

Azerbaijan¹

IHF FOCUS: elections and referenda; freedom of expression and the media; freedom of association; independence of the judiciary and fair trial; torture, ill-treatment, police misconduct and detainees' rights; religious intolerance; conscientious objection; freedom of movement; asylum seekers and immigrants; homosexuals' rights; human rights defenders.

While there were some visible positive human rights developments on the eve of Azerbaijan's accession to the Council of Europe in January 2001, more repressive politics followed; irregularities during elections became a routine, opposition to President Heydar Aliyev (in power since 1993, after being the Soviet leader of Azerbaijan from 1969 to 1982) and media activities were seriously suppressed.

Azerbaijan has signed and ratified 31 international conventions, but was not yet party to, among others, the European Outline Convention on Transfrontier Co-operation between Territorial Communities and Authorities and its additional protocols, the Criminal Law Convention on Corruption and the Civil Law Convention on Corruption. Some conventions already signed needed to be ratified, including the European Social Charter, the European Charter for Regional or Minority Languages, the European Convention on Mutual Assistance in Criminal Matters and its additional protocols and the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime.²

As a result of the 2002 ratification of the European Convention on Human Rights (ECHR) and its protocols, Azerbaijani citizens gained access to the European Court of Human Rights. However, people living in the occupied territories were excluded from its jurisdiction.

In a positive development, the constitutional amendments adopted by a August 24 referendum granted to individuals access to the Constitutional Court, established the ombudsperson's institution and provided for alternative civilian service to military service. Elmira Suleymanova was appointed the first ombudsperson.

The referendum changed the parliamentary system from mixed to majoritarian, which would prevent small parties from gaining seats in parliament. Also, the law was changed to allow ordinary courts - instead of only the Constitutional Court - to close down political parties and NGOs.

There was a visible gap between the legal framework and practice. This was openly demonstrated by the so-called "Nardaran events" in June where one person died and dozens were arrested. The detained 15 Nardaranians were added to the already long list of some 380 alleged political prisoners who remained incarcerated as of the end of 2002 after 150 political prisoners were pardoned in March, May and October 2002.

The regular congress of the 280,000-strong ruling party Yeni Azerbaijan in November launched a *de facto* propaganda campaign for the presidential elections due in 2003. Unprecedented attacks against the independent and especially opposition media became daily phenomena; during one month only, ten legal cases were filed against the main opposition newspaper *Yeni Musavat*, more than the total number of charges recorded between 1998-2001 against the paper.

The unresolved conflict with Armenia over the Nagorno-Karabakh region as well as the existence of more than 800,000 refugees and IDPs remained the main factors aggravating the economic, social and political situation in Azerbaijan. On ratification of the ECHR, the Azerbaijan government denied implementation of the convention in those territories.

¹ Based on a report of the Human Rights Center of Azerbaijan to the IHF, December 2002.

² PACE Resolution 1305 (2002)2, "Honoring of obligations and commitments by Azerbaijan," September 26, 2002.

Elections and Referenda

Parliamentary By-Elections

In the March parliamentary elections in the Ali Bayramli, Ganja and Narimanov districts of Baku no candidate received sufficient votes to be elected, resulting in by-elections on April 12.

Since 2000, no local NGO has been allowed to monitor elections because the new Law on NGOs prohibits NGOs whose budget comprises more than 30% from foreign sources from doing so.

However, four teams from the British embassy monitored the by-elections. They observed numerous violations, ranging from family voting and police presence at polling stations to clear evidence of ballot stuffing. UK Ambassador, Andrew Tucker said that after training given to election officers, he was “disappointed that these elections suffered from the same problems as before. There is still work to be done to bring elections in Azerbaijan in line with international standards.”³

Constitutional Referendum

On August 24, a referendum was held on 39 amendments to 24 articles of the Constitution. Some of these changed the election system from mixed to majoritarian. Another amendment changed the quorum for the presidential elections from two thirds to more than 50%.

No international bodies observed the referendum, but opposition observers reported irregularities. There were reports of mass violations of the voting process, including transportation of groups of “mobile voters” for multiple voting at several polling stations; voting without proper documents; box-stuffing, etc.

Opposition observers reported that they had been subjected to violence and their work was interfered with; that less than half of the designated 26,000 opposition observers were able to carry out their tasks as many were disqualified under different pretexts; and that many opposition observers were forced to sign public statements of condemnation of the opposition.

