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# **AZERBAIJAN: SITUATION ANALYSIS AND TREND ASSESSMENT**

**A Writenet Report**

**commissioned by United Nations High Commissioner for Refugees,  
Status Determination and Protection Information Section (DIP)**

**February 2008**

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## Acronyms

ADR	Azerbaijan Democratic Republic
AIDS	Acquired Immuno-Deficiency Syndrome
ANS	Azerbaijan's News Service
BBC	British Broadcasting Corporation
BTC	Baku-Tbilisi-Ceyhan (oil pipeline)
BTE	Baku-Tbilisi-Erzurum (gas pipeline)
BTK	Baku-Tbilisi-Kars (railroad)
EITI	Extractive Industry Transparency Initiative
EU	European Union
GDP	Gross Domestic Product
IDP	Internally Displaced Person
MP	Member of Parliament
NGO	Non-Governmental Organization
NTRC	National TV and Radio Council
ODIHR	Office for Democratic Institutions and Human Rights
OSCE	Organisation for Security and Cooperation in Europe
PACE	Parliamentary Assembly of the Council of Europe
PKK	Partiya Karkeran Kurdistan (Kurdistan Workers' Party)
SOFAZ	State Oil Fund of Azerbaijan
TV	Television
UK	United Kingdom (of Great Britain and Northern Ireland)
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
US(A)	United States (of America)

## **Executive Summary**

Azerbaijan's oil and gas reserves have made possible rapid economic development in recent years, making the country one of the world's leaders in GDP growth. Azerbaijan successfully engaged in a number of regional cooperation initiatives, particularly involving neighbouring Georgia and Turkey and in close cooperation with the EU countries and the US, reflecting the country's aspiration towards greater Western integration.

Whereas the government has pursued a successful foreign policy, which boosted the country's international stance, serious problems remain with domestic governance and observation of human rights. Holding a tight grip on power, the authorities have to some extent failed to effectively provide for the rights and freedoms enshrined in the country's laws. Elections held in Azerbaijan since its independence were reportedly conducted short of international standards. Opposition and civil society activists face pressures and intimidation. It is reported that the police uses excessive force and in some cases even torture. The existing libel laws have been reportedly used by the authorities to persecute opposition journalists. In a number of cases journalists who wrote about corruption were subjected to libel suits, which resulted in a fine or imprisonment.

The problem of refugees and IDPs from the Karabakh conflict remains a significant source of concern for the government. However, these problems notwithstanding, the government has undertaken demonstrable steps to improve the livelihoods of the IDPs.

The uneven growth of the oil-driven economy puts the country's long-term development prospects at risk. Reportedly, lack of good governance combined with the repressive policies of the authorities dealing with the domestic dissent may further threaten prospects for long-term sustainable development and increase humanitarian concerns over the present state of affairs in the country.

# 1 Introduction

## 1.1 Geography and Demographics

The Republic of Azerbaijan is a country on the crossroads of Europe and Asia in the South Caucasus region. It covers 86,600 square km, an area slightly smaller than Portugal or Maine and is home to some 8.5 million people (according to a 2007 estimate).<sup>1</sup> It is bounded by the Caspian Sea to the east, Russia to the north, Iran to the south, Georgia to the northwest, and Armenia to the west. The country also has a narrow strip of land connecting it to Turkey via its Nakhchivan exclave on its westernmost frontier, separated from mainland Azerbaijan by Armenian territory (Zangezur).

Although the overwhelming majority of the population is ethnic Azeri, Azerbaijan is a multi-ethnic country with numerous territorially concentrated ethnic minorities. According to the last census, taken in 1999, 90.6 percent of the population is ethnic Azeri, a Turkic-speaking Muslim people.<sup>2</sup> Other major ethnic groups include several “Dagestani” peoples (2.2%), mainly comprised of Lezgins, Avars and Tsakhurs who live in the northern regions bordering the Dagestan Republic of the Russian Federation; Russians (1.8%), living mostly in Baku and other urban centres; Armenians (1.5%), who mostly live in the Nagorno-Karabakh region, which has been under Armenian military control since the early 1990s; and others (3.9 %), including Talyshs, Kurds, Tatars and Ukrainians.<sup>3</sup>

The Azerbaijani population is mainly Muslim (93.4%), mostly of the Shiite branch, but there is also a sizeable Sunni minority. There are Russian Orthodox Christians (2.5%) and Armenian Orthodox Christians (2.3%), as well as “others” (1.8%).<sup>4</sup> Religious affiliation is still largely nominal for the majority of the population, although there is a growing number of practising adherents, particularly among Muslims.

## 1.2 Historical Overview

Historically Azerbaijan included, in addition to the area included in the present-day Republic (“North Azerbaijan”), the northwestern parts of Iran (“South” or “Iranian” Azerbaijan), separated from each other by the Araz River. The people on both sides of the border share language and religion and had a common history until the Russian conquest of Azerbaijan north of the Araz River in the early nineteenth century. The Russian conquest largely isolated northern Azerbaijan from south Azerbaijan in Iran and from the Islamic world in general. Rapid industrialization following the oil boom, which began in the second half of the nineteenth century, combined with European social and cultural influences transferred through Russia, significantly affected the formation of the national intelligentsia in present-day Azerbaijan, which evolved based on secular European traditions.<sup>5</sup>

After the Bolshevik Revolution in Russia in 1917 Azerbaijan, along with neighbouring Georgia and Armenia, became part of the short-lived Transcaucasian Federation. When the federation dissolved, Azerbaijan declared its independence as the Azerbaijan Democratic Republic (ADR) on 28 May 1918, and thus became the first Muslim secular democratic republic in the world. Among the

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<sup>1</sup> Azerbaijan, State Statistical Committee, *Azerbaijan in Figures 2007*, Baku, 2007, <http://www.azstat.org/publications/azfigures/2007/en/004.shtml> [accessed February 2008]

<sup>2</sup> The terms “Azeri” and “Azerbaijani” are often used interchangeably. For the purposes of this report, the term “Azeri” refers to ethnic Azerbaijani Turks, whereas “Azerbaijani” refers to all citizens of Azerbaijan.

<sup>3</sup> United States, Central Intelligence Agency, *The World Factbook 2007: Azerbaijan*, Washington, update as of January 2008, <https://www.cia.gov/library/publications/the-world-factbook/geos/aj.html> [accessed February 2008]

<sup>4</sup> *Ibid.*

<sup>5</sup> For more detail on Azerbaijan’s international history, see, Swietochowski, T., *Russia and Azerbaijan: A Borderland in Transition*, New York: Columbia University Press, 1995

accomplishments of the ADR government was the introduction of universal suffrage, including voting rights for women, earlier even than such developed countries as the United Kingdom and the United States. However, the formation of nation-states in the South Caucasus also brought up the issue of defining borders in this ethnically diverse region, which in turn led to conflicts between Armenians and Azeris. In April 1920 the Red Army invaded Azerbaijan, meeting little resistance as Azerbaijan's major forces were heavily involved in a military conflict with neighbouring Armenia over the Nagorno-Karabakh and Zangezur areas in south-eastern Azerbaijan.

Following the Soviet invasion, in 1922 Azerbaijan became part of the Transcaucasian Soviet Socialist Republic composed of Armenia, Azerbaijan and Georgia, but was re-established as a separate Soviet Republic in 1936. In 1921 the Soviet Union, in an attempt to manage the conflicts through a policy of divide-and-rule, allocated the disputed area of Zangezur, which separates Azerbaijan from its Nakhichevan exclave, to Armenia, while retaining Karabakh and Nakhichevan, disputed by Armenia, within Azerbaijan. The Soviet Union also established the Nagorno-Karabakh Autonomous Region within Azerbaijan, in a manner that ensured an Armenian majority in a territory completely surrounded by ethnic Azeri areas.

During Stalin's dictatorship Azerbaijan, similarly to other Soviet republics, suffered from forced collectivization and wide-ranging purges, which destroyed an entire generation of the national intelligentsia. Yet the Soviet period in Azerbaijan also saw significant gains in industrialization and literacy, which latter became largely universal. However, there were large differences in social and economic development – which still remain – between the cosmopolitan capital Baku and the more traditional and underdeveloped rural areas.

The liberalization of the political space during the *perestroika* introduced by Michael Gorbachov had the effect of bringing to the fore the unresolved problems of the past. Civil unrest and ethnic strife grew rapidly throughout the Soviet Union and the first ethnic conflict to emerge was the Armenian-Azerbaijani conflict over Nagorno-Karabakh. The conflict started in early 1988 when Armenians petitioned the Soviet government to transfer Nagorno-Karabakh to Armenia. Whereas Azerbaijan strongly rejected this demand, Armenia and the Armenian majority in Nagorno-Karabakh's local administration adopted a decision on unification of Nagorno-Karabakh and Armenia. The crisis quickly escalated as Armenians fled Azerbaijan and Azeris fled Armenia to escape ethnic violence, and sporadic inter-communal fighting broke out inside Nagorno-Karabakh itself.

The conflict over Nagorno-Karabakh contributed greatly to the growing nationalism and calls for independence in Azerbaijan. On 30 August 1991, soon after the failed coup in Moscow, Azerbaijan declared its independence from the Soviet Union, later confirmed by a national referendum in December 1991, when the Soviet Union ceased to exist. At the same time, Nagorno-Karabakh separatists organized a regional referendum, which was, however, boycotted by the Azeri population, and therefore only reflected the views of the region's Armenian population. The result was a proclamation of independence, which was never recognized internationally, including by Armenia. From early 1992 the conflict escalated into a full-scale war between Armenians and Azeris and resulted in the occupation by Armenian forces of Nagorno-Karabakh and large swaths of adjacent Azerbaijani territory, together totalling 16 percent.<sup>6</sup>

The active phase of the conflict ended in 1994 with the signing of a cease-fire agreement, which effectively cemented Armenian military gains. The conflict left an estimated 30,000 dead and 50,000 wounded from both sides, and caused large scale displacement: of Azeris who fled Nagorno-

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<sup>6</sup> United States, Central Intelligence Agency, *The World Factbook 2007: Azerbaijan*

Karabakh (684,000) and Armenia (185,000) and of Armenians who fled Azerbaijan (299,000).<sup>7</sup> The military disasters in Nagorno-Karabakh contributed significantly to the fall of three successive governments in Azerbaijan in the early 1990s. President Ayaz Mutallibov had to resign after the February 1992 Armenian capture of the Khojaly settlement in Nagorno-Karabakh, which was accompanied by the largest civilian massacres during the conflict. Yagub Mammadov, the acting president who succeeded Mutallibov, had to resign in May 1992 following the Armenian capture of Shusha, the last Azeri settlement in Nagorno-Karabakh. And finally, in June 1993 the Popular Front government led by Abulfaz Elchibey was toppled as a result of internal strife followed by military failures.<sup>8</sup>

In this situation of political turmoil Heydar Aliyev, who had headed Soviet Azerbaijan from the mid-1960s to the early 1980s, was brought back to power in June 1993, first as acting president, and then as elected president in October 1993. Aliyev signed a cease-fire agreement with Armenia in May 1994 and quickly sought to consolidate his power domestically by suppressing the opposition, including successfully thwarting two coup attempts, the first in 1994 by Surat Huseynov, a former warlord, then prime-minister, who had helped bring Heydar Aliyev to power, and the second in 1995 by Rovshan Javadov, who was commander of the military police. Heydar Aliyev also strengthened his international position by entering into multi-billion-dollar agreements with Western oil companies for the exploitation of Azerbaijan's vast Caspian Sea energy reserves. A new Constitution was adopted by referendum in 1995, making Azerbaijan a unitary presidential republic with a single chamber parliament.

Under Heydar Aliyev Azerbaijan achieved relative political stability and economic revival, gradually beginning to see the fruits of international investments, mostly in its energy sector. However, the decade of Heydar Aliyev's rule was also characterized by corruption in the governing bureaucracy and restrictions of democratic freedoms. In 1998 Aliyev was re-elected president for a second term in an election boycotted by the major opposition forces, who claimed that basic conditions for fair elections were not met. The OSCE observer mission, while mentioning "noticeable efforts" made to improve the democratic environment, also stated that "the overall election process fell short of meeting OSCE commitments and international standards".<sup>9</sup> The parliamentary elections in 2000 similarly did not meet international standards and were dominated by the ruling New Azerbaijan Party.

### 1.3 Developments since 2003

Heydar Aliyev's deteriorating health prompted him to name his son Ilham his "political successor". In a carefully orchestrated succession strategy, the Constitution was changed in late 2002, to make the prime minister, rather than as before the speaker of parliament, the second in status after the president. This allowed the 80-year old president, who was undergoing treatment in a hospital in Turkey and unable to govern, to appoint his son Ilham as prime minister in August 2003, two months prior to presidential elections, in which he was the candidate of the ruling party. The official results of the October 2003 presidential elections gave Ilham Aliyev an overwhelming victory by 76.84 percent. However, the domestic opposition refused to recognize the legitimacy of the vote and staged mass protests, which prompted the authorities to use violence. The international

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<sup>7</sup> Statistics from United Nations High Commissioner for Refugees, Centre for Documentation and Research, *Background Paper on Refugees and Asylum Seekers from Azerbaijan*, Geneva, October 1999, p. 2, <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3ae6a6504> [accessed February 2008]

<sup>8</sup> International Crisis Group, *Nagorno-Karabakh: Viewing the Conflict from the Ground*, Brussels, September 2005; for another overview of the conflict and its aftermath see Conciliation Resources, *The Limits of Leadership: Elites and Societies in the Nagorny Karabakh Peace Process*, London, 2005, <http://www.c-r.org/our-work/accord/nagorny-karabakh/contents.php> [accessed February 2008]

<sup>9</sup> Office for Democratic Institutions and Human Rights, *Presidential Election in the Republic in Azerbaijan*, Warsaw, 11 October 1998, p. 6, [http://www.osce.org/documents/odhr/1998/11/1230\\_en.pdf](http://www.osce.org/documents/odhr/1998/11/1230_en.pdf) [accessed February 2008]

community also criticized the elections. The OSCE observer mission stated that the elections “failed to meet OSCE commitments and other international standards for democratic elections”.<sup>10</sup> Ilham Aliyev took office on 31 October 2003, despite opposition complaints and international criticism.

The first years of Ilham Aliyev’s rule were characterized by increasing disputes among the ruling elite. One of the biggest controversies was the conflict between Farhad Aliyev (not related to the president), then Minister of Economic Development, who was known as a reformist in the president’s team and Kemaleddin Heydarov, then head of the Customs Committee (currently, Minister of Emergency Situations), who resisted Aliyev’s reforms aimed at reducing customs barriers on imports.<sup>11</sup> This intra-elite fighting became particularly evident in the run-up to the November 2005 parliamentary elections. Azerbaijani scholar Elkhan Nuriyev writes about this period: “Whilst foreign observers continued to focus largely on a confrontation between the government and the opposition, the domestic political situation was actually being shaped more by the bitter struggle between the various groupings that had formed within the government camp.”<sup>12</sup> Nevertheless the domestic opposition, inspired by the earlier “colour revolutions” in Georgia, Ukraine and Kyrgyzstan, threatened similar scenarios if the parliamentary elections were not free and fair. Growing domestic and international pressures forced the government to make some concessions. In May the president signed a decree “On Improvement of the Election Practices”, which ensured better registration procedures for the candidates, improved media access for the opposition and also allowed for sanctioned opposition rallies, which had been virtually banned since October 2003 presidential elections. The three major opposition parties – Musavat, the Popular Front Party and the Democratic Party – joined in the Azadlig (“Freedom”) bloc, aiming at radical change of the government, while a few other prominent opposition figures joined another, moderate, bloc called Yeni Siyaset (“New Policy”), not calling for the fall of the ruling regime but instead calling for sweeping political and socio-economic reforms.<sup>13</sup>

However, hopes for free and fair elections faded away as the date of the elections approached. The authorities reportedly used two successive “plots” to crack down on the opposition. In August 2005 police arrested Ruslan Bashirli, the leader of the opposition Yeni Fikir youth movement on charges of cooperating with Armenian secret service and coup d’état attempts. However, the biggest surprise came in October 2005, just seventeen days before the elections, when the economic development minister Farhad Aliyev and healthcare minister Ali Insanov, as well as a number of other high-ranking officials had been dismissed, arrested and charged with engaging in a plot with the opposition in an attempt to overthrow the government.<sup>14</sup>

This was in fact the climax of the power struggle within the ruling elite, which resulted in the victory of Kemaleddin Heydarov over his rival Farhad Aliyev. The arrests allowed the president to consolidate his political power and destroyed his previous image as a young and inexperienced person, instead presenting him in a new light as a strong and resolute leader, similar to his father.

