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Extract from the IHF report

Human Rights in the OSCE Region: Europe, Central Asia and North America, Report 2005 (Events of 2004)

Azerbaijan¹

IHF FOCUS: good governance; national human rights protection; elections; freedom of expression, free media and information; peaceful assembly; freedom of association; independence of the judiciary; torture, ill-treatment and police misconduct; arbitrary arrest and detention; conditions in prisons; freedom of religion and religious tolerance; conscientious objection; property rights; equal rights of women and men; aggressive nationalism, racism, and xenophobia; migrants, asylum seekers, refugees and IDPs; international humanitarian law.

Azerbaijan has been led by the authoritarian regime of the Aliyev family since June 1993. After the death of Heydar Aliyev in 2003, his son Ilham Aliyev took office in October 2003. The change in leadership provoked internal competition within the ruling circles, while the opposition remained inactive following the flawed presidential elections of October 2004 and the post-election clashes and massive repression.

The freedom of assembly and association were frequently violated. Mass events of the opposition were dispersed, the demonstrators arrested and fined. Human rights defenders and journalists were attacked in the media, and as of the end of 2004, there were still about 250 political prisoners in the country. The unresolved conflict with Armenia over Nagorno-Karabakh as well as the presence of up to 880,000 refugees and IDPs in Azerbaijan contributed significantly to aggravating the economic, social and political situation in the country. Up to 20% of the country's territory continued to be occupied by Armenian forces.

The human rights situation in Azerbaijan was again discussed in the Parliamentary Assembly of the Council of Europe (PACE) in January and October, which expressed concern that some of the obligations before the Council of Europe remained unimplemented well after the deadline given to Azerbaijan upon its accession to the Council of Europe. For example, new legislation on national minorities had not been adopted, the right to alternative service was not observed, and public radio and TV were not yet established.

There was a visible gap between the legal framework and its implementation. Courts demonstrated dependence on the executive branch, especially in politically sensitive cases such as those regarding arrests for participation in demonstrations in protest against the October 2003 election fraud.

¹ Based on the report *Status of Civil and Political Rights in Azerbaijan in 2004* by the Human Rights Center of Azerbaijan (HRA). The full report is posted at www.aihmm.info

Prison conditions remained harsh, with numerous allegations of torture and ill-treatment made by those prisoners whose arrests were most likely politically motivated. Lack of access to prisons made it difficult for human rights defenders to confirm such information.

The Federation of Human Rights Organizations of Azerbaijan estimated that, as of the end of 2004, 185 political prisoners remained incarcerated, including more than 40 people who were arrested during and after the 16 October 2003 events. Fifty-four of the political prisoners had been on the initial list of 716 prisoners that had been drawn up in January 2001 for the Council of Europe by the Human Rights Center of Azerbaijan.

Good Governance

Under pressure from the Council of Europe, the government announced a fight against corruption, and in December 2003 adopted the law “On the Struggle against Corruption,” which entered into force in January 2005. At the same time, the country ratified two European anti-corruption conventions: the Civil Law Convention on Corruption and the Criminal Law Convention on Corruption. In August 2004, the president approved the State Program on Corruption and an anti-corruption department was established in the prosecutor general’s office.

While the minimum monthly salary (approximately EUR 70) was low considering the price of basic necessities, the salaries in public healthcare and education were even lower, a fact that led to widespread corruption in these sectors. The new anti-corruption law sets a ceiling of EUR 50 for gifts to medical and educational professionals, a sum higher than the average size of most bribes.

The political opposition and the media doubted that the recently established structures and the persons appointed to fight corruption are functioning properly in light of a series of corruption scandals among high officials.

National Human Rights Protection

National Institutions

On 26 March, the Ombudsperson Elmira Suleymanova submitted to the parliament her first annual report about the status of human rights in Azerbaijan. Between October 2002 and December 2003, she had received 4,500 submissions, 93.7% of which were complaints. Of all complaints, about 30% concerned the operation of the courts. About 32% of all complaints were about violations of political and civil rights and 67% about violations of social and economic rights. Only 46% of all complaints were declared admissible, of which 23% were solved entirely and almost 6% partially. In short, the ombudsperson was able to help 13% of people who had approached her. She also submitted to the Pardon Commission 124 appeals for prisoners; 33 of them were consequently liberated.²

The ombudsperson’s office did not confirm a single case of torture, although 6.6% of the complaints addressed to it were received from prisoners and their families, and 1% of the complaints concerned violations of detainees’ rights. However, in the summer and autumn of 2004, a delegation from the ombudsperson’s office visited some prisons and police facilities to look into conditions of detention, which resulted in the establishment of a hotline for complaints on illegal detention and torture.

Human Rights Defenders

A wide variety of independent domestic and international human rights groups operated generally without government interference, investigating and publishing their findings on human rights violations. The government maintained ties to some human rights NGOs and responded to their

² *Echo*, 27 March 2004.

inquiries. However, the government occasionally criticized and intimidated some human rights NGOs and activists, and the Ministry of Justice routinely failed to register many human rights NGOs.³ According to media reports, at least ten complaints have been lodged to the Constitutional Court by NGOs that have failed to register officially.

- The Committee on Homeless and Deprived Baku Residents has not been registered by the Ministry of Justice despite several years of existence and despite a decision of the Constitutional Court to register the NGO.⁴

In 2004, there were no reports of physical attacks on human rights activists or their offices. However, pro-governmental media and “patriotic” groups harassed human rights defenders dealing with problems of political prisoners, searching for persons missing in war operations, as well as those involved in peace-making.