- An observer of the Musavat Party, Djeyhun Babayev, who claimed that box-stuffing had occurred at the voting station no. 22 of the voting district no. 10, was arrested and held at the 36th police station of the Khatai district.
- At voting station no. 3 of the Balakan-Zaqatala voting district no. 66, state officials and police officers beat the opposition observer Kamil Kheyrollayev who discovered that one single voter had more than 20 ballot papers.

The main opposition parties doubted the official results of the referendum according to which the voter turnout was 88.47% and about 97% were in favor of the amendments; the opposition sources reported a 15- 20% turnout. While according to state officials no violations of the voting process took place, the Central Election Commission (CEC) rendered null and void the voting results of 251 election stations because of formal irregularities in the protocols.

On August 28, the OSCE Office in Baku expressed its “concern” on “some moments” of the referendum and noted that the office had received many complaints from observers and voters. It concluded that the referendum did not fulfill its purpose as a reliable and true expression of the opinion of the population.⁴ The US State Department stated that it had received reports from its embassy in Baku suggesting “widespread irregularities, such as voter-list fraud, multiple voting, and ballot-box stuffing.”⁵

³ British embassy press release April 17, 2002.

⁴ Turan News Agency, November 28, 2002.

⁵ RFE/RL Newslines, August 27, 2002.

In September, the Parliamentary Assembly of the Council of Europe noted: “It is to be regretted that this referendum which could have offered the Azeri nation an opportunity for real confidence in the electoral process and helped in developing a democratic culture in Azerbaijan with a better design of the procedures, failed to do so.”⁶

On November 28, the OSCE/ODIHR submitted a new draft Election Code to the CEC after it and the Venice Commission had examined the draft prepared by the Presidential Administration and made about 300 amendments. However, on December 16-17, the main opposition parties refused to participate in the round table discussions on the draft because the authorities had declined the proposal to establish a joint commission to elaborate on the Code. In return, the officials and pro-governmental parties ignored a round table organized by the opposition on the same topic on December 26.

Freedom of Expression and the Media

There were allegations of politically motivated arrests and trials. Following the September 11, 2001 terrorist attacks in the USA, religious Muslims were increasingly targeted and accused of “Islamic extremism.” According to the Human Rights Center of Azerbaijan, there were at least 15 individual and group legal cases based on political motives, and eight of them were related to Islamic groups. At the end of 2002, the Federation of Human Rights Organizations of Azerbaijan claimed that more than 380 people were held imprisoned on political grounds.

Freedom of the Media

There were 518 registered mass media outlets in Azerbaijan in early 2002. Of them 372 were newspapers (about 60 of them regional), 113 magazines, 25 news agencies, and eight television and radio companies.⁷ In 2002, the Committee for the Protection of Journalists’ Rights (‘Ruh’) recorded about 100 media-related conflicts, with 40 related to two opposition media outlets, *Yeni Musavat* and *Hurriyyet* newspapers.⁸

On March 14, the president issued a new order on the registration of mass media; a new media outlet had to inform authorities one week before its opening at the latest. Two days later, the Law on the Media was amended in order to provide for financing of the media by any legal sources. The practice that had allowed the executive to terminate media activities was abolished and the number of specific circumstances in which authorities could demand journalists to disclose their sources of information was limited. However, article 19 of the law which provided that a media outlet could be closed if there were three or more sentences brought against it remained in force and this encouraged lawsuits against the opposition and independent media.

In August, for the first time after the abolishment of censorship in August 1998, the authorities openly attempted to establish control over the content of the media. The president approved the Rules of Prevention of Distribution of State Secrets in Media, according to which editors who believed that information they had received was secret were obliged to inform the Inter-Ministerial Commission on the Protection of State Secrets (subordinated to the president). This body would then examine the information within seven days. Some observers, particularly ARTICLE 19 assessed the situation as a step back to censorship.

In 2002, some Internet media, including the “e-zine Virtual Monitor” and the electronic Chechen newspaper *Kavkazsky Vestnik* alleged illegal monitoring of their websites. In April, the Association of Internet Operators was established by 23 Internet providers, as well as scientific and public organizations working in the IT field.

⁶ PACE, op.cit.

⁷ www.juhiaz.org

⁸ Turan News Agency, December 20, 2002.