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<sup>10</sup> Office for Democratic Institutions and Human Rights, *Republic of Azerbaijan: Presidential Election: 15 October 2003: OSCE/ODIHR Election Observation Mission Report*, Warsaw, 12 November 2003, p. 1, [http://www.osce.org/documents/odihr/2003/11/1151\\_en.pdf](http://www.osce.org/documents/odihr/2003/11/1151_en.pdf) [accessed February 2008]

<sup>11</sup> For more details see, Nuriyev, E., *Elections in Azerbaijan: Political Infighting and Strategic Interests of Great Powers*, SWP Comments, No 58, Berlin, December 2005, [http://www.swp-berlin.org/common/get\\_document.php?asset\\_id=2672](http://www.swp-berlin.org/common/get_document.php?asset_id=2672) [accessed February 2008]; see also International Crisis Group, *Azerbaijan’s 2005 Elections: Lost Opportunity*, Brussels, November 2005

<sup>12</sup> Nuriyev

<sup>13</sup> Ismayilov, R., *Azerbaijan’s Largest Opposition Blocs Agree to Disagree*, *Eurasianet*, 3 November 2005, [http://www.eurasianet.org/azerbaijan/news/azadligyeyes\\_20051103.html](http://www.eurasianet.org/azerbaijan/news/azadligyeyes_20051103.html) [accessed February 2008]

<sup>14</sup> R. Ismayilov, *Azerbaijan: Two More Officials Sacked*, *Eurasianet*, 20 October 2005, <http://www.eurasianet.org/departments/civilsociety/articles/eav102005.shtml> [accessed February 2008]



The official results of the November 2005 parliamentary elections gave the ruling party 63 out of 125 seats, while the major opposition bloc Azadlig received 7 seats and most of the remaining seats went to nominally independent candidates and minor pro-government parties. The opposition declared the results invalid and demanded new elections. The OSCE Observer Mission again stated that the elections “did not meet a number of OSCE commitments and Council of Europe standards and commitments for democratic elections”.<sup>15</sup> Under this domestic and international pressure the government cancelled the results in ten constituencies, including some in which the opposition had won. Thus for example, opposition leader Ali Kerimli, chairman of the Popular Front Party and one of the leaders of the major opposition bloc Azadlig, and another party activist, Gulamguseyn Alibeyli, a member of parliament, both saw their election victories thrown out as a result of the cancelled results.<sup>16</sup> The re-run elections in these ten constituencies took place in May 2006, but were boycotted by most of the opposition parties, with the notable exception of Musavat, which, however, suffered a humiliating defeat as neither its chairman Isa Gambar nor deputy chairman Arif Hajili succeeded in winning seats.

Thus, having suffered humiliating losses during the 2003 presidential and 2005 parliamentary elections, the opposition is demoralized and highly fragmented. On the other hand, having promoted his supporters to positions of power, sidelined his rivals and clamped down on the media, it seems almost certain that Ilham Aliyev will win a second term in office when presidential elections are again held, in October 2008.

## 2 Socio-Political Context and the Character of the State

### 2.1 Economic Overview

After a period of violent conflict, political turmoil and hyperinflation in the first years of independence, Azerbaijan’s economy has rapidly grown since 1997, largely owing to the large foreign investments in its oil industry and subsequent export of oil to the world markets.

Azerbaijan has registered a sixth year of consecutive double digit GDP growth since 2002. In 2005 and 2006 GDP grew by 26.4 percent and 34.5 percent respectively, making Azerbaijan the fastest growing economy in the world.<sup>17</sup> GDP growth for 2007 is expected to remain at about 30 percent, and further 17 percent real GDP growth is forecast for 2008.<sup>18</sup> National income rose to US\$ 1,240 per capita in 2005, up from a post-independence low of just US\$ 470 in 1995.<sup>19</sup> Azerbaijan is expected to gain at least US\$ 340 billion over the next 20 years from its oil and gas fields plus pipeline transit fees before operating costs, based on an average oil price of about US\$ 43 per barrel.<sup>20</sup> With oil prices now increasing far above this level, oil revenues are also expected to soar further. In addition to that, Azerbaijan expects significant benefits from exploitation of its Shahdeniz gas deposits and also from serving as a transit centre for energy and goods flowing between Europe and Central Asia.

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<sup>15</sup> International Election Observation Mission, *Parliamentary Election, Republic of Azerbaijan – 6 November 2005: Statement of Preliminary Findings and Conclusions*, Baku, 7 November 2005, <http://www.osce.org/item/16889.html> [accessed February 2008]

<sup>16</sup> Ismayilov, R., Azerbaijan Election Results Confirmed, Opposition Leader Loses Seat, *Eurasianet*, 1 December 2005, [http://www.eurasianet.org/azerbaijan/news/results\\_20051201.html](http://www.eurasianet.org/azerbaijan/news/results_20051201.html) [accessed February 2008]

<sup>17</sup> Economist Intelligence Unit, *Azerbaijan Country Report May 2007*, London, May 2007, p. 5

<sup>18</sup> Economist Intelligence Unit, *Azerbaijan Country Report November 2007*, London, November 2007, p. 3

<sup>19</sup> World Bank, *Country Partnership Strategy, FY07-10, for Azerbaijan*, 8 November 2006, p. 1, <http://siteresources.worldbank.org/INTAZERBAIJAN/Resources/AzerbaijanCountryPartnershipStrategy.doc> [accessed February 2008]

<sup>20</sup> *Idem*, p. 2

However, dependence on oil is perhaps the most significant deficiency in the overall economic development. The oil sector provided 93 percent of total export earnings, more than 50 percent of GDP and around 55 percent of budget revenue in 2006.<sup>21</sup> The huge inflow of foreign currency into the domestic market is exerting strong inflationary pressures, resulting in double digit inflation rates.<sup>22</sup> This is to some extent managed, though also reinforced, by the exceptionally high increases in public sector spending, principally on housing, public sector wages, IDP support and infrastructure projects. The increased public spending intensifies real exchange rate appreciation pressures. This creates a “vicious circle” of increased government subsidies to the non-oil sector and increased dependence on oil profits to cover the deficits, threatening spiralling inflation and stagnating real terms development.

## 2.2 Regional Context

Azerbaijan has pursued a “balanced foreign policy” which is based on gradually enhancing economic and political cooperation with the West, while carefully avoiding antagonizing Russia.

Three major regional projects – the Baku-Tbilisi-Ceyhan (BTC) oil pipeline, the Baku-Tbilisi-Erzurum (BTE) gas pipeline and the Baku-Tbilisi-Kars (BTK) railroad – are the driving forces behind regional cooperation initiatives in which Azerbaijan plays a pivotal role. Oil started to flow in the BTC pipeline in May 2005 and BTE also began operating in December 2006. Construction of the BTK railroad started in November in 2007. These regional projects closely tie Azerbaijan to its two strategic allies in the region, Turkey and Georgia.<sup>23</sup> Turkey is particularly significant because of the two countries’ strong ethnic and cultural ties, as well as Turkey’s backing for Azerbaijan in its continued dispute with Armenia over Nagorno-Karabakh. Georgia, on the other hand, serves as a pathway to the outer world in a hostile environment of “aggressor” Armenia to the west, “imperial” Russia to the north and “theocratic” Iran to the south.

Russia remains anxious to retain its dominance in the South Caucasus region. It maintains a close relationship with Armenia, its closest political and military ally in the region. Although always treating Russia with a degree of distrust, Azerbaijan, unlike Georgia, has pursued a more balanced policy, accommodating Russia on issues that are not in direct conflict with its national interest and being less ambitious in its pursuit of Euro-Atlantic integration. Relations with Russia deteriorated in late 2006 after Russia doubled the price for its gas. Calling the price increase “commercial blackmail”, Azerbaijan refused buying gas from Russia and in retaliation ceased its export of oil through Russian territory. Instead, Azerbaijan directed this oil to its power plants for generating electricity as a substitute for Russian gas, which earlier was used mostly for this purpose.<sup>24</sup>

Relations between Iran and Azerbaijan have always been politely distrustful, with Azerbaijan wary of Iran’s ambitions to propagate its ideas on religion and state, while Iran feared that a strong Azerbaijan to its north could provide incentives for its large (25 percent) ethnic Azeri minority to voice demands for secession or autonomy.<sup>25</sup> Azerbaijan-Iran relations are further complicated by disputes over the Caspian Sea bed and Azerbaijan’s growing cooperation with the US, although

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<sup>21</sup> Economist Intelligence Unit, *Azerbaijan Country Report May 2007*, p. 12

<sup>22</sup> *Idem*, p. 22

<sup>23</sup> Ismayilov, R., Azerbaijan, Georgia and Turkey: Building a Transportation Triumvirate?, *Eurasianet*, 2 February 2007, <http://www.eurasianet.org/departments/insight/articles/eav020707.shtml> [accessed February 2008]

<sup>24</sup> Azeris Stop Oil Exports to Russia, *BBC News*, 8 January 2007, <http://news.bbc.co.uk/2/hi/europe/6242901.stm> [accessed February 2008]

<sup>25</sup> United States, Central Intelligence Agency, *The World Factbook 2007: Iran*, update as of January 2008, <https://www.cia.gov/cia/publications/factbook/geos/ir.html> [accessed February 2008]

President Ilham Aliyev has repeatedly stated that Azerbaijan will remain neutral in any possible conflict between the US and Iran.<sup>26</sup>

While the unresolved nature of the Nagorno-Karabakh conflict is the biggest obstacle to region-wide cooperation/integration initiatives, effectively excluding Armenia from any projects involving Azerbaijan, the unsettled status of the Caspian Sea also constitutes a potential threat to regional security and cooperation. Azerbaijan, Russia and Kazakhstan have agreed between themselves on division of the sea based on the lengths of each country's coastline and have effectively agreed on the demarcation of their respective national sectors. However, Azerbaijan has disputes, in particular with Iran but also with Turkmenistan, regarding the delimitation of the national sectors, and this remains the major obstacle to the development of oil resources and regional cooperation in the Caspian basin.

## **2.3 Challenges to Good Governance**

### **2.3.1 Uneven Distribution of Power**

Due to the dominant power of the executive branch over legislature and judiciary, decision-making in Azerbaijan is highly centralized. The parliament has very weak legislative oversight powers and laws are often drafted by the presidential administration and essentially mechanically confirmed by parliament. A positive development is that since 2002 the prime minister and the cabinet are required to present annual reports before the parliament. However, apart from annual formal reporting, the parliament has been unable to conduct investigations and hearings on individual cabinet members, despite some calls from opposition MPs. Furthermore, there is limited public or expert input in the legislative process, as NGOs and the general public are not allowed to be present at committee hearings. It is also difficult to obtain copies of draft laws since they are often not publicized before adoption, leading to a lack of public discussion of proposed laws.<sup>27</sup>

The government maintains substantial authority over the judiciary and has used it for its political goals. For example, trials of several opposition youth activists, and of the former ministers of economic development and of health, arrested on charges of coup d'état attempts in the run-up to the November 2005 parliamentary elections, are widely perceived as biased.<sup>28</sup> The independence of the courts is further compromised by reported lack of professionalism and widespread bribery among the judges.<sup>29</sup> A positive development in this area has been a new selection process for judges, based on a testing system, which was implemented in 2006 and regarded by international observers as improving professionalism.<sup>30</sup>

### **2.3.2 Corruption**

Lack of transparency and accountability provides fertile ground for corruption, which is widely perceived as the single most important impediment to development of business and good governance in Azerbaijan. The country has persistently figured high in corruption reports, and was

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<sup>26</sup> See for example, Yunusov, A., Azerbaijan: Between America and Iran, *Russia in Global Affairs*, Moscow, July-September 2006, <http://eng.globalaffairs.ru/region-humanrights/numbers/16/1044.html> [accessed February 2008]

<sup>27</sup> Freedom House, *Nations in Transit 2007: Azerbaijan*, Budapest, 2007

<sup>28</sup> See for example, Amnesty International, *Azerbaijan: Fair Trial Concerns in Cases Associated with the 2005 Parliamentary Elections*, London, 25 May 2006

<sup>29</sup> Istanbul Anti-Corruption Action Plan for Armenia, Azerbaijan, Georgia, Kazakhstan, the Kyrgyz Republic, the Russian Federation, Tajikistan and Ukraine, Monitoring of National Actions to Implement Recommendations Endorsed During the Reviews of Legal and Institutional Frameworks for the Fight against Corruption, *Azerbaijan - Monitoring Report*, Anti-Corruption Network for Eastern Europe and Central Asia, adopted at the 5th Monitoring Meeting of the Istanbul Anti-Corruption Action Plan on 13 June 2006 at the OECD Headquarters in Paris, available at <http://www.oecd.org/dataoecd/10/41/38011428.pdf>

<sup>30</sup> U.S. Department of State, *Country Reports on Human Rights Practices - 2006*, Released by the Bureau of Democracy, Human Rights, and Labor, 6 March 2007, available at <http://www.state.gov/g/drl/rls/hrrpt/2006/78801.htm>

ranked 150 out of 179 countries in the 2007 Corruption Perceptions Index, compiled by Transparency International.<sup>31</sup> According to World Bank experts, Azerbaijan has the highest level of bribe payments, counted as a percentage of annual revenue, among 22 transition countries.<sup>32</sup>

Since 2004 the government has undertaken several measures to combat corruption. The parliament has passed a law on fighting corruption, and also a law on declaration of incomes by all public workers. In 2005 the government adopted a State Programme on Combating Corruption, which has established new institutions, such as a separate State Anti-Corruption Commission and an Anti-Corruption Department within the Prosecutor-General's office. As part of this programme, the government also started paying pensions and salaries through bank accounts, which has reduced diversion of funds. Some improvement has also been observed in the traffic police, after a major salary increase. In November 2006 the Criminal Code and the Criminal Punishment Code were amended so as to increase punishment for corruption to eight years imprisonment, as well as introducing the possibility of confiscation of property acquired through corruption. A significant flaw of the anti-corruption law is that it rules out anonymous complaints, while not providing any effective protection for complainants. Furthermore, the anti-corruption commission, headed by the chief of the presidential administration, Ramiz Mehdiyev, lacks any civil society participation. Indeed, the fight against corruption has occasionally been used as a tool for removing political rivals. As observed by Freedom House, so far, the state has failed to enforce an effective legislative or administrative process – which would also be free of prejudice against political opponents – to investigate corruption among government officials and civil servants.<sup>33</sup> In its Evaluation Report on Azerbaijan published in June 2006 the Council of Europe's Group of States against Corruption commended Azerbaijan for the progress made on adopting the new legislation, but noted that much remains to be done in implementing its anti-corruption laws and regulations.<sup>34</sup> Thus, the legislation looks good and provides room for serious progress; however, poor implementation prevents substantive results being achieved.

