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2009 Human Rights Report: Azerbaijan

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

2009 Country Reports on Human Rights Practices

March 11, 2010

Azerbaijan is a republic with a population of approximately nine million and a presidential form of government. Legislative authority is vested in the Milli Majlis (National Assembly). In practice the president dominated the executive, legislative, and judicial branches of government. Ilham Aliyev, the son of former president Heydar Aliyev, was reelected president for a second term in October 2008 in a process that did not fully meet international standards for a democratic election. Election shortcomings included serious restrictions on political participation and the media, pressure and restrictions on observers, and flawed vote counting and tabulation processes. The two-term limit for the presidency was removed in a March referendum, the conduct of which was seriously flawed. Although there were more than 50 political parties, the ruling Yeni Azerbaijan Party continued to dominate the political system. Ethnic Armenian separatists, with Armenia's support, continued to control most of the Nagorno-Karabakh region of the country and seven surrounding Azerbaijani territories. The government did not exercise any control over developments in those territories. Civilian authorities generally maintained effective control of the security forces. Members of the security forces at national and local levels committed numerous human rights abuses.

The right of citizens to peacefully change their government was restricted in the October 2008 presidential election, March referendum, and December municipal elections. Torture and beating of persons in police and military custody resulted in at least four deaths and law enforcement officials acted with impunity. Prison conditions were generally harsh and life threatening. Arbitrary arrest and detention, particularly of individuals considered by the government to be political opponents, and lengthy pretrial detention continued. The government continued to imprison persons for politically motivated reasons. Pervasive corruption, including in the judiciary and law enforcement, continued. Restrictions on freedom of assembly continued, particularly in terms of political organizing, peaceful protests, and religious activity. Restrictions and pressure on the media and restrictions on political participation worsened. The government imposed restrictions on the activities of some unregistered Muslim and Christian groups and local officials abused some members and congregations. Cases of violence against women were also reported. Trafficking in persons for sexual exploitation and forced labor remained a problem.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

The government or its agents did not commit any arbitrary or unlawful killings; however, human rights monitors reported that at least four prisoners died in police or military custody due to alleged abuse and mistreatment.

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On January 14, Vagif Suleymanov died in police custody in the Bilasuvar region. Credible sources indicated he was beaten to death.

On May 19, Togrul Mammadzade, age 70, died in the Ministry of Justice's medical treatment facility. While the ministry reported the death as a suicide, credible sources believed he was beaten to death.

On June 11, Rustam Aliyev died in police custody in the Lankaran District after being detained a week earlier. Credible sources indicated that the police allegation that he hanged himself in his jail cell was physically impossible and that medical evidence indicated Aliyev was beaten to death.

On August 2, Aga Turabov was beaten by police officers of the Narimanov District Police Department in Baku. Turabov died on the spot of heart failure.

There were no new developments in the cases of Rashad Haziyeu, Mahammad Rahimov, or Zaur Mammadov, all of whom were found dead in or outside of police stations in 2008.

The government reported six deaths of military conscripts during the year, which it attributed to incidents along the line of contact.

Ethnic Armenian separatists, with Armenia's support, continued to control most of the Nagorno-Karabakh region of Azerbaijan and seven surrounding Azerbaijani territories. During the year shootings along the militarized line of contact separating the sides as a result of the Nagorno-Karabakh conflict again resulted in numerous casualties on both sides. The Ministry of Foreign Affairs reported two civilian casualties along the line of contact for the year.

According to the national agency for mine actions, landmines killed two persons, of whom one was a civilian, and injured 17, 15 of whom were civilians. A domestic nongovernmental organization (NGO), the Azerbaijan Campaign to Ban Landmines, reported that landmines killed two persons and injured six others during the year. The two dead were military personnel, while the six injured were civilians.

b. Disappearance

During the year there were no reports of politically motivated disappearances. However, there were reports of disappearances in connection with the conflict in Nagorno-Karabakh. The government reported 4,133 persons missing as the result of conflict during the year.

The International Committee of the Red Cross (ICRC) continued to actively process cases of persons missing in connection with the Nagorno-Karabakh conflict and worked with the government to develop a consolidated list of missing persons. According to the ICRC, during the year the number of persons confirmed missing from both sides of the conflict increased from 4,478 to 4,558. The ICRC reported that it opened investigations into 105 new missing-persons cases during the year. As a result of a framework agreement signed with the government in 2008, the ICRC collected ante mortem data from 2,000 families during the year. The information, which was gathered from families on both sides of the line of contact as well as in Armenia, was meant to assist state commissions in the identification of human remains.

The ICRC continued to pay special attention to prisoners of war and civilian internees (POWs/CIs) and conducted visits throughout the year to ensure their protection under international humanitarian law. The ICRC often provided clothing,

toiletries, and other assistance during these visits. The ICRC regularly facilitated the exchange of Red Cross messages between POWs/CIs and their families to reestablish contact and, on several occasions, paid transportation costs for families of missing persons to the ICRC office in Baku. Upon the request of and with full cooperation by the government, the ICRC facilitated the transfer of one set of human remains between Armenia and Azerbaijan during the year.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The constitution and criminal code prohibit such practices and provide for penalties of up to 10 years' imprisonment; however, there were credible reports that security forces beat detainees to extract confessions and military personnel physically abused subordinates. A May review by the UN Committee Against Torture found that the definition of torture in Azerbaijani legislation does not include references to the purposes of torture, as outlined in the Convention against Torture. A domestic human rights monitor reported that the number of persons tortured in custody by security forces increased from 81 in 2008 to 131 during the year; of the 131 tortured, at least four subsequently died. Impunity remained a problem. According to a report submitted to the UN Committee against Torture by the Human Rights Center of Azerbaijan (HRCA) and the International Federation of Human Rights (FIDH), problems also included a de facto ban on independent forensic examinations and delays in access to a lawyer.

In October 2008 two sergeants from the Internal Affairs Ministry, Vugar Agayev and Eldaniz Rahimov, were arrested for beating subordinates. The unit's commander and deputy commander were dismissed. In May Agayev and Rahimov were sentenced to five years' imprisonment each under article 331.3 of the criminal code, which punishes military superiors' abuse of subordinates.

On September 11, Ministry of Internal Affairs officers reportedly placed Mahammad Gurbanov involuntarily into a psychiatric facility in the exclave of Nakhchivan. Local human rights defenders stated Gurbanov was not mentally ill but was detained for refusing to pay a bribe to customs officials at the Sadarak border crossing and then writing public complaints about the corruption. Gurbanov was released on October 10.

A local NGO reported numerous police beatings of persons based on sexual orientation.

During the year there was no accountability for the 2008 beating of Mirza Zahidov.

According to the Ministry of Internal Affairs, authorities punished 247 officers for human rights abuses and criminally prosecuted four police officers for these violations during the year.

According to the report by HRCA and FIDH, since the criminalization of torture in 2000, no official had been convicted of torture nor have authorities held accountable any persons responsible for torture in three rulings by the European Court of Human Rights between 2007-09. For example, at year's end the government had yet to fully implement the 2007 verdict of the European Court of Human Rights (ECHR) regarding the case of Sardar Jalaloglu, who was abused in police custody in 2003. While the Supreme Court overturned Jalaloglu's conviction in 2007, and he received the 10,000 euros (approximately \$14,300) awarded by the ECHR in compensation in 2008, the persons who mistreated Jalaloglu had not been brought to justice as required in the judgment.

Prison and Detention Center Conditions

Prison conditions remained harsh and life threatening despite continuing prison infrastructure improvements.

Overcrowding, inadequate nutrition, lack of heating and ventilation, and poor medical care combined to make the spread of infectious diseases a serious problem. Despite recent improvements to prison infrastructure, prisons, which were

generally Soviet-era facilities, did not meet international standards. In maximum-security facilities, authorities limited physical exercise for prisoners as well as visits by attorneys and family members. There were few opportunities for prisoners to work or receive training. Some pretrial detainees were reportedly held in "separation cells," which were often located in basements to conceal evidence of physical abuse. Food and sleep reportedly were denied in these cells to elicit confessions.

Local and international monitors continued to report poor conditions at maximum security Qobustan prison. In a November 26 report, the European Committee for the Prevention of Torture (CPT) stated that during a December 2008 visit to Qobustan Prison, a prison officer attempted to threaten a prisoner for speaking to the CPT delegation, and it was apparent that authorities had warned certain other prisoners not to complain to the delegation. Nevertheless, the delegation received several credible reports from prisoners of intentional physical abuse and excessive use of force by prison officers. The alleged abuse included punches, kicks and blows with truncheons, and sexual abuse. According to local human rights defenders, prison officials made death threats to prisoners, stripped them of their clothes, soaked them with cold water, malnourished them, denied them contact with friends and family, denied them medical treatment, handcuffed them in punishment cells for weeks at a time, and routinely beat them. Hamid Suleymanov, investigation department chief of the Penitentiary Services, stated in 2007 that he found no proof of these violations. Prisoners responded to his assertion with hunger strikes; 15 inmates did so in January 2008. They viewed hunger strikes as their only option to raise awareness of the situation in Qobustan.

The Justice Ministry reported that during the year a new temporary detention facility for those under investigation was built in Baku. The facility met all international standards.

Harsh prison conditions resulted in numerous deaths; the Justice Ministry reported that 105 persons died in detention during the year, a decrease of 19 percent from 2008. The Ministry attributed most deaths to a variety of diseases but reported a substantial decrease in deaths due to tuberculosis (TB), though more still died of TB than any other single disease. The Ministry of Internal Affairs reported one death in its facilities, due to suicide. Authorities dismissed one officer and disciplined two others for negligence in connection with these deaths.

On August 17, Novruzali Mammadov, a prominent scholar of the ethnic minority Talysh group and former editor in chief of the *Talysh Sedo* newspaper, died in the Ministry of Justice medical treatment facility. The ministry reported that he died of a stroke, but family members and local human rights defenders believed he had not received appropriate medical care. Mammadov's widow sued the Ministry of Justice, and the case was ongoing at year's end. Mammadov had been convicted of high treason in a closed trial; some local NGOs believed his arrest was related to his ethnicity and cultural activities.

During the year there was no investigation into the 2008 death of Arif Aslanov while in Ministry of Justice custody.

TB remained the primary cause of death in prisons; the Ministry of Justice reported that it treated 889 prisoners and detainees for TB. The ICRC positively assessed the government's pilot program, established in April 2007, which treated 96 prisoners for multidrug-resistant TB (MDR-TB) and placed 779 in category II therapy during the year. According to the ICRC, the prison hospitals' MDR-TB wards were state of the art, well ventilated, and had indirect ultraviolet lights. The ICRC reported that the government's active and passive efforts were effective in screening inmates for TB. The ICRC reported that 18 inmates died from the disease during the year, down from 52 in 2008.

The government reported that the other major causes of death among prisoners and detainees were myocardial infarction, hepatic cirrhosis, and strokes.

A joint government-human rights community prison-monitoring group reconstituted in 2006 was only able to gain access to prisons with prior notification to the Penitentiary Service. During the year the group visited numerous detention facilities, advocated for better medical conditions in prisons, arranged for more telephones to be installed in prison facilities, donated 319 books to prison facilities, and provided legal assistance to 47 prisoners. The Ministries of Internal Affairs and Justice cooperated with many of these efforts, but the group highlighted additional problems that remained, including inadequate medical facilities and staff at prisons, insufficient food and recreational activities for inmates, and incomplete access to detention centers for monitoring group members.

