNHCR assisted the Parliament in adopting a new refugee law, and, in the presidential administration to promulgate a decree, allowing for a more complete implementation of the 1951 Convention. Because of these efforts, an agreement was signed between the Government and UNHCR to set up a joint Refugee Status Determination unit, under the umbrella of the State Committee of Refugees and IDPs (SCR) headed by a Deputy Prime Minister, as a transition mechanism towards an independent governmental procedure. Lastly, in 2000, UNHCR and the Council of Europe obtained the promulgation of a much-needed law on national NGO, which will be privileged partners of the Organization in the future. In 2002 and in 2003, UNHCR legal and protection activities will cover the necessary follow up on the implementation of these three legal reforms in cooperation with the State Committee on Refugees and IDPs (refugee determination procedure), Council of Europe the OSCE and national NGOs whose capacities will need enhancement to enable them to fully play their role in support of UNHCR's mandate.

107. In 2000 and in 2001, the number of asylum seekers originating from Afghanistan and Chechnya, RF, increased. In particular, several thousand of Chechens reached Baku in the course of 2000, but contacted UNHCR in May 2001 only, after their own solidarity networks had collapsed. The number of asylum seekers registered with UNHCR exceeded 8,000 persons (including approximately 5,635 Chechens) by December 2001. Registration and issuance of protection letters for persons of concern requesting the authorities to grant temporary protection are issued to them. A program of family visits is implemented with the assistance of a national and an international NGO and serves as a basis to determine whether individual assistance is needed. Faced with this increased caseload, UNHCR Baku had to expand its delivery capacity, both in terms of assistance and of human resources.

108. With regard to the Chechen caseload, the position of UNHCR is that asylum seekers and refugees shall be assisted until the situation in Chechnya, Russian Federation, is conducive for return and that the voluntary nature of the return is established. As part of its efforts to improve the temporary protection regime for them, UNHCR was able in June 2003 to persuade the Government of Azerbaijan to allow asylum seeker and refugee children access to the state school system beginning from the new school year in September 2003. As far as the IDP situation is concerned, it is assumed that the peace resolution process will continue. Within this inter-agency framework, UNHCR is committed to participating in assisting the authorities to creating a conducive environment for return. In the meantime, it has also focused its activities on improving conditions for urban IDPs in Sumgait and Baku.

109. Based on the goal adopted for 2003, which is to promote and implement durable solutions for refugees in Azerbaijan, the orientations of UNHCR protection activities in 2003 therefore include three complementary directions: a) to follow-up on legal reforms

concerning citizenship, in close cooperation with the Council of Europe and the OSCE; b) to provide assistance and expertise to the Government to establish a functioning refugee status determination unit; c) to facilitate, in the framework of a regional coordination framework, the voluntary return of refugees, when the conditions in their country of origin permit.

110. The proposed goals of UNHCR's assistance program to IDPs in Azerbaijan in 2003 are the result of an evolution that took place over the past four years. During 1998 – 2000, in addition to on-going cooperation with concerned governmental entities, UNHCR actively promoted partnerships with in-country stakeholders in areas of concern to the Organization, such as the EC, USAID, UN agencies and the WB, with a view to best mobilize foreign aid resources on long-term measures concerning IDPs and refugees. This was done in a context of declining voluntary contributions to humanitarian assistance programmes addressing the needs of the displaced population, victim of a prolonged conflict over Nagorno-Karabakh and the resulting occupation of significant parts of the Azerbaijani territory. Over the above-mentioned period, international assistance shifted from a purely humanitarian approach to a long-term development strategy. UNHCR therefore started to implement a hand-over strategy with development-oriented partners in order to ensure that remaining needs of IDPs (some 570,000 persons, out of which UNHCR's assistance reaches 50,000 of the most destitute persons) will continue to be addressed as they are integrated into development programmes addressing the national community as a whole. This approach allowed for a consistent management of the downsizing of the UNHCR assistance program for IDPs in Azerbaijan while benefiting from supportive measures from development-oriented international organizations and interested donors. This evolution took place on the background of continued diplomatic efforts to reach a comprehensive peace settlement over the Nagorno-Karabakh conflict, which would include inter-alia the return of IDPs to their homeland, within the OSCE/Minsk Group negotiation format agreed by Armenia and Azerbaijan. The uncertainties that constantly prevailed over the outcome of the OSCE/Minsk Group led the above-mentioned stake-holders, and in particular UNHCR, to work in two parallel directions: a) to promote long-term measures aimed at improving IDP living conditions on par with that of the rest of the national community; b) to develop a contingency planning approach aimed at enhancing existing national capacities and access to potential international resources in the event of return of IDPs to their regions of origin, while implementing reconstruction and rehabilitation (including de-mining) of these regions.