- In May 2004, television showed earlier attacks on Eldar Zeynalov and Zaliha Tahirova of the Human Rights Center of Azerbaijan. The attacks were linked to their activities for political prisoners.
- In June, the office of the Society of Humanitarian Researches was visited by a group of people who threatened its director, Avaz Hasanov, with death because he had visited the conflict area of Nagorno Karabakh.
- The Secretary General of the Azerbaijan branch of the International Religious Liberty Association and senior coordinator of the Center for the Protection of Conscience and Persuasion Freedom (DEVAMM), Ilqar Ibragimoglu, was arrested on 1 December 2003 when monitoring clashes in Baku. Consequently, he was three times prevented from attending events abroad. On 2 April 2004, he got a suspended five-year sentence and was released at the court hall.
- The chairman of the Azerbaijan Association of Karabakhi War Veterans, Etimad Asadov, was serving his two and a half year prison sentence for alleged participation in the clashes of October 2003.
- Lawyer and forensic expert Ilqar Altay was harassed since he began a campaign for the protection of arrested opposition leaders in October 2003. Consequently, he was arrested 18 October under an administrative order and later criminal charges that were believed to be fabricated were brought against him in another case. However, after he testified in the media and in court against opposition leaders, the charges against him were lifted in the spring of 2004.

The Law “On NGOs” (2000) prohibits election observation by NGOs whose budget is composed of 30% or more of funds coming from abroad. As funds from domestic sources were not available, the provision effectively impeded direct election monitoring by any active domestic NGOs, including during the by-elections on 19 October and the municipal elections on 17 December.

Elections

In January 2004, PACE expressed its concern about the serious irregularities during the presidential

³ US Department of State, *Country Reports on Human Rights Practices – 2003*, 25 February 2004.

⁴ The NGO was finally registered in February 2005.

elections of 15 October 2003.⁵ Ten months later, on 5 October, it repeated its concern that “despite the requests made in Resolution 1358 (2004), transparency of the entire electoral process has still not been satisfactorily ensured.” The PACE recommended that the government “ensure that election officers who are indeed responsible for fraud are taken to court; publish full election results for each polling station and officially acknowledge the serious irregularities that marred the 2003 elections; draw up a new civil register so that voters can be properly registered, if possible, in time for the forthcoming municipal elections scheduled for the end of 2004, and at the latest, in time for the parliamentary elections in 2005.”⁶

Impunity for perpetrators of election fraud inspired new violations during the preparation of the municipal elections of 17 December.

As of October, members of the ruling party, Yeni Azerbaijan, constituted 59.6% of registered candidates for the December municipal elections, while the candidates of all other 30 parties made up only 5.8% of the total number of candidates.⁷ The rest were “independent” candidates who, however, usually were loyal to the government. The number of registered opposition candidates was even lower than in 1999, which was attributed by governmental authorities to a “weak electorate” and as a consequence of artificial obstacles in access to registration by the opposition. In November, the majority of the opposition parties (the block “Democratic Azerbaijan”) decided to boycott the municipal elections.

10,300 out of the 13,000 local observers represented the ruling Yeni Azerbaijan party. On 23 December, this team declared that the “elections were held in free, just, transparent and absolutely democratic conditions.”⁸

However, observers from the OSCE Baku office, foreign embassies, IFES, and the Council of Europe, who visited more than 200 voting stations, came to another conclusion. The OSCE stated on 21 December that the municipal elections “fell short of a number of international standards for democratic elections, formulated in the 1990 CSCE/OSCE Copenhagen Document.” Its observers cited a significant number of irregularities in the majority of locations they visited. Many of these irregularities were serious and could have affected the outcome in the municipalities concerned. For example, observers reported ballot stuffing, protocol falsification, voter list tampering, irregularities during the tabulation of the results, and voters being pressurised. Less serious, but common problems were multiple voting, pre-marking of ballots and the acceptance of inadmissible identification documents. The monitors also cited interference by representatives of local executive authorities in the election process.⁹

Officially, the voter turnout was 46.34%,¹⁰ but the opposition claimed that the real number was lower.

Freedom of Expression, Free Media and Information

In late October 2004, 1,813 media outlets were officially registered in Azerbaijan, including 1,749 newspapers and magazines, 36 TV and radio stations and 28 news agencies.¹¹ Television was by far

⁵ PACE Resolution 1358 (2004), *Functioning of democratic institutions in Azerbaijan*, 27 January 2004, <http://assembly.coe.int/Main.asp?link=http://assembly.coe.int/Documents/AdoptedText/ta04/ERES1358.htm>.

⁶ PACE Resolution 1398 (2004). *Implementation of Resolution 1358 (2004) on the functioning of democratic institutions in Azerbaijan*, 5 October 2004, <http://assembly.coe.int/Main.asp?link=http://assembly.coe.int/Documents/AdoptedText/ta04/ERES1398.htm>.

⁷ Turan Information Agency, 22 October 2004, *Echo*, 3 December 2004.

⁸ *Bakinsky Rabochy*, 23 December 2004, *Turan News Agency*, 6 January 2005.

⁹ OSCE Baku office, “Low polling and some problems accompany Azerbaijan’s municipal election,” 21 December 2004, http://www.osce.org/news/show_news.php?id=4624.

¹⁰ *Turan News Agency*, 6 January 2005.

¹¹ *Turan News Agency*, 30 October 2004.

the most influential media - according to opinion polls, 80% of the population watched TV, 15% listened to the radio, and only 3-4% read newspapers.¹² Therefore, the problems in establishing public TV were a source of debate both in Azerbaijan and abroad.

In January, the PACE noted with regret that the commitment undertaken by Azerbaijan to transform the two existing state channels into truly independent public service broadcasting organizations was not fulfilled, and that the draft law on public TV that was already in parliament had not been submitted to the Council of Europe for a final appraisal. Furthermore, the PACE stressed that the “National Council of Radio Television responsible for regulating the private electronic media should operate on a pluralistic and democratic basis and act in an independent, impartial and transparent manner.”¹³

The president signed the Law “On Public Television” on 9 November. The law only partially implements the Council of Europe recommendations. For example, the second state TV channel, AzTV-2, and the first channel of the state radio were transformed to public TV and radio, while the first state TV channel (AzTV-1) remained under governmental control. In November and December, a wide variety of organizations and communities nominated their candidates as members of the National Council of Radio Television. Experts, however, noted that due to insufficient funding, the technical equipment of public TV and radio was inadequate. The governmental AzTV-1 was allocated 14 times more funds than public TV and radio.

