

Azerbaijan¹

IHF FOCUS: elections and referenda; freedom of expression and the media; freedom of association; peaceful assembly; judicial system and independence of the judiciary; torture, ill-treatment and police misconduct; prisons and detention facilities; death penalty; freedom of religion; freedom of movement; asylum seekers and IDPs; international humanitarian law.

Azerbaijan is a post-Soviet republic with an authoritarian regime. Heydar Aliyev was the former Soviet leader of Azerbaijan from 1969-1982 and was president from June 1993 until 15 October 2003. The sudden deterioration of his health in April, combined with the flawed presidential election of 15 October caused serious political destabilization in the country. The election was officially won by Heydar Aliyev's son, Ilham Aliyev, and was accompanied by numerous irregularities which provoked massive demonstrations in Baku on 16 October 2003. Consequently, hundreds of members of the opposition parties (ADP, Musavat, Umid, AXCP) were arrested and at the end of 2003, at least 120 of them were still being detained under criminal charges related to this event.

The election and the events surrounding it infringed upon basic human rights and civil liberties. Opposition parties and the independent media were under the strongest pressure since 1998. Despite recommendations from the Council of Europe, public radio and television were not independent from the government and that was especially visible during the election campaign.

Freedom of peaceful assembly and association were often violated. Public events organized by the opposition were dispersed and demonstrators were arrested and fined. In April-May and in September-October, human rights defenders were targeted in the media and some were even physically attacked.

The unresolved conflict with Armenia over the Nagorno-Karabakh region as well as the existence of a large number of refugees and internally displaced persons (IDPs) in Azerbaijan aggravated the economic, social and political situation in Azerbaijan. In late 2003, close to the deadline set by the Council of Europe, parliament passed dozens of laws, including those specified in the Parliamentary Assembly of the Council of Europe (PACE) Opinion No. 222 (2000).

There was an obvious discrepancy between the existing legal framework and the actual practice of the judicial system. The courts demonstrated dependence on the executive power, especially in politically sensitive cases. For example, at around the time of the presidential election, some opposition party members were refused registration and the decisions were confirmed by courts on no valid basis.

Physical conditions in prisons remained harsh. There were numerous allegations of torture and ill-treatment in connection with politically motivated arrests. Human rights defenders were denied access to prison facilities, making it difficult to confirm information received about those facilities.

As of the end 2003, Council of Europe experts were still analyzing the remaining 54 cases of the initial 716 alleged political prisoners while numerous political prisoners remained incarcerated. The Federation of Human Rights Organizations of Azerbaijan (FHROA) estimated that there were about 250 political prisoners, in addition to those arrested during the post-election clashes.

Elections

The presidential election of 15 October seriously aggravated the human rights situation in Azerbaijan. Even before the election campaign had officially begun, authorities prevented certain viable candidates from running for office, took measures to suppress freedom of assembly and association, the opposition, the independence of the media and human rights activism.

¹ Based on the Human Rights Center of Azerbaijan (HRCA), *Status of Civil and Political Rights in Azerbaijan in 2003*, January 2004.

The PACE noted in June that in order for free and fair elections to take place, the arrest warrants for Ayaz Mutallibov, a former president, and Rasul Quliyev, a former speaker of the parliament, had to be annulled and their freedom of movement in Azerbaijan guaranteed. The two men have been living in exile for several years, threatened with arrest upon return. They were not allowed to repatriate in 2003 and thus, were prevented from running for office.² In addition, several other opposition party members were not permitted to register as presidential candidates.

The OSCE/ODIHR Election Observation Mission Report concluded that the election “failed to meet OSCE commitments and other international standards for democratic elections. The overall process reflected a lack of sufficient political commitment to implement a genuine election process.”³ The report criticized, among other things, widespread intimidation in the pre-election period and excessive use of force by police at some stages of the campaign; unequal conditions for the candidates; the failure of the authorities to properly implement the Election Code; and the restrictions on public rallies and domestic observation of the elections. The report stated that counting and tabulation of election results were seriously flawed. Moreover, the post-election violence resulting in the widespread detentions of election officials and opposition activists further marred the election process. The establishment of a Central Election Commission (CEC) did not enjoy the confidence of most candidates and the voter lists were of a poor quality and were posted too late to permit a meaningful public scrutiny.⁴

The CEC invalidated the votes from 694 polling stations due to irregularities but let stand the results in a large number of others where serious violations had occurred. As a result, about 20% of the electorate was disenfranchised but the fundamental issue of systematic and widespread election fraud was not addressed.⁵

The provisions of a law on NGOs prohibited the observation of elections in Azerbaijan by NGOs whose funding came from sources that were more than 30% foreign. On the eve of the elections, the CEC permitted some individuals associated with these NGOs to observe the elections. However, about 40,000 individual observers had only restricted opportunities for observation and were often intimidated by authorities. Some observers, for example, were arrested for allegedly interfering with the work of the election commissions.

While the observers from the countries of the Commonwealth of the Independent States (CIS), the head of the PACE delegation and the delegation from the Council of Europe expressed positive views about the conduct of the elections, Peter Eicher, the head of the OSCE/ODIHR Election Observation Mission called the election “a missed opportunity for a genuinely democratic election process.”⁶ The PACE Rapporteur on Azerbaijan, Andreas Gross, expressed a similar view. The Institute for Democracy in Eastern Europe (IDEE) stated that the presidential elections “cannot be qualified as what in the practice of civilized nations is called ‘elections’.”⁷

² Report of PACE Committee on Legal Affairs and Human Rights, *Political prisoners in Azerbaijan*, Doc 9826, 6 June 2003.