Men and women were held together in pretrial detention facilities; however, all women were housed in a separate prison facility after being sentenced. Minors were also supposed to be held in a separate facility; however, international monitors noted some children were held with adults.

The government permitted some prison visits by international and local humanitarian and human rights groups, including the ICRC, the CPT, the Organization for Security and Cooperation in Europe (OSCE), and the Azerbaijan Committee against Torture. As of July 1, however, the Azerbaijan Committee against Torture was no longer permitted to visit Ministry of Justice facilities without prior notification. Ministry of Internal Affairs-run pretrial detention centers still allowed the committee immediate access. The ICRC had unobstructed access to the POWs/CIs who were held in connection with the conflict over Nagorno-Karabakh. However, the Penitentiary Service since June denied foreign embassies access to prisons outside of consular visits. The missions of some international organizations were still permitted to visit prisons for monitoring purposes.

d. Arbitrary Arrest or Detention

Although the law prohibits arbitrary arrest and detention, the government generally did not observe these prohibitions in practice, and impunity remained a problem.

Role of the Police and Security Apparatus

The Ministry of Internal Affairs and the Ministry of National Security are responsible for internal security and report directly to the president. The Ministry of Internal Affairs oversees local police forces and maintains internal civil defense troops. The Ministry of National Security has a separate internal security force.

Law enforcement corruption was a problem. Police often levied spurious, informal fines for traffic and other minor violations and extracted protection money from local residents. In recent years traffic police officers received substantial pay raises to counter corruption; nevertheless, the low wages of other law enforcement officials continued to contribute to police corruption. High inflation also put pressure on wages. During the year the ministry reported that it punished 10 police officers for corruption. The Ministry of Justice reported that five employees of the Penitentiary Service were accused of crimes related to corruption during the year. There were reports that police officials required additional money on top of fines by the court in order to return prisoners' clothing and release them.

While security forces were generally able to act with impunity, the government reported that it took action against 247 police officers for human rights violations during the year. The government reported that it criminally prosecuted four officers, dismissed 13 officers from the Ministry of Internal Affairs police forces, removed 26 officers from their positions, and administratively disciplined 208 others.

On January 14, the Ministry of National Security (MNS) arrested Major Elsevar Nabiyeu of the Ganja police, under the Ministry of Internal Affairs, after seizing 16 kilograms of narcotics from his possession. The MNS accused Major Nabiyeu of leading a narcotics dealing organization. No update was available at year's end.

In October 2008 several police officers from a unit to combat drug trafficking in Baku were arrested on distribution charges. One kilogram of heroin was seized during the search of their offices. The officers remained in custody at year's end.

Arrest Procedures and Treatment While in Detention

The law states that persons who are detained, arrested, or accused of a crime should be advised immediately of their rights and reason for arrest and accorded due process; however, the government did not respect these provisions in practice. Arbitrary arrest, often on spurious charges of resisting the police, remained a problem throughout the year.

The law allows police to detain and question individuals for 24 hours without a warrant; in practice police detained individuals for several days, sometimes weeks, without a warrant. In other instances judges issued ex post facto warrants.

Judges, acting at the instruction of the Prosecutor General's Office or of other executive branch officials, sentenced detainees to jail within hours of their arrest without providing them access to lawyers.

The law provides for access to a lawyer from the time of detention; in practice access to lawyers was poor, particularly outside of Baku. Although entitled to it by law, indigent detainees did not have such access. Authorities often restricted family member visits and withheld information about detainees; days frequently passed before families could obtain any information about detained relatives. There was no formal, functioning bail system; however, individuals were sometimes permitted to vouch for detainees, enabling their conditional release during pretrial investigation. Politically sensitive suspects were at times held incommunicado for several hours or sometimes days while in police custody.

During the year there were numerous instances of violations of arrest and detention procedures, many of which involved individuals engaged in peaceful demonstrations. For example, on April 28, police arrested four members of the Dalga proreform youth movement outside Martyrs' Alley, a public park. The four persons were held for several hours at a police station and then released without being charged.

From May 8 to 10, police arrested nearly 100 young persons in connection with protests critical of the authorities' response to the April 30 shooting at the State Oil Academy, when a gunman forced his way into the institute and killed 13 persons. Police preemptively arrested several youths connected with planning the May 10 protests and held them until after May 10 on spurious charges of resisting arrest. In addition, on May 10, police arrested dozens of youths during several demonstrations and held them for several hours without access to lawyers or informing them of the basis for their detention. Police released them all late in the afternoon without any formal charges, after recording their names and addresses. Several youths reported that police visited their families during the following weeks to ask about their activities.

On September 16, authorities arrested six youth activists wearing T-shirts stating "I am also a hooligan," to protest the arrest of fellow youth activists Emin Milli and Adnan Hajizade, who were on trial at the time, charged with hooliganism (see sections 1.e. and 2.a.). The six were arrested outside the Sabail courthouse and held for more than three hours as the court held the second hearing in the case; they were released only after the hearing was completed. No charges were filed against them.

Lengthy pretrial detention of up to 18 months was a serious problem. The prosecutor general routinely extended the permitted, initial three-month pretrial detention period in successive increments of several months until the government completed an investigation.

Amnesty

On March 17, the government adopted the proposal of first lady and Milli Majlis deputy Mehriban Aliyeva and announced an amnesty for certain categories of prisoners. A total of 9,000 prisoners were pardoned, 1,700 of whom were freed from jail, while the rest were serving conditional sentences or had paid fines. The persons freed included an alleged political prisoner, journalist Mirza Sakit (Sakit Zahidov), who had served 33 months of a 36-month sentence.

On December 25, President Aliyev issued a pardon of 89 prisoners. These pardons were based on appeals to the pardon committee. Among those pardoned was journalist Mushfig Huseynov, who was convicted on charges considered to be politically motivated by many local observers. Huseynov suffered from late-stage TB, and his health had severely deteriorated over the previous months.

Despite indications in 2008 that they would be released, several prominent journalists remained in prison at year's end.

e. Denial of Fair Public Trial

Although the law provides for an independent judiciary, in practice judges did not function independently of the executive branch. The judiciary remained corrupt and inefficient. Verdicts were largely unrelated to the evidence presented during the trial.

The executive branch continued to exert a strong influence over the judiciary. The ostensibly independent Judicial Legal Council, which administers the examination for candidates for judges, was controlled by the Ministry of Justice. The judicial selection process included lengthy coursework, written and oral examinations, and a final interview. International observers believed that the oral component of the examinations allowed for corruption in the selection process. The examination process resulted in the selection of 80 lower court judges, none of whom were sworn in at year's end. Supreme Court, Appellate Court, and Constitutional Court judges are nominated by the president and must be approved by the Milli Majlis.

Credible reports indicated that judges and prosecutors still took instruction from the presidential administration and the Justice Ministry, particularly in cases of interest to international observers. While judges' salaries steadily increased for several years prior to 2008, there continued to be credible allegations that judges routinely accepted bribes. During the year the Ministry of Justice reported that disciplinary proceedings were initiated against 10 judges; however, the Judicial Legal Council reported that it disciplined 22 judges and removed two court chairmen from their positions during the year.

On February 9, the president issued a decree creating the 2009-13 State Program on Development of the Justice System. The program's objectives included improving legislation and the quality of professional staff training.

Following the Legal Education Society's (LES) 2008 publication of a book reporting on disciplinary actions against judges, Judge Gazanfar Karimov--one of the judges named in the book--sued LES head Intigam Aliyev and his coeditor for "insult to honor and dignity." LES reported in the book that disciplinary decisions against judges often were not implemented and reprinted the text of the decision censuring Karimov from the Judicial Legal Council's Web site as an example. During the year the district and appellate courts ruled in favor of the judge and ordered Aliyev to pay a fine, print a retraction and apology, and to collect all copies of the book. Aliyev's appeal was pending before the Supreme Court at year's end. Observers believed that authorities targeted Aliyev and this project for having exposed the executive branch's control over the judicial system.

Courts of general jurisdiction may hear criminal, civil, and juvenile cases. District courts try the majority of cases. The Court of Grave Crimes acts as the court of first instance in cases in which the accused committed a crime deliberately and in which the punishment would be a prison sentence of more than seven years. Cases are heard by a three-judge panel. The Military Court of Grave Crimes functions similarly for serious crimes committed by members of the military. The Supreme Court may not act as the court of first instance. Either one judge or a three-judge panel presides over first-

hearing trials at the district court or the Court of Grave Crimes, while a panel of three or more judges hears cases at the Court of Appeals. At the Supreme Court, cases are initially heard by a panel of three judges. Their ruling can be further appealed to the Plenum, which is the highest level of the court and consists of a panel of nine judges. All citizens have the right to appeal constitutional matters to the Constitutional Court.

The constitution prohibits any one person from being tried and/or sentenced twice for the same crime. On April 22, however, Sayyara Heydarova was given a three-year conditional sentence for the same incident for which she was originally jailed in 2005. Heydarova had been arrested in 2005 while attempting to stop illegal tree cutting in the yard of her apartment complex. She was accused of beating four men during the incident and sent to prison. Local human rights defenders believed she was arrested for organizing her neighbors to petition against the building activity in this yard. In 2007 she went on a hunger strike to protest her imprisonment and was released after another female prisoner on a hunger strike died. Heydarova appealed the second conviction; her appeal was pending at year's end.

After the country joined the Council of Europe in 2001, citizens gained the right to appeal court decisions on human rights cases to the ECHR within six months of the first Supreme Court ruling on a case. As in previous years, citizens exercised this right frequently during the year. The ECHR did not consider any of the 12 judgments it had delivered against the government to be fully implemented at year's end.

On October 8, the ECHR delivered judgments on two cases brought against the government. The court ruled in favor of the Nature Defense Community, an NGO, and its former chairman, Sabir Israfilov, who claimed that the Ministry of Justice had illegally dissolved the organization. The court awarded monetary compensation to Israfilov. The court also ruled in favor of Rahib Maksimov, convicted of a bomb attack on the Baku metro in 1994. The court ruled that the government had mishandled Maksimov's appeal proceedings, and that the appeal would have to be reopened.

The Judicial Legal Council continued to coordinate efforts with international organizations to train judges.

Trial Procedures

The law provides for public trials except in cases involving state, commercial, or professional secrets or matters involving confidential, personal, or family matters. During the year international monitors noted numerous violations of this law in practice, however.

While the law provides for the presumption of innocence in criminal cases, the right to review evidence, the right of defendants to confront witnesses and present evidence at trial, the right to a court-approved attorney for indigent defendants, and the right of appeal for defendants and prosecutors, these provisions were generally not respected in practice.

International monitors found numerous instances where the judge did not inform the accused of their rights or the charges brought against them. Even in cases where the presumption of innocence was not explicitly breached, the practice of having the accused appear in handcuffs inside locked metal cages implicitly did so. In addition, judges often failed to read the verdict publicly, leaving the accused without knowledge of the reasoning behind the judgment.

Jury trials were not used. Foreign and domestic observers usually were allowed to attend trials; however, the Court of Grave Crimes and Court of Grave Military Offenses severely limited access to OSCE trial monitors in 2006 and 2007. Small courtrooms with inadequate seating prevented public attendance at some hearings. Information regarding trial times and locations was generally available, although there were some exceptions, particularly the Court of Grave Crimes.