The October by-law “On the National Council on TV and Radio” was adopted to implement state policy in the field of media. Some provisions of the document were criticized for paving the way for censorship of the electronic media, for example, through control over the moral and political content of their programs.

- During October to December, 12 legal cases were brought against *Yeni Musavat*, the most popular opposition newspaper (e.g. on defamation or other questionable charges) while there had only been seven lawsuits against it in the three years before 2002. The total sum of fines or restitutions would put the newspaper out of business. At the end of 2002, one trial ended with a fine and others were pending.⁹
- The newspapers *Avropa* and *Tezadlar* stopped publication because of huge fines they had to pay as a result of lawsuits brought against them by state officials.

The Azerbaijan Federation of Human Rights Organizations believed that the cases like the ones above were part of a campaign to eliminate the most popular opposition media prior to the 2003 presidential elections. The Azerbaijan NGO Forum expressed a similar concern stating that “the similarity of lawsuits and their biased character are evidence of a purposeful campaign against the media.”¹⁰

One new trend was the use of the television company ANS against printed media. For example, it brought a case against the opposition newspaper *Azadliq* in February, and against *Novoye Vremya* in November. It is notable that because of ANS’ biased approach, the OSCE and the BBC refused to sponsor the ANS program “Human Rights.”

Harassment of Journalists

Several criminal cases were brought against journalists for blackmailing, and one case for insulting authorities: Irada Huseynova of *Monitor*, who faced insult charges, left Azerbaijan and was arrested in November in Moscow on the basis of a request of an Azerbaijani district court. An energetic campaign by fellow journalists brought about her prompt release.

Some journalists were beaten in connection with their professional activities. For example, the suppression of the meeting of the Unified Opposition Movement on March 23 resulted in police abuse against journalists. Following this, the Chairman of the Committee ‘Ruh’, Aflatun Amashov discussed with the representatives of the Ministry of the Interior the problem of the security of journalists covering mass events. As a result, a team composed of ‘Ruh’, Journalists’ Association ‘Yeni Nesil’ and representatives of the Ministry of the Interior was established. Its task is to gather information on cases of police abuse against journalists.¹¹

Obstacles to the newspaper distribution networks continued.

- A government campaign continued against the private network Qaya, whose stands had been unlawfully taken off the streets since 2001.
- In August, local branches of four opposition parties complained that a head of the Bilasuvar regional executive power Alibaba Mammedov had prohibited the sale of opposition press.

⁹ See the Human Right Center of Azerbaijan/IHF, “Azerbaijani Governmental Assaults on Opposition and Independent Media are Supported by Politically-Controlled Courts,” January 9, 2002, at www.ihf-hr.org/appeals/030109.htm

¹⁰ Turan News Agency, November 27, 2002.

¹¹ Center of Journalism in Extreme Situations, April 27, 2002.

As promised by the president, the state commenced allocating loans to the mass media. However, there were allegations of unfair allocation.

In August, the government adopted rules for imposing a levy on editorial offices. According to these rules, after three years the government would reimburse the media the income they received from the annual sale of media productions, excluding income from advertisements.

Despite violations of freedom of media, in March the Committee for the Protection of Journalists' Rights 'Ruh' awarded President Heydar Aliyev the title of "friend of the media," provoking a heated public debate. The president's brother, MP Djalal Aliyev, was branded "enemy of the media" because of his defamatory remarks made in parliament against journalists.¹²

Freedom of Association

Freedom of association remained one of the main concerns, criticized also by the Council of Europe which called for improvement in the working modalities and registration procedures of local NGOs and reiterated its opinion that it is unacceptable that the development of civil society is hampered by excessive administrative or political barriers.¹³

The 2000 Law on Non-Governmental Organizations was examined by Council of Europe experts, but still had numerous gaps. The need for improvements was used by the Ministry of Justice as a pretext for stopping the registration of NGOs. The NGO coalition Azerbaijan NGO Forum reported that 348 of the existing 1,870 NGOs (and almost half of its own members) operated without state registration. Most NGOs were active in Baku, the capital.

Some of the non-registered NGOs tried to protest against unjustified refusals and unlawful delays of registration.

- The Committee of the Deprived and Homeless Baku Residents submitted its registration documents for the third time in October 2001. As it did not receive a reply (by law, authorities should reply within five days), it brought legal charges against the Ministry of Justice on May 14, 2002. Only after that did the ministry state that it had discovered some irregularities in the NGOs statutes. On July 29, the NGO submitted its documents for the fourth time but had not received a reply by the end of 2002.
- The Center for the Protection of the Freedom of Thought and Religion (DEVAMM) was in a similar situation. After a long delay in responding, it sued the ministry. During a trial on November 21 it received a reply stating that "after the correction of some small mistakes, DEVAMM will be registered."