³ OSCE/ODIHR, *Republic of Azerbaijan. Presidential Elections 15 October 2003, OSCE/ODIHR Election Observation Mission Report, 12 November 2003*, at

www.osce.org/documents/odhir/2003/11/1151_en.pdf?PHPSESSID=Oedd83e222d51c5ad17c74e3ebc57f5b; pages 3-4.

⁴ Ibid.

⁵ Ibid.

⁶ OSCE/ODIHR, “Joint statement on presidential election in Azerbaijan,” 16 October 2003.

⁷ *Votum Separatum – Dissenting Opinion of the Institute for Democracy in Eastern Europe (IDEE’s) observers mission from the OSCE/ODHIR Preliminary Report about the Presidential Elections of October 15, 2003 in the Republic of Azerbaijan*, 20 October 2003.

The OSCE/ODHIR noted in its report that the final, crucial stage of the election, the phase of vote tabulation, was carried out in secrecy by the CEC8, leaving the OSCE/ODIHR unable independently to judge its accuracy or honesty.

Freedom of Expression and the Media

In 2003, the Journalist Protection Committee “Ruh” recorded 350 infringements of freedom of the media against 55 media outlets. The main targets were opposition media, particularly the following newspapers: *Yeni Musavat* (87 incidents), *Azadliq* (57 incidents), *Hürriyyet* (35 incidents). One third of the incidents involved physical abuse of journalists, mainly during unsanctioned demonstrations (133 incidents). In 2003, 6 video recorders, 4 cameras and 4 dicta-phones belonging to journalists were broken.

Journalists were targeted by the police during the 15-16 October demonstration in Baku: 50 journalists were beaten up, 10 were arrested, 6 were not allowed to collect information and 6 had their cameras and recorders broken.

Two *Yeni Musavat* journalists, Rauf Arifoglu and Shaban Nasirov, and an expert working for it, Eldar Tagiyev, were still in detention as of the end of 2003. They were being investigated in relation to the 16 October demonstrations in Baku.

- Azer Qarachenli, a journalist from the *Avropa* weekly went missing, though video footage aired on TV showed him getting arrested by masked people. Police officers and the minister of interior denied his arrest. However, he was sentenced to five days in administrative detention and was later liberated from the police facility where he had been detained *incommunicado*.

In 2003, “Ruh” recorded 21 cases in which primarily opposition media journalists were denied access to information. Especially characteristic was coverage of the deteriorated health of the former president. During seven months, officials deliberately misinformed the public concerning the former president’s health, stating that he was in good health and would be returning soon to Azerbaijan from abroad where he was receiving medical treatment. Finally, on 12 December, officials announced his death. During the seven months that the former president was ill, opposition and independent media were threatened with punishment for “slander” by the Prosecutor’s Office and by the Ministries of Interior and Justice if they mentioned the president’s illness. In connection with the situation, the opposition had questioned the legitimacy of published presidential decrees, especially the decision to appoint the president’s son as prime minister.

Twelve trials against the media, which had begun in 2002, ended in 2003. In 2003, 40 new cases were brought against 18 media outlets, mainly opposition ones. Of these, 27 trials ended at the end of year, and 15 media outlets were fined.

- ANS TV Company successfully lodged complaints against the opposition newspapers *Azadliq*, *Yeni Musavat* and independent newspaper *Novoye Vremya* which had accused ANS for being biased and pro-governmental. ANS covered opposition-related events in governmental style. ANS had claimed that the criticism by other papers had been “insults.” There were allegations that the government was using ANS against the opposition to avoid accusations of direct governmental pressure. Yet the conflict was presented to the West as a conflict between two independent media concerns.

The main way to stop opposition media, barring direct measures such as closure by court decision, was to fine them repeatedly.

8 OSCE/ODIHR, *Republic of Azerbaijan. Presidential elections 15 October 2003, OSCE/ODIHR Election Observation Mission Report*.

- The main target of complaints was *Yeni Musavat*, the most popular and radical opposition newspaper. In 2003, the courts positively decided 13 of 15 complaints against it. Cases were brought against it by officials, by ANS and by businessmen.

Many newspapers had distribution problems, and a number of newspaper editions were arbitrarily confiscated in some regions (60 cases). On 15-20 November, some opposition newspapers were not printed by state-run printing houses.⁹

The state media was heavily biased in its news and reporting during the election. Although it met the requirement to provide free airtime and print space for all candidates, it did not meet its obligation to create equal conditions for the candidates. Private television stations were similarly biased. Many journalists were subject to harassment and intimidation, including physical and verbal attacks, detentions, life-threatening phone calls and editorial interference akin to censorship.¹⁰

Following the recommendation of Council of Europe, a law on public television was passed by the Milli Majlis (the parliament) on 23 December. In contrast to the 2002 variant of the law, the new variant recognized public television as an entity separate from state television. It also defined the structures of the Broadcasting Board and the Board of Directors, as well as procedures for appointing the general director.

Freedom of Association

According to the Justice Ministry, there were 1,500 NGOs registered in the country at the end of 2003 but only 450 of those were active.

