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## Azerbaijan

### Country Reports on Human Rights Practices - [2005](#)

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Azerbaijan is a republic of approximately 7.9 million persons with a presidential form of government. The president dominated the executive, legislative, and judicial branches of government. Ilham Aliyev, the son of former president Heydar Aliyev, was elected president in October 2003 in a ballot that did not meet international standards for a democratic election due to numerous, serious irregularities. The November parliamentary elections showed an improvement in some areas but still did not meet a number of international standards. Armenian forces continued to occupy an estimated 16 percent of the country's territory, including Nagorno-Karabakh. The government did not exercise any control over developments in territories occupied by Armenian forces. The civilian authorities generally maintained effective control of the security forces. Members of the security forces committed numerous human rights abuses.

The government's human rights record remained poor, and it continued to commit numerous abuses. The November 6 parliamentary elections strongly influenced the government's human rights performance. The following human rights problems were reported:

- restricted right of citizens to peacefully change their government
- torture and beating of persons in custody, leading to four deaths
- arbitrary arrest and detention, particularly of political opponents
- harsh and life-threatening prison conditions
- police impunity
- lengthy pretrial detention
- pervasive corruption in the judiciary
- some restrictions of privacy rights
- periodic interference with media freedom
- excessive use of force to disperse demonstrations
- limited instances of violence and societal discrimination against women
- trafficking in persons
- limited workers' rights

There were some improvements in the period leading up to the November 6 parliamentary elections compared with previous elections. The president issued two decrees instructing national and local government officials to comply with international election standards. The government pardoned most remaining political prisoners identified by the Council of Europe (COE) who had been convicted in the aftermath of the flawed 2003 presidential election; the government also vacated the sentences of seven opposition leaders, allowing them to run in the election. Although the government registered the majority of candidates for 125 seats in parliament, some candidates withdrew, citing government pressures to do so.

### 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 politically motivated killings; however, human rights monitors reported four prisoners died in police custody due to alleged abuse and mistreatment.

On April 21, Nikolay Nikolashvili died at prison colony 16. Domestic human rights activists reported that police beat him during questioning. On August 7, Elchin Shahmaliyev died in Gobustan prison; human rights activists reported that police beat and tortured him at the Sumgayit police station prior to his transfer to Gobustan prison. On August 15, Elhman Ibrahimov died at Gobustan prison; human rights activists reported that police beat and tortured Ibrahimov, a friend of Shahmaliyev. On September 2, Mahir Suleymanov died in prison colony 8; human rights activists reported that Suleyman was beaten to death. The government attributed each of these deaths to suicide.

The authorities did not prosecute law enforcement officials implicated in the 2004 deaths of Etibar Najafov, Akif Mirzayev, Azer Safarov, or Badel Babayev.

On March 7, the Ministry of National Security (MNS) arrested a senior Ministry of Internal Affairs (MIA) official, Haji Mammadov, for ordering the kidnapping of 11 persons and killing of 3 persons since 1995 as the head of a criminal kidnapping, murder, and extortion ring within the MIA (see section 1.b.).

During the year unknown actors killed journalist Elmar Huseynov (see section 2.a.).

In contrast to the previous year, there were no press or other reports of deaths of army conscripts attributed to military hazing.

Despite a cease-fire in effect since 1994, minor outbreaks of fighting with Armenia over Nagorno-Karabakh occurred with increasing frequency, resulting in deaths of 24 civilians and combatants during the year.

According to the National Agency for Mine Actions, landmines killed 2 persons and injured 19 others during the year.

#### b. Disappearance

There was at least one disappearance during the year. In March the wife of the chairman of the International Bank of Azerbaijan was kidnapped. On March 10, a MNS investigation uncovered a kidnapping and extortion ring responsible for the woman's kidnapping, as well as multiple killings over a 10-year period directed from within the MIA. An MNS Special Forces unit raid rescued the woman (see section 1.a.).