111. The two above-mentioned parallel directions were reflected in UNHCR's activities in Azerbaijan in 2002 and are the basis for UNHCR's strategy in 2003 on the IDP issue. The Government and International Monetary Fund/World Bank (IMF/WB)-led exercise, initiated in July 2001 to design a Poverty Reduction Country Strategy (PRCS), should influence the formulation of the Government budget in 2003. UNHCR and the concerned Government bodies are making efforts to ensure that the specific needs of the IDPs are included into the PRCS. Given the constraints of the prevailing economic and social situation in Azerbaijan, the two above-mentioned dimensions will be complementary, i.e.

an active UNHCR participation in the implementation of the PRCS as well as a proactive role, in a broad partnership framework including concerned Government entities, international organizations, donors and NGOs (national as well as international), in the contingency planning process.

V. Groups at Risk

1. Introduction

112. This document aims to provide some general guidelines to facilitate the determination of the possible need for international protection of asylum seekers from Azerbaijan. It is not exhaustive in covering all situations that may come up in practice, and is not meant to be used as a recipe for determining each individual case, which should be considered on its own merits by applying the appropriate criteria. When determining the refugee status of Azerbaijani asylum seekers, the general political and human rights situation briefly described above must be taken into consideration.

113. Although Azerbaijan continues to face a variety of social, economic, and political problems, the human rights situation in Azerbaijan has improved in the last couple of years.

114. Without considering the following as exhaustive, UNHCR considers that particular attention should be paid to asylum-seekers from Azerbaijan who base their refugee claim on the fact that they are ethnic Armenians. In addition, claims presented by political opposition activists, dissenting journalists, members of non-traditional religious groups, homosexuals (particularly if in the army or in prison), conscientious objectors, and, in certain circumstances, victims of persecution by non-state agents, should be given due attention, as they may have valid grounds for refugee status.

2. Ethnic Minorities

115. The claims for the union of Nagorno-Karabakh with Armenia led to acts of violence of serious intensity against Armenians in Baku and in Sumgait in 1988 and 1989. Interethnic tensions extended also to other parts of the country. Because of inter-ethnic violence and with the escalation of the conflict in Nagorno-Karabakh in early 1992, the overwhelming majority of the ethnic Armenian population of Azerbaijan left the country.

116. To the knowledge of UNHCR, none of these ethnic Armenians displaced in 1992 has actually returned to Azerbaijan and therefore a detailed assessment of the risk remaining in the case of such return, if permitted at all by the Azerbaijan authorities, is difficult to make. While a number of these refugees of the 1992 caseload have been naturalized and others enjoy secure refugee status in Armenia, a number of ethnic Armenian refugees who went to other parts of the former USSR have not received or no longer enjoy a secure status. A durable solution for them is yet to be resolved. In the case

of secondary movement of such refugees, an assessment of the remaining protection needs, as well as on safety found elsewhere, would require a careful analysis of the individual case.⁵⁸

117. According to a survey conducted in 2003 by a UNHCR Implementing Partner, up to 30,000 Armenians may still reside in Azerbaijan, mostly women with ethnic Azerbaijani or Russian husbands. The treatment of ethnic Armenians varies from community to community. However, discrimination instances against ethnic Armenians are regularly reported. Discrimination includes access to governmental jobs, payment of pensions and other social benefits, and more generally problems with the authorities when claiming one's rights. A pattern of discrimination in the workplace is common. Access to public posts might indeed be obstructed to persons with Armenian family name or with Armenian family members. As far as private employers are concerned, it is entirely their choice to hire or dismiss employees.