During 2003, many NGOs complained of encountering deliberate delays in or baseless refusals of their official registration. A new law concerning state registration of legal entities was adopted on 12 December due to pressure from Council of Europe. It defined a period of 40 days for state registration of any entity.

In January, NGOs protested against a change of tax legislation which significantly increased the tax on grants. They also protested against the introduction of a compulsory system of grant contract registration with the Justice Ministry.

Peaceful Assembly

The Constitution and respective laws permitted public assembly based on approval by local authorities. On many occasions, authorities abused their right to prohibit public events in the case of opposition party gatherings. On some occasions, local authorities prohibited not only the open-air events such as street rallies, but also gatherings in conference halls maintaining that permission was required. Yet, it was virtually impossible for the opposition to get such permission.

- The unregistered Social Union of Sumqayit Youth, an NGO, faced problems when holding a members' meeting on 23 March. A group of Sumqayit policemen and Seyfaddin Rahimov, the head of Department for Political Parties and Public Associations of the City Executive Administration, interfered with the meeting and forced the event to stop. The police said that unregistered NGOs were not permitted to organize any events without special permission.
- On 25 May, approximately 150 demonstrators, by official count, gathered in Baku to peacefully protest the treatment of opposition members in parliament. The crowd included human rights defenders, journalists with cameras, and members of parliament. The police reportedly beat the demonstrators and verbally abused them. Reports indicate that more than

⁹ Statistical figures of "Ruh" report were quoted by Turan News Agency, 29 December 2003.

¹⁰ OSCE/ODIHR, *Republic of Azerbaijan. Presidential elections 15 October 2003, OSCE/ODIHR Election Observation Mission Report*.

50 protestors were wounded as a result of this violent action. Many were detained and later sentenced to prison terms, others were warned and fined. The minister of the interior reportedly stated that the officers who used excessive force were going to be dismissed but there were no further reports.¹¹

The Coordination Centre of the Opposition held in the summer of 2003 a number of pickets in front of official buildings as well as meetings protesting violations of the electoral law. The events were not sanctioned by the authorities and were dispersed by the police. From June to August only, at least 28 picket lines in front of official buildings were dispersed, according to FHROA.¹²

- A demonstration on 3 June to protest the new electoral law reportedly resulted in the injury and hospitalization of two members of the Azerbaijan Democratic Party (ADP). At least 20 protestors were arrested and at least four journalists were attacked.¹³

In September, when candidates for the presidential election began to meet with their electorates, the authorities abused their duty to stop people to check identity papers, to stop cars for alleged violations of traffic rules, to prohibit public events because of alleged violations of public order, and created obstacles for opposition activities, especially in countryside. An FHROA¹⁴ report stated that in some cases, the police created problems in the transportation of people to regional centers (e.g., on 14 September in Yevlakh city). It also reported that opposition party meetings were attacked by pro-government mobsters (e.g. on 18 September in Ismayilli, and on 21 September in Masalli and Lenkaran). The police did not intervene and sometimes arrested the victims themselves.

- On 16 October, the post-election demonstration in Baku, held without official permission, was interrupted by the police who provoked clashes and subsequently arrested many participants.

Judicial System and Independence of the Judiciary

On 15 November, the president proposed a new draft law, “On the Constitutional Court,” which provided individuals with the right to bring complaints before the court, something which had previously not been possible. This was done under pressure from the Council of Europe.¹⁵ The law was passed on 23 December. According to the new law, which had not yet been published at the end 2003, the court will accept individual complaints after all other judicial remedies have been exhausted and no later than six months after exhaustion of these remedies. At the same time, the term of service of a Constitutional Court judge was prolonged from 10 to 15 years.¹⁶

At the end of 2003, the situation with the Bar Association (formerly the Collegium of Advocates) remained dissatisfactory. Young lawyers were not permitted to join because the Bar Association still did not have an examination commission to admit new members, as provided for by the law “On Advocates and Bar Activity” of 28 December 1999. Azerbaijan had only one lawyer per 20,000 people.¹⁷ As a result, there was a disastrous lack of lawyers in criminal cases, especially in

11 OMCT Case AZE 050603, “Arbitrary arrests and detention / Violation of personal integrity / Disappearance,” 5 June 2003.

12 FHROA, *Report #1 about monitoring of situation of preparation of Presidential elections in Azerbaijan (June 15 – August 31, 2003)*.

13 OMCT Case AZE 050603, “Arbitrary arrests and detention / Violation of personal integrity / Disappearance,” 5 June 2003.

14 FHROA, *Report #2 about monitoring of situation of preparation of Presidential elections in Azerbaijan (September 1 – 30, 2003)*.

15 PACE Opinion 222 (2000)

16 *Echo*, 29 November and 12 December 2003.

17 RFE/RL (Un)Civil Societies, “Disbarred human rights lawyer hopes for reinstatement,” 7 August 2003. In the US there are 29 lawyers per 10,000 people; in 1987, the Soviet Union boasted nearly five lawyers per 10,000 people.

politically sensitive ones which most lawyers avoided. For example, in the trial of so called “Nardaran Case”¹⁸ there were five lawyers for 18 defendants.