Deprivations of existing registrations were rare. However, in September the ministry sued the society Islam Ittihad for alleged violations of the Law on the NGOs because it had carried out religious activities. At the time of writing, the outcome of the trial was not known.¹⁴

It remained prohibited to establish political parties on a religious or ethnic basis. Despite this, the Islamic Party of Azerbaijan (IPA) had existed for about a decade and operated openly without registration. However, following the incidents in Nardaran on June 3, it was accused in official media of having incited clashes between police and civilians, and IPA leader Alakram Aliyev was arrested.

¹² www.ng.ru/cis/2002-03-23/5_baku.html

¹³ PACE, op.cit.

¹⁴ Religious Research Center (DAM), September 2002.

In 2002, parliament attempted to amend the Law on Grants, which would have forced NGOs to pay higher taxes for their foreign grants. However, the draft law was blocked by the president after a wave of protests from the NGO community.

The Council of Europe pointed to the “absence of real dialogue between the ruling party and opposition forces” and urged for an opportunity for the non-represented parties “to express their opinions in a peaceful manner by organizing regular exchanges of views on important subjects and draft laws.” In July/August and in December, the OSCE initiated two round table discussions but was criticized for an allegedly unbalanced approach and for supporting the authorities. As a result, the second round table was boycotted by the main opposition parties.

In rural areas, the opposition faced pressure in August and September due to the referendum and its results. Dozens of provincial opposition activists, including members of local referendum commissions, were forced to renounce in writing their political affiliation and to apply for membership of the ruling party Yeni Azerbaijan.

Independence of the Judiciary and Fair Trial

The executive still exercised a predominant role in the judicial system in Azerbaijan. The Council of Europe expressed deep concern over the undue interference of the executive in the functioning of its institutions and called for a reinforcement of impartiality in the procedure of nomination of judges. Further, it recommended that the Law on Advocates and Advocacy and the Criminal Procedure Code be amended to ensure their full compatibility with European standards.¹⁵

In 2002, Azerbaijani citizens were granted access to the Constitutional Court, the newly created institution of ombudsperson and to the European Court on Human Rights if they believed that their basic rights had been violated.

In some politically motivated cases, the presumption of innocence was not respected. Moreover, politicians in public statements easily linked political detainees to Islamic groups and espionage.

- Under pressure from the Council of Europe, a re-trial was opened in the case of three political prisoners – Iskander Hamidov, Alakram Hummatov and Rahim Qaziyev – to ensure fair procedures. However, lawyers and human rights defenders recorded numerous procedural violations also during the re-trials. For example, when the defendants were taken before a judge after their legal detention period had been exceeded, the judges stated that they could not be released because they had previously been convicted of a crime. Pending the re-trial, they were held in a closed prison (instead of a pre-trial detention facility) where also the re-trial took place with limited access to the public. The trial continued as of the end of 2002.

By law, membership in the bar association was compulsory for all barristers, but several years ago the bar association had stopped taking new members. The barristers experienced various problems, especially in politically sensitive cases, including delays in gaining access to the clients and refusals without justification by judges to accept their submissions.

Torture, Ill-Treatment, Police Misconduct and Detainees' Rights

In 2002, allegations of arbitrary arrests continued. The largest individual case was that of dozens of Nardaranians.

¹⁵ PACE, op.cit.

- In June, the government moved to suppress protests by residents of the Nardaran settlement near Baku. Police shot at unarmed civilians, killing one and wounding dozens. The incident was never properly investigated and no police officer was punished. In contrast, 15 residents of Nardaran were arrested, and the events were labeled without justification as an attempt to establish Islamic Sharia'h rule. However, in the official indictment of 11 December, the residents were only charged with having resisted police and organized mass disorders.

According to articles 148(4) and 157(3) of the Criminal Procedure Code, a person could be detained for up to 48 hours before being brought before a judge who could decide to prolong the detention and possibly transfer the person to an investigation isolator (SIZO) within 24 hours. In practice, however, police usually held suspects in a temporary detention isolator (IVS) for as long as 10 days for investigation – and frequently longer. Only rarely were defendants released pending trial.