Although the constitution prescribes equal status for prosecutors and defense attorneys, in practice prosecutors' privileges and rights outweighed those of the defense. Judges reserved the right to remove defense lawyers in civil cases for "good cause." In criminal proceedings, judges may remove defense lawyers because of a conflict of interest or if a defendant requests a change of counsel. In addition, judges often showed preference to prosecutors when assessing motions, oral statements, and evidence submitted by defense counsel.

The law limits representation in criminal cases to members of a government-controlled collegium of lawyers (bar association). Since there were only 768 collegium members, of which only an estimated 415 were practicing, in a country of nine million, access to licensed legal representation was restricted, particularly outside of Baku. After a two-year hiatus, the collegium held a bar examination in May, with the oral portion in July. According to international monitors, the written portion of the collegium's entrance examination was poorly designed even in comparison with previous years' exams, with many questions that were ambiguous or irrelevant to the knowledge needed to be an attorney. Thus only 15 percent of applicants passed this first stage. The oral portion was inconsistent and unprofessional, with no standard set of questions or approved answers. In addition, the chairman of the collegium refused to swear in several lawyers who passed all stages of the examination. The purported reason for this refusal was that the lawyers were already employed, although there is no legal basis for this restriction, and many collegium members had full-time jobs. The collegium reserved the right to remove lawyers from criminal cases and sometimes did so for reasons that observers believed were questionable. As a result, criminal defendants were not fairly or adequately represented, their rights were not protected, and there was a lack of due process of law.

The constitution prohibits the use of illegally obtained evidence; however, despite some defendants' claims that testimony was obtained through torture or abuse, no cases based on claims of abuse were dismissed, and there was no independent forensic investigator to determine the occurrence of abuse. Judges often simply ignored claims of police mistreatment. Investigations often focused on obtaining confessions rather than gathering physical evidence against suspects. Serious crimes brought before the courts most often ended in conviction, as judges generally required only a minimal level of proof and collaborated closely with prosecutors. In the rare instances in which judges determined that the evidence presented was not sufficient to convict a defendant, they could return cases to the prosecutor for additional investigations, effectively giving the prosecutors subsequent chances for convictions.

Aside from the Court of Grave Crimes and the Military Court of Grave Crimes, courts often failed to provide translators. Each court is entitled to contract translators during hearings, and such expenses must be covered by the Ministry of Justice.

There were no verbatim transcripts of judicial proceedings; testimony, oral arguments, and judicial decisions were not recorded. Instead the court officer generally took notes that tended to be sparse and decided what if anything should be included in the notes.

The case of youth activists Emin Milli and Adnan Hajizade included a number of procedural shortcomings. Although they sought protection from the police after being assaulted in a restaurant in July, the two were detained and accused of hooliganism while their assailants were released. The accused did not receive timely medical treatment for injuries when originally arrested, nor did they have prompt access to their lawyers. Government officials violated the defendants' presumption of innocence in public statements proclaiming their guilt. After a hearing that was closed to the public, the two men were held for two months in pretrial detention and prevented from seeing family members. During the eventual trial in the fall, the judge excluded some physical evidence and witness testimony provided by the defense, despite their clear relevance to the case. International and local observers were prohibited from attending the initial hearings in the case, although they were allowed to monitor the subsequent trial (see section 2.a.).

In 2007 the Court of Grave Crimes convicted Ali Insanov, former minister of health, and 10 other defendants of public corruption and other charges. The court sentenced Insanov to 11 years in prison. According to OSCE trial monitors, there was "an overwhelming appearance" that Insanov and his codefendants "did not have a fair trial and that the judges were not impartial."

In 2007 the Court of Grave Crimes convicted Farhad Aliyev, former minister of economic development, his brother Rafiq, and 17 other defendants on a range of charges related to corruption. The Aliyev brothers received prison sentences of 10 and nine years, respectively. All of the defendants were originally arrested in 2005 on coup plotting charges and subsequently charged with corruption. During the trial monitors noted numerous due process violations. Both Insanov and the Aliyev brothers remained incarcerated enduring the year. The Aliyev brothers' separate appeals to the ECHR were pending at year's end.

In a separate case during 2008, the ECHR issued a judgment that found a violation by the country of the right to a fair trial and two violations regarding length of proceedings under article 6 of the European Convention on Human Rights.

The country has a military court system with civilian judges. The military court retains original jurisdiction over any case in which crimes related to war or military service are adjudicated.

Political Prisoners and Detainees

Local NGOs maintained that the government continued to hold political prisoners, although estimates of the number varied. At year's end NGO activists maintained that the government held between 23 and 45 political prisoners.

Elchin Amiraslanov, Safa Poladov, and Arif Kazimov--who had been listed in the Council of Europe's experts report on political prisoners--remained incarcerated during the year.

Some estimates of the number of political prisoners included persons arrested in 2005 on charges of plotting a coup and subsequently convicted of corruption.

There were no reliable estimates of the number of political detainees. Most political detainees received sentences of between 10 and 15 days in jail, which were often described as "administrative detention" sentences.

The government generally permitted unrestricted access to alleged political prisoners by international humanitarian organizations such as the ICRC.

Civil Judicial Procedures and Remedies

The law does not provide for an independent and impartial jury in civil matters. District courts have jurisdiction over civil matters in their first hearing; appeals are addressed by the Court of Appeals and then by the Supreme Court. Citizens have the right to bring lawsuits seeking damages for, or cessation of, human rights violations. As with criminal trials, all citizens have the right to appeal to the European Court of Human Rights within six months of the first Supreme Court ruling on their case.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law prohibits arbitrary invasions of privacy and monitoring of correspondence and other private communications; the government did not respect these legal prohibitions in practice.

The constitution allows for searches of residences only with a court order or in cases specifically provided by law; however, authorities often conducted searches without warrants. It was widely believed that the Ministry of National Security and the Ministry of Internal Affairs monitored telephone and Internet communications, particularly those of foreigners, prominent political and business figures, and persons engaged in international communication. In one such incident, the Ministry of National Security identified and questioned many of the 43 persons who voted via text message for the Armenian entry into the annual Eurovision song contest. After an investigation, the European Broadcasting Union, which ran the contest, decided not to sanction the country's public television channel but changed its rules so that in the future the television company that broadcasts the program will be responsible for the actions of the telephone companies with which it works.

Police continued to intimidate and harass family members of suspected criminals.

During the year domestic human rights monitors reported concerns about the lack of due process and respect for the rule of law in a number of cases related to property rights. Domestic monitors reported that the number of property rights complaints they received skyrocketed during the year, compared to previous years. For example, the Baku Executive Authority announced to residents of a historic building on the seaside boulevard that they had to vacate their homes immediately, as the building would be demolished. Human rights defenders reported that no compensation was given to these residents and that water, electricity, and gas were shut off in the building in order to force them to leave. Residents filed a lawsuit, which was pending at the end of the year, but the building was torn down.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for freedom of speech and of the press and specifically prohibits press censorship; however, the government often did not respect these rights in practice. During the year the government took actions that further limited media independence.

During the year the UN Universal Periodic Review of Azerbaijan's commitments to the International Covenant on Civil and Political Rights noted its concern over the extensive limitations to the right to freedom of expression. During 2008 the ECHR issued a judgment that found a violation by the country of the freedom of expression as provided under the European Convention on Human Rights.

Although opposition parties continued to publish newspapers, and human rights activists were mostly able to conduct their work without fear of reprisal, the government penalized persons who criticized government officials or practices in some cases.

A March referendum made a number of changes to the constitution, including several that limit freedom of the media. These included a prohibition on videotaping or photographing of anyone without their permission. The government also amended the law on mass media to make it easier for the government to close a publication.

A State Media Support Fund established to assist newspapers in 2008 announced the first cash grants for 55 media outlets on September 1. While the fund provided grants to both opposition and progovernment newspapers, most commentators characterized the program as an attempt to constrain further an already tame press with financial subsidies.

A number of journalists who criticized government officials in the course of their work were subjected to harassment, threats, and acts of physical violence that appeared to be connected to their criticism of the government or public officials.

Reporters without Borders reported that independent and opposition journalists were under constant pressure because of their work.

According to prominent journalists, companies and institutions were fearful of placing their advertising in opposition media due to direct or indirect recommendations from government representatives, so paid advertising was all but absent from newspapers.

A number of opposition and independent media outlets operated during the year. The print media expressed a wide variety of views on government policies, although objective, professional reporting was rare. However, broadcast media almost exclusively adhered to a progovernment line in their news coverage.

Most print outlets in the country were organs of the ruling party, opposition parties, or were thought to be connected to prominent government officials. There were eight national television stations and 14 regional outlets. There were 11 national radio broadcasters. The government prohibited Voice of America, Radio Free Europe/Radio Liberty, and the BBC from broadcasting on national FM frequencies and national television effective January 1. Without these international broadcasters, the public no longer had access to unbiased news on any widely available broadcast media. There also were several national state-owned newspapers and numerous newspapers funded by city or district-level officials. Newspaper circulation rates, both government and opposition, were low, not surpassing 5,000 in most cases. Many newspapers were circulated only in the capital.

Some private television stations operated, but independent media monitoring found their programs to be biased in favor of the ruling party. ANS Television, the audience leader, was generally regarded as a source of relatively balanced news coverage prior to its temporary closure by the National Television and Radio Council (NTRC) in 2006. However, most media monitors believed ANS had since adopted a more cautious, self-censored approach to news coverage, often airing the same news and news angles as government-sponsored media.

Electronic media were generally more susceptible to pressure due to their reliance on government-provided broadcast licenses. Such outlets were less critical of the government than opposition and independent print outlets. "Free Waves," a 20-month monitoring study of television broadcasting supported by the European Commission, indicated that the country's television networks were largely devoted to promoting President Aliyev, his government, and the ruling party. State-run AzTV, for example, devoted 98 percent of its political coverage to the government, the Aliyev family, and the ruling Yeni Azerbaijan Party (YAP), with just 2 percent left for opposing views.

There were no restrictions on systems to receive satellite broadcasts by foreign stations, but the NTRC continued to impose a general requirement that local, private television and radio stations not rebroadcast entire news programs of foreign origin.

Although the government released some journalists, several remained imprisoned or were jailed during the year on criminal convictions for libel and other charges supposedly unrelated to their work. International and local commentators believed that the government targeted the journalists due to their criticism of government figures and policies.

On December 25, opposition newspaper *Bizim Yol* correspondent Mushfig Huseynov was pardoned by President Aliyev and released from prison. Huseynov had been sentenced in January 2008 to six years in prison for accepting a bribe. He suffered from TB. Some domestic observers considered Huseynov's arrest to be politically motivated, while others believed him to be guilty but to have been selectively prosecuted.

During the year the government--after several months' delay--submitted all documentation on the case of imprisoned journalist Eynulla Fatullayev to the ECHR. After a search of Fatullayev's cell on December 29, the Penitentiary Service claimed it found 0.22 grams of heroin in his possession. On December 30, authorities charged Fatullayev with drug possession and on December 31, in a hearing that reportedly lasted 15 minutes, a judge sentenced Fatullayev to two months of detention in isolation, pending further investigation of the case. The OSCE representative on media freedom called the charge "highly improbable," and local human rights defenders believed the case was brought in order to keep Fatullayev imprisoned after an ECHR ruling, where the case was pending at year's end.