118. Ethnic Armenians residing in Azerbaijan prefer to conceal their names and keep a low profile.

119. In view of the mandatory replacement of old style Soviet passports by newly presented ID cards, the majority of the surveyed population stated not to have problems in obtaining the new documents, however, some claimed to encounter bureaucratic obstacles, which have successfully been overcome through bribing, which is seen as a common routine.

120. Children of mixed marriages actually have no problems with access to public medical services. Some individual instances of hostile relations between junior personnel of medical institution were observed.⁵⁹

121. Particular consideration should be given to those cases where the discriminatory measures led to the impossibility to earn a livelihood, to restore or enjoy one's financial or social rights and to a general feeling of apprehension, insecurity, or fear.

122. In addition, caution should be exercised when addressing cases of mixed couples where the Azeri component of the family dies and leaves behind an ethnic Armenian woman/man with mixed children, as these people may be particularly targeted.

⁵⁸ The scope of this background paper focuses on the situation in the country of origin, but does not cover the protection situation of refugees from Azerbaijan in third countries. This is a separate issue, which may require further inquiry.

⁵⁹ *"The Committee notes the generally high level of education of the population. It welcomes the fact that 10 years of free, compulsory education is provided. It welcomes the broad participation of women in institutions of higher learning, as well as the measures being taken to provide education to members of minorities and to refugees."*, UN Committee on Economic, Social and Cultural Rights, E/C.12/1/Add.20, 22 December 1997, [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/E.C.12.1.Add.20.En?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/E.C.12.1.Add.20.En?Opendocument).

123. Nagorno-Karabakh does not constitute an internal flight alternative for ethnic Armenians in Azerbaijan for a number of reasons. This is particularly the case for mixed families where one of the family members is of full or partial Azeri descent. The territory of Nagorno-Karabakh is virtually inaccessible from Azerbaijan due to presence of landmines and low intensity hostilities on the frontline. Moreover, the security situation inside Nagorno-Karabakh continues to remain uncertain and no peace agreement in the region has been found.

124. To sum up, while discrimination against ethnic Armenians is not a proclaimed official policy in Azerbaijan, clearly there is a certain amount of discrimination in every day life against them, which is tolerated by authorities. Such discrimination is not such as to amount to persecution per se, however in individual cases it is possible that the cumulative effect amounts to it.

125. It should be remembered that many Armenians who fled from Azerbaijan after 1998 did not go to Armenia but settled in other republics of the Soviet Union.

126. One should bear in mind that all applications from ethnic Armenians holding an identification document indicating their ethnicity by the last name (easily recognisable) should be looked into carefully. These cases should be of particular concern given that they may come from one of the former Soviet Republics with citizenship not clearly determined. It is worth mentioning that the above-mentioned individuals are unlikely to be accepted back in Azerbaijan at the International border, should they be deported from the asylum country.

127. It should be noted that indigenous ethnic minorities like the Talysh, Lezghins, Avars, Jews and Georgians, as such, do not suffer discrimination, though it cannot be excluded that individual representatives of some of these groups who are active in promoting an ethnic cause could encounter problems with authorities.⁶⁰

3. Opposition Parties and Media

128. According to the Constitution, there is a multiparty political system in Azerbaijan and 40 political parties are registered in the country.

129. The “New Azerbaijan Party” – NAP – is currently ruling in Azerbaijan. It was established in 1992. Shortly after, in 1993, the leaders of the party invited Heydar Aliyev to assume power. Since then the NAP has become the dominant party in the country.

⁶⁰ “In 1999: Lesgins – 178,000 (2.2 per cent); Talyshis – 76,800 (1.0 per cent); Avars – 50,900 (0.6 per cent); Meskhetian Turks – 43,400 (0.5 per cent); Tartars – 30,000 (0.4 per cent); Ukrainians – 29,000 (0.4 per cent); Zakhors – 15,900 (0.2 per cent); Georgians – 13,100 (0.2 per cent); Tats – 10,900 (0.1 per cent); Jews – 8,900 (0.1 per cent); Udis – 4,200 (0.05 per cent); Other nationalities – 9,500 (0.12 per cent),” International Human Rights Instruments, HRI/CORE/1/Add.117, 27 February 2002, <http://www.unhcr.ch/tbs/doc.nsf/0/fdae5b4ca8960910c12569e40054e02a?OpenDocument&Start=1&Count=1000&ExpandView>.