On 24-25 May, some 400 lawyers gathered to create a new, alternative, bar association as an alternative to the Soviet-era Collegium of Advocates. The initiators included Annagi Hadjiev, president of the Azerbaijani Lawyers Association (ALA), Ilyas Ismayilov, a former justice minister, Tamerlan Qarayev, a former deputy chair of the Supreme Council of the Azerbaijani Republic, and Ayyub Kerimov, editor in chief of the independent newspaper *Femida*, which was closed by officials in 2001. Their purpose was to implement a recent law and presidential decree mandating the formation of new bar associations.¹⁹

Fair Trial and Detainees’ Rights

In 2003, fair trial issues in the context of detained political prisoners remained one of the main problems. On 2 April, the Council of Europe’s secretary general prolonged the experts’ mandate on the issue of alleged political prisoners in Azerbaijan. After a series of pardons, they had 54 cases to examine in December 2003, down from 716 in January 2001.²⁰

Despite PACE’s recommendation to grant alleged political prisoners the opportunity to have new trials²¹ only three such trials began in 2002 and four began in 2003. In the case of the former Minister of Interior, Iskander Hamidov, the sentence was reduced from 14 to 11 years; in the case of Rahim Qaziyev it was reduced from life to 15 years; in the case of Alakram Hummatov, the trial continued for the entire year of 2003, bringing the fair character of the procedures into doubt. In January 2004, the Supreme Court confirmed his life sentence.

During 2003, 173 alleged political prisoners were released, including persons from the “list of 716” of 1 January 2001, but new arrests on political grounds were carried out.

As a result of unfair domestic court proceedings, hundreds of citizens applied to the European Court of Human Rights (ECtHR) against Azerbaijan. 140 complaints were filed in February and the number reached 600 toward the end of 2003. The number of complaints admitted by the ECtHR was still low. On 30 January, the ECtHR court examined the admissibility of the first complaint from Azerbaijan, and on 11 September, partially admitted the first Azerbaijani application under no. 9852/03 filed by Alakram Hummatov.

Most allegations of arbitrary detention were related to the administrative arrests of opposition party members participating in mass demonstrations, both in Baku and in the provinces. The allegations became more massive close to the date of the presidential election.

- After the clashes of 16 October in Baku, at least 120 demonstrators were still in detention in mid-December. There were strong allegations that at least some of them were political prisoners. The core group of the suspects were the activists of the opposition Musavat and Umid Parties as well as members of other organizations which had supported the election campaign of Musavat’s leader, Isa Qambar.

¹⁸ In the “Nardaran Case,” the government suppressed protests by residents of the Nardaran settlement outside Baku in June 2002. The incident was never properly investigated and no police officers were punished, however, 18 Nardaranians were detained for an excessively long period of time.

¹⁹ RFE/RL (Un)Civil Societies, “Disbarred human rights lawyer hopes for reinstatement,” Vol. 4, No. 19, 7 August 2003.

²⁰ Council of Europe, “Alleged political prisoners in Azerbaijan Information on the work of the Secretary General’s Independent Experts in the framework of their second mandate (as from April 2002),” DG/Inf(2003)15, 2 April 2003.

²¹ PACE Opinion 222 (2000).

Another group of political activists who were arbitrarily arrested after the election were members of the election commissions. Up to 15 people were placed in administrative detention for refusing to sign forged election protocols and for engaging in monitoring activities. The total number of administrative detainees was about 400 people as stated by the Spokesperson of the Ministry of Interior, Sadiq Gozalov, during a press conference of 22 October. The FHROA listed 338 of them.²²

In the second semester of 2003, the administration offices of some prisons interfered in attempts by the Human Rights Center of Azerbaijan (HCRA) to bring complaints on behalf of prisoners to the national courts and to the ECtHR. In some cases, prison directors failed to confirm, as required by law, signatures of prisoners to authorize a HRCA representative to submit their cases to the ECtHR. In addition, letters and photocopies of necessary documents sent to prisoners by the HRCA were confiscated.

Torture, Ill-Treatment and Misconduct by Police

The UN Committee against Torture (CAT) reviewed the Second Periodic Report of Azerbaijan on 30 April and 1 May. In its conclusions and recommendations, it noted positive efforts by the government to address the CAT's previous concluding observations: the country issued a declaration under article 22 of the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment enabling individuals to submit complaints to the CAT; it ratified several significant human rights treaties; it carried out extensive legislative reforms; and it introduced torture as an offense into the new Criminal Code, and reported some convictions for this crime.

The CAT, however, was concerned by numerous ongoing allegations of torture and ill-treatment and by the fact that the definition of torture in the new Criminal Code did not fully comply with article 1 of the convention. It also noted the apparent lack of independence of the judiciary despite the new legislation.

With respect to detentions, the CAT noted reports that some persons had been held in police custody much beyond the time limit of 48 hours established in the Code of Criminal Procedure, and that in exceptional circumstances persons could be held for up to ten days in temporary detention in local police facilities. It was also concerned about the lack, in many instances, of prompt and adequate access by persons in police custody or remand centres to independent counsel. Despite the UN Special Rapporteur on Torture's recommendation, the remand centre of the Ministry of National Security continued to operate and it remained under the jurisdiction of the same authorities that conducted pre-trial investigations.

The CAT was concerned about reports of harassment and attacks on human rights defenders and organizations. It also expressed concerns about reports that, in many instances, judges refused to deal with visible evidence of the torture and ill-treatment of detainees, and did not order independent medical examinations or return cases for further investigation.²³

Police violence against peaceful opposition demonstrations was routine.