In 2007 the Baku Court of Grave Crimes had sentenced the already jailed editor in chief of *Realny Azerbaijan* and *Gundelik Azerbaijan* to eight and one-half years in prison on charges of supporting terrorism, inciting ethnic hatred, and tax evasion. The charges were based on an article that Fatullayev wrote criticizing the government's policy towards Iran and listing specific locations in the country as potential targets for an Iranian attack. The sentence incorporated Fatullayev's previous libel conviction for an article he allegedly wrote purporting that government forces may have played a role in the 1992 events in Khojali. International and domestic observers considered his imprisonment politically motivated.

Ganimat Zahid, editor in chief of *Azadliq* newspaper, remained in prison at year's end. On September 17, a court denied Zahidov's appeal for early release for good behavior, stating that he had refused to participate in a prison volleyball game and therefore was uncooperative. In 2007 police had arrested Zahid on charges of hooliganism and inflicting minor bodily harm. International and domestic observers considered his imprisonment to be politically motivated.

On April 9, authorities released prominent political satirist Mirza Zahidov (also known as Mirza Sakit or Sakit Zahidov) from prison in connection with a large amnesty (see section 1.d.). His release was delayed for three weeks, reportedly for administrative reasons. In 2006 the Baku Court of Grave Crimes convicted Zahidov of drug possession and sentenced him to three years in prison. International and domestic observers considered his imprisonment politically motivated.

Spurious lawsuits were also used to intimidate journalists. For example, Mahal Ismayilglu, a former reporter for a government newspaper who switched to writing for an opposition newspaper in 2008, was subsequently prosecuted for an alleged fight with his neighbor's maid. In August Ismayilglu was convicted of attacking the maid and given a two-year conditional sentence. The case was awaiting a hearing at the Supreme Court at year's end. Ismayilglu had a heart attack during the year but was prevented from leaving the country for needed surgery due to the pending court case. Local human rights defenders believed government officials were retaliating against Ismayilglu for "switching sides" to an opposition newspaper.

Harassment, intimidation, and violence against individual journalists continued during the year; the government did not hold perpetrators accountable. A media-monitoring NGO reported that during the year there were 51 incidents involving verbal or physical assaults on journalists, compared with 49 cases in 2008. Law enforcement agencies began investigations into 15 of these cases; however, only one case was brought to trial, largely due to the fact that it happened on live television.

During the year numerous journalists reported physical attacks in connection with their professional activity.

On April 26, Yasamal District police beat three employees of ANS Television as they were filming the controversial destruction of a mosque. Employees received minor injuries and their equipment was destroyed. Police eventually compensated the channel for the equipment, but did not return the video of the incident.

Early in the morning of September 13, unknown assailants beat the editor in chief of *Ayan* newspaper, Javid Alasgaroglu, and threw him into a trash dump. Alasgaroglu sustained serious injuries and was immediately hospitalized. The victim's

family attributed the incident to Alasgaroglu's professional activity. The newspaper had published several critical articles about government officials.

Emin Huseynov, a reporter who was chair of the Institute for Reporters' Freedom and Safety (IRFS), was hospitalized after being beaten by police in June 2008 while covering the breaking up of a public meeting by police. He later filed suit against the Ministry of Internal Affairs, charging that no legal action had been taken against his attackers. Huseynov lost 50 percent of his hearing as a result of his injuries. During the year the court of first instance and the court of appeal rejected Huseynov's lawsuit, and the case was pending before the Supreme Court at year's end.

There was no evidence that authorities held any police officers accountable for physical assaults on journalists in recent years.

Serious concerns remained about the lack of accountability for the 2005 killing of Elmar Huseynov. There were no developments reported in the investigation of his killing, but one human rights defender was called to the Ministry of National Security in March regarding the case. Media and human rights activists continued to call on the government to further investigate this case.

Amendments in 2008 to the election code allowed lobbying groups who registered in the March national referendum to have free television and radio airtime, as well as print space in government newspapers. Opposition parties and human rights advocates, however, complained that the free airtime was moved from State Television to Public Television, which had lower viewership, and that the timing of the broadcasts made it difficult for working people to watch. International and local media monitors concluded that news coverage of the referendum was overwhelmingly biased to favor the government's position.

Although pro-opposition journalists openly criticized government officials, a combination of intimidation and a desire not to alienate potential advertisers led most independent journalists and editors to practice some degree of self-censorship.

Libel remained a criminal offense, and the number of libel prosecutions increased during the year. The law allows for large fines and up to three years' imprisonment for persons convicted of libel. Administration officials stated publicly in April that this provision would be removed from the criminal code, and subsequently courts overturned the conviction of two journalists for libel. However, the government's statements notwithstanding, libel remains a criminal offense.

During the year three journalists from *NOTA* newspaper were convicted under this criminal provision. On July 22, editor-in-chief Sardar Alibeyli and advisor Faramaz Novruzoglu were sentenced to three months' imprisonment in a case brought by a public union chairman. In the same case correspondent Ramiz Tagiyev was given a six-month conditional sentence. On October 8, the Appellate Court upheld the lower court's decision and Alibeyli and Novruzoglu were imprisoned. Separately, on October 9, the Appellate Court also rejected Alibeyli's appeal of a case brought by several Internal Affairs representatives and sentenced Alibeyli to four months' imprisonment, to be served concurrently with his earlier sentence.

In previous years the government used defamation suits and the threat of exorbitantly high fines for libel to intimidate and harass the media. Fine payments due from previous defamation suits threatened the financial viability of the print media and journalists. Government reliance on measures that hampered printing and distribution of independent newspapers and magazines remained largely unchanged.

Most newspapers and magazines were printed in government publishing houses or on private printing presses owned by individuals who had connections with government officials. The majority of independent and opposition newspapers remained in precarious financial situations; they continued to have problems paying wages, taxes, and periodic court fines. Most relied on political parties or influential sponsors for financing, as the advertising-based business model was weak.

The government prohibited some state libraries from subscribing to opposition newspapers. The government also continued to prohibit state businesses from buying advertising in opposition newspapers and pressured private business to do the same. Political commentators said that this problem reduced the wages opposition and independent outlets could pay to their journalists, allowing progovernment outlets to hire away quality staff. In addition, international media monitoring reports indicated that intimidation by officials of the Ministry of Taxes further limited the independence of the media.

Nakhchivan- and Baku-based journalists reported that authorities in the enclave of Nakhchivan continued to block distribution of opposition newspapers.

Internet Freedom

The government generally did not restrict access to the Internet, but it required Internet service providers to be licensed and have formal agreements with the Ministry of Communications and Information Technologies. Penetration was low, particularly outside the capital city. According to International Telecommunication Union statistics for 2008, approximately 17 percent of the country's inhabitants used the Internet.

There was no evidence to confirm the widely held belief that the government monitored Internet traffic of foreign businesses and opposition leaders. During the year authorities temporarily blocked access to a Web site supporting jailed youth activists Emin Milli and Adnan Hajizade. Authorities also blocked public access to two Web sites of an independent NGO, the Election Monitoring Center, although the sites were accessible from abroad.

Domestic observers reported that, on several occasions during the year, the government temporarily blocked public Internet access to a Web site popular for lampooning the president. There were reportedly greater restrictions on the Internet in Nakhchivan, where residents claimed they were unable to view opposition Web sites. Access to the Internet was limited to urban centers due to lack of infrastructure.

On July 8, two men attacked youth activists and bloggers Emin Milli (Abdullayev) and Adnan Hajizade, who were dining with friends at a restaurant in Baku. Milli suffered wounds to his leg, and Hajizade's nose was broken during the assault. After Milli and Hajizade filed a complaint with the police about the attack, the police arrested them for purportedly starting the fight while releasing their assailants (see section 1.e.). Observers noted that the two assailants were significantly larger than Milli and Hajizade and believed that the authorities had arranged a provocation at the restaurant in order to prosecute Milli and Hajizade for their peaceful expression of support for reform via the Internet and alleged antigovernment activity.

Academic Freedom and Cultural Events

The government on occasion restricted academic freedom.

Some domestic observers raised concerns about the government's selection of participants for state-sponsored study abroad programs. Credible reports indicated that students who had been accepted into U.S. graduate schools and approved for scholarships by the government were denied them after the arrest of youth activists Emin Milli and Adnan Hajizade (see section 1.e.). Hajizade had attended high school in the United States and later graduated from the University of Richmond. The government maintained that its selection process was transparent and political affiliation was not a factor.

Opposition party members continued to report difficulties in finding jobs teaching at schools and universities. Most known opposition party members teaching in state educational institutions had been fired in previous years.

During the 2008 presidential election campaign, students at several universities reported pressure from deans to avoid cooperation with an independent NGO monitoring the election. Some students reported being directed by the deans of their faculties to change voter registration from their home districts so that they would have to vote at the university. Others reported that universities required students to attend pro-presidential rallies, providing transportation and threatening students with expulsion if they did not attend. In another case students were threatened with expulsion from their dormitory if they participated in election monitoring.

There were no reports of government restrictions on cultural events.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The law provides for freedom of assembly; however, the government severely restricted this right in practice. Although the law stipulates that groups may peacefully assemble only with prior notification of relevant government bodies, the government continued to interpret this provision as a requirement for advance permission from the Baku mayor's office.

In June 2008 new amendments to the law on freedom of assembly entered into force. A review of the amended law by international organizations noted that it met most international standards, and numerous international observers called on the government to implement it fully. However, in practice the government continued to require all rallies to be preapproved and held at designated locations far removed from the city center, a stipulation most political parties and NGOs found unacceptable. In contrast, the ruling YAP held a large rally in a central square in October 2008 to celebrate the reelection of the president. Opposition parties had been denied permission to hold a rally in the same square. The government denied opposition and some other NGO requests to hold political rallies on multiple occasions and broke up several unsanctioned pickets and demonstrations, often detaining participants for several hours.

On January 2, approximately 150-200 persons attempted to protest Israel's actions in Gaza outside the Israeli Embassy in Baku. Police temporarily detained approximately 150 of them; of these, police charged and held 25 for several days. Journalists reported that force was used to break up the protest.

On January 21, the opposition Musavat youth group attempted to hold a protest outside the National Television and Radio Council regarding the closure of Voice of America, Radio Liberty, and the BBC (see section 2.a.). Despite the group's advance notification to the Baku mayor's office as required in the law, police arrested and temporarily detained seven members of the group during the demonstration.

On June 22, approximately 50 well-known civil society activists attempted to protest near the Milli Majlis regarding planned changes to the NGO law. Dozens of police, both uniformed and plainclothed, moved the protesters several blocks away from the building, where they could not be seen. Police allowed them to hold their demonstration at this location.

On October 6, approximately 20 youths held a protest in front of the Baku State University over the three-fold increase in fares for the Baku metro. On October 13, a larger group of young persons attempted to hold a similar protest in the same location. This group shouted slogans, and eight of them were promptly arrested and detained for several hours. They were released that evening after paying a fine.