Some important progress has been made in increasing the transparency of oil revenue management with the establishment of the State Oil Fund (SOFAZ) in 2001 and Azerbaijan's joining the Extractive Industry Transparency Initiative (EITI) in 2004. SOFAZ, whose assets reached US\$ 2.5 billion by January 2008, discloses financial reports quarterly and is being annually audited by international firms. Furthermore, a coalition of nearly 90 NGOs, monitoring oil revenues as part of EITI, has expanded opportunities for civil society to engage in dialogue with the government. This stands out as the first and so far the most significant government-NGO cooperation framework in Azerbaijan. In 2007 SOFAZ won the UN Public Service Award in the category of "improving transparency, accountability and responsiveness in the public service".<sup>35</sup>

A recent significant development was the introduction from January 2008 of a so-called "one window" system for enterprise registration, which simplified the procedure for registration of new businesses, shortening the timeframe from 72 to 3 days, and which is expected to significantly reduce the

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<sup>31</sup> Transparency International, *Corruption Perceptions Index 2007*, Berlin, 2007, [http://www.transparency.org/policy\\_research/surveys\\_indices/cpi/2007](http://www.transparency.org/policy_research/surveys_indices/cpi/2007) [accessed February 2008]

<sup>32</sup> Hellman, J.S. and Kaufman, D., *The Dynamics of State Capture in Transition Economies*, Beijing: World Bank, 2002, [http://www.worldbank.org/wbi/governance/pdf/quinghua\\_presentation\\_hellman.pdf](http://www.worldbank.org/wbi/governance/pdf/quinghua_presentation_hellman.pdf) [accessed February 2008]

<sup>33</sup> Freedom House, *Nations in Transit 2007: Azerbaijan*

<sup>34</sup> Council of Europe, Group of States Against Corruption, *Evaluation Report on Azerbaijan*, Strasbourg, June 2006, [http://www.coe.int/t/dg1/greco/evaluations/round2/GrecoEval1-2\(2005\)5\\_Azerbaijan\\_EN.pdf](http://www.coe.int/t/dg1/greco/evaluations/round2/GrecoEval1-2(2005)5_Azerbaijan_EN.pdf) [accessed February 2008]

<sup>35</sup> See the official website of the State Oil Fund of Azerbaijan at <http://www.oilfund.az/index.php?n=23> [accessed February 2008]

opportunity for corrupt registration practices . This should have a positive effect on Azerbaijan's ranking by international financial institutions.<sup>36</sup>

### **2.3.3 Obstacles to Free and Fair Elections**

One of the most problematic areas of governance and rule of law is the conduct of elections, where serious irregularities are evident. All elections held in Azerbaijan since its independence, except for the 1992 presidential elections, won by the leader of the Popular Front, Abulfaz Elchibey, were reportedly conducted short of international standards. Interference by officials in the election process in support of the ruling party, use of public resources for campaigning in favour of the ruling party candidates, harassment and intimidation of opposition activists and journalists, overwhelming pro-government bias in the electronic media, one-party control over the election commissions, serious irregularities during vote count and tabulation, favouring candidates from the ruling party, are part of the long list of violations.

As has already been noted, during the campaign for the November 2005 parliamentary elections, some formal improvements were observed largely due to increased international pressure. There was more freedom of assembly for the opposition, improved registration of the candidates, practical measures to prevent multiple voting and improved access for domestic and foreign election observers. However, the allegedly significant irregularities and the continued post-election suppression of the opposition tend to suggest that these measures were of the nature of a formality aimed at quelling international criticism.

The most recent elections were conducted in October 2006 in 603 municipalities, where the results of the December 2004 municipal elections had been annulled. The decision was made under pressure from the Council of Europe, which threatened to exclude Azerbaijan from the Congress of Local and Regional Authorities if the reruns were not held by the end of the year. While the Central Election Commission estimated that some 33 percent of the total number of voters participated in the elections, the opposition claimed that the participation rate was as low as 17-20 percent. With most of the opposition parties boycotting the elections, the ruling New Azerbaijan Party won 1,153 seats out of 1,931, with independent candidates taking the remainder.<sup>37</sup> Ludmila Sfirloaga, head of the monitoring mission of the Congress of Local and Regional Authorities in Europe, said that despite some improvement there had been "serious irregularities", such as discrepancies between the number of ballots cast and votes recorded, "family voting", and unlawful interference with the voting procedure.<sup>38</sup>

The opposition has long complained about the dominance of the ruling New Azerbaijan Party in the election commissions, citing this as the major reason for the continual irregularities during elections. The Council of Europe's Venice Commission and the OSCE's Office for Democratic Institutions and Human Rights (ODIHR) have recommended that the election commissions be established on the basis of parity between the ruling party and the opposition parties. The authorities have refused this proposal, which nevertheless is still on the table.<sup>39</sup>

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<sup>36</sup> For further details on this recent development, see, e.g., Quliyeva, N., A Window to the Business World, *RegionPlus*, 1 February 2008, <http://www.regionplus.az/eng/artic/47/ekon/e5.php> [accessed February 2008]

<sup>37</sup> Freedom House, *Nations in Transit 2007: Azerbaijan*

<sup>38</sup> Council of Europe, Elections in Azerbaijan: Some Improvement, but Much Still to Do to Raise the Level of Trust and Respect Between Central and Local Administration, Strasbourg, 9 October 2006 (press statement), <http://www.un-az.org/undp/bulnews43/el2.php> [accessed February 2008]

<sup>39</sup> Council of Europe, European Commission for Democracy Through Law, *Final Opinion on the Amendments to the Election Code of the Republic of Azerbaijan*, Warsaw, 25 October 2005

### 3 Human Rights

The Azerbaijani Constitution includes extensive provisions for basic rights and liberties. However, in practice, Azerbaijan has reportedly a poor record of democracy and human rights. The country has been consistently ranked as “non-free” by Freedom House since 2003, following that year’s flawed presidential elections. The authorities have a long-standing record of exerting pressure on opposition and civil society activists and limiting freedom of assembly and expression.<sup>40</sup>

Following the 2003 presidential and 2005 parliamentary elections the domestic opposition has repeatedly criticized the international community for “trading democracy for oil” and not pushing the Azerbaijani government to reform.<sup>41</sup> Occasionally, similar assessments have come from international human rights groups. Thus, the UK-based Article 19, which concentrates on freedom of speech: “Azerbaijan’s transformation into a big oil supplier does not contribute to the strengthening of freedom of speech in the country and many countries do not desire to criticize the violation of norms of democracy”.<sup>42</sup>

#### 3.1 National Legislation on Human Rights

Article 12 of the Azerbaijani Constitution declares: “Supreme Aim of the State shall be to ensure human and civil rights and freedoms. The human and civil rights and freedoms enumerated in this Constitution shall be exercised in accordance with international Agreements to which the Republic of Azerbaijan party.”<sup>43</sup>

Article 148 of the Constitution states that international treaties to which Azerbaijan is a party “shall be inalienable compound part of the Legislative system of the Republic of Azerbaijan”. Furthermore, Article 151 of the Constitution stipulates that international legislation to which Azerbaijan is a party will prevail over internal legislation (with the exception of the Constitution and decisions adopted through referendum). This legal framework allows Azerbaijani courts and other administrative bodies to refer to international treaties, to which Azerbaijan is a party, in their decisions. Azerbaijan has signed many of the major international rights treaties, including seven major human rights instruments.<sup>44</sup> The government regularly submits reports on its implementation of the provisions of those treaties to the appropriate treaty bodies.<sup>45</sup>

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<sup>40</sup> See the Freedom House’s Freedom of the World reports available at <http://www.freedomhouse.org/template.cfm?page=363&year=2007&country=7129>

<sup>41</sup> See, e.g., Thousands Call for Azeri Government to Resign after Vote Fraud Reports, *Caucas Europeanews*, 10 November 2005, [http://www.caucas.com/home\\_eng/depeches.php?idp=371](http://www.caucas.com/home_eng/depeches.php?idp=371) [accessed February 2008]

<sup>42</sup> Turan Information Agency interview with Agnes Callamard of Article 19, 6 June 2007

<sup>43</sup> All quotations from the Constitution are from Azerbaijan, Constitution of the Azerbaijan Republic, 27 November 1995. Official translation, <http://unhcr.org/cgi-bin/texis/vtx/refworld/rwmain> [accessed February 2008]

<sup>44</sup> These are 1) International Covenant on Civil and Political Rights (and its two optional protocols); 2) International Covenant on Economic, Social and Cultural Rights; 3) International Convention on the Prevention and Punishment of the Crime of Genocide; 4) International Convention on the Elimination of All Forms of Racial Discrimination; 5) Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; 6) International Convention on Elimination of All Forms of Discrimination Against Women (and its optional protocol); and 7) Convention on the Rights of the Child. See, United Nations Development Programme, *Human Development Reports, Azerbaijan, 2007/2008*, New York, 2007, [http://hdrstats.undp.org/countries/data\\_sheets/cty\\_ds\\_AZE.html](http://hdrstats.undp.org/countries/data_sheets/cty_ds_AZE.html) [accessed February 2008]

<sup>45</sup> For details of reporting and other communications with treaty bodies, see, e.g., Amnesty International, *2006 Elections to the Human Rights Council: Background Information on Candidate Countries*, London, 1 May 2006

Azerbaijan became a member of the Council of Europe in 2001. In this connection the government established an office of national human rights defender – Ombudsman.<sup>46</sup> However, this institution has remained weak and dependent on the executive authority – not least because the Ombudsman is elected by the Parliament from three candidates nominated by the president. As part of its Council of Europe commitments, the Azerbaijani Parliament in 2001 also ratified the European Convention for the Protection of Human Rights and Fundamental Freedoms, which opened the way for Azerbaijani citizens dissatisfied with decisions of the national courts to appeal to the European Court of Human Rights. Furthermore, amendments made to the Constitution in 2002 granted the citizens the right to directly appeal to the Constitutional Court without having to pass through lower instance courts.

### 3.2 Respect for the Integrity of the Person

The Azerbaijani Constitution (Article 27) adopted in 1995 stated that right to life is inviolable, except in case of war or under the death penalty, until the latter had been fully abolished, which happened in 1998 in accordance with commitments undertaken as part of the Council of Europe candidacy process.<sup>47</sup> Furthermore, Article 47 of the Constitution forbids torture and inhuman treatment and the Criminal Code provides for up to 10 years imprisonment for such violations. However, there has been evidence to suggest that torture and inhuman treatment have been practised in custody.<sup>48</sup>

There has been no direct evidence proving the claim of direct unlawful deprivation of life committed by the government. However, there have been several instances of attacks and murders in mysterious circumstances, which involved high-ranking officials, although it remains unclear whether they acted on their own or on orders from above. In March 2005 Elmar Huseynov, a prominent pro-opposition journalist, was shot dead on his doorstep. Later it became known that the murder was carried out by a gang led by Haji Mammadov, a senior-level official in the Ministry of Internal Affairs, who was arrested days after the journalist's murder. The arrest was reportedly facilitated by Turkish agents, who were invited officially to help with the investigation. Soon after Mammadov's arrest the chief of the Turkish police made a statement linking Haji Mammadov to the murder of the journalist. However, at that time the charge was vehemently denied by the Azerbaijani officials, though this changed a year later, in July 2006, when Haji Mammadov stated in court that his gang killed Elmar Huseynov, and added that he did this at the behest of Farhad Aliyev, the ex-minister for economic development. Aliyev had been arrested following the November 2005 parliamentary elections, initially on charges of attempted coup d'état and subsequently accused of embezzlement and corruption. However, most observers doubted whether the official version, alleging that Farhad Aliyev was behind the murder, was true and instead suspected that these accusations were politically motivated.<sup>49</sup>

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<sup>46</sup> Azerbaijan, Constitution Law of Azerbaijan Republic "On Ombudsman of Azerbaijan Republic", 28 December 2001. Inofficial translation, <http://unhcr.org/cgi-bin/texis/vtx/refworld/rwmain> [accessed February 2008]

<sup>47</sup> See eg. Puhar, E., *The Abolition of the Death Penalty in Central and Eastern Europe: A Survey of Abolition Processes in Former Communist Countries*, London: University of Westminster, August 2005

<sup>48</sup> United Nations Commission on Human Rights, Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, Report of the Special Rapporteur, Manfred Nowak. Addendum: Follow-up to the Recommendations made by the Special Rapporteur: Visits to Azerbaijan, Brazil, Cameroon, Chile, Mexico, Romania, the Russian Federation, Spain, Turkey, Uzbekistan and Venezuela, E/CN.4/2006/6/Add.2, 21 March 2006; Azerbaijan Human Rights Centre, International League for Human Rights, World Organization against Torture, *Compliance of the Republic of Azerbaijan with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment: An Alternative NGO Report to the UN Committee against Torture (30th session, 28 April – 16 May 2003)*, Baku, 2003

<sup>49</sup> United States Department of State, *Country Reports on Human Rights Practices 2006: Azerbaijan*, Washington, 6 March 2007

Numerous incidents of torture and cruel treatment in custody and police stations have been reported. In July 2006 Rasim Alishov, a Karabakh war veteran, was beaten to death in a police station in Mingachevir. Later the chief of the Mingachevir Police Criminal Investigation Department was dismissed and arrested for the incident, which took place in his office. In April 2006 Namig Mamedov, a resident of Baku's Yasamal region, died in a police station in Khyzy region. The region's police claimed that Mamedov committed suicide, but his relatives insisted that he was beaten to death. Four policemen involved in the incident have been dismissed and four others were reprimanded. However, no further action from the law enforcement organs followed. Even if the official version were true, this would still imply criminal responsibility.<sup>50</sup>

Numerous incidents of death in enigmatic circumstances took place in prisons, which repeatedly drew the attention of domestic and international right groups to penal conditions. In August 2006 life-term prisoner Kamandar Aslanov was found dead in the punishment cell in the Gobustan prison, infamous for its harsh conditions. The incident caused outrage among the prisoners, who demanded punishment of the guard who had brought Aslanov to the verge of suicide. Thirty prisoners serving life sentences went on hunger strike. The widespread public attention prompted the Prosecutor's Office to institute a criminal investigation on the grounds of "driving to suicide". This was however abandoned as soon as media and public interest in the incident had subsided.<sup>51</sup> Most recently, on 18 November 2007, the opposition activist Faina Kungurova died in unknown circumstances during pre-trial confinement in a Baku suburb. Kungurova, a member of the Azerbaijan Democrat Party, had been arrested just a few weeks earlier on what she claimed were spurious charges of possessing drugs.<sup>52</sup>

Perhaps the most significant case confirming the occurrence of torture in custody is that of Sardar Jalaloglu, the chairman of the opposition Azerbaijan Democrat Party. Jalaloglu filed lawsuits against Interior Ministry officials alleging that they tortured him repeatedly during his four-month detention following arrest in October 2003 at the time of opposition unrest in Baku after the disputed presidential election. He appealed to the European Court of Human Rights in January 2007, which ruled that he was tortured in police custody and ordered the Azerbaijani government to pay him €10,000 in compensation for physical maltreatment.<sup>53</sup>

### 3.3 Freedom of Assembly

Article 49 of the Constitution states: "Everyone has the right, having notified respective governmental bodies in advance, peacefully and without arms, meet with other people, organize meetings, demonstrations, processions, place pickets." The realization of this provision is regulated by the 1998 Law on Freedom of Assembly, which stipulates that freedom of assembly might be restricted in the interest of public safety or national security, for the prevention of disorder or crime, or for the protection of health or morals or of the rights and freedoms of others. The law provides that a person or persons organizing an assembly must provide advance, written notification to the relevant executive authority at least five days prior to the day of the planned meeting. However, while the opposition argues that the laws, including the Constitution, envisage a mere notification of public gatherings, the authorities have interpreted the law to require official permission to assemble

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<sup>50</sup> *Ibid.*

<sup>51</sup> Gobustan Jail Prisoner's Death Case Voided, *Today.az*, 4 November 2006, <http://www.today.az/news/society/32234.html> [accessed February 2008]

<sup>52</sup> V tyurme skonchalas politzaklyuchennaya [A political prisoner dies in prison], *Zerkalo* [Baku], 27 November 2007

<sup>53</sup> See for example, Politician Tortured in Azerbaijan – European Court, *Reuters*, Strasbourg, 11 January 2007, <http://www.reuters.com/article/latestCrisis/idUSL11695155> [accessed February 2008]; for full text of the ruling, see: *Case of Mammadov (Jalaloglu) v. Azerbaijan*, Judgement, Strasbourg, 11 January 2007, [http://www.ius-software.si/EUII/EUCHR/dokumenti/2007/01/CASE\\_OF\\_MAMMADOV\\_\(JALALOGLU\)\\_v.\\_AZERBAIJAN\\_11\\_01\\_2007.html](http://www.ius-software.si/EUII/EUCHR/dokumenti/2007/01/CASE_OF_MAMMADOV_(JALALOGLU)_v._AZERBAIJAN_11_01_2007.html) [accessed February 2008]



and hold demonstrations. The ambiguity over the legal provisions has allowed the authorities to deny permission to numerous demonstrations.