Opposition and independent journalists continued to be arrested and stand trial under questionable charges, including for defamation. Huge fines were frequently issued for legitimate criticism of state officials.

- On 22 October, the editor-in-chief of *Yeni Musavat* newspaper, Rauf Arifoglu, was sentenced to five years in prison for his articles against the falsification of elections.
- In December, the editor-in-chief of the opposition newspaper *Hurriyyet*, Vuqar Mammedov, was arrested. The official accusation was related to another newspaper of which he was editor, *Futbol+*: he was accused of swindling (article 178.3.2) and acting as an illegal entrepreneur (article 192.2.1),¹⁴ charges that were widely believed to be fabricated and politically motivated and raised doubt about the need to arrest him.
- On 16 November, the *Yeni Musavat* newspaper suspended publication because of a fine of EUR 90,000¹⁵ it was ordered to pay for defaming ten state officials and businessmen.
- On 19 November, the Nasimi District Court decided to confiscate the property of editor-in-chief of *Monitor* magazine, Elmar Huseynov, to extract a fine of EUR 15,000 for insulting a representative of the Nachitchevan Autonomous Republic (the native region of the president’s family) in Baku.¹⁶ Huseynov was murdered in March 2005.
- On 6 November, unknown persons kidnapped and beat a correspondent of the *Azadliq* newspaper, Mahammad Rzayev. He had allegedly already been kidnapped and beaten by two plain clothes individuals on 28 April. Local monitors believed that police was involved in both incidents.¹⁷

¹² *Novoye Vremya*, 9 December 2004.

¹³ PACE Resolution No. 1358 (2004), *Functioning of democratic institutions in Azerbaijan*, 27 January 2004, <http://assembly.coe.int/Main.asp?link=http://assembly.coe.int/Documents/AdoptedText/ta04/ERES1358.htm>.

¹⁴ *Caucasian Knot*, 15 December 2004, <http://kavkaz.memo.ru/newstext/news/id/737721.html>.

¹⁵ *Echo*, 17 November 2004.

¹⁶ *Caucasian Knot*, 23 November 2004, <http://kavkaz.memo.ru/newstext/news/id/730763.html>.

¹⁷ *CJES*, 10 November 2004, <http://www.cjes.ru/>.

- During 2004, the private press distribution firm Qaya tried to restore its property rights against the city of Baku after the authorities had removed 18 of its 55 kiosks, including 12 of 22 in Baku. On 4 November, Qaya lost its case in the Supreme Court.¹⁸

In January 2004, PACE noted that journalists were reported to exercise self-censorship due to intimidation by executive bodies, and non-state media were administratively harassed. It recommended that the government take measures to protect the media, NGOs, political activists and their relatives from intimidation and harassment by the authorities; and to enable the written press to operate freely and properly, especially with regard to access to paper, printing and distribution facilities.¹⁹

On some occasions, the authorities restricted access to information.

- In November, the Union of Parliamentary Journalists protested against the repeated refusal of accreditation in parliament for Rey Kerimoglu, correspondent of *Bizim Yol* newspaper.²⁰
- Bulgarian journalist Eduard Papazyan was not permitted to enter Azerbaijan on 17 November, allegedly because of his Armenian origin. Being an editor of sports news at the popular daily “24 Hours,” he wanted to cover the football match between Azerbaijan and Bulgaria. His name was sent to the Azerbaijan Football Federation (AFFA) and was not rejected. However, at Baku airport he was the only journalist who was expelled without any diplomatic procedures. Later, AFFA stated that it had not received any request for accreditation of Papazyan.²¹

The new Law “On State Secrets” was published on 16 November and it entered into force on the same day. The law expanded the list of “secret information” and empowered several executive bodies to decide themselves what “secret information” is. “Secret information” is classified for 30 years, a time that can later be prolonged. Journalists criticized the new law’s definition of secrecy, and Arif Aliyev, the chairman of the Journalists Union Yeni Nesil, stated that the new law created many questions and was adopted in a most non-democratic manner, i.e., without consulting journalists and international organizations.²²

Peaceful Assembly

After the post-election clashes of 15-16 October 2003, the government openly banned all opposition mass events but placed no restrictions on state-organized pro-government assemblies. The PACE report of October 2004 also criticized the practice of prohibiting peaceful meetings “in too many cases, often on the basis of a pretext.”²³

On numerous occasions, police resorted to the disproportionate use of force against people who tried to hold opposition demonstrations.

- As the mayor’s office in Baku refused to grant permission to the Party of Popular Front of Azerbaijan (AXCP) to hold public meetings legally, the party held six unauthorized protest

¹⁸ Turan Information Agency, 4 November 2004.

¹⁹ PACE Resolution No. 1358 (2004), *Functioning of democratic institutions in Azerbaijan*, 27 January 2004, <http://assembly.coe.int/Main.asp?link=http://assembly.coe.int/Documents/AdoptedText/ta04/ERES1358.htm>.

²⁰ Azerfreespeech.org, “Parlament Jurnalistl İttifaqı bayanat verib,” 11 November 2004, <http://azfreespeech.org/cgi-bin/e-cms/vis/vis.pl?s=001&p=0075&n=000672&g=>.

²¹ Arminfo Information Agency, 17 November 2004; *Zerkalo*, Regnum Information Agency, 19 November 2004.

²² *Zerkalo*, 17 November 2004.