Their members hold the overwhelming majority of senior positions in the Government. The parliamentary elections in 1995 and in 2000 were criticised for irregularities. The 2000 elections were marred by several serious improprieties, 82 out of the total 125 seats in the Parliament went to the NAP.

130. The major opposition parties in Azerbaijan are the Musavat, the Azerbaijan People National Front Party (APFP, now split into Conservators and Reformers), the Azerbaijan National Independence Party (ANPI), the Azerbaijan Democratic Party, Azerbaijan Liberal Party, Azerbaijan Social-Democrat Party, and Justice Party. In 1998, before the presidential elections a few strong opposition parties united themselves in the Democratic Congress. In 2000, following the death of its chairman, former President Abulfaz Elchibey, the APFP broke into two rival groups – the “reformist” faction of Ali Kerimli and the “conservative” one of Mirmahmud Miralioglu. The chairman of the conservative wing was elected as an MP but refuses to sit in the Parliament as he considers it illegitimate.

131. The leader of Musavat Party, Isa Gambar was the Chairman of the Parliament in 1992-1993 when a coalition of APFP and Musavat governed the country. When Aliyev became President, Isa Gambar was arrested on several charges but shortly released. The Party newspaper’s (Yeni Musavat’s) editor-in-chief was arrested in August 2000 on charges of attempted hijacking, terrorism, and illegal possession of arms. Mr. Arifoglu spent 45 days under arrest. On August 17, 2001, the office of the public prosecutor stopped the investigation process without any reasons and on 10 September 2002 ceased the case.

132. The Head of Democratic Party of Azerbaijan, Rasul Guliyev was a close supporter of Heydar Aliyev in 1993. His relation with Aliyev suddenly worsened in 1996 and he resigned. Since then he lives in the United States and has become a strong opponent of Heydar Aliyev.

133. The Leader of Azerbaijan Liberal Party, Lala Showket Aliyeva was also a supporter of Aliyev in 1993 and was nominated Secretary of State. However, in 1996 she resigned and formed her own Azerbaijan Liberal Party.

134. According to information available, all the opposition parties listed above are officially registered with the authorities.

135. The Azerbaijani Constitution provides for freedom of speech and of the press; however the government continues to limit these freedoms. After the abolition of censorship in 1998, the main pressure on the independent Mass Media became suits brought into court by state officials calling for closing newspapers, instituting criminal proceedings against journalists and fining them.

136. Mere membership of an opposition political party in Azerbaijan would not in itself suffice to substantiate a claim to refugee status. However, being an outspoken activist,

writing critical articles in opposition newspapers, leading unauthorised demonstration or “provocative actions” can in certain cases result in a harsh response from the authorities, including arrest, detention, and unfair trial. Azerbaijani prominent political activists who claim to have fled persecution on political grounds could have a founded claim depending upon the particular circumstances of the case.

4. Religious Minorities

137. Azerbaijan’s population is traditionally Muslim, the majority being Shiite, but after the long years of Soviet atheistic rule, the society is largely secular. Militant Islamic fundamentalism is not tolerated and the general policy and attitude towards other religious groups, including Christians and Jews, is generally tolerant.

138. Articles 18 and 48 of the Constitution allow persons of all faiths to practice their religion without restrictions. There is no state religion, and the right to choose or change one’s religious affiliation is provided for. The Law on Religious Freedom contains however provisions that allow the Government to restrict effectively religious activity by members of non-traditional religious groups. The Law also prohibits foreigners from proselytising.

139. The most common restriction on religious freedom resulted from the requirement in the Law on Religion that religious organisations register with the Government. The State Committee for Working with Religious Associations assumed the responsibility for registering religious denominations from the Department of Religious Affairs of the Ministry of Justice in June 2001.

140. Religious denominations can operate without registration, but cannot hold a bank account and act as a legal entity. In some instances, their members have been subjected to arrest, fines, and, in case of foreigners, deportation.