In fact, it would not be incorrect to say that the authorities have failed to ensure freedom of assembly and instead treated the organization of rallies and demonstrations as a privilege rather than as a right. In effect, rallies were effectively banned from the 2003 presidential elections until June 2005 under the pretext of “maintaining law and order”. Some improvements were observed during the 2005 election campaign after the Parliamentary Assembly of the Council of Europe (PACE) called on the Azerbaijani authorities to “urgently comply with European standards and practice as regards the organization of rallies and maintenance of law and order by the police and stop the practice of arbitrary arrests of opposition supporters based on the presumption that they are potential troublemakers.”<sup>54</sup> The government sanctioned a number of opposition demonstrations in Baku, although at times prevented unauthorized protest actions.

However, restrictions were enforced again after the November 2005 elections, and reportedly on 26 November riot police violently dispersed an authorized opposition Azadlig bloc rally in response to attempts to carry out a sit-down protest. There were 57 arrests and within hours the courts sentenced 27 opposition supporters to jail sentences of 10 to 15 days; the remaining 30 were released with administrative penalties or fines. No police officials were held accountable for the excessive use of force.<sup>55</sup>

Sometimes, the reasons given for withholding permission for public meetings have been more mundane. Thus, in September 2007 the Baku authorities refused to authorize a demonstration in support of Azerbaijan’s integration into Europe, which the civil non-partisan group European March for Freedom planned to stage, claiming the rally would hinder the heavy traffic and would cause disturbance for the citizens.<sup>56</sup> In November 2006 Baku’s government-appointed local authority, the Executive Committee, officially announced a list of locations where public meetings could be permitted. The list was strongly criticized by the opposition, as further restricting freedom of assembly, in that the locations chosen were in remote areas on the outskirts of the city, together with some closed stadiums, and included no location in the city centre. The Council of Europe has called on the government to amend the Law on Freedom of Assembly, which “give[s] disproportionate discretion to local executive authorities in accepting or not requests for holding rallies and deciding on their venues”.<sup>57</sup>

### 3.4 Freedom of Expression

The Constitution guarantees freedom of opinion and expression. The Law on Mass Media adopted in 2000 similarly provides for freedom of expression, the right to freely access public information and protection of journalists’ rights. However, there is again a big gap between law and practice.

In 2007 Azerbaijan was ranked 139 (in 2006 it was 135) out of 169 countries in the Worldwide Press Freedom Index published by Reporters Without Borders.<sup>58</sup> The further regression is explained

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<sup>54</sup> Council of Europe, Parliamentary Assembly, *Resolution 1456 (2005): Functioning of Democratic Institutions in Azerbaijan*, Strasbourg, 22 June 2005, <http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta05/ERES1456.htm> [accessed February 2008]

<sup>55</sup> United States Department of State, *Country Reports on Human Rights Practices 2006: Azerbaijan*

<sup>56</sup> Meriya Avroteinteqrasiya Milli Ictimai Komitesine aksiya kecirmeye icaze vermeyib [Mayorality refused permission to demonstration to the National Public Committee for European Integration], *525ci gazet* [Baku], 19 September 2007

<sup>57</sup> Council of Europe, Parliamentary Assembly, *Resolution 1505 (2006): Implementation of Resolution 1480 (2006) on the Challenge of Credentials of the Parliamentary Delegation of Azerbaijan*, Strasbourg, 26 June 2006, <http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta06/ERES1505.htm> [accessed February 2008]

<sup>58</sup> Reporters Without Borders, *Worldwide Press Freedom Index 2007*, Paris, 16 October 2007 (press statement), [http://www.rsf.org/article.php3?id\\_article=24025](http://www.rsf.org/article.php3?id_article=24025) [accessed February 2008]

by the continued harassment and imprisonment of opposition journalists, which also led Reporters Without Borders in May 2007 for the first time to include President Ilham Aliyev in its list of “predators of press freedom”.<sup>59</sup> The tools used to limit freedom of expression are diverse, ranging from direct physical assaults (including even murder, as the case of the slain journalist Elmar Huseynov demonstrates), to arrests based on vague charges of libel and insult, to fines and eviction from their offices.

Although censorship was abolished in 1998 by President Heydar Aliyev, the media, particularly the opposition press, have been consistently under pressure. A frequently used tool for silencing the opposition press is the vague provisions in the Criminal Code allowing for criminal prosecution for defamation and “insult on dignity and honour”.<sup>60</sup> Five journalists recently released by presidential decree were serving sentences based on such charges of libel and insult.<sup>61</sup> And during 2006 alone the opposition *Azadlig* daily newspaper on a dozen occasions was charged with libel and insulting the personal honour and dignity of government officials, and was fined over US\$ 300,000.<sup>62</sup>

The issuing of broadcast licences has also been used as leverage in order to limit media freedom. The popular private ANS TV and radio channels experienced serious problems in renewing their licences after they expired in 2003, and in fact broadcast without licence between 2003 and 2006, despite repeated appeals for the licensing process to be completed. In October 2006 the National TV and Radio Council (NTRC), the official body responsible for regulating broadcasting, demanded that ANS TV, ANS Radio and another private radio station, Antenn, stop re-broadcasting programmes produced by the BBC, Radio Liberty and Voice of America by January 2007 on the grounds that these foreign companies were not licensed to broadcast in Azerbaijan. ANS argued that re-broadcasting of foreign programmes was permitted under the Law on Broadcasting, but in late November 2006 the NTRC suspended ANS’ licence. Following strong domestic and international criticism, ANS resumed broadcasting after a couple of weeks and was re-issued a licence in April 2007. The opposition media – including ANS – believed that the authorities were trying to get control over ANS by altering its ownership, and that the attack on ANS had its origins in the campaign for the parliamentary elections in 2005, when ANS had been acclaimed by the international monitoring group as the most impartial TV station in Azerbaijan.<sup>63</sup>

Opposition media also complain that the authorities have used indirect methods, such as rent disputes or complaints about infringement of safety regulations, to evict them from their premises and thus interrupt their activities. For example, in November 2006 the Economic Court in Baku issued an order for the eviction of the occupants of a building in central Baku, which housed the opposition *Azadlig* newspaper and a number of other pro-opposition organizations, including the *Bizim Yol* newspaper, the Institute for Reporters’ Freedom and Safety, the Turan news agency and the opposition Popular Front Party.<sup>64</sup> And in May 2007 the office of the independent newspaper

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<sup>59</sup> Reporters Without Borders, *Predators of Press Freedom*, [http://rsf.org/article.php3?id\\_article=21949](http://rsf.org/article.php3?id_article=21949) [accessed February 2008]

<sup>60</sup> For a detailed discussion of defamation and insult in Azerbaijani law in the context of freedom of expression, see, Martin, C., *Comparative Human Rights Jurisprudence in Azerbaijan: Theory, Practice and Prospects*, *Florida State University Journal of Transnational Law & Policy*, Vol. 14, No. 2, Spring 2005, pp. 232-40

<sup>61</sup> Reporters Without Borders, *Five Journalists Freed by Presidential Decree*, 7 January 2008, [http://www.rsf.org/article.php3?id\\_article24958](http://www.rsf.org/article.php3?id_article24958) [accessed February 2008]

<sup>62</sup> Human Rights Watch, *Letter to President Aliyev*, New York, 9 February 2007, <http://hrw.org/english/docs/2007/02/09/azerba15374.txt.htm> [accessed February 2008]

<sup>63</sup> Muradova, M. and Bakinsky, Kh., *Azerbaijan: ANS Group at Center of Debate over Foreign Broadcasts*, *Eurasianet*, 26 October 2006, <http://www.eurasianet.net/departments/insight/articles/eav102606.shtml> [accessed February 2008]; see also International Election Observation Mission, *Parliamentary Election, Republic of Azerbaijan – 6 November 2005*

<sup>64</sup> See Amnesty International, *Azerbaijan: The Contracting Space for Freedom of Expression*, London, 24 January 2007

*Realny Azerbaijan* was closed by the Ministry of Emergency Situations, on the grounds of violations of fire safety regulations in the editorial office, shortly after its editor, Eynulla Fatullayev, was arrested on a variety of libel, insult and incitement charges – essentially of a political nature – and subsequently, in October 2007, sentenced to eight and a half years in prison.<sup>65</sup>

### 3.5 Freedom of Information

Freedom of information is ensured by Article 50 of the Constitution, which states that everyone is free to seek, obtain, transfer, prepare and distribute information. In 2005 the government adopted the Law on Obtaining Information which defines the institutional mechanisms and time frame for how citizens can request information from state and municipal institutions. According to the law, if the information keeper rejects or ignores the time frame for execution of the information inquiry, the citizen has a right of appeal to the courts.

However, in practice the law has been poorly implemented. The government has so far failed to appoint an information ombudsman, who would monitor the implementation of the law and review complaints from citizens, as required by law. Because of the highly centralized nature of decision-making in Azerbaijan, which has created a culture of lack of transparency and accountability, government agencies are very reluctant to provide information and allow for public oversight of their activities. In 2006 Azerbaijan was scored as providing the public with only minimal information on the state budget and government finances generally in an assessment conducted by the International Budget Project.<sup>66</sup> In July 2007 the Media Rights Research Institute publicized the result of an eight-month study on how state institutions comply with the Law on Obtaining Information. During the study period, 411 inquiries were sent to 186 different public institutions, resulting in only 32 satisfactory answers. Only 55 answers were received within the statutory seven-day time limit. The monitoring revealed widespread disregard for the Law on Obtaining Information.<sup>67</sup>

The Law also requires every governmental agency to have a regularly updated website providing access to all public records of the agency's activity. In September 2007 the NGO coalition Information Freedom Development revealed that its monitoring of the compliance of the official internet websites with the provisions of the Law on Obtaining Information showed that the average state website complied with the law only to 17 percent (scores ranged from 46.5 percent for the website of the Ministry of Taxes to 4 percent for the National TV and Radio Council.<sup>68</sup> Some state agencies, including the Ministry of Emergency Situations and Ministry of Culture, do not have websites at all.

In a few instances, the authorities have blocked pro-opposition websites, which can easily be done since most local internet service providers are dependent on the Ministry of Communication, which has monopoly on access to the long-distance telephone network. Thus, in January 2007 after an unpopular government decision on price increases, the authorities blocked two websites,

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<sup>65</sup> Organisation for Security and Cooperation in Europe, Severe Prison Sentence for Journalist Violates Azerbaijan's Commitment to Free Press, Says OSCE Media Watchdog, 1 November 2007 (press statement), <http://www.osce.org/item/27685.html> [accessed February 2008]

<sup>66</sup> International Budget Project, *Open Budget Index 2006: Azerbaijan*, Washington: Center on Budget and Policy Priorities, October 2006, <http://www.openbudgetindex.org/CountrySummaryAzerbaijan.pdf> [accessed February 2008]. Azeri Budget Transparency Low, *Today.Az*, 9 November 2006, <http://www.today.az/news/business/32418.html> [accessed February 2008]

<sup>67</sup> Informasiya elde edilməsi haqqında qanuna emel olunmur [The Law on Obtaining Information is not complied with], *Radio Azadlıq*, 30 July 2007, <http://www.azadliqradiosu.az/Article/2007/07/30/20070730155218637.html> [accessed February 2008]

<sup>68</sup> Coalition for Development of Freedom of Information, [Report on the Results of the Monitoring of Official Websites, May-October 2007] (in Azeri), <http://www.informasiya.org/docs/aze/hesabat.doc> [accessed February 2008]

<http://www.susmayaq.biz> and <http://www.tinsohbeti.com>, who had criticized the government's economic policies. The latter site has been blocked several times in the past, accused of ridiculing the president and other high-level government officials.<sup>69</sup>

### 3.6 Freedom of Belief

The Azerbaijani Constitution, Articles 18 and 48, and the 1992 "Law on Freedom of Faith" provide for freedom of belief and religion and for division of state and religion, and state that all religions are equal before the law. However, similarly to the exercise of other rights, the laws have been allegedly used to restrict religious freedoms.<sup>70</sup>

For most Azerbaijanis religion is more a matter of identity and tradition, rather than faith. However, there is a growing number of practising adherents, particularly of Islam. From the early 2000s the authorities have grown increasingly cautious of the activity of religious communities that do not fall under the official control. There are two reasons for this. First, the increase of non-traditional religious communities has been increasingly treated in Azerbaijan as a matter of national security, particularly with a view to preventing the spillover of religious radicalism coming from the Middle East and the North Caucasus. Second, the authorities have traditionally feared any social force which they could not control, and which could potentially mobilize public support against it. Largely guided by these two rationales, the government has exercised strict control over religious freedoms and placed restrictions on the proselytizing activities of religious communities.

The major instrument of government control is official registration. All religious communities are required to register with the State Committee for Religious Affairs. The Islamic religious communities must also seek approval from the formally independent Caucasus Board of Muslims, before getting registered with the State Committee. The mandatory and bureaucratized registration procedure is seen by many, particularly the non-traditional religious communities, as an attempt to control spiritual affairs.

The government also exercises strict control over the publication and distribution of religious literature, both Islamic and non-Islamic. Although censorship was officially abolished in Azerbaijan in 1998, the Law provides that only registered religious communities may publish literature, and even those registered communities must seek approval from the State Committee before publishing. Religious literature imported to Azerbaijan is also subject to inspection and approval by the State Committee, in decisions that sometimes appear arbitrary. For instance, the State Committee gave a Christian community permission in 2004 to import copies of a particular book, but when another Christian community with a less amicable relationship with the authorities wanted to import the same book two years later, the Committee required that a fresh expert analysis was undertaken.<sup>71</sup>

Official policy towards religion came under intense domestic criticism in May 2007 after the Caucasus Board of Muslims issued an order banning the use of amplifiers during call to prayers. The official rationale for the decision was that the resonant calls disturb the elderly, the sick and children.<sup>72</sup> Following widespread criticism, the authorities quickly cancelled their earlier decision.