²³ PACE Resolution 1398 (2004). *Implementation of Resolution 1358 (2004) on the functioning of democratic institutions in Azerbaijan*, 5 October 2004, <http://assembly.coe.int/Main.asp?link=http://assembly.coe.int/Documents/AdoptedText/ta04/ERES1398.htm>.

pickets in front of the mayor's office. Each time, the police dispersed the protestors. For example, on 28 October, 35 AXCP activists were beaten and arrested for a short time.²⁴ On 16 November a trial initiated by AXCP began against the mayor's office and the chief of the Sabayil District Police Administration of the city of Baku. It continued as of the year's end.

- In Nachichevan city, police used force to put an end to a hunger strike organized by the AXCP in the headquarters of its regional branch in May. The protest was in reaction to the beating of two opposition activists by police officers on 29 May.

Freedom of Association

As of late October, Azerbaijan had 42 officially registered political parties, about 40 trade unions and 1,600 NGOs.²⁵ The main problems regarding the freedom of association in 2004 were the failure of authorities to register NGOs and their continued practice of placing hindrances on the political activities of the opposition parties. The PACE noted in this regard that "freedom of association still causes serious concerns," and referred, among other things, to an inadequate system of registration of associations²⁶ At least ten NGOs have lodged complaints to the European Court of Human Rights (ECtHR) because of unlawful refusal of official registration. Human rights groups that deal with politically sensitive issues such as torture, corruption, monitoring of elections, etc., have had a particularly difficult time registering.

Dismissals based on political affiliation were common in Azerbaijan, particularly at the time of pre-election campaigns. By the end of March 2004, only 26 of the 114 members of the Muslavat party – most of them teachers – who had been dismissed from their jobs during the October 2003 presidential election campaign were reinstated, and then to lower positions. Documents were falsified to give the impression that the dismissals had happened earlier. Eleven dismissed Musavat members appealed to the court to restore their rights, eight of them were rejected and two were declared inadmissible. Only one complaint led to a decision that the person must be reinstated but the decision was not executed. The Committee against Falsified Elections and Repression reported that the total number of people dismissed for political motives during the presidential campaign was 150.²⁷

Independence of the Judiciary

Lack of independence of the judiciary was considered one of the most serious human rights problems, especially in the context of political prisoners. The ombudsperson's first report to the parliament mentioned that 30.7% of all complaints her office had received concerned the judiciary. She particularly mentioned that people felt that judges enjoyed unacceptable impunity and urged the Supreme Court and Ministry of Justice to undertake serious steps to improve the situation.²⁸

The Baku-based Lawyers' Committee for Human Rights reported in December 2004 that an analysis of 21 judgments had revealed violations of legislation in 11 cases. The monitoring had confirmed that the consultation of judges before a final decision in the majority of cases took only 1-5 minutes, a fact that suggested that the rulings were already reached before the trials were complete.²⁹

²⁴ Turan News Agency, 28.10.04

²⁵ Turan Information Agency, 30.10.2004

²⁶ PACE Resolution 1358 (2004), *Functioning of democratic institutions in Azerbaijan*, 27 January 2004, <http://assembly.coe.int/Main.asp?link=http://assembly.coe.int/Documents/AdoptedText/ta04/ERES1358.htm>.

²⁷ Turan Information Agency, 15 April 2004.

²⁸ Turan Information Agency, 26 March 2004.

²⁹ Lawyers' Committee for Human Rights, six-month report on the implementation of the project "Public Control Over Courts," December 2004.

From March to October, the OSCE observed 15 trials over the cases of participants of post-election clashes in October 2003. The OSCE mission concluded that “many of the trials of persons accused of various offences relating to the post-election violence in Azerbaijan were not in compliance with a variety of the government of Azerbaijan’s OSCE commitments on human rights and rule of law.”³⁰

According to the Information Center of the Council of Europe in Baku, as of 30 September, the ECtHR had registered 769 applications from Azerbaijan; 160 applications had been rejected and 357 had already been considered, including 16 applications on which communications had begun with the government. The largest number of the cases was submitted under article 6 of the ECHR (the right to a fair trial). Article 13 (effective domestic remedies) took the third place.³¹ The Constitutional Court overturned about 20 court rulings between April and the end of December.

While the Islamic Shariah court was prohibited in Azerbaijan, a Jewish Rabbinate court in Baku city was in operation. According to media reports, the Israeli Minister of Justice had ordered it to close down by the end of December. It had been active in cases of religious divorces.³²

Following the recommendations of the Council of Europe, the Law “On Advocates and Bar Activities” was amended. The new Collegium of Advocates (Bar Association) was established on 3-4 November, but contrary to expectations, the new Bar remained closed for new members. As of the end of the year, it had only 377 advocate members. The OSCE office in Baku expressed concern that the institution did not acknowledge the right to membership of many qualified, licensed lawyers and noted that all qualified lawyers should be able to file cases with all first-instance courts and the Constitutional Court.³³ On 13 December, a trial initiated by 18 licensed advocates against the Ministry of Justice started in the Nasimi District Court to challenge the decision to not admit new advocates to the Bar.

Torture, Ill-Treatment and Police Misconduct

On 7 December, the Council of Europe's Committee for the Prevention of Torture (CPT) published its first report on Azerbaijan, covering the findings of its periodic visits in November and December 2002. The CPT concluded that people detained by the police in Azerbaijan run a significant risk of being ill-treated. It recommended that a high priority be given to professional training for police officers and that the legal safeguards against ill-treatment (such as notification of custody, access to a lawyer and access to a doctor) be applied from the very outset of deprivation of liberty. The report also highlighted serious shortcomings in the conditions of detention at several police detention centers, especially in Lenkoran. As regards prisons, the CPT acknowledged the efforts made to improve conditions but pointed especially at investigative isolators no. 1 in Baku and no. 2 (SIZOs) in Ganja, which were overcrowded and lacked constructive activities for inmates. Shortcomings were also reported regarding material conditions at the psychiatric ward of the Central Penitentiary Hospital in Baku.³⁴ In early 2005, some measures were taken to implement CPT's recommendations.