- Some defendants of the “Nardaran case” spent 19-56 days in the IVS of the Baku Police Headquarters (‘Gorotdel’) or other IVS.

As a rule, pre-trial investigations lasted the maximum legal periods of 6-18 months. In the “Nardaran case,” the term of investigation was prolonged twice and took six months despite the fact that the majority of the defendants were interrogated only two or three times.

Detainees had the right to enjoy access to legal counsel from the moment of arrest. However in practice, the police often failed to inform the family of detainees’ whereabouts, and many could not afford to hire a lawyer. State-appointed lawyers were often unqualified and ineffective because of poor pay. Therefore, in practice, in the first days of detention, detainees seldom had access to legal counsel. For example, of the 18 defendants in the “Nardaran case” only four had lawyers selected and paid for by relatives, the rest were appointed by the state. Three defendants failed to appear in court.

The traditional targets of arbitrary detention were particularly persons without permanent residence, prostitutes and asylum seekers, especially from Chechnya and Afghanistan. Many of these cases of detention were not registered and people could be released only by bribing police officers.

Throughout 2002, there were reports of cases of death in police custody under suspicious circumstances.

- On April 18, Beylar Quliyev, the manager of a music band, was summoned by the police and then allegedly committed suicide by jumping out of a window.
- On November 24, 42-year-old Umuretdin Alimov of Sumqayit, was brought to the police office no. 19 of the Nasimi district police administration. He was suspected of theft. After three hours he allegedly hanged himself.

No law enforcement officer was known to have been charged with torture. In those cases in which torture was assumed and the officers were put before justice, they were charged with driving detainees to suicide or negligence. In 2002, at least two such cases were closed and the perpetrators were acquitted of charges.

- In August, the court acquitted of charges policemen accused of causing the death in police custody of Ilqar Djavadov on May 12, 2001: the detainee had allegedly fallen down while trying to escape from the police station.

Religious Intolerance¹⁶

¹⁶ If not otherwise noted, based on information from Keston Institute at www.keston.org

The Constitution did not require religious groups to register in order to be allowed to carry out activities. However, any religious activities of non-registered communities were punishable on the basis of articles 299 and 300 of the Code of Administrative Offenses.

Since October 2001, the State Committee for Work with Religious Organizations launched a compulsory re-registration (the third time since 1991) of religious groups which was due to be completed by the end of March 2002. However, as of the end of 2002, only about 570 of the total estimated 2,000 religious organizations in Azerbaijan were formally registered and an additional 100 registrations were pending.¹⁷ A previous registration was not a guarantee for re-registration. The registration process was long and many were rejected on various pretexts, e.g. lack of sufficient number of adherents.

- The previously registered Love Baptist Church was closed following a Baku court decision in April.

The lengthy re-registration disturbed even the activity of registered religious communities, which were instructed by authorities not to gather until new registration certificates were issued. In addition, a media campaign against religious minorities impeded their activities. Police and local authorities in many regions tried to ban minority faiths from meeting, irrespective of whether or not they had registration certificates. Some of their members were arrested and imprisoned for 15 days.

- Police in the town of Ganja broke up a service of the local Adventist Church on February 24 and sealed the church on February 27 to prevent access to it.
- On April 7, police in a village near Ismayilli arrested seven members of the Greater Grace Protestant Church who had traveled there to receive some Christian books. Although all seven were freed the same evening, two of them were summoned on April 10 and sentenced to ten days' imprisonment for "willful refusal to submit to the authorities."
- Pentecostals Yusuf Farkhadov and Qasim Qasimov of Sumqayit were imprisoned for 15 days and three members of a local Baptist Church were threatened with 15-day prison terms for distributing Bibles on the streets on February 2. One was severely beaten by police.

Many incidents of fines, beatings, confiscation of religious literature or closure of places of worship went unreported because leaders feared the consequences publicity would have on local believers.

Some organizations, including the Baptists, Catholics, Adventists, Lutherans and various Pentecostal Christians complained that the state committee insisted that religious organizations declare in their statute that they function only within a named town or district. While by law foreigners were not allowed to participate in religious activities, this provision appeared to be applied mainly to the so-called "new religions."