- A characteristic case of the misuse of police force was the beating of journalists from the newspapers *Zerkalo*, *Azadliq*, *Milli Yol* and *Avropa* on 8 September in Baku by a group of police officers led by General Yashar Aliyev. This well-documented case, which had dozens

²² List of the Federation of Human Rights Organizations of Azerbaijan, 25 October 2003.

²³ UN Committee against Torture, "Committee Against Torture Issues Provisional Conclusions on Cambodian, Conclusions on Azerbaijan," press release, 12 May 2003, at <http://www.unog.ch/news2/documents/newsen/cat0322e.htm>; and *Conclusions and Recommendations of the Committee against Torture : Azerbaijan. 14/05/2003, CAT/C/CR/30/1 and Corr 1, 14 May 2003, (Concluding Observations/Comments)*, at [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/7ebf7332c7525e3bc1256d5900306e8d?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/7ebf7332c7525e3bc1256d5900306e8d?Opendocument)

of witnesses, was brought before the Prosecutor's Office on 12 December and was rejected because of "absence of crime."

- On 16 October, opposition activists tried to conduct an unapproved meeting at Azadliq, the central plaza in Baku. They were beaten by the police. One of the activists, 52-year-old Hamidaga Zahidov, was beaten to death by police, while hundreds of others were injured.²⁴ The protesters resisted by throwing stones and injuring dozens of policemen. In the ensuing criminal investigation, police cruelty was not investigated at all. Moreover, in a joint statement by the Ministry of Internal Affairs and the Prosecutor's Office, the opposition was accused of being responsible for the death of a protester.

In some cases, opposition activists and journalists arrested from October to December in connection with the clash were detained in the facility of the Main Administration of the Struggle Against Organized Crime of the Ministry of Interior, which was designed for gangsters and terrorists. It is known as a place where people are tortured. Against this background, the televised "confessions" from some of the arrested opposition members raised suspicion that they "confessed" their guilt to various offenses under duress.

- The "confessions" of Iqbal Agazade, a parliamentary deputy, were widely broadcasted by pro-governmental television stations. He had been detained at the Ministry of the Interior's facility mentioned above and had had no access to a lawyer for several days.

Based on reports that hundreds of demonstrators were harassed, attacked, arrested and detained by security forces, who apparently used excessive force to disperse demonstrations, leading to the death of at least one person and to many others being injured, UN experts²⁵ urged the government to investigate all alleged cases of torture and ill-treatment independently and to bring the perpetrators to justice."²⁶

Despite seven years of work in prisons and an agreement with the central prison administration, the HRCA was no longer permitted to visit prisons. The International Committee of the Red Cross (ICRC), however, continued its prison visits program. Also, international visitors from the Council of Europe and OSCE/ODIHR were permitted to meet some political prisoners.

The CAT also expressed concern over Azerbaijan's extradition and deportation policy and requested that authorities review any decision about extradition to a country where the deportee might face a real risk of torture. Azerbaijani special services secretly extradited 41—alleged "international terrorists" to countries with poor human rights records — including the use of torture—such as Egypt and Jordan during 2003. In addition, 150 foreigners suspected of maintaining relations with international terrorism were extradited. These actions as well as names and circumstances of arrests, were rarely mentioned in Azerbaijani media. These people were also denied access to legal advice, the opportunity to appeal against the extraditions, and the guarantee of the non-implementation of a death sentence.

Prisons and Detention Facilities

²⁴ OMCT Case AZE 271003, "Journalists and protesters face repression during peaceful demonstrations."

²⁵ The UN experts included: the Special Rapporteur on the Promotion and the Protection of Freedom of Opinion and Expression, Ambeyi Ligabo; the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Asma Jahangir; the Special Rapporteur on torture, Theo Van Boven; and the Special Representative on Human Rights Defenders, Hina Jilani.

²⁶ „Human Rights Special Rapporteurs express deep concern over situation in Azerbaijan," press release, 28 October 2003, at <http://www.unhchr.ch>.

Despite limited efforts to improve prison conditions in Azerbaijan, they remained harsh. Widespread corruption among prison personnel also took a form of not allowing visits of relatives and lack of medical care for prisoners unless they could offer a bribe to the prison administration. Prisoners also complained about discrimination against certain categories of prisoners such as lifers or political prisoners. Over 50 political prisoners have died in detention since 1993.

- After a riot in Qobustan prison in January 1999, the doors of all cells in that prison were locked after 6 p.m. and could not be opened until morning, not even in the case deteriorated health conditions. Generally, only wealthy inmates or prisoners in very poor health were transported to the central prison hospital or to the special TB prison. Belated medical treatment resulted in a high inmate mortality rate.
- Two political prisoners, Nadir Bagirov and Tofiq Hasanov, who were pardoned in 2003, died several months after their release from illness and ill-treatment during detention.

In May, the CAT expressed special concern over the condition of life detention.²⁷ Since early August, the central prison administration rejected a letters exchange between the HRCA and a group of life prisoners. In November, the application from one life prisoner for distance higher education was baselessly rejected. In 2003, some lifers lodged complaints in the ECtHR on the basis of inhuman and degrading treatment in detention.

Freedom of Religion

Though the Constitution provided for freedom of religion, this was not always the practice. A number of laws contradicted this principle. For example, the law “On Religious Freedom,” amended in 1996, banned foreigners from conducting “religious propaganda.” Similar provisions existed in the law “On Legal Status of Foreigners” and in the Code of Administrative Offences. Rafiq Aliyev, head of the State Committee on Work with Religious Associations (SCWRA) stated that 30 foreigners were deported from Azerbaijan for conducting illegal religious propaganda.²⁸

In practice, the main concerns were the conditions of “non-traditional” religious groups. This term, though used by media and officials, was not defined by law and generally meant those associations which were not registered in Azerbaijan under the Soviet rule.