141. Religious materials can be imported in Azerbaijan with the permission of the State Committee for Working with Religious Associations. The restriction on import of religious literature and other materials is reported.

142. In November 1999, President Aliyev announced that the Government henceforth would abide by OSCE standards concerning freedom of religion. Apparently, in conformity with his directives, government officials subsequently took steps to rectify some past violations of these standards, including the registration of a number of religious organisations that previously had been denied it. In October 2002, the OSCE/ODIHR and the Government jointly sponsored a conference on religious freedom and combating terrorism.

143. As a side note, some Government officials share a common popular prejudice against ethnic Azerbaijanis who have converted to Christianity and other religions.

144. New religious groups with no history in Azerbaijan are not always socially acknowledged. However, following the statement by President Aliyev, instances of harassment of and discrimination against members of such non-traditional religious denominations have been reduced considerably. While each case will have to be considered in its own merit, the mere fact that an Azeri asylum seeker is merely a member of one of the above-mentioned non-traditional religious denominations would not in itself suffice to substantiate his/her claim for refugee status. However, claims by leaders or high profile activists of non-traditional religious groups would warrant careful consideration.

5. Homosexuals

145. According to Article 113 of the former Soviet Criminal Code “sexual intercourse between two men” was considered a crime punishable with a prison sentence up to three years. With the new Azeri Criminal Code entered into force on the 1st of September 2000, sexual relations between homosexuals have been decriminalised (Article 150).

146. However, homosexuality is not recognised within the Azeri society, and homosexuals in the country conceal their sexual orientation. As a consequence of social pressure and traditions, and of the fact that a repressive law was in force until August 2000, homosexuals are reportedly victims of discrimination and harassment, and subject to maltreatment, and do not enjoy effective protection by the authorities. In prison and in the army, homosexuals are reportedly often subject to inhuman or degrading treatment. Depending on the degree of severity and/or frequency of the reported acts, these can, in individual cases, amount to persecution.

6. Draft Evaders/Deserters

147. According to Article 2 of the “Law on military duties in Azerbaijan,” every male citizen of Azerbaijan is obliged to perform regular military service. Article 76 paragraph 2 of the Constitution of Azerbaijan states that, if serving in the armed forces is not compatible with the citizen’s beliefs, the active military service can be replaced by a two years alternative military service. However, there is no procedure for the implementation of such provision, which remains therefore not applied in practice.

148. According to the Law “On Military Service,” all males at age between 18 – 35, who do not have the right for suspension or exemption, should be drafted to the military service. Due to amendments to the above-mentioned law of 25 December 2001, drafting age for males was extended to 35 years old.

149. According to Article 321 of the Criminal Code, evading one’s military service leads to the deprivation of freedom for a period ranging up to 2 years in time of peace and from 3 to 6 years in times of war. Desertion is punishable with prison sentences from 3 to 7 years in time of peace and from 5 to 10 years in war time, as provided for by Article 334 of the Criminal Code. However, this article has a note which says that deserter, in time of

peace, can be freed from criminal liability if this action is committed for the first time. However, draft evaders and deserters are prosecuted at random and proceedings often depend on individual officers in charge.

150. Draft evasion and desertion remain widespread phenomena in Azerbaijan, mostly motivated by the wretched conditions and harassment prevailing in the Azeri national army. The number of suicides in the army was reported during the year. Eighteen soldiers died in a three-week period in August 2001 alone, of suicide, sunstroke, and dehydration. The capability to pay consistent bribes and good connections are means of avoiding the military service.

151. The Instructions on Alternative Military Service, adopted in 1992, provide possibility for alternative service only to students of religious institutions and ecclesiastical capacity personnel.