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<sup>69</sup> Reporters Without Borders, Azerbaijan: Government Blocks Two Websites for Criticising Economic Policy, 12 January 2007, [http://www.rfs.org/article.php3?id\\_article=20384](http://www.rfs.org/article.php3?id_article=20384) [accessed February 2008]

<sup>70</sup> For the general information in this section see, United Nations Human Rights Council, Report of the Special Rapporteur on Freedom of Religion or Belief, Asma Jahangir: Addendum Mission to Azerbaijan, A/HRC/4/21/Add.2, 18 October 2006; see also United States Department of State, *International Religious Freedom Report 2007*, Washington, 2007

<sup>71</sup> Corley, F., Azerbaijan: Religious Minorities Want Religious Freedom, *F18 News*, 14 August 2006, [http://www.forum18.org/Archive.php?article\\_id=828](http://www.forum18.org/Archive.php?article_id=828) [accessed February 2008]

<sup>72</sup> Azerbaijani Islamic Council Bans Amplified Calls to Prayer from Mosques, *Today.az*, 24 May 2007, <http://www.today.az/news/society/41269.html> [accessed February 2008]

There have been numerous criticisms of the official policy of containment of religion, particularly of the dissident religious communities, both Islamic and non-Islamic, which do not fall under the official control.<sup>73</sup> The restrictions imposed on the freedom of belief and the harassment policies serve only to further marginalize and radicalize the dissident religious communities, particularly the Islamic ones, such as Salafis and dissident Shiite communities.

### 3.7 Freedom of Movement

Article 28 of the Constitution provides that “anybody in the territory of the Republic of Azerbaijan shall be able to freely move and choose place of domicile for himself/herself and to travel outside Azerbaijan”. Likewise, Azerbaijan, as a party to the International Covenant on Civil and Political Rights and to the European Convention on Human Rights, has accepted the obligation to respect the rights of anyone legally residing in the country to freely move and choose his place of residence.

However, in practice, the government has restricted movement and residence through the continued use of the Soviet-inherited *propiska* system, which basically fulfilled the function of a residency permit and linked access to work and social benefits with the place of registration. The continued use of residency registration has particularly badly affected the numerous internally displaced persons from the Nagorno-Karabakh conflict.<sup>74</sup>

Changing one’s registration, particularly obtaining Baku registration, is a bureaucratized and corrupt process. However, although the registration system discourages internal migration, it does not prevent it. Driven by search for jobs, many people of working age migrate from the regions to the capital Baku.<sup>75</sup> Citizens have not been prevented from migrating abroad either, and in Russia alone there are probably at least one to one and a half million Azeri seasonal and permanent migrants.<sup>76</sup>

Reportedly, the authorities have occasionally restricted freedom of movement for opposition activists. Thus, in 2006 Ali Karimli, the chairman of the opposition Popular Front Party, was refused renewal of his passport to participate at international meetings. The formal reason for the refusal was a still pending lawsuit dating back to 1994, on charges of allegedly plotting a coup. Karimli appealed to the court to order the prosecution to either process or dismiss the charge, but this was rejected.<sup>77</sup> In a similar case, Haji Ilgar Ibrahimoglu, a dissident religious teacher and religious freedom activist, was refused permission to travel abroad in 2004 to attend international events. The authorities explained the ban on Ibrahimoglu’s travel abroad with the fact that he has a suspended sentence, which he received in 2003 following the opposition riots during the controversial presidential elections.<sup>78</sup> Interestingly, a few months earlier Ibrahimoglu had been allowed to travel abroad, which raises doubts whether the official reason for the travel ban was politically motivated.

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<sup>73</sup> See, e.g. Council of Europe, European Commission against Racism and Intolerance, *Second Report on Azerbaijan*, CRI(2007)22, Strasbourg, December 2006, pp 15-17, [http://www.coe.int/t/e/human\\_rights/ecri/1%2Decri/2%2Dcountry%2Dby%2Dcountry\\_approach/azerbaijan/azerbaijan\\_cbc\\_3.asp](http://www.coe.int/t/e/human_rights/ecri/1%2Decri/2%2Dcountry%2Dby%2Dcountry_approach/azerbaijan/azerbaijan_cbc_3.asp) [accessed February 2008]

<sup>74</sup> See, Internal Displacement Monitoring Centre, *Azerbaijan Country Page: Vestiges of the Residence Permit System from the Soviet-era Restrict IDPs to One Legal Place of Residence (2001-2006)*, March 2007, <http://www.internal-displacement.org/> [accessed February 2008]

<sup>75</sup> United States Department of State, *Country Reports on Human Rights Practices 2006: Azerbaijan*

<sup>76</sup> Russia: CIS Migrants, *Migration News*, Vol. 13, No 3, 17 July 2006, [http://www.migration.ucdavis.edu/mn/more.php?id=3209\\_0\\_4\\_0](http://www.migration.ucdavis.edu/mn/more.php?id=3209_0_4_0) [accessed February 2008]

<sup>77</sup> United States Department of State, *Country Reports on Human Rights Practices 2006: Azerbaijan*

<sup>78</sup> *Idem*

## 4 Vulnerable Groups

### 4.1 Azeri IDPs and Refugees

According to official statistics, as of November 2006 there were approximately 690,000 IDPs in Azerbaijan. Of these 560,000 were from seven regions adjacent to Nagorno-Karabakh and 130,000 from other regions bordering Armenia. In Nagorno-Karabakh itself, there are some 30,000 ethnic Armenians internally displaced from other regions of Azerbaijan. At the same time 70,000 pre-war Armenian residents in Nagorno-Karabakh are now said to be in third countries. Coupled with the number of the expelled ethnic Azeri population of the region, this means that some two thirds of Nagorno-Karabakh's pre-war population – Armenians and Azeris – are no longer in Nagorno-Karabakh. The displaced populations also include about 185,000 Azeri refugees from Armenia, who mainly arrived in 1988, and who have been encouraged by the Azerbaijan government to settle permanently. The statistics on the number of IDPs and refugees from the Karabakh conflict are not entirely reliable, since there are no regular surveys and the IDP and refugee population tends to move around informally to find work and accommodation, and thus data on, for example, place of residence and employment become outdated very quickly. Furthermore, the total numbers are also increasing, as according to local legislation newborn children in IDP and refugee families inherit IDP or refugee status. Refugees and IDPs tend to live in compact communities, scattered all over the country. Half of them live in urban areas, primarily in the capital Baku and nearby Sumgayit, with the remainder living in rural and semi-rural settlements, primarily in Fizuli, Barda and Agdam districts close to the frontline.<sup>79</sup>

Government and international organizations agree that IDPs and refugees in Azerbaijan remain the poorest and most vulnerable segment of society, heavily dependent on state allowances and benefits. Generally, rural IDPs and refugees are more exposed to poverty than those in urban centres. According to an official 2003 report, the poverty level among IDPs and refugees living in rural settlements was 60.6 percent as opposed to those living in urban areas who had a poverty rate of 41.2 percent, slightly lower than the local resident population's 44.4 percent. According to the 2004 data, only 30 percent of working age IDPs were officially employed.<sup>80</sup> Unemployment among IDP women is even more widespread, with only some 12.7 percent working.<sup>81</sup> In a trend which is similar to that of the non-displaced population, many IDPs, particularly young males, migrate abroad, particularly to Russia, to earn their living.

IDPs also have poorer access to healthcare and education. Thus, for example, between 1998 and 2002 the infant mortality rate among displaced children was some three to four times higher than in the rest of the population.<sup>82</sup> Displacement and acute poverty also lowered the quality of education

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<sup>79</sup> Statistics in this section drawn from sources quoted in Internal Displacement Monitoring Centre, *IDP Living Conditions Improve, but Peace Deal Remains Elusive*, Geneva, March 2007, p. 9, [http://www.internal-displacement.org/8025708F004BE3B1/\(httpInfoFiles\)/CAF3FDADB3D44A85C125729500321BC4/\\$file/Azerbaijan+-March+2007.pdf](http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/CAF3FDADB3D44A85C125729500321BC4/$file/Azerbaijan+-March+2007.pdf) [accessed February 2008]; see also International Crisis Group, *Nagorno-Karabakh: Viewing the Conflict from the Ground*, especially Section III: Living Conditions for Azeri IDPs; also Council of Europe, Committee on Migration, Refugees and Demography, *Situation of Refugees and Displaced Persons in Azerbaijan, Armenia and Georgia*, Strasbourg, 4 June 2002

<sup>80</sup> Azerbaijan, Ministry of Economic Development, *Azerbaijan's Progress Toward the Achievement of the Millennium Development Goals: Progress Report 2003/2004*, Baku, 2005, especially section on Living Standards of Refugee and IDP Population, pp. 46-8

<sup>81</sup> United Nations Development Fund for Women, *The Status of IDP Women in Azerbaijan: A Rapid Assessment*, Baku, 2006, p. 16, [http://www.internal-displacement.org/8025708F004CE90B/\(httpDocuments\)/3F1402007C2CA017C12571ED004DA093/\\$file/UNIFEM+A\\_Z\\_EngFinal.pdf](http://www.internal-displacement.org/8025708F004CE90B/(httpDocuments)/3F1402007C2CA017C12571ED004DA093/$file/UNIFEM+A_Z_EngFinal.pdf) [accessed February 2008]

<sup>82</sup> Amnesty International, *Azerbaijan: Displaced Then Discriminated Against: The Plight of the Internally Displaced Population*, London, June 2007, p. 13

received by IDP children, as many of them had to study in makeshift schools and had difficulty obtaining school materials. A 2005 government report showed that 58 percent of IDP parents said they could not afford the expenses associated with school education for their children.<sup>83</sup>

However, some also argued that the fact of displacement by itself should no longer be viewed as the sole determinant of vulnerability and that the socio-economic situation of the IDPs, especially those living in urban areas, is not much different from that of the general population. The government's 2005 report recognizes this, saying "[i]t is still difficult to make strong conclusions about the living standards and specific vulnerabilities of the IDP and refugee population, due to the lack of a regular sample surveys covering IDPs/refugees and the local population living in the same areas".<sup>84</sup> According to UNHCR's assessment in 2005, IDPs, particularly urban, "do not seem to be any poorer than the non displaced families". However, the study stressed that "their relative welfare is contingent upon continued assistance, particularly from the Government ... should such support be withdrawn, IDPs would see their welfare considerably undermined".<sup>85</sup> The assistance provided by the government to the IDPs represents the largest social protection programme in the country. IDP benefits include virtual exemption from utility payments, monthly allocation of the equivalent of US\$ 9.00 per person for the purchase of basic foodstuffs (commonly referred to as "bread money"), discounted income tax, free higher education for those who pass entrance exams, and food and medicine for those living in collective centres or new settlements.<sup>86</sup>

In recent years, the similarities between the problems of IDPs and those of the non-displaced poor population in terms of poverty, unemployment and access to social services, have prompted international donors to reduce assistance designed exclusively for IDPs, focusing instead on long-term development programmes for the wider population. Similarly, the international community has increasingly urged the Azerbaijani authorities themselves to allocate more funds for bettering the socio-economic situation of IDPs and provide for long term and sustainable income generating solutions for them. Azerbaijan has one of the world's largest per capita IDP populations in the world, yet the influence of the IDPs on Azerbaijani politics is minimal. Being one of the most vulnerable groups within the society, IDPs lack efficient institutions for self-governance and have been largely marginalized from the political processes in the country and from the negotiation processes. Such a situation provides a fertile ground for the growth of on the one hand apathy and on the other radicalism.

The return of IDPs to Nagorno-Karabakh and adjacent occupied territories is strongly demanded by Azerbaijan, along with restoration of the country's territorial integrity. IDPs are strongly committed to return and by and large consider this the only durable solution to their problems. The major obstacle for the return of IDPs is the continued presence of Armenian military forces in Nagorno-Karabakh and adjacent occupied territories. During the military phase of the conflict, whole towns and villages inhabited by Azeris were systematically razed; later, the infrastructure was torn apart and used to repair Armenian settlements or was sold as scrap. Considering the degree of destruction in the occupied territories, some estimates suggest that efforts will be needed over a decade to rebuild homes, infrastructure and economy.<sup>87</sup> Some IDPs have returned to frontline areas under government control. By the end of 2001 at least 72,000 IDPs had returned to their original places of residence, primarily to parts of the frontline Agdam and Fizuli districts, under government

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<sup>83</sup> Azerbaijan. Ministry of Economic Development, *Azerbaijan's Progress*, p. 48

<sup>84</sup> *Ibid.*

<sup>85</sup> United Nations High Commissioner for Refugees, *Assessment of the IDP Situation in Azerbaijan and Cooperation Mechanisms in Place to Address Their Needs*, Geneva, 2005, pp. 18-20, <http://www.unhcr.org/publ/RSDLEGAL/442d369d4.pdf> [accessed February 2008]

<sup>86</sup> Amnesty International: *Azerbaijan: Displaced*, p. 19

<sup>87</sup> International Crisis Group, *Nagorno-Karabakh: A Plan for Peace*, Brussels, October 2005, p. 24

control.<sup>88</sup> However, frequent (almost daily) violations of the cease-fire, the existence of large numbers of unexploded mines, a devastated infrastructure and few economic opportunities continue to prevent Azeri IDPs from returning to their homes in frontline areas.

Unlike its policy of integration of the refugees from Armenia, who had no realistic prospects for return, the Azerbaijani government has been somehow reluctant to provide for long-term solutions for IDPs, probably fearing this would signal that the government had abandoned the goal of regaining the lost territories. There was also concern that integration of the IDPs into local communities might deter them from returning to Karabakh in the future. This approach has led to a policy aimed at preserving the IDP communities largely intact. However the downside of this was that, in effect, this policy restricted IDPs' access to social, economic and political rights compared to the rest of the population, which, in turn, served to reinforce their social marginalization and dependency on the state. The IDPs were excluded from the land privatization process. They can vote in municipal elections but cannot stand as candidates in municipal elections. They can vote and stand as candidates in parliamentary elections, though not in their current, but their pre-war places of residence. The government has restricted the movement and residence of IDPs through the continued use of the Soviet-era *propiska* system, which basically ties access to assistance and social benefits to the place of registration. At the same time, access to IDP camps and settlements for opposition and civil society activists has been restricted. It is reported that despite some sporadic calls, the authorities have also effectively denied the Karabakh Azeris the right to elect a community leader to represent them in the negotiations. Instead IDP community leaders at all levels are appointed by the president.<sup>89</sup>

However, following increasing domestic and international criticism of the treatment of IDPs, as well as shrinking international assistance to IDPs and increasing domestic revenues, the Government has shifted its policy in recent years, especially with regard to improving IDP housing conditions. President Ilham Aliyev promised to resettle all remaining IDPs from so-called "tent camps" to new settlements by the end of his first term as president in 2008. Since 2002 the government has allocated US\$ 332.5 million from the Oil Fund to fund measures relating to refugees and IDPs.<sup>90</sup> Although all IDPs living in "tent camps" have been resettled to new settlements with better living conditions<sup>91</sup>, IDPs lack employment in these settlements, and as a result, many working age men do not stay there and migrate either to Baku or to Russia, similarly to many non-IDP men of working age in Azerbaijan. Many IDPs have complained about widespread corruption and mismanagement, which reportedly resulted in poor quality houses, built in remote places with no infrastructure and on land unsuitable for cultivation. Also, motivated by the government's desire to settle IDPs close to their places of origin, most of these new settlements are built close to the frontline, which, if hostilities resume, would mean renewed displacement for IDPs and destruction of these expensive new settlements.<sup>92</sup>

As another example of seemingly well-intentioned but mismanaged policy, the government initially exempted refugees and IDPs from paying utility bills, and then from 2001 replaced exemption from utility payments by direct compensation to the utility providers. While a positive development, the policy of direct compensation to the respective utility provider instead of exemption from payment

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<sup>88</sup> United States Committee for Refugees and Immigrants, *World Refugee Survey 2002: Azerbaijan*; Washington, 2002, <http://www.refugees.org/countryreports.aspx?cid=1301> [accessed February 2008]

<sup>89</sup> For more details on this, see Amnesty International, *Azerbaijan: Displaced*, pp. 26-9

<sup>90</sup> Stated on the official State Oil Fund web-site, <http://www.oilfund.az/index.php?n=10> [accessed February 2008]

<sup>91</sup> The last remaining IDP "tent camp" called Galagayin, which was located in Sabirabad region in central Azerbaijan, was abolished on 29 December 2007.