On 24 September, Rafiq Aliyev issued a warning to visiting Vatican Foreign Minister, Archbishop Jean-Louis Tauran, stating that Fr. Daniel Pravda, the head of the small Catholic community in Azerbaijan, had been conducting “illegal religious propaganda,” an offence under Azerbaijani law punishable by deportation.²⁹

Registration was still one of the main problems religious communities faced. The US Department of State, in its “International Religious Freedom Report” issued on 18 December, noted that as of the end of 2003, 199 religious groups were successfully registered, compared with the 406 that were registered previously. The majority of the registered groups were Muslim. Official sources estimated that 2,000 religious groups were in operation; many had not filed for re-registration. The Baptist denomination was among the minority religious communities that faced re-registration problems. Of its five main parishes, only three were re-registered. In April the Baku International Fellowship Church was registered after a multi-year battle. In June, the Adventist Church in Naxchivan was re-registered after the Ministry of Justice had revoked its earlier registration.³⁰

²⁷ “Committee Against Torture Issues Provisional Conclusions on Cambodian, Conclusions on Azerbaijan, 12 May 2003.

²⁸ *Zerkalo*, 24 December 2003.

²⁹ Forum 18 News Service, 29 September 2003, at http://www.forum18.org/Archive.php?article_id=146.

³⁰ US Department of State, *International Religious Freedom Report 2003*, at <http://www.state.gov/g/drl/rls/irf/2003/24344.htm>

- On 31 August in Baku, the Nasimi district Police Chief, Lieutenant-Colonel Mukhtar Mukhtarov broke up the Greater Grace Protestant Church children's Sunday school. According to the pastor, Fuad Tariverdi, Mukhtarov said that the church "does not have the right to teach kids and convert Azeri children." He then ordered the local police to make sure Sunday school would not be held again. Mukhtarov vigorously denied doing anything wrong. The Greater Grace Church, whose registration had also been revoked, has futilely been seeking re-registration for more than two years.³¹

Though there was continuous pressure against Christian organizations, Muslim communities became a main target in 2003. The international campaign against "Islamic terrorism" was used against Azerbaijani Moslem religious communities and the more unsettled Muslim communities were often described as "hidden terrorist organizations." In addition, the Muslim communities preferred not to be subordinated to the Spiritual Administration of Caucasus Muslims (SACM) and accused this institution of involvement in politics, as evidenced by the direct and active participation of Allahshukur Pashazade, a SCAM head, in the ruling party's election campaign.

- On 1 December, Ilqar Ibrahimoglu, Imam of the Djuma Mosque in Icheri Sheher in Baku and leader of the Center of Protection of Freedom of Conscience and Religion (DEVAMM) was arrested and accused of active participation in the post-election clashes in Baku. The baseless accusations of Islamic conspiracy were spread in pro-government media to the detriment of the mosque.³²
- In December, after the trial in Baku of Azerbaijani Chechen guerilla volunteers, the court demanded that the Abu Bakr Mosque be closed because it was where the defendants had gathered. The head of the mosque, Qamet Suleymanov, claimed that the mosque was closed because it was affiliated to Sunni Islam³³, which is a minority group in Azerbaijan.

Close to the beginning of the new school year in September, the DEVAMM monitoring group recorded cases of the violation of the right of Muslim religious women to wear headscarves in school. A female religious teacher in Baku school no. 196 was threatened with dismissal because she wore a headscarf and maxi skirt³⁴. In other cases, religious pupils in Baku schools no. 196, 199, 266 were insulted and prohibited from attending lesson.³⁵

On 29 November, a second religious political party was established: the Moslem Democratic Party of Azerbaijan. It represented minority groups and proposed as the basis of its ideology the Islamic values of respect for national and international legal norms and democratic standards. The first established religious party is called the Islamic Party of Azerbaijan.

In May, the Udin-Albanian church was reopened, apparently for propaganda purposes by the government, as it had been closed by the tsarist Russian regime in 1836 under pressure from the Armenian Grigorian Church. The government took no action, however, in reopening other places of worship also closed during the Soviet period, such as the Lutheran Church and a Baptist Church. Instead of allowing a former Ashkenazi synagogue, used as a theater, to reopen, another Ashkenazi synagogue was permitted to be reconstructed and enlarged.

Freedom of Movement

³¹ Forum 18 News Service, 4 September 2003, at http://www.forum18.org/Archive.php?article_id=135

³² In January 2004, the mayor of Baku city demanded to that the believers leave in mosque. In March, the district court decided to remove the religious community from the Mosque.

³³ *Echo*, 20 December 2003.

³⁴ DEVAMM press release, 28 August 2003, <http://www.devamm.org>.

³⁵ DEVAMM press release, 4 September 2003, <http://www.devamm.org>.

On 31 January, the Constitutional Court, acting on a complaint from the non-governmental Committee of Homeless and Destitute Residents of Baku, decided that lack of permanent resident registration (*propiska*) must not be an obstacle to obtaining national identification cards and passports. In April, the Cabinet of Ministers issued a normative act which instructed the police to issue IDs in the individual's last place of residence. Some homeless people used this procedure to get their documents in order before the presidential election of 15 October.