152. In view of the current situation, an Azeri applicant who bases his claim for refugee status solely on his fear of prosecution for draft evasion or desertion would not normally qualify for refugee status under Article 1 A (2) of the 1951 Convention. Conscientious objectors, for whom military service would be contrary to his genuine religious, political, or moral convictions, may have a valid claim for refugee status.⁶¹

⁶¹ See “Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugee”, Reedited, Geneva, January 1992, Chapter V. Special Cases, B. Deserters and persons avoiding military service; Refworld 2003, CD 3 – Legal Information/Refugee policy and practise or <http://www.unhcr.org>

VI. Summary

153. In light of the above, assessment of the claims of following categories of persons would merit special attention, as they may have valid grounds for refugee status under the 1951 Convention criteria:

- Journalists and members of the opposition political parties;
- Members of the Armenian minority as well as children from mixed Azeri/Armenian marriages;
- Homosexuals;
- Draft-evaders and deserters; and
- Followers of the non traditional religious denominations

VII. Map



VIII. Bibliography

1. Amnesty International Report 2003 – This report covers the period January to December 2002, <http://web.amnesty.org/report2003/aze-summary-eng>
2. BBC News, Azerbaijan's president bid for third term, 7 September 1999, <http://news.bbc.co.uk/2/hi/asia-pacific/441070.stm>
3. Central Intelligence Agency (CIA), The World Fact Book 2002, Azerbaijan, <http://www.odci.gov/cia/publications/factbook/geos/aj.html#Intro>
4. Centre for Eastern Studies, Armed Conflicts in Post-Soviet Region. Present Situation. Prospects for Settlement. Consequences. Warsaw, June 2003, <http://www.osw.waw.pl/en/epub/eprace/09/01.htm>
5. Country of Origin Information Workshop, 5th, Bratislava, 13-14 December 1999, Final Report – Azerbaijan, Organized by UNHCR in cooperation with ACCORD and the Slovak Migration Office, Refworld 2003.
6. Danish Immigration Service, Report on fact-finding mission till Azerbaijan, Former OPON forces in Azerbaijan, etc., 27 January to 1 February 2002, <http://www.udlst.dk/NR/rdonlyres/ew4pdnyvw26p4lyktm6bzjdn455wjmsrofesjaxi3azqwvjxlhntemqk7fxfhkkktejuuk2z7j53gksv4cd6aifzkd/Azerbaijan281002.pdf>
7. Economist Intelligence Unit (EIU), Country Profile 2002, Armenia, http://db.eiu.com/reports.asp?title=Country+Profile+Armenia&valname=CPCAMD&doc_id=1109490&x=20&y=11
8. European Commission – Azerbaijan – Background Briefing, February 2003, <http://www.europarl.eu.int/meetdocs/delegations/caus/20030409/02.pdf>
9. Freedom House, Armenia/Azerbaijan Nagorno-Karabakh 2001-2002, <http://www.freedomhouse.org/research/freeworld/2002/countryratings/armenia-azerbaijan.htm>
10. Human Rights Watch, Azerbaijan, World Report 2002, <http://www.hrw.org/wr2k2/europe3.html>
11. Human Rights Watch, Azerbaijan, World Report 2003, Covers events from November 2001 – November 2002, <http://www.hrw.org/wr2k3/europe3.html>
12. Institute for War and Peace Reporting, Caucasus Country Profiles, Azerbaijan, internet 17.07.2003, http://www.iwpr.net/index.pl?caucasus_profile_azerbaijan.html
13. International Committee of the Red Cross (ICRC) – Nagorny Karabakh: ICRC granted access to all detainees, 9 August 2002, <http://www.icrc.org/web/eng/siteeng0.nsf/iwpList265/DBEA689B6D93B8ECC1256C10002B1842>
14. International Committee of the Red Cross (ICRC) – Nagorny Karabakh: ICRC granted access to all detainees, 9 August 2002, <http://www.icrc.org/web/eng/siteeng0.nsf/iwpList265/DBEA689B6D93B8ECC1256C10002B1842>