Freedom of Association

The law provides for freedom of association, although in practice the government's restriction of this right worsened during the year. A number of provisions allow the government to regulate the activities of political parties, religious groups, businesses, and NGOs, including a requirement that all organizations register either with the Justice Ministry or the State Committee on Work with Religious Associations (SCWRA). Although the law requires the government to act on

registration applications within 30 days of receipt, vague, cumbersome, and nontransparent registration procedures continued to result in long delays that effectively limited citizens' right to associate.

On June 30, the Milli Majlis amended the law on NGOs to add new restrictions on freedom of association. While officials removed the most troublesome provisions of the first draft of the amended law, the new amendments contained some restrictions, including requiring deputies of NGO branches to be Azerbaijani citizens and requiring foreign NGOs to sign an agreement with the government before opening an office. On December 25, President Aliyev issued a decree making further changes to the law on NGOs. International and local NGOs were concerned by a new provision in this decree that requires NGOs to register all grants they receive with the Ministry of Justice. The government had not announced procedures for this registration process at year's end.

During the year the ministry registered 162 noncommercial legal entities. The ministry did not provide information on the total number of NGO applications received or rejected during the year. Several NGOs reported problems obtaining registration with the Ministry of Justice. For example, several members of the former NGO Election Monitoring Center, which the ministry deregistered in 2008, attempted to register as a new organization, the Election Monitoring and Democracy Studies Center. The organization was denied registration on what observers believed to be unsubstantial grounds, and it was pursuing a lawsuit against the ministry at year's end. Another NGO, the Society of Democratic Reforms, reported that it unsuccessfully had attempted to register for 10 years.

c. Freedom of Religion

The constitution and law provide for freedom of religion; however, burdensome registration requirements and selective harassment of religious groups marred application of the law. Amendments to the law passed in May added new restrictions on the ability of religions to function.

Although the law expressly prohibits the government from interfering in the religious activities of any individual or group, there are exceptions, including cases where the activity of a religious group threatens public order and stability. Most religious groups met without government interference; however, local authorities monitored religious services, and officials harassed and detained members of Islamic and "nontraditional" religious groups.

There appeared to be a distinction between how the government treated groups it perceived as "traditional" and "nontraditional." "Traditional" religious groups included Islamic communities registered with the government, Jewish groups, the Orthodox Church, and the Catholic Church. Groups perceived as "nontraditional" included unregistered Islamic groups, Jehovah's Witnesses, and several Protestant communities. In general the "traditional" groups reported no religious freedom problems, while "nontraditional" communities frequently complained they were the victims of selective harassment or that the government arbitrarily created obstacles to their registration.

A number of legal provisions enabled the government to regulate religious groups, particularly a requirement that religious organizations, including individual congregations of a religious group, be registered. Muslim religious groups must receive a letter of approval from the Caucasus Muslim Board (CMB) before they can be registered by the SCWRA. The SCWRA and its chairman have broad powers over registration and could both control the publication, import, and distribution of religious literature and suspend the activities of groups violating the law. The SCWRA could also appeal to the court for the suspension of activities of a religious group.

Registered Muslim organizations are subordinate to the CMB, a Soviet-era entity that appointed Muslim clerics to mosques, administered Islamic educational institutions, periodically monitored sermons, and organized annual hajj pilgrimages. Some local Muslim believers criticized the CMB's and the SCWRA's ability to register and regulate their communities. In the course of the year, authorities prohibited activities or closed a number of mosques not registered with

the SCWRA. For example, in August Baku city authorities suspended construction of the Fatime-Zahra mosque, explaining that the mosque community was not registered. In September authorities suspended activities of the unregistered Juma mosque in Ganja city. The Shahidlar mosque of Baku, constructed and run by the Turkish religious waf (religious endowment), was closed earlier in the year and remained closed at year's end. On October 17, the government closed another Turkish waf-run mosque in Mehdiabab, northwest of Baku. Since April, when local Baku government authorities destroyed the Prophet Muhammad Mosque over a property dispute, there were no known developments relating to the community or the property.

At the beginning of the year there were a total of 529 registered religious communities in the country, of which 497 were Islamic and 32 were non-Islamic. However, the amended Law on Religious Freedom adopted in May required all religious communities, both traditional and nontraditional, to reregister with the SCWRA. Previous registration status with the SCWRA was no longer valid, and all religious communities had until January 2010 to complete reregistration. By year's end, the total number of religious communities that applied for reregistration reached 660, of which 150 were registered.

Prior to the May amendments, several groups reported that the SCWRA sometimes failed to rule on registration applications in a timely manner, and some groups complained that the SCWRA or local officials made the application process difficult or impossible for nontraditional, including some evangelical Protestant, communities. Unregistered organizations were vulnerable to being declared illegal and closed or subjected to selective harassment by authorities.

A variety of unregistered religious groups continued to function, including Muslim groups, members of Jehovah's Witnesses, and some evangelical Christians. The SCWRA estimated that there were 160 unregistered groups. However, some unregistered groups—particularly nontraditional religious organizations—were subject to periodic and selective police harassment in the form of disruption of religious services and intimidation. Local law enforcement officials occasionally monitored religious services and reportedly singled out some observant Christians and Muslims for searches on the grounds of security. Law enforcement and national security bodies observed the activities of certain mosques.

Some Muslim representatives criticized the government for adopting a heavy-handed stance in reaction to the August 2008 bombing of the Abu Bakr mosque. After the bombing, authorities closed the heavily attended mosque, and attempts to obtain court permission to reopen it had not succeeded by year's end. There was a spike in the number of reported detentions and forced beard-shavings carried out by police in Baku after the bombing.

A number of practicing Muslims asserted that the government often failed to distinguish between practicing Muslims and extremists. They charged that the government often adopted a heavy-handed approach to practicing Muslims and, in the process, failed to grant them genuine religious freedom. This approach reportedly included forcibly shaving beards and fingerprinting Muslims, banning prayers outside mosques, and pressuring certain television stations not to run religious programming. A number of Muslims criticized the CMB for trying to monopolize Islamic religious practices in the country. As amended in May, the Law on Religious Freedom forbids clerics who graduated from foreign educational institutions from leading Islamic religious ceremonies. This limited the pool of clerics in the country to those who graduated from Baku Islamic University.

On November 29, police detained and beat Lydia Suleymanova, an 81-year-old member of Jehovah's Witnesses in Zagatala, as she left a religious meeting. A police officer detained her at a bus stop and brought her to a public cafe, where he confiscated her bag containing her religious books and beat her. Other police officers then took her to the police station, where she was forced to sign a confession she could not read. She filed a complaint with the Prosecutor's Office, but the official medical examiner refused to see her, despite her having pictures showing her injuries.

Officials dropped the criminal case against Baptist pastor Hamid Shabanov in March. In June 2008 police in Zagatala arrested him for allegedly possessing an illegal weapon. Local Baptists claimed the authorities planted the weapon in Shabanov's residence. International and domestic court monitors reported procedural violations in Shabanov's trial.

The law expressly prohibits religious proselytizing by foreigners, and officials strictly enforced the prohibition. In September law enforcement authorities deported Javid Shangarov from the northern town of Yalama. Shangarov, who belonged to the Baptist church, held a Russian passport. The government was concerned about Islamic missionary groups (predominantly Iranian Shi'a and Salafi Sunni) operating in the country and continued to restrict their activities.

The law permits the production and dissemination of religious literature with the approval of the SCWRA; however, authorities appeared to selectively restrict the importation and distribution of religious materials. Obtaining permission to import religious literature remained burdensome, and Islamic and Christian groups complained about the lengthy approval process. During the year there were multiple episodes in which police confiscated allegedly radical Islamic literature in several areas of the country. However, the SCWRA also facilitated the importation of some literature, and the process appeared to be improving, albeit in an arbitrary manner.

The law does not restrict the right of women to wear the Muslim headscarf in educational or state facilities. In practice women were not allowed to wear headscarves in photos for passports and other official identity documents. The government did not restrain university administrators or employers from selectively pressuring some women not to wear headscarves.

At year's end, the government had not developed an alternative service option for persons who conscientiously objected to serving in the military. The lack of such an option remained a problem for several members of Jehovah's Witnesses, who conscientiously objected to serving in the military and faced prosecution for refusing to serve.

Societal Abuses and Discrimination

There were some reports of societal abuses or discrimination based on religious affiliation, belief, or practice. There was popular prejudice against Muslims who converted to other faiths and hostility toward groups that proselytized, particularly evangelical Christian and other missionary groups.

The government actively tried to promote religious tolerance. The SCWRA convened leaders of various religious communities on several occasions. During the year the SCWRA organized several seminars, conferences, and regional meetings on religious freedom and tolerance.

There were no credible reports of anti-Semitic acts against the country's Jewish community.

For a more detailed discussion, see the *2009 International Religious Freedom Report* at www.state.gov/g/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation; however, the government limited freedom of movement at times, particularly for internally displaced persons (IDPs). The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to IDPs, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern. In 2007 responsibility for all refugee matters, including refugee status determination, was moved from the deputy prime minister to the newly created State Migration Service. International NGOs continued to report that this new department remained inefficient and did not operate as transparently as the previous one.

The law requires men of draft age to register with military officials before traveling abroad. Some travel restrictions were placed on military personnel with access to national security information. Citizens charged with or convicted of criminal offenses and given suspended sentences were not permitted to travel abroad. Officials regularly extracted bribes from individuals who applied for passports.

The law prohibits forced exile, and the government did not employ it.

While official government policy allows citizens of ethnic Armenian descent to travel, low-level officials reportedly often requested bribes or harassed ethnic Armenians who applied for passports. Some Armenians of mixed descent reported to a local NGO that they had problems with officials in the passport and registration department when applying for identification cards. Applicants with Azerbaijani surnames who applied encountered no problems except for having to pay bribes.

Since his 2004 conviction for participating in postelection demonstrations in 2003, the government prevented the former imam of the Juma Mosque in Baku, Ilgar Ibrahimoglu, from traveling outside the country.

Since 2006 the government has prevented the foreign travel of Popular Front Party chairman Ali Kerimli by refusing to renew his passport, citing an outstanding civil complaint against him from 1994. The government had renewed Kerimli's passport on several occasions in the intervening years without objection. Kerimli filed an appeal on the decision, which was rejected at all levels of the court system. Kerimli submitted his case to the European Court of Human Rights in January and was awaiting a judgment at year's end.

Internally Displaced Persons

At year's end the government reported that there were 586,013 registered IDPs in the country. The vast majority fled their homes between 1988 and 1993 as a result of the Nagorno-Karabakh conflict.

IDPs were required to register their place of residence with authorities and could live only in approved areas. This so-called "propiska" system, a carryover from the Soviet era, was imposed mainly on persons who were forced from their homes after ethnic Armenian separatists took control of Nagorno-Karabakh and adjacent territories in the western part of Azerbaijan. The government asserted that registration was needed to keep track of IDPs to provide them with assistance.

The government reported that during the year 60 international and 40 domestic humanitarian organizations implemented projects independent of the government related to refugees and IDPs, spending a total of approximately 24 million manat (\$30 million). The government stated that it supplemented this spending with money from the national oil fund to improve living conditions for IDPs and refugees. During the year the government completed the construction of three new settlements for refugees and IDPs, in which 747 families lived. In addition, the government built six apartment buildings in Baku with a total of 369 units, as well as building 26 additional houses in the Murovdagh settlement.