The state committee required that all religious literature published in Azerbaijan or imported into the country be submitted to it for approval. The head of the committee, Rafiq Aliyev, reported in January that in the previous five months customs had seized at the border some 100,000 religious books and booklets in Azeri, Russian and other languages "which sow anti-state, anti-government and anti-Azerbaijani moods and religious hostility."¹⁸ Twenty to thirty religious books, magazines and tapes were censored every week.

- The registered Baku Baptist Church applied to the state committee in May to receive the 3,000 copies of the Book of Proverbs which had been seized by the customs. After three refusals, the church finally managed to retrieve the copies from customs on November 26.

¹⁷ *Echo*, December 28, 2002; DAM, December 2002.

¹⁸ *Echo*, January 8, 2002.

- In July, 35,000 copies of books sent to the local community of Hare Krishna Conscience were seized.
- Twenty Islamic books mainly published in Iran were also confiscated from sale.¹⁹

Following September 11, the authorities reportedly closed four mosques built by the Foundation of Rescue of Islamic Heritage arguing that they spread “Wahhabism.”²⁰ Throughout the year, 22 of the country's 26 *medreses* (Islamic schools) were closed down by authorities because the schools had allegedly violated the norms for religious education by failing to teach some subjects from the general curriculum such as history and geography, and that some of the teachers had turned out to be foreign citizens who allegedly violated law.²¹ In addition, trumped-up terrorism charges against religious activists became widespread. Following September 11, 2001, more than 30 foreigners were arrested and extradited, accused of links with terrorist organisations.²² The arrests were conducted in secret and extraditions executed without a court procedure.

- During the June Nardaran incident, the Chairman of the Azerbaijan Islamic Party, Alakram Aliyev, was arrested and accused, among other things, of terrorism and possession of fire-arms.²³ These latter charges were, however, dropped from the final charges of December 11.
- The family of Adventist pastor Vahid Nagiyev was forced to leave Nakhichevan as the police claimed the family could be preparing “terrorist acts” against President Heidar Aliev, who was to visit the region.

There were attempts to limit the influence of religion in secular schools. For example in May, the Minister of Education, Misir Mardanov demanded during his visit to the Nardaran secondary school that schoolgirls should not wear an Islamic headscarf, even though this is not prohibited by law.²⁴ The order provoked a picket, arrests, clashes with the police and finally police shooting at civilians.²⁵

Conscientious Objection

The August constitutional referendum introduced provisions providing for alternative civilian service to military service. However, by the end of the year, the draft law implementing this had not been adopted.

According to the draft, alternative service would be twice as long as military service, i.e. three years, and would be performed in the social sectors, mainly in public health care. The performance of alternative service would be allowed on religious grounds only.²⁶ Both the length of the alternative service and the limitation on religious grounds are in violation of European standards. Since June, the criminal cases against two conscientious objectors who are Jehovah Witnesses were pending because of the uncertain legal situation.

According to the Ministry of Justice, 2,611 deserters were imprisoned.

¹⁹ *525-ci qazet*, November 7, 2002.

²⁰ DAM, July 2002.

²¹ DAM, September 2002.

²² Azer-Press News Agency, October 22, 2002.

²³ Based on the *Conclusion of the Independent Public Commission on the events in Nardaran Settlement on June 3, 2002*. Aliyev had been arrested as an alleged Iranian spy in 1996 and pardoned in 1999 and was considered as political prisoner by the majority of local human rights defenders.

²⁴ He repeated the order in an interview with the Space TV channel on May 29, 2002.

²⁵ *The Conclusion of the Independent Public Commission on the events in Nardaran Settlement on June 3, 2002*.

²⁶ DAM, August 2002.

Freedom of Movement

The old Soviet system of passport registration at the place of residence (*propiska*) was still in force in Azerbaijan. As a result, thousands of people without permanent residence – including former prisoners and victims of real estate manipulations etc. – remained without the otherwise compulsory identity card because it was issued only to those holding a *propiska*. In addition, these people could not apply for a passport to travel abroad.

In November, regulations were adopted to define a wide range of issues pertaining to the legal status of expatriates and non-citizens, their arrival in Azerbaijan and departure and transit rules. The regulations provided that expatriates and non-citizens could be issued visas allowing them to travel a specific route during a given time via air, railway, water and other means of transportation.²⁷

Citizenship

The denial of *propiska* created serious obstacles to the participation in the political and economic life for people without them. For example, the Chairman of the Association of Homeless and Deprived Baku Residents, Eldar Alizade complained in August to the Central Electoral Commission that many of the association's 6,000 members could not participate in the referendum because of this.