15. National Democratic Institute for International Affairs, International Election Observer Delegation to Azerbaijan's October 11, 1998, Presidential Elections, http://www.accessdemocracy.org/library/1046_az_preselect1098.pdf
16. Norwegian Refugee Council/Global IDP Project, Profile of Internal Displacement: Azerbaijan, Compilation of the information available in the Global IDP Database of the Norwegian Refugee Council (as of 5 May, 2003), <http://www.db.idpproject.org/Sites/IdpProjectDb/idpSurvey.nsf/wCountries/Azerbaijan>
17. Organisation for Security and Co-operation in Europe, Office for Democratic Institutions and Human Rights (OSCE-ODIHR), Presidential elections in the Republic of Azerbaijan, 11 October 1998, http://www.osce.org/odihr/documents/reports/election_reports/az/azer2-2.pdf
18. Organization for Security and Co-operation in Europe (OSCE) Press Release, 15 May 2002, Personal representatives of Armenian and Azeri Presidents held Nagorno-Karabakh talks in Prague, http://www.osce.org/news/generate.php3?news_id=2458
19. Organization for Security and Co-operation in Europe, Office for Democratic Institutions and Human Rights (OSCE ODIHR), Republic of Azerbaijan, Parliamentary Elections 5 November 2000 and 7 January 2001, Final Report, Warsaw, 15 January 2001.
20. Relief Web, Karabakh enclave re-elects "president" Gukasyan, 12 August 2002.
21. Report of the Independent American Monitoring Commission – Nagorno-Karabakh Presidential Elections, August 11, 2002.
22. U.S. Committee for Refugees World Refugee Survey 2003, Azerbaijan.
23. U.S. Department of State Country Report on Human Rights Practices 2002 – Azerbaijan.
24. U.S. Department of State, Annual Report on the International Religious Freedom for 2002 – Azerbaijan.
25. U.S. Department of State, Fact Sheet, Bureau of European and Eurasian Affairs, Washington, DC, September 11, 2002, The United States and Nagorno-Karabakh, <http://www.state.gov/p/eur/rls/fs/13502.htm>
26. UN Committee on the Elimination of all forms of Racial Discrimination (CERD), CERD/C/304/Add.75, 12 April 2001, <http://www.unhcr.ch/TBS/doc.nsf/0/80256404004ff315c125638c005d01ee?OpenDocument>
27. UN International Human Rights Instruments, HRI/CORE/1/Add.117, 27 February 2002, <http://www.unhcr.ch/tbs/doc.nsf/0/fdae5b4ca8960910c12569e40054e02a?OpenDocument&Start=1&Count=1000&ExpandView>
28. UNHCR Refworld 2003 CD-ROM or www.unhcr.ch/refworld
29. UNHCR, Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugee," Re-edited, Geneva, January 1992; <http://www.unhcr.org/cgi-bin/texis/vtx/publ/opendoc.pdf?tbl=PUBL&id=3d58e13b4>

30. United Nations Human Development Report 1998, <http://www.un-az.org/undp/publications.htm>
31. United Nations Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, CAT/C/CR/30/1, 14 May, 2003, <http://www.unhchr.ch/tbs/doc.nsf/0/943f59aeb11a17dbc1256d51003b9722?OpenDocument>
32. World Bank – Azerbaijan – Poverty Report 2003, http://www-wds.worldbank.org/servlet/WDSContentServer/WDSP/IB/2003/06/27/000012009_20030627103734/Rendered/PDF/248900AZ.pdf
33. World Bank, Human Development Sector Unit, South Caucasus Country Unit, Europe and Central Asia Region, Azerbaijan Republic Poverty Assessment, 4 June 2003, <http://poverty.worldbank.org/library/region/6/11/>
34. Armenians on the Internet, 10 July 2002, http://www.hyeetch.nareg.com.au/republic/karabagh_p1.html
35. UN Committee on Economic, Social and Cultural Rights, E/C.12/1/Add.20, 22 December 1997, [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/E.C.12.1.Add.20.En?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/E.C.12.1.Add.20.En?Opendocument)
36. Reporteurs Without Borders, Azerbaijan, Annual Report 2003, 2 May 2003, http://www.rsf.org/country-53.php3?id_mot=272&Valider=OK
37. Radio Free Europe/Radio Liberty (RFE/RL), 15 May 2003, <http://www.armenialiberty.org/armeniareport/report/en/2003/05/F8D0BC31-189A-4DC5-A9C2-3C5D6B8C755B.asp>
38. Radio Free Europe/Radio Liberty (RFE/RL), 22 May 2003, <http://www.armenialiberty.org/armeniareport/report/en/2003/05/0701946C-B33F-481C-B720-2BCDC7415DF7.asp>
39. Relief Web, Mercy Corps, 20 June 2003, Years after conflict Azerbaijan's displaced continue to suffer.