<sup>92</sup> Internal Displacement Monitoring Centre, *Azerbaijan: IDP Living Conditions Improve but Peace Deal Remains Elusive*



was not applied equally among IDPs. While government transfers a monthly compensation fee to the utility providers, many IDPs, especially in rural areas, do not have regular access to these utilities, such as electricity, water, gas etc. Furthermore, as a result of widespread corruption, many IDPs and refugees reported having paid for services, which under national legislation should be provided to them for free. Last but not least, lack of consistent statistical data on IDPs also hinders effective monitoring of their welfare. Therefore, there is a need to carry out regular surveys, and increase the efficiency of targeting of the support of IDPs.<sup>93</sup>

#### 4.2 Meskhetian Turks, Chechen Refugees and Other Asylum Seekers

Next to Azeri refugees and IDPs, Meskhetian Turks and Chechens are the two largest categories of displaced persons in Azerbaijan. In a policy that parallels that towards Azeri refugees from Armenia, Azerbaijan has registered and provided citizenship rights to some 50,000 Meskhetian Turks, who were deported *en masse* from Georgia to Central Asia by Stalin in the 1940s. An initial immigration stream of 25,000-30,000 Meskhetian Turks arrived in Azerbaijan between the late 1950s and early 1970s, while a second stream fled violence in Central Asia in the late 1980s. The Meskhetian Turks have been well integrated into Azerbaijani society and face no threat of expulsion from Azerbaijan. Although still formally hoping to return to their original homeland in Georgia, most Meskhetian Turks in Azerbaijan are believed to have been naturalized and settled, particularly those belonging to the earlier immigration stream.<sup>94</sup>

The situation of the Chechen refugees, who have arrived in Azerbaijan since 1999, following the second Chechen war, remains problematic.<sup>95</sup> Estimates of their number vary widely – from UNHCR’s 2007 estimate of 2,600 to an earlier, admittedly impressionistic Council of Europe estimate of 8,500.<sup>96</sup> Although party to the 1951 Refugee Convention, Azerbaijan has not recognized their refugee status, thus limiting their access to legal employment and social services. The reason for this policy is twofold: the presence of the large IDP/refugee population from the Karabakh conflict and Russian political pressure, aimed at forcing Chechen refugees back to Chechnya. The Russian authorities have in the past pressured Azerbaijan to extradite Chechens accused by Russia of terrorism. Although Azerbaijan generally has not extradited Chechen asylum seekers, there have been numerous reports alleging that the government has at times returned some Chechen refugees, suspected of crimes or militant activity, to Russia without prior notification of UNHCR.<sup>97</sup> Chechen refugees have occasionally held hunger strikes and demonstrations in front of the UNHCR office in Baku, demanding recognition of their refugee status and an increase in the financial aid provided to them.<sup>98</sup>

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<sup>93</sup> *Idem*

<sup>94</sup> United States Committee for Refugees and Immigrants, *World Refugee Survey 2005: Azerbaijan*, Washington 2005, <http://www.refugees.org/countryreports.aspx?cid=1301> [accessed February 2008]; Council of Europe, Committee on Migration, Refugees and Population, *The Situation of the Deported Meshketian Population*, 4 February 2005, <http://assembly.coe.int/Documents/WorkingDocs/Doc05/EDOC10451.htm> [accessed February 2008]

<sup>95</sup> For general background see European Council on Refugees and Exiles, *Guidelines on the Treatment of Chechen Internally Displaced Persons (IDPs), Asylum Seekers and Refugees in Europe*, London, March 2007, [http://www.ecre.org/files/chechen\\_guidelines.pdf](http://www.ecre.org/files/chechen_guidelines.pdf) [accessed February 2008]

<sup>96</sup> Chechen Refugees Rally in Baku for Status, *Radio Free Europe/Radio Liberty*, 28 February 2007; <http://www.rferl.org/featuresarticle/2007/02/AA2F48C1-EFF9-4B62-8DF8-3C316C25B99B.html> [accessed February 2008]; Council of Europe, Committee on Migration, Refugees and Population, *Refugees and Displaced Persons in Armenia, Azerbaijan and Georgia*, 6 February 2006, <http://assembly.coe.int/Documents/WorkingDocs/Doc06/EDOC10835.htm> [accessed February 2008]

<sup>97</sup> United States Committee for Refugees and Immigrants, *World Refugee Survey 2005: Azerbaijan*

<sup>98</sup> Chechen Refugees Resident in Azerbaijan Held a Protest Action, *Caucasus Knot*, 28 February 2007, <http://eng.kavkaz.memo.ru/newstext/engnews/id/1178912.html> [accessed February 2008]; Chechen Refugees on Hunger Strike in Azerbaijan, *Caucasus Knot*, 25 February 2005, <http://eng.kavkaz.memo.ru/newstext/engnews/id/772461.html> [accessed February 2008]

### 4.3 Opposition Activists and Journalists

A tense relationship between the government and opposition and deteriorating media freedom may place opposition activists and journalists in a special category of vulnerable people. Numerous cases of violent attacks on opposition activists and journalists by unidentified persons have been registered since 2005, resulting in life-threatening injuries or in one case, that of the *Monitor* editor Elmar Huseynov, even death (see above Section 3.2). In March and May 2006 two opposition journalists, Fikret Huseynli, a reporter for the *Azadlig* newspaper, and Bahaddin Haziyevev, editor of the *Bizim Yol* newspaper, were abducted by unknown people, severely beaten and left for dead on the outskirts of Baku. During both attacks, which were similar in style, the journalists were warned to stop writing articles critical of the government. In December 2006 two further opposition supporters, Ali Orujov, press secretary of the opposition National Independence Party, and Nijat Huseynov, a reporter on the *Azadlig*, were attacked and beaten by unknown assailants.<sup>99</sup> In April 2007 Uzeyir Jafarov, a journalist on the *Realny Azerbaijan* newspaper, was attacked by unknown persons and was hospitalized with serious injuries. Later he recognized one of the attackers, and said that this person was at the courtroom during the trial of the daily's editor-in-chief Eynulla Fatullayev. However, Jafarov's statement was disregarded by the law enforcement officials.<sup>100</sup>

Opposition activists and journalists have reportedly been subjected to trials that in the alleged absence of independent judiciary and due process were deemed politically motivated by both domestic and international observers.<sup>101</sup> In August 2005 police arrested Ruslan Bashirli, the leader of the opposition Yeni Fikir youth movement, on charges of cooperating with the Armenian secret service and attempted coup d'état. Bashirli and two of his deputies, Ramin Tagiyev and Said Nuri, were tried and given prison sentences of between four and seven years. Later Nuri was released from prison and received a suspended sentence on account of his poor health. It is reported that the trial "did not meet minimum international standards for due process", and the imprisonment of the young opposition activists was condemned as politically motivated by domestic and international observers.<sup>102</sup>

Other opposition activists have been reportedly imprisoned on criminal charges of a non-political nature, where observers have assessed the charges to be politically motivated. One example is that of Mirza Sakit Zahidov, a political satirist for the *Azadlig* newspaper, who was arrested in June 2006 and sentenced in October 2006 to three years of imprisonment on drug possession charges. Zahidov maintained throughout the trial that he had neither used nor dealt in drugs and that the illegal substance was planted on him by police as a revenge for his satirical poems criticizing the officials.<sup>103</sup> In November 2007 Ganimat Zahid, editor of *Azadlig* and Mirza Sakit's brother, was arrested and sentenced to two months pre-trial detention on charges of "hooliganism" and inflicting "minor bodily harm" widely believed to have been pre-engineered. The charges stem from an incident in which Zahidov was attacked by a man and woman outside his newspaper's Baku office.

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<sup>99</sup> For a detailed overview of the attacks on the journalists, see Amnesty International, *Azerbaijan: The Contracting Space for Freedom of Expression*

<sup>100</sup> Amnesty International, *Azerbaijan: Critical Voices Again Silenced by Libel Laws*, London, 27 April 2007 (public statement)

<sup>101</sup> See, e.g., Amnesty International, *Azerbaijan: Fair Trial Concerns*

<sup>102</sup> See, e.g. Organisation for Security and Cooperation in Europe, OSCE Office Issues Statement on Opposition Youth Activists Trial in Azerbaijan, Baku, 13 July 2006 (press statement); see also United States Department of State, *Country Reports on Human Rights Practices 2006: Azerbaijan*

<sup>103</sup> Amnesty International, *Azerbaijan: Appeal Cases: Well-known Satirist Sakit Zahidov Imprisoned Following an Unfair Trial with Questionable Evidence*, London, 24 January 2007

When he went to the police to report the attack, he was arrested. If found guilty, he could be sentenced to up to six years of imprisonment. As of mid February 2008 the trial is still on-going.<sup>104</sup>

The most common charges faced by journalists are for libel and insult, which are criminal offences under Azerbaijani law. However, the law's definitions of what could be qualified as libel and insult are vague, and the application of libel laws appears arbitrary and giving virtually carte blanche to persecution of opposition journalists. In a number of cases journalists who wrote about corruption or police mistreatment were subjected to libel suits, which resulted in a fine or imprisonment or both. The arrest and trial of Eynulla Fatullayev, editor of the now defunct *Realny Azerbaijan* newspaper, is a case in point. Fatullayev was arrested in April 2007 for "insulting the dignity and honour" of the survivors of the Khojaly massacre, an episode in the Nagorno-Karabakh conflict, which took place in 1992 and resulted in 613 civilian deaths. Fatullayev in his articles blamed the Azerbaijani authorities for allowing the Khojaly massacre to happen and using the tragedy as a card in their ascent to power. Some months after his imprisonment on charges of libel and insult, Fatullayev was charged with issuing a "terrorist threat" and "inciting ethnic conflict", for a speculative article on the implications for Azerbaijan of a possible US-Iranian war. His sentence was extended from 30 months to eight and a half years after what Reporters Without Borders characterized as "politically motivated" trials.<sup>105</sup>

Other journalists imprisoned on defamation charges include Rovshan Kabirli, editor of the *Mukhalifat* newspaper, and Yashar Agazade, a reporter on the same paper, both arrested in May 2007 and eventually released by presidential decree in December 2007; Ilgar Nasibov, a reporter for *Radio Free Europe/Radio Liberty* in Azerbaijan's Nakhchivan exclave, arrested in December 2007 for "slandering police" and sentenced to three months in prison, which on appeal was converted to a one year suspended sentence; and, most recently, Avaz Zeynalli and Vugar Gurdganli, the editor and a reporter on the magazine *Khural*, sentenced in January 2008 to forced labour for allegedly defaming a government official through articles criticizing government corruption.<sup>106</sup>

According to a study released by the internationally supported Media Rights Institute in July 2007, some 60 claims against journalists were filed in the first half of 2007 by state officials, ten times more than during the same period in 2005.<sup>107</sup> According to the same watchdog, in the single month of September 2007 the Azerbaijani courts considered over 50 cases related to defamation, implicating 15 journalists.<sup>108</sup> The increase in defamation suits has led OSCE to call on the authorities to decriminalize defamation and settle disputes arising from defamation under civil law.<sup>109</sup>

#### 4.4 Ethnic and Religious Minorities

Azerbaijanis often describe themselves as tolerant to other ethnicities and religions. Traditionally, Muslims, Christians and Jews (native Ashkenazi Jews, often called Mountain Jews) have co-existed

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<sup>104</sup> Court Hearing on Imprisoned Reporter Ganimat Zahid's Case Put Off, *Today.az*, 31 January 2008, <http://www.today.az/news/politics/42791.html> [accessed February 2008]

<sup>105</sup> Reporters Without Borders, Appeal Court Upholds Long Prison Sentence for Newspaper Editor, 31 October 2007 (press statement), [http://rsf.org/article.php3?id\\_article=24213](http://rsf.org/article.php3?id_article=24213) [accessed February 2008]

<sup>106</sup> For details of these cases see the website of Reporters Without Borders, <http://rsf.org/> [accessed February 2008]

<sup>107</sup> Media Rights Institute, *Defamation Cases*, Baku, 24 July 2007, <http://www.mediarights.az/index.php?lngs=eng&id=7> [accessed February 2008]

<sup>108</sup> 15 jurnalist hebse atila bilerdi [15 journalists could be jailed], *Monitoring.az*, 9 October 2007, <http://www.monitoring.az/index.php?lngs=aze&cats=1&ids=265> [accessed December 2007]

<sup>109</sup> Organisation for Security and Cooperation in Europe, OSCE Media Freedom Representative Expresses Shock after More Azerbaijani Journalists Jailed, Calls on Authorities to Stop Prosecutions for Libel, Vienna, 17 May 2007 (press statement)

peacefully, and the country's recent history has no record of violent conflict based on religion. With the notable exception of conflict with Armenians, there has been no other violent inter-ethnic conflict among the majority and minority ethnic groups in Azerbaijan.