The State IDP and Refugee Committee's estimated expenditures were 307.8 million manat (approximately \$375.4 million). IDPs received monthly food subsidies of approximately 13.50 manat (approximately \$16.50) from the government and heating fuel subsidies in the winter.

Protection of Refugees

The country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. Its laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to some refugees through the refugee status determination department. While the department progressed in many ways,

improvement was offset by a series of court rulings on refugee status determinations that rejected all appeals of negative asylum decisions.

In practice the government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. During the year the UNHCR recognized 2,338 persons as refugees or asylum seekers. Information on government approval of refugee status was not available at year's end. The government did not provide any notable assistance to government- or UNHCR-recognized refugees or asylum seekers.

More than 58 percent of the 2,338 refugees registered and recognized by the UNHCR in the country were Chechens from Russia. The government does not recognize Chechens as refugees as established under the 1967 protocol, and it did not accept asylum applications from them. As a result, the UNHCR continued to carry out all protection and assistance functions for Chechens in the country.

Despite UNHCR recognition of many Chechens and Afghans as refugees, the laws on residence, registration, and the status of refugees and IDPs did not apply to Chechens and Afghans. They were required to register with police and were not entitled to residence permits. Chechens were permitted to enter the country visa-free under a bilateral passport system with Russia. However, most Chechens could not afford the associated costs to acquire passports. The UNHCR reported good cooperation with the government on extradition requests. Russia requested extradition of two Chechens during the year. After reviewing the cases, the UNHCR dropped its objection to the extradition of one individual, and the government denied the extradition request for the other individual.

According to the UNHCR, 82 Chechens sought and were granted temporary protection during the year, a 40 percent decrease from the previous year. All refugee children registered with the UNHCR were allowed to attend public schools. However, because Chechens and Afghans did not have legal resident status in the country, they were not permitted access to public medical services. The UNHCR provided basic medical assistance through the support of foreign donors.

During the year 100 Afghans arrived and registered with the UNHCR, a decrease from previous years. Afghans complained of police visits to their homes, with the implied threat of deportation. There were no reports of forced return of Afghans. Afghan community leaders reported that the UNHCR denied protection to 50 persons during the year. In addition, they reported that UNHCR benefits were not enough to support their families, but without legal status in the country it was impossible to find work.

The government has no legal mechanism to provide temporary protection to individuals who do not qualify as refugees. However, the government accepted the UNHCR identification card issued to Chechens and Afghans.

Stateless Persons

Citizenship is derived by birth within the country or from one's parents. The law provides for the right to apply for stateless status. However, in practice many persons could not obtain the documentation required for the application and therefore remained formally unrecognized. The law on citizenship was amended in 2008 to make it harder for foreigners and stateless people to obtain citizenship.

According to UNHCR statistics, the government reported there were 2,078 stateless persons in the country at the end of the year. The vast majority of these persons were ethnic Azeris from Georgia or Iran. NGOs estimated there were many other undocumented stateless persons, with estimates ranging from hundreds to tens of thousands, among them Meskhetian Turks, whose status was not formally recognized and who did not possess stateless certificates.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution and law provide citizens with the right to change their government peacefully. The government continued to restrict this right in practice by interfering in elections. The law also provides for an independent legislature; however, the Milli Majlis's independence was minimal, and it exercised little legislative initiative independent of the executive branch.

Elections and Political Participation

On December 23, municipal elections were held throughout the country. Media monitors concluded that all television stations largely ignored the pre-election period. Political parties were required to have candidates registered in at least one-half of all municipalities in order to qualify for free airtime during this period, a requirement that only the ruling YAP met and subsequently refused to use. Opposition parties and local election monitoring NGOs reported interference in the candidate registration process.

Official results showed a turnout of 31.86 percent, which was low for the country, and indicated the general apathy of voters to these elections. A delegation of the Council of Europe Congress of Local and Regional Authorities, which monitored the election, noted shortcomings in areas including "counting of the voters in the polling stations, the role and the origin of local election observers, the readability of ballot papers, and the regularity of the vote count." After reviewing hundreds of post-election complaints, the Central Election Commission canceled the results in 33 of the 4,813 polling stations in the country and announced plans to repeat these elections in 2010.

On March 18, authorities held a national referendum on 41 proposed changes to 29 articles of the constitution. The changes included, among other items, the removal of term limits on the presidency and a provision that postpones elections in times of war. Little time was given to the Milli Majlis or the public to discuss the changes sought by the administration. The Council of Europe's Venice Commission, in a review of the amendments, concluded "the overall logic and coherence of the reform is not always evident and the procedure chosen may give rise to some criticism." The commission also stated that "explicit constitutional limitations on the successive terms of a president are particularly important in countries where democratic structures and their cultural presuppositions have not yet been consolidated."

The referendum environment was marred by serious limitations on freedom of speech and assembly. The Central Election Commission (CEC) registered nine lobbying groups for the referendum, in accordance with the election code. Two of these were opposition groups. However, opposition groups reported widespread harassment, including arrests and detention, while collecting signatures for registration and during the campaign period. The authorities also harassed citizens who signed these petitions. The opposition group For Karabakh and the Republic applied to local officials several times for permits to hold meetings in central Baku, but these requests were denied each time. Voters lacked the information necessary to make an informed choice on the large number of referendum items. In addition, a local NGO reported that its volunteer election monitors were harassed by the local authorities to prevent them from collaborating with the NGO.

Balloting procedures on referendum day were flawed and widely considered worse than the 2008 presidential election. While the OSCE was not invited to observe the referendum, the CEC registered 40,000 observers, of whom 132 were foreign. Independent local observers noted serious problems with voting procedures, including cases of multiple voting and ballot stuffing at over one-quarter of polling stations. Voter turnout was estimated by observers at 43 percent, rather than the official tally of more than 71 percent. This lower figure exceeded the 25 percent threshold needed under the law for referendum to be valid. Observers also noted significant shortcomings in the counting and tabulation process.

The country held a presidential election in October 2008. The final report of the OSCE election observation mission stated that the country had made considerable progress toward meeting its OSCE commitments and other international

standards, especially regarding some technical aspects of election administration, but found that the election process did not meet all of these commitments. While the OSCE mission reported that the election was carried out in a peaceful manner, it also noted a lack of robust competition and the absence of vibrant political discourse facilitated by the media. The OSCE observation report concluded that the election "did not reflect some of the principles necessary for a meaningful and pluralistic democratic election."

In May 2008 the Milli Majlis adopted amendments to the election code that partially addressed concerns raised previously by the Council of Europe and the OSCE. Further amendments were made on February 17 that did not address these continued concerns. However, the structure of election commissions at all levels—a longstanding problem—was not made more balanced by the amendments, and concerns remained over the candidate registration process, rules on media coverage, and complaint and appeals procedures.

The period prior to the October 2008 elections was marred by continued restrictions on freedom of speech and freedom of assembly for the main opposition parties. The main opposition parties boycotted the election, citing these restrictions and problems with the election code, especially provisions limiting their ability to campaign effectively. The government's failure to improve respect for freedom of assembly, its continued control of the media, and the lack of a clear distinction between the government and the ruling party in campaign activities prevented a competitive campaign and reduced citizens' opportunity to make an informed choice in the election.

The OSCE's final observation report for the 2005 parliamentary elections concluded that they did not meet a number of the country's OSCE and Council of Europe commitments for democratic elections. The OSCE concluded that the 2006 rerun elections in 10 out of 125 constituencies showed some improvement while noting continuing problems.

The ruling YAP continued to dominate the political system. Domestic observers reported that membership in the ruling party conferred advantages such as being given preference for public positions. Opposition party members in the exclave of Nakhchivan reported instances of pressure by local officials to join the ruling party.

During the year opposition parties played a less active role in politics than in previous years. Members of the opposition were more likely to experience official harassment and arbitrary arrest and detention than other citizens. For example, in October local authorities prevented leaders of the Musavat Party from holding a meeting with party members in Barda and from entering the towns of Yevlakh and Mingachevir. Regional branch opposition party members reported that local authorities often took actions to prevent routine party activities, such as pressuring restaurant owners not to allow opposition parties to use their facilities for meetings and events. Party members often had to conceal the purpose of their gatherings and hold them in remote locations. Opposition party members reported that police often dispersed small gatherings at tea houses and detained participants for questioning. Since 2006 opposition parties have had serious difficulties renting office space, with some parties operating out of their leaders' apartments reportedly because landlords were afraid to rent office space to them due to official pressure.

There were 14 women in the 125-seat Milli Majlis. Several women held senior government positions, including deputy speaker of the Milli Majlis, and several deputy ministers. There were no legal restrictions on the participation of women in politics, although traditional social norms limited women's political roles, and they were underrepresented in elective offices.

Ethnic minorities, such as the Lezghins, Talysh, and Avars, continued to serve in the Milli Majlis and in government.

Section 4 Official Corruption and Government Transparency

The law penalizes corruption by prohibiting bribery; however, there was widespread corruption with impunity throughout all

facets of society, including the civil service, government ministries, and the highest levels of government. The World Bank's worldwide governance indicators reflected that corruption was a severe problem. Criminal cases related to petty corruption were opened during the year, specifically on bribery charges. However, these cases had little or no impact on the prevalence of bribery and petty and grand corruption in the country. During the year the Presidential Administration removed from office the appointed head of the Executive Committee of the Nizami District of Baku, Mehbali Aliyev, reportedly due to corruption. No criminal charges had been filed against Aliyev by year's end.

Key provisions of the government's 2007 national strategy for increasing transparency and combating corruption still had not been implemented at year's end. The strategy established a framework for increasing the accountability of government, cooperating with civil society, and systematically monitoring and reporting on the implementation of anticorruption measures. One of the national strategy's main elements, the law on financial disclosure, requires officials to report their annual income, sources of income, property, and financial liabilities. It also prohibits nepotism and limited gifts and direct or indirect financial benefits to public officials or third parties.

The law provides for public access to government information by individuals and organizations; however, the government often did not provide access. Although government ministries have separate procedures on how to request information, they routinely denied requests, claiming not to possess the information. Individuals have the right to appeal the denials in court; however, the courts generally upheld the decisions of the ministries.

Over the past several years, the government took some steps to improve transparency in extractive sector industries. It endorsed the Extractive Industries Transparency Initiative (EITI) in 2004 in which governments committed to adhere to the 12 agreed EITI Principles to manage natural resources for the benefit of all members of society by creating a cooperative relationship between government, companies, and civil society to disclose payments and revenues received from extractive industries.

Following an EITI-accredited validator's examination and approval of the country's key EITI documents, the EITI Board granted Azerbaijan status as the first EITI-compliant country on February 16. The State Oil Fund of Azerbaijan (SOFAZ), which is responsible for implementation of the EITI principles, also increased access to information about oil and gas revenues. However, some observers complained that the fund was not designed, governed, or managed to ensure expenditures were geared towards poverty alleviation or the delivery of public services. Moreover, observers noted that the country's oil and gas revenues in full were not managed by SOFAZ or subject to EITI transparency practices. While all of the 26 oil and gas companies in the country participated in the EITI process, only a handful of companies agreed to disaggregated revenue reporting. In addition, the country's EITI compliant status was based on the government's agreement to create a work plan on cooperation with NGOs. At year's end the government had not created this work plan, but had promised to take steps to do so.