In their response to the report, the Azerbaijani authorities highlighted the measures taken to improve situation. According to the government, in 2003, 63 cases of violation of human rights and freedoms by police officers were registered, including one case of deliberate battery and one beating. Ninety-one

³⁰ OSCE ODIHR, *Report from the trial monitoring project in Azerbaijan 2003-2004*, http://www.osce.org/documents/odihr/2005/02/4233_en.pdf.

³¹ *Echo*, 30 October 2004

³² *Echo*, 8 December 2004.

³³ OSCE Office in Baku, 11 November 2004, http://www.osce.org/press_rel/2004/pdf_documents/11-4524-ob1.pdf

³⁴ CPT, *Report to the Azerbaijani Government on the visit to Azerbaijan carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), from 24 November to 6 December 2002*, CPT/Inf (2004) 36, <http://www.cpt.coe.int/documents/aze/2004-36-inf-eng.htm>.

officers had reportedly been “subjected to various punishments,” most of which (69) were internal disciplinary measures.³⁵

In early 2004, trials stemming from the October 2003 election period clashes started or continued, including many cases involving alleged torture and ill-treatment. Eighteen out of 119 sentenced opposition activists had been held without apparent reason in the Main Administration on the Struggle Against Organized Criminality of the Ministry of Interior,³⁶ a facility notorious for using torture since the 1990s.

The government extradited suspected terrorists to countries where torture was wide-spread and the death penalty was on the books.

- On 19 February, the Uzbek citizen Rustam Balbatayev, a member of an Islamic organization and suspect of the terrorist act in Tashkent in 1999, was extradited to Uzbekistan.

Arbitrary Arrest and Detention

As in previous years, the allegations about arbitrary arrest and detention mainly concerned people in the Main Administration on the Struggle Against Organized Criminality of the Ministry of Interior. Despite its stated mandate, this agency continued to deal with politically motivated cases, including opposition demonstrators (see above).

During the October post-election disorder, the police arrested more than 600 demonstrators, some of whom were tortured and ill-treated to extract confessions of crimes. Commenting on these measures in March 2004, the Prosecutor General Zakir Qaralov considered these actions as “humane,” as “only 128 people of the 3,000 who participated in disorders” were punished.³⁷ Eighteen of these people were detained in a Ministry of Interior facility. Later, in May 2004, the president awarded some of the officers of this police body for good conduct.

The December CPT report pointed to the fact that the 72-hour limit of detention in police facilities without court decision was often illegally exceeded in criminal cases, some up to several weeks. On the basis of Order No. 428/2001 by the Minister of Internal Affairs, it was possible to transfer criminal suspects back from an SIZO to temporary detention when necessary for the purposes of the investigation or court proceedings. While, by law, such transfers should not last for more than ten days at a time, evidence was found that people had spend up to a month there after being transferred from an investigative isolator.³⁸

On 5 October 2004, PACE concluded that 14 political prisoners were still in prison, plus an additional 174 who were alleged to be political prisoners. It stated that the question of political prisoners had still not been satisfactorily and definitively resolved, in spite of a dialogue between PACE, Azerbaijan and the Azerbaijani parliamentary delegation.³⁹ The Federation of Human Rights Organizations of Azerbaijan, however, estimated that as of the end of 2004, 185 political prisoners remained

³⁵ *Responses of the Azerbaijani Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Azerbaijan from 24 November to 6 December 2002*, CPT/Inf (2004) 37, <http://www.cpt.coe.int/documents/aze/2004-37-inf-eng.htm>.

³⁶ Turan Information Agency, 26 January 2004.

³⁷ Turan Information Agency, 31 March 2004.

³⁸ CPT, *Report to the Azerbaijani Government on the visit to Azerbaijan carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), from 24 November to 6 December 2002*, CPT/Inf (2004) 36, <http://www.cpt.coe.int/documents/aze/2004-36-infeng.htm>.

³⁹ PACE Resolution 1398 (2004). *Implementation of Resolution 1358 (2004) on the functioning of democratic institutions in Azerbaijan*, 5 October 2004, <http://assembly.coe.int/Main.asp?link=http://assembly.coe.int/Documents/AdoptedText/ta04/ERES1398.htm>.

incarcerated, including more than the 40 people who were arrested during and after the 16 October 2003 events.

Conditions in Prisons

There were approximately 17,000 prisoners in Azerbaijan in 2004. Tuberculosis remained a serious concern among the prison population. As of early October, 861 patients were kept in a specialised unit and 428 in the central prison hospital. These figures were 7.5 times as high as among the general population. Some prisoners underwent medical treatment in medical units of penal institutions.

In May, the Ministry of Justice transferred the prison doctors from the prison system to the Medical Administration of the Ministry of Justice. The new civil status of prison doctors had a positive impact on rendering medical aid to the prisoners regarding, for example, their timely hospitalization.

The conditions of prisoners serving life terms were characterized by the absolute deprivation of any meaningful activity. There were no possibilities for education or for physical exercise. This inactivity contributed to mental problems, including suicides in Qobustan prison.

On 30 May, eight NGOs established the Public Council on Assistance to Reforms and Implementation of Control in the Penitentiary System with the permission of the central prison administration (MQIBI). The council included Vice-Minister of Justice Aydin Qasimov and a representative of the ombudsperson. Simultaneously, three NGOs were working in 2004 in prisons on the basis of bilateral agreements with MQIBI.

In the conflict area of Nagorno Karabakh, the local Center of Civil Initiatives, which has been monitoring local prisons since 2003, was granted access to all regimes of detention in December.⁴⁰

A pilot study carried out by the Human Rights Center of Azerbaijan on correspondence of life prisoners with the outside world revealed censorship and arbitrary confiscation of letters. Even correspondence with the ECtHR was censored. The remand prisoners at Qobustan suffered the worst situation in terms of contacts with the outside world.