#### 4.4.1 Ethnic Minorities

Under Azerbaijani laws the native ethnic minorities enjoy linguistic and cultural autonomy. There are radio programmes, newspapers, theatres and numerous schools working in Talysh, Lezgin, Kurdish and other of the larger minority languages in areas where they are concentrated. The European Commission against Racism and Intolerance has noted that “the Azerbaijani authorities have recently made efforts in order to improve the quality of teaching of several minority languages, including Lezgin and Talysh”, but expressed concern about the poor quality of teaching in other minority languages such as Tats and Avar. There is also a worry that the government's understandable policy of encouraging Azerbaijani as the universal language of communication risks carrying with it a tendency to neglect the minority languages.<sup>110</sup>

The matter is further complicated by uncertainties about population statistics, and some ethnic Talysh and Lezgi activists have claimed that their real numbers are much higher than the ones shown in the official census. Talysh, as the linguistic minority most integrated into Azerbaijani society, were not even included as a separate ethnic group during Soviet times, and counted as Azeris from 1959 to 1989. Dual identity is widespread among many native ethnic minorities. Many Talyshs consider themselves to be Azeri and Talysh at the same time. The same is applicable, although to a lesser degree, to Lezgis and other native ethnic groups. This perhaps contributes to a reduction in the number of ethnic minority individuals recorded during the census, as many prefer to use their civic identity as “Azerbaijanis” rather than their ethnic identity.<sup>111</sup>

Despite generally amicable relations between authorities and ethnic minorities, some native ethnic minority activists have reportedly faced persecution from the government. Thus, Novruzali Mamedov, a prominent Talysh activist, was arrested in February 2007, initially for resisting police, and then sentenced for alleged espionage on behalf of Iran. Mamedov was chairman of the Talysh Cultural Centre, head of the Institute of Philology at the Azerbaijan Academy of Sciences and editor of the Talysh-language *Tolishi Sado* newspaper.<sup>112</sup>

Azerbaijan has a small number of native ethnic Kurds, who according to official statistics from the last 1999 census numbered 13,000.<sup>113</sup> Most of the Kurds lived in areas now occupied by Armenian forces and are now spread all over the country in the same way as the Azeri IDPs. The Kurds have not been subjected to a discriminatory policy from the government. However, the local media has occasionally speculated on alleged settlement of ethnic Kurds from Turkey in Azerbaijan and links between Azerbaijani Kurds and Kurdish PKK rebels in Turkey.<sup>114</sup>

Azerbaijan had a sizeable Armenian minority before the war with Armenia over Nagorno-Karabakh. At present, official statistics estimate that around 120,000 Armenians live in Azerbaijan, or 1.5 percent of the population.<sup>115</sup> Most Armenians live in the breakaway Nagorno-Karabakh

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<sup>110</sup> Council of Europe, European Commission against Racism and Intolerance, *Second Report on Azerbaijan*

<sup>111</sup> Kotecha, H., *Islamic and Ethnic Identities in Azerbaijan: Emerging Trends and Tensions*, Baku: OSCE, July 2006, [http://www.osce.org/documents/ob/2006/08/23087\\_en.pdf](http://www.osce.org/documents/ob/2006/08/23087_en.pdf) [accessed December 2007]

<sup>112</sup> Radio Free Europe/Radio Liberty, Azerbaijan Charges Representative of Ethnic Minority with Spying for Iran, *RFE/RL Newslines*, 20 February 2007

<sup>113</sup> *Azerbaijan.az* portal, Population of Azerbaijan, [http://www.azerbaijan.az/GeneralInfo/Population/population\\_e.html](http://www.azerbaijan.az/GeneralInfo/Population/population_e.html) [accessed February 2008]

<sup>114</sup> Ismailzade, F., Gul Plays Symbolic Visit to Baku, but Pragmatism Remains, *Eurasia Daily Monitor*, 14 November 2007, [http://www.jamestown.org/edm/article.php?article\\_id=2372591](http://www.jamestown.org/edm/article.php?article_id=2372591) [accessed February 2008]

<sup>115</sup> *Azerbaijan.az* portal, Population of Azerbaijan

region; however, there are still some 20,000 residing in the rest of Azerbaijan, primarily in Baku.<sup>116</sup> These are mostly women with ethnic Azeri husbands. The Azerbaijani government claims that no policy of discrimination against citizens of Armenian descent exists. However, numerous cases have been reported in which Azerbaijani citizens of Armenian descent have complained of discrimination in employment, schooling, housing, the provision of social services, access to documentation and other areas.<sup>117</sup> Most of these citizens conceal their real names and use Azeri names instead in order to avoid discriminatory treatment. In an unusual case, in October 2007 the Baku court ruled on removing an IDP family from Armenian-occupied Agdam district from the apartment that they had lived in since 1993 and returning the apartment to its previous owners, Azerbaijani citizens of mixed Armenian-Russian descent. However, the court decision so far does not appear to have been implemented.<sup>118</sup>

#### **4.4.2 Religious Groups**

Members of mainstream religious communities have been treated with tolerance. These include “official” Islam under the Caucasus Board of Muslims as well as Judaism, Russian Orthodoxy, Catholicism and Lutheranism. However, members of non-conventional religious sects, both Islamic and non-Islamic, have occasionally faced mistreatment and restrictions on their religious freedom. These reportedly include the Islamic purist Salafites, small Shiite communities not recognizing the authority of the Caucasus Board of Muslims, as well as Adventists, Jehovah’s Witnesses, Hare Krishna and other smaller sects.

A particularly vulnerable religious group has been the Salafites, also popularly called “Wahhabites”, a Sunni sect introduced into Azerbaijan in the mid 1990s by Arab charitable organizations and through influences from Chechnya and Dagestan. Salafites have frequently been subjected to beatings, detention and arrests by the police. Looking very different from the rest of the population, by dress and beards, the Salafites were always treated with suspicion, and media, government and the official Shia clergy have all helped to create a negative image of Salafites as potential terrorists. Salafite religious literature has been confiscated as illegally imported. There have been reported occasions of police forcibly shaving or even burning the beards of Salafites and forcing them to come for degrading daily “beard checks”.<sup>119</sup> In early December 2007 it was reported that 60 to 70 “Wahhabis” were in prison, 15 of whom – according to the head of the penitentiary service – had appealed for release, denouncing their Salafite beliefs.<sup>120</sup>

Conscientious objectors to military service occupy an uncertain position under Azerbaijani law and practice and on several occasions the authorities have instituted criminal cases against members of Jehovah’s Witnesses and other sects who forbid their members to bear arms. Formally the Azerbaijan Constitution recognizes the right to conscientious objection, but legislation specifying the form of alternative service has not been adopted in spite of Azerbaijan’s obligation to do so as a condition of entry into the Council of Europe in 2001. The government maintains that the country cannot afford an alternative to military service for conscientious objectors, as long as the conflict with Armenia over Nagorno-Karabakh remains unresolved. In practice and in the absence of provision for alternative service, most religious conscientious objectors have not been called up to

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<sup>116</sup> United States Department of State, *Country Reports on Human Rights Practices 2006: Azerbaijan*

<sup>117</sup> Canada, Immigration and Refugee Board, *Azerbaijan: Treatment of Ethnic Armenians (2004-2006)*, Ottawa, 20 February 2006, <http://www.irb-cisr.gc.ca/en/research/rir/?action=record.viewrec&gotorec=449895> [accessed February 2008]

<sup>118</sup> For more on this case, see, Ermeni qadin Bakida mecburi kochkunun evinden chixarilmasini teleb edir [Armenian woman demands that displaced person leave her house], *525ci gazet*, 25 October 2007, <http://www.525ci.com/new/2007/10/25/get=21025> [accessed February 2008]

<sup>119</sup> Valiyev, A., Azerbaijan Increasingly Caught Between Salafism and Iran, *Terrorism Monitor*, 11 October 2007, <http://www.jamestown.org/terrorism/news/article.php?articleid=2373711> [accessed February 2008]

<sup>120</sup> *Day.az.*, 7 December 2007, <http://www.day.az/news/society/100702.html> [accessed February 2008]

military service.<sup>121</sup> However, the absence of a specific law on alternative service for conscientious objectors has opened the door to arbitrary practice. In two instances, members of Jehovah's Witnesses have been given suspended sentences on charges of draft evasion. In 2005 conscientious objector Mahir Bagirov faced criminal prosecution for refusing military service. He lost his case in all court instances, and left Azerbaijan in 2005 to avoid further legal moves against him. In July 2006 another conscientious objector, Mushvig Mamedov, was given a six months suspended sentence on the same charges.<sup>122</sup>

#### 4.5 Homosexuals

Homosexuality was a criminal offence under Azerbaijani law until amendments to the Criminal Code in 2000. Now that it is decriminalized, homosexuals, unless engaged in prostitution, do not face police harassment. There have been some reports of mistreatment of homosexual prostitutes. However, reportedly there are "free zones" in Baku city where gay and transvestite prostitution goes unchecked owing to police bribery.<sup>123</sup>

Social attitudes to homosexuals remain reportedly negative. According to a poll conducted in 2005, 80 percent of Azerbaijanis expressed distrust of homosexuals, AIDS sufferers and drug-addicts, the highest level of distrust in the South Caucasus countries polled towards this group of vulnerable people.<sup>124</sup> As a result of such attitudes, many homosexuals feel constrained to keep their sexual orientation secret.

### 5 Human Rights in Nagorno-Karabakh

#### 5.1 Background to the Nagorno-Karabakh Conflict and Peace Process

The unrecognized "Nagorno-Karabakh Republic" is a region within Azerbaijan's internationally recognized borders, covering an area of roughly 4,400 sq km (1,700 sq miles). According to the last pre-war census conducted in 1989, the region had a population of 189,085, including 145,500 ethnic Armenians (76.9%) and 40,700 ethnic Azeris (21.5%).<sup>125</sup> There is no reliable data on the present number of inhabitants. The Karabakh Armenian authorities claim Nagorno-Karabakh has a population of 138,000<sup>126</sup> or, by other accounts, 145,000<sup>127</sup>, virtually all ethnic Armenians. However, the real numbers are probably much lower. In addition to the Azeri population of the territory, which was subjected to ethnic cleansing during the war, up to 70,000 ethnic Armenians who resided in Nagorno-Karabakh before the war are said to have migrated to third countries,

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<sup>121</sup> Quaker Council for European Affairs, *The Right to Conscientious Objection in Europe: Country Report: Azerbaijan*, <http://www.quaker.org/qcea/coreport/azerbaijan.pdf> [accessed February 2008]

<sup>122</sup> Corley, F., Azerbaijan: Jehovah's Witness Conscientious Objector Sentenced, *F18 News*, 27 July 2006, [http://www.forum18.org/Archive.php?article\\_id=818](http://www.forum18.org/Archive.php?article_id=818) [accessed February 2008]

<sup>123</sup> Canada, Immigration and Refugee Board, *Azerbaijan: Situation of Homosexuals; Legality; Treatment of Homosexuals by Police; Government Attitude Towards Police Treatment of Homosexuals (2004 - 2005)*, Ottawa, 15 February 2006, <http://www.irb-cisr.gc.ca/en/research/rir/?action=record.viewrec&gotorec=450213> [accessed February 2008]

<sup>124</sup> Mkrtchyan, A., Tolerance and Regional Peace Building; Comparative Analysis of Survey Results in Armenia, Georgia and Azerbaijan, paper presented at a conference on Community Conflicts in the Post-Soviet Era, Nicosia, 1 June 2005, organized by the Interdisciplinary Center for Comparative Research in the Social Sciences, <http://www.iccr-international.org/events/2005/2005-06-01.html> [accessed February 2008]

<sup>125</sup> International Crisis Group, *Nagorno-Karabakh: Viewing the Conflict from the Ground*, p. 4

<sup>126</sup> Nagorno-Karabakh Prime Minister: We Need to Have At Least 300,000 Population, *Regnum*, 3 September 2007, <http://www.regnum.ru/english/793359.html> [accessed February 2008]

<sup>127</sup> See website of Office of the Nagorno-Karabakh Republic in the USA, [http://www.nkrusa.org/country\\_profile/overview.shtml](http://www.nkrusa.org/country_profile/overview.shtml) [accessed February 2008]

according to Armenian sources. If this figure is true, then some two thirds of Nagorno-Karabakh's pre-war population, both Armenians and Azeris, no longer reside in Nagorno-Karabakh.<sup>128</sup>

Today the Nagorno-Karabakh conflict remains the longest running and most intractable in the region, as well as involving two states, Armenia and Azerbaijan. Armenia effectively controls Nagorno-Karabakh militarily and economically: over half of the "Nagorno-Karabakh Defence Army" is believed to consist of Armenian citizens; the Armenian government covers 50 percent of the Nagorno-Karabakh budget, and Nagorno-Karabakh uses the Armenian currency, the dram.<sup>129</sup> The politics of Armenia and Nagorno-Karabakh are so intermingled that a former "president" of Nagorno-Karabakh, Robert Kocharyan, first became prime minister of Armenia, in 1997, and then was elected president in 1998 and re-elected in 2003.

The OSCE Minsk Group co-chaired by the US, Russia and France, has overseen mediation efforts since the cease-fire in 1994. Despite some sporadic violations resulting in low level military casualties, the parties have effectively maintained a cease-fire regime since 1994. Other than this the negotiations have so far failed to bring any tangible results. The Armenian position is that Nagorno-Karabakh should either be independent or incorporated into Armenia, whereas Azerbaijan rejects any compromise over its territorial integrity and maintains that Nagorno-Karabakh could have a substantial degree of autonomy within Azerbaijan. Between 1993 and 1994 the UN Security Council adopted four resolutions condemning the Armenian occupation of Nagorno-Karabakh and demanding its withdrawal; these have not been implemented but still formally represent the UN position.<sup>130</sup>

During the late 1990s the OSCE Minsk Group put forward several proposals, called respectively "step-by-step proposal", "package deal" and "common state", which were all rejected by one or the other of the parties. In 2005-2006, and again in November 2007, the Minsk Group co-chairs put to the parties a set of "basic principles" for possible progress. These principles can be summarized as follows: renunciation of the use of force; gradual withdrawal of Armenian forces from the occupied provinces adjacent to Nagorno-Karabakh and their replacement with international peacekeepers; restoration of communications between Armenia and Azerbaijan and return of the displaced populations to their homes; and finally, an internationally sanctioned referendum on Nagorno-Karabakh's final status.<sup>131</sup>

However, despite general support for the negotiation framework, the parties remain at odds over the concrete modalities of these principles. Fundamental differences remain as to who would vote on what, when and how, as both sides believe these questions will determine the final outcome. The Armenian side is demanding that the referendum be held exclusively in Nagorno-Karabakh and the outcome based on a majority decision. Azerbaijan wants the referendum to be held in the whole of its territory, arguing that its constitution does not allow for a referendum in one part only. Azerbaijan also wants Karabakh Azeris to return to their homes and participate on an equal basis with Karabakh Armenians in determining the future of Nagorno-Karabakh.

The separatist authorities argue that they have a democratically elected government which legitimately represents the interests of the territory's population. The US-based NGO Freedom House also considered the parliamentary elections held in Nagorno-Karabakh in 1995 and 2000 as

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<sup>128</sup> International Crisis Group, *Nagorno-Karabakh: Viewing the Conflict from the Ground*, p. 4

<sup>129</sup> *Idem.* pp. 9 and 12

<sup>130</sup> Resolutions 822 (1993) of 30 April 1993, 853 (1993) of 29 July 1993, 874 (1993) of 14 October 1993 and 884 (1993) of 12 November 1993. For the texts of all four resolutions see: <http://www.state.gov/p/eur/rls/or/13508.htm> [accessed February 2008]

<sup>131</sup> For details, see for example, International Crisis Group, *Nagorno-Karabakh: Risking War*, Brussels, November 2007

“generally free and fair”<sup>132</sup>, although no international organization observed the process, and serious irregularities have been reported in the parliamentary elections of 2005.<sup>133</sup>

Azerbaijan maintains that any vote in the region is illegal until displaced Azeris are allowed to return. Likewise, the international community has repeatedly categorized all the elections in Nagorno-Karabakh as invalid. Thus, a statement from the Council of Europe with regard to the 19 July 2007 “presidential” election in Nagorno-Karabakh said “conducting such ‘elections’, thus pre-empting the outcome of the ongoing negotiations, cannot contribute to the resolution of the conflict.”<sup>134</sup> Similarly, the declaration of the EU presidency on the recent “presidential” elections in the occupied territory read:

The EU underlines that it does not recognize the independence of Nagorno-Karabakh. Neither does it recognize the legitimacy of these ‘presidential elections’, which should not have any impact on the peaceful settlement of the Nagorno-Karabakh conflict. Furthermore, the EU recalls that refugees and internally displaced persons should be given the right to a safe, secure and dignified return of their homes in order to fully participate in electoral acts.<sup>135</sup>

The Karabakh Armenian authorities also held a referendum on a draft constitution in December 2006. Official reports indicated a 98 percent support for the constitution, which was designed to confirm the independence of the breakaway territory. This, however, also generated criticism from the international organizations. The then acting chairman of the OSCE, Karel de Gucht, made clear that the OSCE would not recognise the referendum, adding that “such a referendum is counter-productive to the ongoing conflict settlement process”.<sup>136</sup>