Section 5 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Although the government maintained ties with some human rights NGOs and responded to their inquiries, on occasion the government criticized and intimidated other human rights NGOs and activists. The Ministry of Justice continued routinely to deny or fail to register some human rights NGOs.

The major local human rights NGOs were the Association for the Protection of Women's Rights, the Bureau of Human Rights and Respect for the Law, the Azerbaijan Foundation of Democracy Development and Human Rights Protection, Azerbaijani Committee against Torture (ACAT), the Institute for Peace and Democracy, the Helsinki Citizens' Assembly, IRFS, and the Human Rights Center of Azerbaijan. Most of the leading NGOs affiliated themselves with one of two

independent, umbrella organizations, the Human Rights Federation and the Monitoring Group of Human Rights Organizations.

The government met with a variety of domestic NGO monitors. The Ministry of Justice participated in a joint political prisoner review committee with several representatives of the human rights community. In previous years the Ministry of Internal Affairs allowed one NGO, ACAT, to have immediate access to police and pretrial detention facilities; however, as of July 1, the Ministry of Justice only permitted the group access with several days' advance notice.

During the year some NGOs reported increased pressure against their activities. For example, the Minister of Internal Affairs sued Leyla Yunus, leader of the Institute of Peace and Democracy, for an interview she gave to an online newspaper in which she criticized the police. The minister subsequently dropped the case. In addition, several election observers affiliated with EMDS were harassed by local authorities in connection with their observation activities (see section 3).

During the year the Milli Majlis amended the law on NGOs (see section 2.b.).

Several NGOs reported that the government and police at times refused to protect them from so-called provocateurs who threatened, harassed, and attacked NGO activists and vandalized their property. For example, on December 15, a group of Nakhchivan State University leaders and students reportedly beat two representatives of the Nakhchivan Democracy and NGO Development Resource Center who were investigating corruption at the university. The group from the university also reportedly threatened a journalist with the IRFS who arrived at the scene of the assault. The NGO representatives called the police before the attack, as they feared an attack was imminent and needed protection. However, the police did not arrive until after the assailants had left the scene. Local authorities reportedly responded by denying that the events occurred and scheduling a tax inspection of the Resource Center for January 2010.

During the year Akifa Aliyeva of the Helsinki Citizens' Assembly fled the country after reporting repeated harassment by local authorities in connection with her work defending the rights of a Ukrainian prisoner in Ganja.

The registration process for NGOs remained cumbersome and included requirements to register grants from foreign entities. NGO grants from foreign entities are subject to a social security tax of 22 percent on employee salaries, although grants from a few countries with bilateral agreements with the government were subject to only a 2 percent tax. NGO activists reported that these provisions inhibited their organizations' activities.

The NGO Council continued its grants program begun in 2008, giving approximately 1.8 million manat (approximately \$2.2 million) to 250 NGOs during the year. While many of these NGOs were considered to be progovernment, some NGOs that were critical of the government also received grants. One NGO sued the council for revoking a grant awarded to the organization. The NGO stated the grant was revoked after the NGO submitted an official complaint about the council's grant review process, which the NGO alleged was corrupt. The case continued at year's end.

The government generally permitted visits by UN representatives and other international organizations, such as the ICRC. International NGOs, such as Reporters without Borders, generally operated without government hindrance.

Citizens may appeal violations committed by the state or by individuals to the ombudswoman for human rights. The ombudswoman may refuse to accept cases of abuse that are more than one year old, anonymous complaints, and cases already being handled by the judiciary. The ombudswoman received 8,000 appeals, of which 83.7 percent were complaints during the year; 51 percent of these complaints were accepted for investigation, and of those investigated, 44.7 percent were successfully resolved. The incumbent ombudswoman's term expired in July, but she continued to fulfill the duties of the office because her successor had yet to be named.

The Office of the Ombudsman took the lead in implementing the government's 2006 human rights national action plan (NAP). During the year the ombudswoman reported that the NAP working group, which included five subcommittees, continued to work on areas identified as priorities in the action plan. All state agencies involved in the NAP submit their annual reports to the ombudsman, who reviews and compiles the reports into one larger report on the progress of implementation of NAP, shortcomings, challenges and the ways of improvement of the situation. As of year's end, implementation of the plan was uneven. During the year the ombudswoman traveled around the country to hear human rights complaints, cooperated with foreign diplomats and domestic NGOs working on human rights, and submitted an annual report to the Milli Majlis. During the year she criticized significant violations in the high-profile case of the youth activists and bloggers Emin Milli and Adnan Hajizade. However, local human rights NGOs and activists criticized the ombudswoman's work as ineffective and generally regarded her as not independent of the government.

The Milli Majlis and the Ministry of Justice also had human rights offices that heard complaints, conducted investigations, and made recommendations to relevant government bodies. Officials of the Human Rights Office within the Ministry of Foreign Affairs regularly met with the diplomatic community to discuss issues of concern. The Milli Majlis's human rights body did not operate fully independently of government influence.

Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, or social status, but the government did not always respect these prohibitions in practice or effectively enforce them.

Women

Rape is illegal and carries a maximum 15-year prison sentence. The government reported 35 rapes during the year. Most rape victims reportedly knew their assailants but did not report incidents because of fear and shame.

There are no laws on spousal abuse or specific laws on spousal rape, although these crimes could be prosecuted under other sections of the criminal code if a spouse complained. Violence against women, including domestic violence, continued to be a problem. In rural areas women had no effective recourse against assaults by their husbands or others.

There were no government-sponsored programs for victims of rape or domestic violence. In Baku a women's crisis center operated by the Institute for Peace and Democracy provided free medical, psychological, and legal assistance to women. The center also worked on a number of projects funded by international donors to combat gender-based violence and trafficking in persons in the Caucasus region. Representatives of the institute regularly appeared on popular television talk shows to discuss women's issues.

Prostitution is an administrative offense rather than a crime and is punishable by a fine of up to 40 manat (approximately \$48), down from 88 manat (approximately \$102) after amendments made to the code in December. Pimps and brothel owners may be sentenced to prison for up to six years. Prostitution was a serious problem, particularly in Baku.

The law prohibits sexual harassment; however, the government only rarely enforced the prohibition. No organization was specifically dedicated to receiving these complaints.

Couples and individuals have the right to decide freely the number, spacing, and timing of their children. Information was accessible so families and individuals could make reproductive decisions free from discrimination, coercion, and violence. Contraception was widely available, but demographic surveys showed low levels of use. Skilled attendance during childbirth was accessible. Women and men were treated equally and diagnosed for transmitted infections, including HIV.

However, patriarchal norms, based on cultural, historical, and socioeconomic factors, in some cases limited women's reproductive rights.

Women nominally enjoy the same legal rights as men; however, societal discrimination was a problem. Traditional social norms and lagging economic development in the country's regions continued to restrict women's roles in the economy, and there were reports that women had difficulty exercising their legal rights due to gender discrimination. Women were underrepresented in high-level jobs, including top business positions. A local NGO reported that women's salaries are on average 70 percent of men's salaries.

Children

Citizenship is derived by birth within the country or from one's parents.

The law requires the government to protect the rights of children with regard to education and health care. In practice government programs provided a low standard of education and health care for children. While education was compulsory, free, and universal until the age of 17, large families in impoverished rural areas sometimes placed a higher priority on the education of male children and kept girls to work in the home. Some poor families forced their children to work or beg rather than attend school.

The Ministry of Internal Affairs did not provide any information on the number of cases of rape or sexual abuse of children reported during the year. There were reports that children were trafficked for sexual exploitation and begging. During the year four of the identified victims of sex trafficking were under the age of 18.

Child marriage was not considered a significant problem, although evidence suggested it was growing, primarily in rural central and southern regions among poor families.

Statutory rape is prohibited by law and defined as "the sexual relations or other actions of sexual nature, committed by a person who has reached 18, with the person who has not reached 16," and is punishable by up to three years' imprisonment. Child pornography is prohibited by law, and its production, distribution, or advertisement is punished by three to five years' imprisonment. If the pornography is created by the parents of the child or by teachers or other educators, the punishment increases to four to seven years' imprisonment.

A large number of refugee and IDP children lived in substandard conditions. In some cases these children were unable to attend school.

Trafficking in Persons

The criminal code prohibits all forms of trafficking in persons; however, there were reports that persons were trafficked to, from, through, and within the country.

The country was primarily a source and transit point for women, men, and children trafficked for sexual exploitation and forced labor. Central Asian, Russian, and local women and girls were trafficked from or through the country to the United Arab Emirates (UAE), Turkey, Iran, India, and Pakistan for exploitation in the sex industry. Men and boys were trafficked to Russia, Iran, Pakistan, and the UAE for forced labor. Although there were no official reports of internal trafficking, domestic monitors reported a growing trend of internal trafficking of women for sexual exploitation, of men for forced labor in the construction industry, and of children for begging. During the year the government reported it identified 91 trafficking victims, four of whom were minors. Traffickers generally targeted women.

Traffickers were either foreigners or ethnic Azerbaijanis who acted in loose concert with international networks. They approached victims directly and indirectly through friends and relatives, usually offering to arrange employment abroad. Traffickers also used deceptive newspaper advertisements offering work abroad. Traffickers reportedly used forged documents to move victims. Traffickers also used fraudulent marriage proposals from men posing as Iranian businessmen to lure women into prostitution in neighboring Iran.

During the year 76 persons were prosecuted to completion under the law against trafficking in persons, of which 58 were convicted. Most trafficking-related crimes prosecuted during the year carried maximum penalties of between three and 12 years' imprisonment, except for rape and sexual violence, which both carried maximum 15-year prison sentences. There also are specific criminal penalties for enslaving, raping, and forcing children into prostitution.

The deputy minister of internal affairs, a known human rights violator, was the national coordinator for government antitrafficking activities. This constituted an obstacle to maintaining a victim-centered approach to the government's antitrafficking efforts, monitoring the efforts of relevant government bodies, and dealing with the NGO community. Government bodies involved in antitrafficking included the Ministries of Internal Affairs, Foreign Affairs, Justice, National Security, Labor and Social Protection, and Health; the prosecutor general; the state border guard; the State Customs Service; and the State Committee on Family, Women's and Children's Issues. The Ministry of Internal Affairs has a separate countertrafficking department. The government operated a national hotline for victims of trafficking. During the year the government did not receive any requests to assist with extradition or international investigations of trafficking cases.

There was no evidence of direct and witting official complicity in trafficking, but a culture of corruption in some government agencies created opportunities for evasion of some administrative barriers to trafficking.

The law protects trafficking victims by relieving them from civil, administrative, and criminal responsibility for offenses committed under coercion, intimidation, or other trafficking conditions. However, in practice victims were subjected to verbal abuse and stigmatization by judges. Victims were often treated as criminals and penalized solely for unlawful acts they committed as a direct result of being trafficked. The law allows the use of pseudonyms to protect the identity of victims and provides for their assistance and shelter. The government did not systematically screen vulnerable population groups to identify trafficking victims.

There was no standardized mechanism to return trafficked women to their countries of origin. According to the International Organization for Migration (IOM), some citizens and foreign nationals who were either victims of trafficking or engaged in prostitution were deported to the country primarily from Turkey. A few trafficking victims deported from Dubai received assistance from the country's NGOs. However, the government had no program to assist them.