Freedom of Religion and Religious Tolerance

Since the State Committee on Work with Religious Structures required re-registration of all religious communities, the number of registered religious entities decreased from 410 in October 2001 to 305 in November 2004. Among the 2,000 existing official religious sites of worship were 1,300 mosques, over 500 other Islamic places of worship, as well as over 40 churches, synagogues and prayer houses.⁴¹

However, many Muslim communities avoided registration because this required them to be obedient to the Administration of Caucasian Muslims (ACM), which was the preliminary condition for registration by the Ministry of Justice. Thus, for example, the community of Djuma Mosque in Icheri Sheher (Baku City) had been functioning for ten years without registration until the ACM drove the believers out from the mosque with the help of police in 2004. This event caused wide solidarity and was not isolated. No central administrative body similar to the ACM was in charge of Christian and Jewish communities.

⁴⁰ Regnum Information Agency, 6 December 2004.

⁴¹ *Echo*, 8 October 2004, Turan News Agency, 0 November 2004.

The discriminative provisions of the Laws “On Religious Freedom,” and “On the Legal Status of Foreigners and Stateless” and the Code on Administrative Transgression prohibited religious activity of foreigners and stateless persons.

In Nachichevan, the religious activities of non-Moslem groups were especially endangered. The activities of the local Adventist communities were virtually banned and the last resident Adventist pastor, Khalid Babaev, was forced to flee from Nakhichevan with his family in February after the police refused to protect them in the face of repeated threats from unknown individuals. One member of the local Baha'i community, T. Aliyev, was placed under arrest for ten days in September on trumped-up charges and warned not to teach his faith to others. More than a dozen Muslims were imprisoned for up to two weeks in September. Of the 236 mosques in the enclave, none have been re-registered, and only 25 had been registered under the old registration system.⁴²

The so-called “non-traditional” religious communities experienced problems practicing their faith in the provincial regions, e.g. in Zaqatala, and Ganja.

The Forum of Religious Communities of Azerbaijan “For the Sake of Peace and Harmony,” with membership of 40 Moslem, Christian and Jewish communities was established in October on the initiative of the Chairman of State Committee on Work with Religious Entities, Rafiq Aliyev. The announced goals of the coalition are charity, solution of problems between religious communities, and putting an end to religious propagation. The Islamic *sheykh-ul-islam*, Baku Bishop, and the head of Mountainous Jews criticized the forum as interference by the state in religious activity.

The Centre for the Protection of Freedom of Conscience and Religion (DEVAMM) and the Azerbaijan branch of the International Religious Liberty Association (IRLA) have been refused registration since 2002. In 2004, one of the leaders of DEVAMM and IRLA, Ilqar Ibrahimoglu, received a suspended sentence for his activities, other DEVAMM activists were harassed and at least one DEVAMM activist was forced to emigrate to avoid the same repression.

Conscientious Objection

The regulation “On the Order of Performing Alternative Service (Labour Duty)” of 1992 was not implemented. Moreover, the regulation does not provide for even a theoretical possibility of conscientious objection on the basis of atheistic or pacific opinions; only members of religious communities, such as priests and students of higher religious schools, can refuse to carry out military service. Despite a referendum, constitutional amendments in 2002, and an obligation to create alternative service by January 2004, legislation in Azerbaijan did not provide for genuine alternative service.

- Mahir Bagirov, a Jehovah's Witness, was forced to perform military service. He filed a court suit, but lost the case in late 2004 both in the first instance court and on appeal.

The national army conducts drafts four times a year. In the 2004 call-up, it was never mentioned that an alternative service was an option.

Property Rights

Forced evictions from apartments and houses continued in 2004. Since the beginning of the conflict with Armenia, Azeri refugees from Nagorno-Karabakh have illegally occupied vacant apartments (mainly in Baku) of not only Armenians, but also of other national minorities (e.g. Russians and Russian-speakers) and people belonging to vulnerable groups such as the elderly. The police, the

⁴² Forum 18 News Service, 10 December 2004.

public prosecutor's offices and the courts have refused to intervene, referring to the direct prohibition to evict the refugees. Only a few such cases have been taken to court, and in those cases the enforcement of the eviction orders against illegal residents has been postponed until the liberation of Karabakh from occupation. The UNDP reported that at least 9.5% of refugees lived in illegally occupied apartments.⁴³ Along with the widely spread illegal apartment business, the occupation of apartments by refugees resulted in 50,000 people being homeless in Baku.⁴⁴

According to the Russian Community of Azerbaijan (RCA), which numbers about 80,000 members, some 600 complaints of violations of property rights were made by Russian-speaking residents in 1993-1994, the majority of which regarded illegal occupation of apartments. Although the apartments were taken as long as 10-13 years ago, the legal owners could not get back their property before the intervention of the RCA. Even after that, 38 families could not defend their rights.⁴⁵

The government continued to cover illegal evictions. On 2 July, a state program for improving living standards and increasing the employment rates among refugees and IDPs was adopted.⁴⁶ It includes a special clause prohibiting the eviction of IDPs from publicly owned buildings, apartments and other places, regardless of the form of property, which they occupied in 1992-1998.

In November 2004, the UN Committee for Economic, Social and Cultural Rights criticized the illegal occupation by refugees and IDPs of properties belonging to Armenians and other ethnic minorities, and the lack of information about forced evictions and the number of homeless persons in Azerbaijan.⁴⁷

Equal Rights of Women and Men

During the October by-elections to the parliament, only sixteen were women ran and only one was elected: a member of the ruling party Yeni Azerbaijan and deputy chief of a regional executive body.