Asylum Seekers and IDPs

As a result of the unresolved conflict in the Nagorno-Karabakh region and of migrations from Central Asia, there were more than 230,000 refugees and about 620,000 IDPs in Azerbaijan. Some lived in tent camps but others lived in standard cottage town built as a result of the government policy of integrating IDPs, adopted in 2002.

In addition to Azeri refugees there were about 50,000 Meskhetian Turks who were still not allowed to repatriate into Georgia.

At the end of 2003, the UNHCR registered about 7,800 asylum seekers from Chechnya. With the exception of about 60 people, they still did not have official refugee status and that created obstacles in providing them humanitarian aid, jobs, education and medical assistance. They were considered *prima facie* refugees and were provided a certificate by the UNHCR stating that their status was under consideration. According to the head of UNHCR Office in Baku, Bohdan Nahailo, "generally, that is enough to prevent persecution."

Azerbaijan was not a safe haven for Chechens. On 6 September, Vakha Ibrahimov, a Chechen businessman and formerly a diplomat of Chechen President Maskhadov's government, was killed under suspicious circumstances in Baku. The killer was not found. Instead, all Chechens who visited the family the next day for condolences were detained and interrogated by local police.

Repatriation to Chechnya was not safe despite reports to the contrary by Russian authorities. A group of four Chechens returning home from Azerbaijan on 2 April disappeared after they were arrested at the "Melnitsa" roadblock at the entrance to the village of Starye Atagi.³⁶

On 26 February, a group of asylum seekers from Iraq picketed the UNHCR office demanding humanitarian aid and solutions to housing and medical treatment problems.

Only in September 2003, the children of Chechen asylum seekers were given the opportunity to attend Russian schools in Baku.³⁷

The situation of Chechen children born in Azerbaijan was still uncertain at the end 2003. According to article 52 of the Constitution, such persons were citizens of Azerbaijan. Local registration desks, however, re-directed Chechen parents to the Russian embassy. The problem was aggravated by the fact that a majority of adult Chechen refugees had invalid Russian passports, which was an obstacle to getting a Russian birth certificate for their children.

Death Penalty

The Azerbaijani government continued to secretly extradite suspects of international terrorism to countries where the death penalty was still in force.

- One of the rare cases which was publicized *post factum* was the extradition of Jordan citizen, Adnan Muhamed Said, on 25 September. The extradition procedure took 13 days and was

36 Appeal of Maierbek Taramov, Director of the Chechen Human Rights Center, 11 September 2003.

37 See also *Freedom of Religion*.

initiated by the Prosecutor's Office upon a request from Jordan's special services. Said had neither an opportunity to take his case to a court of law, nor to appeal against the decision.

In August, the death penalty was abolished on the territory of Nagorno-Karabakh which is not controlled by Azerbaijani authorities.

International Humanitarian Law

Despite the cease-fire at the Azerbaijani-Armenian frontline, there was still some cross-fire in 2003. It was difficult to determine who was at fault.

In the period 1988-2003, 1,330 Azeri prisoners of war were released from Armenian captivity and 410 cases of death of Azeri prisoners of war in Armenian prisons were identified. 4,928 Azerbaijani citizens were still registered as missing persons in the State Commission on Prisoners of War, Missing in Operation and Hostages database.

The taking of prisoners of war and hostages continued in 2003. The Armenian armed forces captured at least three Azerbaijani soldiers and three Azeri civilians, including two children. At least one Armenian soldier was captured in the Fuzuli region and then exchanged on 18 February. Captured Azeris were usually liberated after between two days and one month of captivity with assistance from the ICRC.

On 27 May, however, the work of the ICRC was criticized by some pro-governmental NGO activists, including Chingiz Qanizade, a member of the State Commission. They accused the ICRC of "indifference" to the fate of missing Azeris and proposed that the ICRC do its job better or leave Azerbaijan.

In addition to the ICRC, other non-governmental groups searched for missing people. The most effective one was the International Group on Search of Missed in War Operations ("International Search Group") consisting of experts from Germany, Russia, Georgia, Armenia, Azerbaijan and the Nagorno-Karabakh region controlled by Armenian forces. In 2003, they visited the area of conflict several times. On 16-17 August, five Azerbaijanis visited the Nagorno-Karabakh region as part of a confidence-building initiative sponsored by the Interchurch Peace Council (IKV), a Dutch NGO. They held a series of meetings with Karabakh officials and visited the Shusha prison.

In May, almost simultaneously with the attacks on the ICRC, the trial of Nadir Mahmudov, a former Azerbaijani prisoner of war, began. He was accused of humiliating other prisoners and collaborating with the enemy. He spent two years and three months in captivity, became disabled, was liberated in 1995 and arrested again seven years later. Practically all witnesses confirmed that the defendant was ill-treated by the Armenians and failed to substantiate allegation of cooperation with the enemy. However, on 4 August, he was sentenced to seven years in prison under article 274 of the Criminal Code (high treason). He appealed the sentence.

At a 30 December conference in Baku, the "International Search Group" urged the Azerbaijani government to change their "inadequate" attitude towards former prisoners of war, even those accused of committing involuntary crimes while in captivity.

Human Rights Defenders

In 2003, many human rights NGOs experienced problems with the official registration process. Some of them, such as the Committee of Homeless and Destitute Residents of Baku, lodged a complaint with the ECtHR.