The whole issue of return of displaced populations remains one of the most contentious topics in the peace talks, and has been used by both parties throughout the negotiation process as a means of broadening and slowing down the process. The Council of Europe in a 2005 resolution strongly supported the right of IDPs and refugees to return to Nagorno-Karabakh as a basis for a peaceful solution.<sup>137</sup> However, the province authorities’ continued policy of resettlement of formerly Azeri majority areas with ethnic Armenians could in the long term become a major obstacle to resolution of the crisis.<sup>138</sup>

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<sup>132</sup> Freedom House, *Country Report: Nagorno-Karabakh [Armenia/Azerbaijan]*, Washington, 2007, <http://freedomhouse.org/template.cfm?page=22&year=2007&country=7309> [accessed February 2008]

<sup>133</sup> Peuch, J.C., Nagorno-Karabakh: Legislative Polls Trigger Political Tensions, *Radio Free Europe/Radio Liberty*, 22 June 2005, <http://www.rferl.org/featuresarticle/2005/06/aef31e2-2798-40f0-8300-ddcb6d24790a.html> [accessed February 2008]

<sup>134</sup> Council of Europe, Chair of the Council of Europe’s Committee of Ministers: Declaration on the ‘Presidential Elections’ To Be Held in Nagorno-Karabakh on 19 July 2007, 12 July 2007 (press statement), <https://wcd.coe.int/ViewDoc.jsp?id=1164313> [accessed February 2008]

<sup>135</sup> European Union, Declaration by the Presidency on Behalf of the European Union on ‘Presidential Elections’ in Nagorno-Karabakh on 19 July 2007, 20 July 2007 (press statement), [http://www.eu2007.pt/UE/vEN/Noticias\\_Documentos/Declaracoes\\_PESC/20070719PESCNAg.htm](http://www.eu2007.pt/UE/vEN/Noticias_Documentos/Declaracoes_PESC/20070719PESCNAg.htm) [accessed February 2008]

<sup>136</sup> Organisation for Security and Cooperation in Europe, OSCE Chairman Concerned over Constitutional Referendum in Nagorno-Karabakh, Brussels, 11 December 2006 (press statement), [http://www.osce.org/cio/item\\_1\\_22641.html](http://www.osce.org/cio/item_1_22641.html) [accessed February 2008]

<sup>137</sup> Council of Europe, Parliamentary Assembly, *Resolution 1416 (2005): The Conflict over the Nagorno-Karabakh Region Dealt With by the OSCE Minsk Conference*, Strasbourg, 25 January 2005, <http://assembly.coe.int/main.asp?Link=/documents/adoptedtext/ta05/eres1416.htm> [accessed February 2008]

<sup>138</sup> Huseynov, T., Karabakh Azeri Perspective, *Accord: An International Review of Peace Initiatives*, December 2005; see also, International Crisis Group, *Nagorno-Karabakh: Viewing the Conflict from the Ground*, p. 8



A further impediment to the peace process is the steadily increasing militarization of both Armenia and Azerbaijan. Azerbaijan in particular has used its large oil profits to increase its military spending significantly – more than eightfold within four years, from US\$ 135 million in 2003<sup>139</sup> to US\$ 660 million in mid-2006<sup>140</sup> and US\$ 1.1 billion in 2007.<sup>141</sup> Azerbaijani officials have argued that spending on its armed forces, in relation to population size and length of the country's borders, is still smaller than that of Armenia.<sup>142</sup> At the same time, Azerbaijan has accused Armenia of deploying Russian-supplied heavy weaponry in occupied territories out of bounds to international inspection, exceeding its limits under the Conventional Forces in Europe treaty.<sup>143</sup>

One of the key challenges remains informing the Armenian and Azerbaijani public about the peace talks with a view to securing their understanding, support and involvement in the general peace process. Today little is being done to prepare Armenians and Azeris for peace. Officials largely refrain from publicly discussing these highly sensitive issues. But there is a need for open public debate on the various policy options in the peace process. At the same time, more contacts not only between Armenian and Azerbaijani representatives, but also between Karabakh Armenians and Azeris, are needed in order to develop dialogue and lay grounds for future coexistence.

## 5.2 Human Rights and Vulnerable Groups

### 5.2.1 General Assessment

Because of the limited access of international organizations to Nagorno-Karabakh and other occupied territories of Azerbaijan, little information is available on the human rights situation in the region. The occupied territories including Nagorno-Karabakh officially remain under martial law, which imposes restrictions on civil liberties, including media censorship and banning of public demonstrations. However, the Karabakh Armenian authorities maintain that martial law has not been enforced since 1995, a year after the cease-fire was signed.<sup>144</sup>

Due to the unrecognised nature of the territory, Nagorno-Karabakh is not listed separately in Transparency International's Corruption Perception Index. However, it is believed to suffer from extensive corruption.<sup>145</sup> Allegedly, there is no independent judiciary and courts are reportedly influenced by the executive branch and powerful political and clan forces. In a poll conducted by a local Karabakh Armenian NGO in 2004, 48 percent of the respondents said they did not believe the courts produce just sentences and 61.6 percent of these believed it is mainly because of corruption.<sup>146</sup>

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<sup>139</sup> Bargarar, A., Azerbaijan Boosts Military, *Institute for War and Peace Reporting: Caucasus Reporting Service*, 7 July 2005, [http://iwpr.net/?p=crs&s=f&o=254675&apc\\_state=henicrs2005](http://iwpr.net/?p=crs&s=f&o=254675&apc_state=henicrs2005) [accessed February 2008]

<sup>140</sup> Another Increase of 60 Million in Defense Expenses of State Budget, *Today.Az*, 26 May 2006, <http://today.az/news/business/26581.html> [accessed February 2008]

<sup>141</sup> International Crisis Group, *Nagorno-Karabakh: Risking War*, p. 12

<sup>142</sup> Azeri Press Agency, Araz Azimov: Armenia Gets Militarized More Than Azerbaijan, 14 December 2007, <http://en.apa.az/news.php?id=40730> [accessed February 2008]

<sup>143</sup> Socor, V., Moscow Pressing for CFE Treaty Ratification Despite Its Own Non-compliance, *Eurasia Daily Monitor*, 17 May 2006, [http://www.jamestown.org/publications\\_details.php?volume\\_id=414&issue\\_id=3729&article\\_id=2371093](http://www.jamestown.org/publications_details.php?volume_id=414&issue_id=3729&article_id=2371093) [accessed February 2008]

<sup>144</sup> Freedom House, *Country Report: Nagorno-Karabakh [Armenia/Azerbaijan]*

<sup>145</sup> *Ibid.*

<sup>146</sup> International Crisis Group, *Nagorno-Karabakh: Viewing the Conflict from the Ground*, p. 11

### 5.2.2 *Internally Displaced Persons and Armenian Migrants*

Some 30,000 Armenian IDPs from other parts of Azerbaijan have settled in Nagorno-Karabakh after living for a time in Armenia and other countries. Currently, these IDPs mostly occupy the homes of former Azeri inhabitants. As part of the resettlement policy aimed at increasing the Armenian population of the region, Armenia and Karabakh Armenian authorities provide incentives for Armenian refugees from Azerbaijan and Armenians from Armenia and even from the diaspora to move to Nagorno-Karabakh. Thus, ethnic Armenians moving to Nagorno-Karabakh are provided with US\$ 300 per person and US\$ 600 per family, as well as land and subsidised utilities.<sup>147</sup> Official Azerbaijan has repeatedly criticised the Armenian resettlement policy as an attempt to consolidate the ethnic cleansing and occupation of its territory.<sup>148</sup>

The Armenian IDPs and migrants enjoy equal rights with the rest of the population and have a right to citizenship. They are well integrated into the local Karabakh Armenian society with no major differences visible in the living conditions.<sup>149</sup> Some ethnic Armenian IDPs in Nagorno-Karabakh, particularly those from Baku, find it hard to adapt to the Armenian-speaking environment, as many grew up speaking Russian.<sup>150</sup> Although there is no statistical data, anecdotal evidence suggests that poverty and unemployment is widespread and many of the working-age population go abroad, mainly to Russia, to earn their living. The Armenian side has repeatedly complained about the lack of adequate humanitarian assistance, arguing that unlike ethnic Azerbaijani IDPs, displaced ethnic Armenians residing in Nagorno-Karabakh could not receive similar international humanitarian aid, due to the unrecognised character of the territory.<sup>151</sup>

### 5.2.3 *Religious Minorities and Conscientious Objectors*

The war and resulting ethnic cleansing shaped Nagorno-Karabakh as one of the world's most mono-ethnic and mono-cultural societies. The Armenian Apostolic Church, to which most residents belong, is the only registered religious organization in the territory.<sup>152</sup> Martial law, which is still formally in place, also includes restrictions on religious sects and unregistered organizations. There have been reports of harsh treatment of members of Jehovah's Witnesses, who claim more than 200 adherents in Nagorno-Karabakh, and are probably the largest religious minority in the territory. Baptists and some other Christian sects have also suffered.<sup>153</sup> Following the displacement of the Azeri Muslim population from Nagorno-Karabakh there are no functioning mosques in the province; those mosques that were not destroyed during the war have remained closed.<sup>154</sup>

Individuals who combine membership of a religious minority with conscientious objection to military service constitute a particularly vulnerable group. This applies both to conscientious objectors from Nagorno-Karabakh itself and to conscripts from Armenia, who have refused to bear arms on religious grounds. Nagorno-Karabakh has in effect adopted Armenia's Criminal Code,

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<sup>147</sup> *Idem* p. 6

<sup>148</sup> See, e.g., documents included in United Nations, General Assembly, The Situation in the Occupied Territories of Azerbaijan, A/60/952, 24 July 2006, <http://www.un.int/azerbaijan/info/info/letters/last/A%2060%20952.pdf> [accessed February 2008]

<sup>149</sup> International Crisis Group, *Nagorno-Karabakh: Viewing the Conflict from the Ground*, p. 6

<sup>150</sup> Beglarian, A., Karabakh: A Tale of Two Cities, *Institute for War and Peace Reporting: Caucasus Reporting Service*, 7 June 2007, [http://www.iwpr.net/?p=crs&s=f&o=336138&apc\\_state=henicrs2007](http://www.iwpr.net/?p=crs&s=f&o=336138&apc_state=henicrs2007) [accessed February 2008]

<sup>151</sup> See, e.g., the website of the Office of the Nagorno-Karabakh Republic in the USA, [http://www.nkrusa.org/nk\\_conflict/refugees.shtml](http://www.nkrusa.org/nk_conflict/refugees.shtml) [accessed February 2008]

<sup>152</sup> Freedom House, *Country Report: Nagorno-Karabakh [Armenia/Azerbaijan]*

<sup>153</sup> Corley, F., No Guarantees for Religious Conscientious Objectors, *F18 News*, 9 November 2006, [http://www.forum18.org/Archive.php?article\\_id=866](http://www.forum18.org/Archive.php?article_id=866) [accessed February 2008]

<sup>154</sup> United States Department of State, *International Religious Freedom Report 2007*

which has no legal provision for alternative military service. As a result, conscientious objectors in Nagorno-Karabakh have faced trials for evading military service.<sup>155</sup>

Examples include Areg Hovhanesyan, an 18-year old Jehovah's Witness from Khankendi (Stepanakert), who was sentenced in February 2005 to four years' imprisonment for refusing military service on grounds of religious conscience.<sup>156</sup> And in July 2005 Gagik Mirzoyan, a young Baptist conscript, was sentenced to two years' imprisonment on similar grounds. Reportedly, Mirzoyan was also beaten while in the hands of the army and while in prison.<sup>157</sup> The case of Armenian citizen Armen Grigoryan, a Jehovah's Witness, is particularly notable. In June 2004 Grigoryan was taken against his will out of Armenia and transferred to a military unit across the border in Nagorno-Karabakh. After refusing to bear arms, Grigoryan was given a two years' prison term and sent back to serve his sentence in Armenia.<sup>158</sup> Due to its political nature – the presence of Armenian conscripts, as opposed to volunteers, in Nagorno-Karabakh is officially denied by Armenia – the case of Armen Grigoryan remained unknown to the public for almost a year until July 2005, when Forum 18, a religious freedom watchdog group based in Norway, learned of his case.<sup>159</sup>

## 6 Conclusions and Outlook

Today Azerbaijan faces many challenges in its path to sustainable development. The unsettled nature of the conflict over Nagorno-Karabakh poses the biggest security threat for the country. The lengthy protraction of the status quo threatens to further complicate the peace process and increases the likelihood of resumption of hostilities, as the parties grow increasingly intransigent and unwilling to compromise.

Considering that both Armenia and Azerbaijan are holding presidential elections in 2008, it is highly unlikely that the parties will reach a comprehensive agreement, as the domestic elites will be preoccupied with electoral politics. Under these circumstances, the challenge will be to abstain from hostile rhetoric and instead engaging the wider public in the peace process, in order to secure public support for a future possible peace deal.

Azerbaijan's rich hydrocarbon resources offer very good development opportunities in the short to medium term. Azerbaijan is already among the world's leaders in GDP growth and is expected to get hundreds of billions in revenues from its hydrocarbon resources in the next couple of decades. With this immense potential at hand, the government has an opportunity to promote its stated priorities of modernizing the infrastructure, creating a sustainable economy, decreasing poverty and unemployment, including carrying out large-scale assistance programmes for IDPs. However, the huge oil profits also represent a challenge for Azerbaijan, which needs to avoid the rentier economy syndrome experienced by many oil-rich countries. Economic diversification away from the oil and gas sector is the major challenge for Azerbaijan's long-term sustainable and stable development.

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<sup>155</sup> Quaker Council for European Affairs, *The Right to Conscientious Objection in Europe*

<sup>156</sup> Corley, F., Nagorno-Karabakh: 'Inhuman' Sentence on Religious Conscientious Objector, *F18 News*, 22 February 2005, [http://www.forum18.org/Archive.php?article\\_id=517](http://www.forum18.org/Archive.php?article_id=517) [accessed February 2008]

<sup>157</sup> Corley, F., Nagorno-Karabakh: Uncertainty Faces Baptist Conscientious Objector, *F18 News*, 18 September 2006, [http://www.forum18.org/Archive.php?article\\_id=841](http://www.forum18.org/Archive.php?article_id=841) [accessed February 2008]

<sup>158</sup> Corley, F., Armenia: Not Illegal Deportation, Merely Illegal Removal, *F18 News*, 17 May 2005, [http://www.forum18.org/Archive.php?article\\_id=563](http://www.forum18.org/Archive.php?article_id=563) [accessed February 2008]

<sup>159</sup> Corley, F., Nagorno-Karabakh: Illegally Deported Armenian JW Conscientious Objector Jailed; No Progress in Karabakh Baptist Case, *F18 News*, 7 July 2005, [http://www.forum18.org/Archive.php?article\\_id=600](http://www.forum18.org/Archive.php?article_id=600) [accessed February 2008]

This task is impossible unless serious progress is made in the area of good governance and protection of civic and human rights.

From this perspective, there are serious problems, and these represent no less a threat to the long-term stability and development of the Azerbaijani state than the Karabakh conflict. Unfortunately, the human rights situation, particularly with regard to the treatment of opposition activists and journalists, has actually deteriorated in recent years. Lack of transparency and accountability within government and administrative institutions, combined with widespread corruption, seriously undermines reform efforts. With the opposition disorganized and fragmented and the president's authority as strong as ever, it is most likely that Ilham Aliyev will secure his power until 2013. In theory this could give him an opportunity to strengthen his domestic and international standing by improving electoral practices and considering deeper structural reforms. International bodies, such as the Council of Europe, of which Azerbaijan is a member, undoubtedly have a role to play in exerting pressure in such a direction.

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