From 1998 through 2004, the State Committee on Women's Issues received 6,629 complaints about violations of women's rights. Most of them concerned domestic violence, financial and housing problems.⁴⁸

Domestic and sexual violence against women was a problem that was hidden from the public. Thus, in the period from January to December, only 24 cases of rape were registered among the total population of some 8 million, which was 48% less than in the same period a year before.⁴⁹ Women's rights advocates were sceptical of the official statistics. For example, in 2003, the NGO Women's Crisis Center received 57 rape reports (more than the police registered), and 24 rape reports in the first nine months of 2004.⁵⁰ The governmental Family Crisis Center did not receive a single report of rape in January 2004.⁵¹

The Criminal Code did not include a provision on marital rape or rape by a partner. Social attitudes toward rape within marriage indicated that many people did not consider it a crime; it was generally regarded as an "internal affair" of a family. The social atmosphere did not encourage complaints about

⁴³ UNDP, Azerbaijan Human Development Report 2002.

⁴⁴ Evaluation of the Committee on Homeless and Indigent Baku Residents.

⁴⁵ *Zerkalo*, 15 October 2004.

⁴⁶ Turan Information Agency, 03 July 2004.

⁴⁷ *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Azerbaijan*. 14/12/2004, E/C.12/1/Add.104, 14 December 2004, par.28, [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/See95a301efb3475c1256f5b0043cbfd?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/See95a301efb3475c1256f5b0043cbfd?Opendocument).

⁴⁸ *Zerkalo*, 24 April 2004.

⁴⁹ Turan Information Agency, 14 December 2004.

⁵⁰ The Women's Crisis Center document for the years 2003-2004.

⁵¹ Information from the Family Crisis Center.

marital rape as they were considered a shame to the family. In 2003-2004, only one complaint of marital rape was recorded by the Women's Crisis Center.⁵²

Migrants, Asylum Seekers, Refugees and IDPs

As a result of the unsettled conflict with Armenia around Nagorno-Karabakh and the continuing occupation of a significant part of territories by Armenia, as well as other conflicts in the region, there were 789,832 refugees and internally displaced people (IDPs) (189,166 families) in Azerbaijan as of the end of 2004. Out of them, almost 220,000 people (ca. 46,000 families) were refugees and about 570,000 were IDPs (almost 143,000 families).⁵³

The state program for improving living standards and increasing the employment rates among refugees and IDPs adopted in July provides for the resettlement of refugees from tent camps, school buildings and other places unsuitable for living to specially built settlements. The program also regulates the order of resettlement of IDPs to the places of original inhabitancy after the liberation of the occupied territories. Besides, the heads of private enterprises, as well as higher and secondary educational institutions are encouraged to offer the refugees and IDPs the necessary assistance and privileges in the field of education. The program should provide employment to some 20,000 refugees and IDPs.⁵⁴

Concerning non-Azeri refugees, those from Chechnya were in a particularly difficult situation. As of May, the number of officially registered refugees from Chechnya was 8,204 people. Contrary to other categories of people seeking asylum, they were almost never given the official status of refugees. Some Chechens have not been able to get official status even after being in the country for 3-4 years. As a result, only 500 families received monthly humanitarian assistance for an amount of EUR 45-75, but no longer than for three months a year.

In May, the Russian media claimed that Chechens organized a training camp for suicide attackers near Baku. Consequently, in mid-October, Azeri authorities checked the documents and searched about 300 Chechen families, arrested up to 70 people and consequently imprisoned some of them, mainly in the village of Mardakan, near Baku, suspected of "especially grave crimes."⁵⁵ The details of the operation were not disclosed.

Some Chechen activists staying in Azerbaijan were physically attacked.

- On 26 April, a correspondent of the Chechen Information Agency Kavkaz Tsentr, Sardali Ahmad, was severely beaten by unknown persons.⁵⁶
- Ruslan Zelimkhanov, the chairman of the Union of Chechen NGOs in Azerbaijan, was stabbed in Baku on 7 September by unknown persons⁵⁷ and consequently pressurized by police not to report the incident officially.

A number of Azerbaijani citizens sought asylum in Europe as a result of the political crackdown following the October 2003 presidential elections and the worsening economic situation. In Sweden, 1,041 asylum seekers from Azerbaijan made up 30% of all asylum seekers in 2004 (in 2001, their number was 158).⁵⁸ A recent study by Transparency International reported that 22.2% of Azerbaijan

⁵² Information from the Women's Crisis Center in 2003-2004.

⁵³ UNDP, Azerbaijan Human Development Report 2002

⁵⁴ Turan Information Agency, 3 July 2004.

⁵⁵ BBC, 9 March 2004, http://www.bbc.co.uk/azeri/news/story/2004/10/041010_azeri_region.shtml.

⁵⁶ *Echo*, 28 April 2004.

⁵⁷ *Echo*, 9 September 2004.

⁵⁸ Information from Migrationsverket - Swedish Migration Board.

citizens who were interviewed for an opinion poll said that they would be ready to emigrate forever. Almost 45% of them were young people between 18 and 30.⁵⁹

According to the International Organisation on Migration (IOM), the majority of transit migrants were inhabitants of the Middle East, South Africa and CIS countries. All of them expressed the desire to move further to the West. The majority of illegal migrants – about 30% of all migrants in Azerbaijan – used false documents to enter the country

According to the IOM Azerbaijan Branch, the 12 applicable laws regulating the migration process do not complement but contradict one another.⁶⁰

Aggressive Nationalism, Racism, and Xenophobia

The unresolved conflict with Armenia over Nagorno-Karabakh stimulated “armenophobia.” In 2004, the Organization of the Liberation of Karabakh (QAT) staged several protest actions against visits by Armenian officials to Azerbaijan. One of the actions – on 22 June – was violent. QAT members broke doors, entered in the hall of a NATO training program session and threatened two Armenian participants. Six protesters were arrested in August and sentenced to 3-5-year prison terms. QAT actions were supported by state officials, including the ombudsperson. On 2 September, the president openly labeled the sentences inadequate and too severe.⁶¹ After that, the second instance court overturned the sentence and freed the QAT members.