- On 23-28 April, several pro-governmental political groups and supporters of New Azerbaijan (YAP), the ruling party, attacked the HRCA office protesting against its contacts with

counterparts in Armenia and the Nagorno-Karabakh region. Hooligans pelted the windows with stones and eggs, shouted obscenities and threats and, finally, burned an effigy of the HRCA Director, Eldar Zeynalov. Local TV stations called Zeynalov an “Armenian” and demanded his arrest, while the Internal Ministry’s press service called his actions “criminal” and vowed to hold Zeynalov “accountable.” On 28 April, neighbors attacked family members of Zeynalov’s wife and HRCA activist Zaliha Tahirova.³⁸ Police investigators “failed to find eye-witnesses” of attacks against HRCA and refused to open a criminal case.³⁹

- On 28 April, mobsters attacked the office of another human rights organization, the Institute of Peace and Democracy (SDI), which had supported HRCA’s position. The attacks against HRCA and SDI were accompanied by a campaign of hate speech by members of parliament, officials, leaders of YAP as well as by some “patriotic” human rights defenders.⁴⁰

The campaign of defense of human rights defenders involved the UN, Council of Europe, OSCE, and many international human rights organizations. The CAT requested that Azerbaijan “ensure the full protection of non-governmental human rights defenders and organizations.”⁴¹

The next stage of attacks against human rights defenders began on the eve of the 15 October presidential election.

- On 27 September, mobsters attacked the building of the NGO Resource Center, established in Nakhchivan city by the Association of Protection of Women’s Rights, and the editorial office of the only independent newspaper *Bizim Naxcivan*. The next day, the head of association, Novella Cafaroglu, and the head of the Azerbaijan branch of the International Society of Human Rights (IFGM-ISHR), Saadat Bananyarli, were assaulted and beaten by mobsters with support from airport officers. Both victims were involved in the election monitoring coalition of NGOs. Though the attackers were identified, nobody was punished.

The situation of human rights activists deteriorated after the post-election clashes between the opposition and the police in Baku on 16 October.

- The police beat up Azer Hasret, chairman of the Journalists' Trade Union of Azerbaijan, a national trade union, as he was monitoring this demonstration.
- On 17 October, Azer Mammedov and Ramil Djarchiyev, two human rights activists from the Qazakh Human Rights Resource Center, an Association of Protection of Women's Rights, were arrested in Qazakh. Mammedov was held for several days and Djarchiyev faced criminal accusations in connection with October 16 events and was still in detention at the end of 2003.
- On 18 October, an independent forensic expert and lawyer, Ilqar Altay, head of the ad hoc committee to defend Iqbal Agazade, a member of parliament and leader of the Umid Party, was arrested and sentenced to a seven-day administrative detention for alleged resistance to police.
- On 18-19 October, Mehdi Mehdiyev, the director of the Human Rights Resource Center in Baku, was summoned by the police, who called him and came to his house and intimidated

³⁸ See, e.g. Amnesty International, AI Index: EUR 55/001/2003, UA 115/03, Fear for Safety, 28 April 2003.

³⁹ Decision of police investigator, Lieutenant E. Hasanov, 13 May 2003. In contrast, in June, similar actions by opposition activists against A. Abiyev, a YAP member of parliament, ended with the imprisonment of two participants.

⁴⁰ About the phenomenon of ‘patriotism’ in human rights activism, see *IHF, Human Rights in the OSCE Region Report 2003 (Events of 2002)*.

⁴¹ UN Committee against Torture, press release, 12 May 2003.

him. On 20 October he received a night visit by policemen in plainclothes, who tried to break his door.

- In Ganja city, the house of Nushaba Mammedova, the co-ordinator of the HRCA in Gandjabasar region and the founder of the only independent newspaper of the region "Gencebasar," was visited on 21 October by a group of policemen. Just before, the police had harassed her brother, a well-known member of the opposition, and had arrested her nephew Orkhan Mammedov for his alleged active participation in a 16 October meeting.⁴²
- The police also harassed the Muslims of the Djuma Mesjid Mosque in Baku, in order to arrest its Imam, Ilqar Ibrahimoglu, a leading coordinator of DEVAMM and secretary general of the local branch of International Religious Liberty Association (IRLA Azerbaijan). Azer Ramizoglu, DEVAMM's chairman was also arrested. Ibrahimoglu took refuge in the Norwegian Embassy from 17- 19 October. These threats seemed to be directly linked with the participation of DEVAMM in the work of the Democratic Election Coalition "Bizim Azerbaijan" (Our Azerbaijan). Finally, Ibrahimoglu was summoned on 1 December to the Prosecutor's Office as a witness and was immediately detained as suspect. The judge approved his arrest on 3 December. In the following days, DEVAMM activists were summoned by the police and condemned by pro-governmental media.⁴³ In an open letter to the Prosecutor General, Zakir Qaralov, on 12 December 2003, the IHF called into doubt the grounds for Ilqar Ibrahimoglu's arrest. They asked the authorities to review their decision about his detention and to liberate him until a possible trial on his case.⁴⁴

⁴² Observatoire, AZE 002/1003/OBS 058, Arbitrary detention, 28 October 2003.

⁴³ Observatoire, AZE 003/1203/OBS 068, Arbitrary detention, 17 December 2003.

⁴⁴ Posted at http://www.ihf-hr.org/viewbinary/viewhtml.php?doc_id=5255