Moreover, tens of thousands of people without *propiska* were practically deprived of their basic rights.

Despite the fact that article 52 of the Constitution warranted Azerbaijani citizenship for children born in Azerbaijan, in practice this rule was not implemented in cases where the parents were foreigners. On August 12, nineteen Chechen mothers protested to the president about the refusal of officials from the Nasimi and Binagadi districts of Baku to issue birth certificates of Azerbaijani citizenship to their newborn children. The Chechen refugees were advised to apply for documents to the Russian Embassy.

No statistics on stateless persons were available, but a significant number of the 5,400 officially registered Chechen refugees did not want to hold Russian citizenship. Similarly, several thousands of Iranian refugees from the 1940s-1980s had refused to keep Iranian citizenship or were deprived of it.

Asylum Seekers and Immigrants

The domestic Law on Asylum corresponded to the Geneva Convention. Azerbaijan had a 233,000 large population of recognized refugees who in the Soviet era had had the status of "internally displaced persons." However, the government refused to grant refugee status to later immigrants and gave this responsibility to the UNHCR office in Baku, whose work has been widely criticized by asylum seekers and human rights defenders who considered the UNHCR's approach to be discriminatory.

Only 20-60 of the 5,000-7,000 Chechen asylum seekers registered by several institutions²⁸ had official refugee status. This status was not granted even to people whose return to Chechnya would be impossible, including officials of former administration, opposition journalists and former prisoners of filtration camps.

In 2002, several Afghans were denied entry or deported without granting them any access to the

²⁷ AssA-Irada News Agency, November 7, 2002.

²⁸ UNHCR, in *Echo*, December 28, 2002. According to the Chechen Information Center, 4,930 asylum seekers were registered by the Chechen representation.

procedures of registration as asylum seekers,²⁹ some of them were returned from the Iranian border without an asylum procedure. However, generally, Afghani asylum seekers were protected from deportation by a UNHCR-signed letter stating that their cases were under consideration by the UNHCR. The letters were renewed every six months.

Since the year 2000, 13 Kurds have been imprisoned for illegal entry without an asylum procedure.

Following September 11, 2001, there were complaints that police increased routine harassment of potential asylum seekers from “terrorist affected areas” such as Afghanistan, Chechnya, and the Arabic countries; there were reports of police officers trying to extract money from them under the threat of imprisonment.

International Humanitarian Law

In August and November 2002, there were at least two exchanges of prisoners of war between Azerbaijan and Armenia with mediation of ICRC. Two Azeris and two Armenians were released. Also, there was an exchange of corpses of one Armenian and one Azeri.

The international search group of independent experts from Armenia, Azerbaijan, Georgia, Germany, Russia and Nagorno-Karabakh discussed with Armenian officials the problem of searching graves of those Azeris killed during the active phase of the Karabakh conflict. In August, the group was also allowed to visit the Shusha prison in Nagorno-Karabakh in search for captured Azeris.

The OSCE monitored the Azeri-Armenian front line. In 2002, there were several reports of sniper activities.

Azerbaijan had not ratified the Statute of the International Criminal Court by the end of 2002.

Women’s Rights

Azerbaijan ratified the UN Convention against All Forms of Discrimination against Women in 1994 and submitted its initial report in 1998. In the same year, the State Committee on Women’s Problems was established. In June 2002, former Chairwoman of the non-governmental Center Women and Development, Elmira Suleymanova, was appointed the first ombudsperson.

About 50% of women of active working age were unemployed, according to the statistics of the Confederation of Trade Unions. Unemployment clearly provoked prostitution and involvement in sex industry.

The International Organization for Migration (IOM) concluded in October that trafficking in young women from Azerbaijan for prostitution in Turkey, the Arabic Emirates, Greece, Pakistan and Italy is becoming a serious problem. This statement was based on results of a survey among some 150 women in the period between December 2001 and July 2002. According to the IOM, while in 1990-1999 about 750 Azerbaijani prostitutes were deported from Turkey, in 2001 only 550 were deported. In January 2001 to March 2002, the Arabic Emirates arrested 900 alleged Azerbaijani prostitutes. The IOM appealed to the Azerbaijani authorities to prepare a National Plan of Action to tackle the problem.

Prostitution was prohibited in Azerbaijan and women caught were punished either by fines (up to the equivalent of €40-46) or they were forcibly confined in a special hospital for venereal diseases.