In early December, the Ministry of National Security started a criminal case under article 283.1 of the Criminal Code in connection with the publication of Adolf Hitler’s *Mein Kampf* in Azeri. The proceedings were a reaction to an appeal of the Jewish community in Azerbaijan. Some of the books were confiscated by the customs, however, the book was also published in the newspaper *Xural*, whose editor Avaz Zeynalli was interrogated. The case was soon discontinued because of absence of *corpus delicti*.⁶²

Trafficking in Human Beings

Azerbaijan remained a country from and through which people, particularly women and girls, were exported for sexual exploitation e.g. to the United Arab Emirates, Turkey and Pakistan. Moreover, girls, women and orphans from rural regions of Azerbaijan were transferred to the capital, where they were exposed to sexual exploitation. The government of Azerbaijan did not fulfill the standards for the prevention of trafficking, but did take some steps in that direction.

There were no reliable statistical data regarding trafficked people, and the law enforcement bodies were not active enough to investigate such crimes. According to official sources, only 23 arrests were carried out for trafficking, 20 of which ended up with punishment. Authorities did not take any measures to protect the victims of trafficking and did not provide them with necessary information to protect themselves.⁶³ Moreover, there is no legislation specifically dealing with the issue of trafficking.

In 2004, the Women’s Crisis Center and a number of other NGOs carried out a series of special studies on the trafficking in human beings. According to the Women’s Crisis Center, in the trafficking cases disclosed in January-March in Baku, Ganja, Shamkir and Mingechevir, most victims were

⁵⁹ *Zerkalo*, 14 December 2004.

⁶⁰ *Zerkalo*, 30 April 2004.

⁶¹ Turan Information Agency, 2 September 2004.

⁶² *Echo*, 1 March 2005; PRIMA News, <http://www.prima-news.ru/news/news/2005/3/2/31354.html>.

⁶³ Turan Information Agency, 16 June 2004.

women and children. The NGO interviewed 110 victims of trafficking, of whom 73 were women aged between 18 and 53 years; seven were children between 12 and 13 years; twenty were youths between 14 and 17 years; and ten were men between 30 and 40 years.⁶⁴

State authorities denied for a long time the existence of the trafficking problem. Only thanks to NGO activities has the topic come to media attention and a subject of public discussion. From September 2003 through September 2004, newspapers printed about 200 articles on trafficking, most of which were analytical essays or interviews on the problem.

International Humanitarian Law

The cease-fire on the entire Armenian-Azerbaijani frontline established in May 1994 continued to be maintained without peacekeeping forces. Sporadic cross-shootings with casualties were registered in 2004. For example, on 26 February, an Azerbaijani soldier was killed in Karabakh. His corpse was later returned with the assistance of ICRC. On 21 October, a sniper from Armenian territory wounded a local policeman in the Tovuz region. However, media did not cover most such incidents.

The National Agency for Mine Clearance (ANAMA) reported that it had discovered and neutralized 6,221 landmines and UXO-s. In 2004, exploding mines caused 11 deaths and wounded 17 people.⁶⁵ From September 2001 through November 2004, 37 people had died and 54 were wounded by landmines.⁶⁶

As of late 2004, 4,852 Azeris were officially registered as being missing in action, while 1,357 Azeris were released during the conflict. Azerbaijan authorities claimed to have detailed information on the whereabouts of 783 Azeris.⁶⁷ From January to June, the authorities received information about eight new cases.⁶⁸ Nagorno-Karabakh Armenians claimed to have information about 710 missing persons.⁶⁹ The ICRC continued to search for the missing people. As of December 2004, its list of missing persons during the conflict numbered 3,000 people, 2,577 of whom were Azeris and 413 were Armenians.⁷⁰

The media described at least three new cases of captured Azerbaijani soldiers during alleged intelligence raids (Ismayil Piriyeu, Aydin Huseynov, Anar Samedov) carried out during 2004. The ICRC, which has had access to all prisoners since 2000, mediated their releases.

On 15 November, a new State Commission on Prisoners of War, Hostages and Missed in Operations was established. It is led by the minister of national security, and its 31 members include 16 state officials, 6 members of parliament as well as representatives of the media, religious, and non-governmental organizations.

The International Working Group on Search of Missed in Operations, Hostages and Prisoners of War continued its work in the conflict area, but in May and June it was criticized by the pro-government media. Its coordinator in Baku, Avaz Hasanov, was falsely described as a former prisoner of war⁷¹ and threatened with death by a group of young nationalists. Around the same time, a former prisoner of war, Rauf Eyvazov, who reportedly collaborated with Armenians to ill-treat captured Azeris in

⁶⁴ *Violence against women in Azerbaijan*, alternative report prepared by the Azerbaijan Federation of Human Rights Organizations (AFHRO) and the World Organisation Against Torture (OMCT) for the 33rd Session of the UN Committee on Economic, Social and Cultural Rights.

⁶⁵ Turan Information Agency, 5 October 2004.

⁶⁶ Turan Information Agency, 8 December 2004.

⁶⁷ Turan Information Agency, 1 December 2004.

⁶⁸ Turan Information Agency, 2 July 2004.

⁶⁹ Regnum Information Agency, 29 June 2004.

⁷⁰ Turan Information Agency, 23 June 2004.

⁷¹ *Olaylar*, 4 June 2004.

1991-1992, was tried by the Military Collegium of the Court on Heavy Crimes.⁷² It appeared that the misinformation on the international working group was premeditated provocation.

Due to the unresolved conflict, there was still suspicion towards ethnic Armenians, especially those coming from outside of the country. For example, the media reported that among nine foreign suspects of espionage arrested in Azerbaijan, there were two Armenian citizens and at least one Russian citizen of Armenian origin.⁷³

⁷² *Echo*, 2 July 2004.

⁷³ *Echo*, 21 August 2004.