In August the government enacted and implemented the National Referral Mechanism, which created a national and interagency system for organizing victim assistance. The government referred victims to a government-funded shelter, which provided victims with access to legal, medical, and psychological services. The government also referred victims to an assistance center under the Ministry of Labor and to NGOs for training and job placement. In August 2008 the IOM started a project with the countertrafficking department of the Ministry of Internal Affairs to strengthen management capacity of the shelter and hotline services by training their staff and formulating operational guidelines. The government, while fully funding the hotline, did not operate it directly but did actively advertise it.

In February the government began implementing a second phase of its national antitrafficking action plan. As part of this

plan, the government in September enacted and distributed regulations (indicators) for identifying trafficking victims. This list of indicators is meant to help law enforcement easily identify trafficking victims to ensure they receive proper assistance. The discovery of a large number of labor trafficking victims from Bosnia and Herzegovina and Serbia in October exposed several weaknesses in the government's implementation of these indicators and the National Referral Mechanism.

Several NGOs, such as the Institute for Peace and Democracy's Women's Crisis Center and Clean World, and government bodies, such as the State Committee for Women's and Children's Issues, worked on antitrafficking activities. The Ministry of Internal Affairs claimed to have conducted 70 trafficking awareness programs in various parts of the country.

The State Department's annual *Trafficking in Persons Report* can be found at www.state.gov/g/tip.

Persons with Disabilities

The law prohibits discrimination against persons with disabilities in employment, education, access to health care, and the provision of other state services, but discrimination in employment was a problem. It was commonly believed that children with disabilities were ill and needed to be separated from other children and institutionalized. Several international and local NGOs developed educational campaigns to change social perceptions and reintegrate disabled children.

There are no laws mandating access to public or other buildings for persons with disabilities, and most buildings were not accessible.

Care in facilities for the mentally ill and persons with disabilities varied; some provided adequate care while others lacked qualified caregivers, equipment, and supplies to maintain sanitary conditions and provide a proper diet.

The Ministries of Health and Labor and Social Welfare were responsible for protecting the rights of persons with disabilities.

National/Racial/Ethnic Minorities

Some of the approximately 20,000 citizens of Armenian descent living in the country historically complained of discrimination in employment, schooling, housing, the provision of social services, and other areas. Citizens who were ethnic Armenians often concealed their ethnicity by legally changing the ethnic designation in their passports. There were no reports of violence or discrimination against Armenians during the year.

Some groups reported sporadic incidents of discrimination, restrictions on the ability to teach in their native languages, and harassment by local authorities. These groups included Talysh in the south, Caucasian Lezghins in the north, displaced Meskhetian Turks, and displaced Kurds from the Lachin region controlled by Armenia-supported Nagorno-Karabakh separatists.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

There are no laws criminalizing sexual orientation. There were numerous incidents of police brutality against individuals based on sexual orientation. During the year there were no investigations into or punishments of those responsible for these acts, although this was largely due to victims' unwillingness to file claims due to fear of social stigma. In 2007, after an official complaint was made through the ombudsman's office, two police officers were removed from their positions.

During the year police raided gay bars on four occasions and arrested almost 50 persons. Police reportedly held the individuals and threatened to expose their sexuality publicly unless they paid a bribe. The human rights Ombudsman's Office intervened to resolve the incidents.

One NGO worked on lesbian, gay, bisexual, and transgender (LGBT) issues in the country. This NGO worked to prevent the spread of HIV/AIDS, and provided legal advice, psychological assistance, and outreach activities. The NGO reported no official harassment of its work. There were no attempts to organize gay pride marches during the year; however, there was a small gathering on May 17 to commemorate International Anti-Homophobia Day.

There were no reported deaths during the year due to violence based on sexual orientation. However, domestic violence due to sexual orientation remained a large problem.

The government did not officially condone discrimination based on sexual orientation; however, there was societal prejudice against LGBT persons. While being fired from a job for sexual orientation remained illegal, LGBT individuals reported that employers found other reasons to fire them. Discrimination in access to healthcare was also a problem. In 2008 two transgender individuals died from injuries received from a car accident because physicians at Baku Hospital Number 1 refused to treat them.

Other Societal Violence or Discrimination

There were no reports of societal violence or discriminations against persons with HIV/AIDS.

Section 7 Worker Rights

a. The Right of Association

The law provides for freedom of association, including the right to form labor unions, but there were some restrictions on this right in practice. The overwhelming majority of labor unions remained tightly linked to the government, with the exception of the journalists' unions.

Uniformed military and police are prohibited from participating in unions, although civilians working in the Ministry of Internal Affairs and the Ministry of Defense were allowed to do so. The law also prohibits managerial staff from joining a union, but managers in government industries often had union dues automatically deducted from their paychecks.

The Azerbaijani Trade Union Confederation (ATUC) had approximately 1.6 million members representing 28 labor federations in various industrial sectors. Although the ATUC was registered as an independent organization, some workers considered it closely aligned with the government.

The law allows trade unions to conduct their activities without government interference; however, in practice most unions were not independent. The law provides most workers with the right to strike. Categories of workers prohibited from striking include high-ranking executive and legislative officials; law enforcement officers; court employees; fire fighters; and health, electric power, water supply, telephone, railway, and air traffic control workers. Striking workers who disrupted public transportation could be sentenced up to three years' imprisonment. The law prohibits retribution against strikers, such as dismissal or replacement. Both local and international NGOs claimed that workers in most industries were largely unaware of their rights and afraid of retribution if they initiated complaints. This was especially true for persons working in the public sector.

While the labor law applied to all workers and enterprises in the country, the government could negotiate bilateral agreements with multinational enterprises that effectively exempted such enterprises from national labor laws. For

example, production sharing agreements (PSAs) between the government and multinational energy enterprises signed in 1994 and subsequently did not provide for employee participation in a trade union. Some labor organizations and local NGOs reported that some of these companies discouraged employees from forming unions, and most employees of multinational enterprises operating under PSAs were not union members, although there were exceptions. Workers employed by British Petroleum were unionized, but the situation was worse in other multinational corporations, especially companies run by Chinese subcontractors. The ATUC reported that during the year there was some progress in starting new unions and that multinational corporations in the country had begun to welcome these initiatives.

The law prohibits trade unions from carrying out political activities and from associating with political parties or receiving finances from political parties.

Many of the state-owned enterprises that dominated the formal economy withheld union dues from workers' pay but did not deliver the dues to the unions. A quarter of the dues collected for the oil workers' union were officially for "administrative costs" associated with running the union. However, the complete lack of transparency made it impossible to tell exactly how dues were spent. Unions and their members had no recourse to investigate withheld funds.

Membership in the Union of Oil and Gas Industry Workers remained mandatory for the State Oil Company's 65,000 workers, whose union dues (2 percent of each worker's salary) were automatically deducted from their paychecks.

b. The Right to Organize and Bargain Collectively

The law provides for collective bargaining agreements to set wages and work conditions in state enterprises. In reality unions could not effectively negotiate such wage levels because government-appointed boards ran major state-owned firms and set wages for all government employees. Collective bargaining agreements were often treated as formalities and not commonly used.

There were no reports of government antiunion discrimination. Labor disputes were primarily handled by local courts, which, while not exhibiting antiunion discrimination, were widely considered corrupt. There were reports of antiunion discrimination by foreign companies operating in Baku. A representative from the Oil Workers' Rights Defense Council noted that in the Caspian Shipyard, owned by a company from Singapore, workers who had fought to establish a union not only failed but were subsequently fined 140 manat (\$175) by the company for their attempts. Labor NGOs reported that multinational energy companies and their subcontractors often discouraged union membership by their employees. For many multinational companies, the absence of union membership rights in the PSAs facilitated this behavior.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The constitution and law prohibit forced or compulsory labor, except in circumstances of war or in the execution of a court's decision under the supervision of a government agency. Some observers reported that there were infrequent occurrences of forced or compulsory labor, including trafficking in women, men, and children for sexual exploitation, forced labor, and begging. Men and boys were trafficked to Russia for forced labor (see section 6).

d. Prohibition of Child Labor and Minimum Age for Employment

The law provides for the protection of children from exploitation in the workplace and from work that is dangerous to their health, and there were few complaints of abuses of child labor laws. However, there were reports that child labor was used in cotton production. Children were also reportedly trafficked for commercial sexual exploitation and begging (see section 6).

The minimum age for employment depended on the type of work. In most instances the law permits children to work from age 15; 14-year-old children may work in family businesses or, with parental consent, at after-school jobs during the day that pose no hazard to their health. Children under 16 may not work more than 24 hours per week; children between 16 and 18 may not work more than 36 hours per week. The law prohibits employing children under 18 in difficult and hazardous work conditions. The Ministry of Labor and Social Security is responsible for enforcing child labor laws. However, the unit responsible is considered ineffective.

e. Acceptable Conditions of Work

The administratively set minimum monthly wage is 75 manat (approximately \$91) per month. Local NGOs reported that this wage was not enough to provide a decent standard of living. The Ministry of Taxes, the Ministry of Labor, and the State Social Protection Fund share responsibility for enforcing the minimum wage. However, in practice the minimum wage was not effectively enforced. Due to intervention by labor unions and inspectors, approximately 950,000 manat (\$1,100,000) were paid to workers who filed reports about unpaid salaries from the middle of 2008 until the middle of the year.

The law provides for a 40-hour workweek; the maximum daily work shift is 12 hours. Workers in hazardous occupations may not work more than 36 hours per week. The law requires lunch and rest periods, which are determined by labor contracts and collective agreements. It was not known whether local companies provided the legally required premium compensation for overtime, although international companies generally did. There was no prohibition on excessive compulsory overtime. However, most individuals worked in the informal economy, where the government did not enforce contracts or labor laws.

The law sets health and safety standards; however, government inspections of working conditions were weak and ineffective, and standards were widely ignored. The ATUC monitored compliance with labor and trade regulations, including safety and health conditions. The ATUC received 236,220 complaints in 2008. Conversely, the Ministry of Labor reported receiving only one complaint.

Workers did not have the right to remove themselves from situations that endangered their health or safety without jeopardizing their employment. According to information provided by the office of the International Labor Organization (ILO) in the country, 33 fatal accidents and 122 injuries occurred in the first six months of the year, with 18 deaths and 38 injuries in the construction sector alone. According to the Oil Workers Rights Defense Council, an NGO dedicated to protecting worker rights in the oil sector, seven oil sector workers died in workplace accidents during the same period. The International Trade Union Confederation reported that the government's bilateral agreements with multinational corporations, the contents of which were confidential, contributed to labor rights violations. In 2007 the Oil and Gas Workers' Union of Azerbaijan reached a new contract with the State Oil Company that included greater social protections and health and safety commitments. Only 20 percent of the contract's points were met at year's end, although the contract's clauses were stipulated to be completed by 2010. Workplace accidents were also a problem in other sectors of the economy.

The law provides equal rights to foreign and domestic workers. However, on one hand local human rights groups including the Oil Workers Rights Defense Council maintained that disparities existed, particularly in foreign oil companies, where local workers were more likely to receive lower pay and work without contracts or health care. On the other hand the Oil Rights Defense Council reported resolving labor issues with large international companies was far easier than with local companies because the multinational companies had more experience and more transparency in their labor relations. A

representative from the ILO noted that many persons working in governmental regulatory bodies also had business interests, causing conflicts of interest.