The Women’s Rights Monitoring Group of the HRCA carried out a research on domestic violence in

²⁹ The figures of Afghans in Azerbaijan varied from 1,600 (UNHCR) to 6,000 (Afghani embassy in Moscow).

six Azerbaijani regions. The results showed that 35.3% of women had been subjected to violence by their male relatives, 21.3% considered that men did not respect women's opinions, 20.2% complained of moral humiliation, and 19.8% were under the physical influence of men.

By law, rape was punishable under articles 149 and 150 of the Criminal Code. Marital rape was not criminalized. Sexual harassment was prohibited by article 151 of the Criminal Code. However, violence against women was rarely punished. In 2001 only 41 cases of rape or attempted rape were recorded and in the first part of 2002 fifteen cases were reported.

There were about 280 female convicts in the only women's prison in Azerbaijan, including two alleged political prisoners. In 2002, a new women's ward was opened in the prison hospital specializing in the treatment of tuberculosis.

In connection with the conflict over Nagorno-Karabakh, there were still 377 women missing in action.

Homosexuals' Rights

While female homosexuality had never been prohibited, consensual male adult homosexual relations were decriminalized in 2000. The age of any consensual sexual relations was 16 years old.

Despite the fact that the general atmosphere towards homosexuals became more tolerant after the decriminalization of male homosexuality, homosexuals continued to be targeted. In the summer of 2002, some Baku homosexuals complained to the Human Rights Center of Azerbaijan that they had been harassed by law enforcement officers investigating the murder of an American citizen in 2000, which was allegedly related to his homosexual orientation. In addition, police officers threatened to arrest innocent homosexuals and beat them, following which they required bribes to release them. However, the victims did not initiate legal actions against the perpetrators.

Human Rights Defenders

In 2002, the total number of NGOs that sought to promote and protect human rights increased. The majority of the newly established human rights NGOs were ad hoc committees for the protection of the rights of a specific group of people. The number of active human rights NGOs remained at about 46.³⁰

The main problem of human rights NGOs was the failure of the Ministry of Justice to register them or the extremely slow pace of the registration procedure.

- The Association of the Homeless and Deprived Baku Residents that had existed since 1999 and has several thousands of members received seven refusals of registration in 2001-2002. Despite procedural violations by the Justice Ministry, they lost their court cases against the ministry. Finally, the association filed a complaint to the European Court of Human Rights.

There was a wide gap between two groups of human rights defenders: the "patriotic" ones fighting for human rights within Azerbaijan only, and the "international" ones working to attract international attention. The first group campaigned against the second one accusing them of betraying national interests and corruption, even using governmental media to their own ends. Some of the "patriotic" NGOs even went so far as to sign a letter to the Council of Europe in January urging it not to put pressure on the Azerbaijani authorities on the issue of political prisoners. The split obviously weakened the human rights community, which became a more vulnerable target to authorities.

³⁰ Society of Humanitarian Researches, *Directory of Human Rights NGOs*, 2002.

Throughout the year, some human rights defenders were harassed by the authorities.

- On January 12, Mirvari Qahramanli, head of the non-registered Committee for the Protection of Oil Workers' Rights was detained for eight hours and held outdoors in the cold. She was falsely charged with hooliganism and fined. She was subjected to even stronger pressure after her March trip to the USA together with another human rights defender, Leyla Yunus, where they visited the US Department of State, Congress and some other official bodies to inform them of the human rights situation in Azerbaijan. Finally, she was dismissed from her job in mid-April.
- On April 26, HRCA activist in the Ganja region, Eldaniz Namazov was arrested and imprisoned for three days on an administrative order for a false accusation of resisting a police officer. The HRCA believed that the real reason for his arrest was his active monitoring of the eve of an opposition meeting.
- In October 22, the Prosecutor's Office summoned Ilqar Altay (Mammedov) and warned him of a possible criminal prosecution carrying a three-year prison sentence if he continued his activities as an independent expert during a fact-finding mission of the Federation of Human Rights Organizations. As he decided to continue his human rights activity, he was dismissed from his professor position at the Azerbaijan International University on November 11 and accused of "activities against the state."

During 2002, the media reported beatings of some human rights activists under suspicious circumstances.

- On November 23, the chairman of the Association for the Protection of Prisoners' Rights, Shehruyya Rasulov was reportedly beaten by four policemen without any explanation.