The Ministry of Justice (MOJ) prosecuted one senior MIA officer, Lieutenant Colonel Haji Mammadov, chief of the MIA criminal investigation division, who confessed to the March kidnapping and also to the abduction of 11 persons since 1995. The MNS arrested 12 persons for their involvement in the ring, including 2 Chechen citizens. Mammadov remained in pretrial detention at year's end.

The minister of internal affairs, who remained in office, dismissed three other senior MIA officials including the deputy minister for law enforcement, Zahid Dunyamaliyev. The MOJ did not prosecute these officials. The media widely reported on the March abduction, the rescue operation, and investigation.

The International Committee of the Red Cross (ICRC) continued to urge the government and Armenia to provide information on the fate of persons missing in action since the beginning of the Nagorno-Karabakh conflict; during the year the number of those confirmed missing increased from 3,100 to 3,400. The government estimated that approximately 4,850 citizens remained missing, allegedly held by Armenia. During the year the ICRC assisted in the return of six citizens from Armenia.

#### c. Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits such practices and provides for penalties of up to 10 years in jail; however, there were credible reports that security forces beat detainees to extract confessions while in custody. Despite defendants' claims that testimony was obtained through torture or abuse, no cases involving such claims were dismissed. A domestic human rights monitor reported that security forces tortured between 40 and 50 persons while in custody. For example, a human rights monitor reported that police tied a detainee to a chair in a police station and beat the person with a metal pipe.

In early November the media reported that officers of the MIA Organized Crime Unit (OCU) repeatedly gave electric shocks to opposition Azerbaijan Democratic Party (ADP) deputy chairman and former political prisoner Natik Efendiyev while in detention (see section 1.d.). Following widespread press, local NGO, and international observer attention, the MIA transferred Efendiyev from the OCU to a local prison where he received medical treatment.

On December 4, Koroglu Gasimov, the Ganja city chief police inspector, allegedly sexually assaulted a woman and sodomized her adult son during an investigation into allegations that the son burglarized a local business. MIA inspectors suspended Gasimov and opened a criminal investigation into his conduct; on December 7, the ministry dismissed Koroglu.

The government dismissed police officer Javanshir Mammadov for beating a *Zerkalo* newspaper journalist, Farid Teymurxanli, at an unsanctioned opposition rally on May 21.

According to the MIA, authorities criminally charged six police officers for violations of human rights and civil liberties. Human rights monitors reported that the government dismissed four other law enforcement officers for misconduct during the year.

During the year the government did not punish MIA officials for the beating, torture, and verbal abuse of persons detained in the aftermath of the 2003 presidential election, nor was any action expected. The government promoted one of the senior officers allegedly involved in the 2003 abuses, Viliyat Eyvazov, to deputy minister of internal affairs. The government also did not hold accountable any officials responsible for the excessive use of force at the November 26 peaceful demonstration (see section 2.b.).

#### Prison and Detention Center Conditions

Prison conditions remained harsh and life threatening despite prison infrastructure improvements in recent years.

Overcrowding, inadequate nutrition, and poor medical care combined to make the spread of infectious diseases a serious problem. Despite

recent improvements to prison infrastructure, prisons, 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. Some pretrial detainees were reportedly held in "separation cells," often located in basements, to conceal evidence of physical abuse and where food and sleep reportedly were denied to elicit confessions.

Harsh prison conditions resulted in 107 deaths during the year. Credible reports indicated that at least four of these deaths were the result of torture or abuse (see section 1.a.). Tuberculosis (TB) remained the primary cause of death in prisons; the government reported that 66 inmates died of it during the year. The ICRC reported the government treated 515 prisoners for TB during the year; due to the absence of systematic medical screening, such treatment often started after prisoners were seriously ill. Many relied on families for medicine and food, who often paid bribes to prison officials to gain access to imprisoned relatives.

In July the government dismissed the head of the medical unit of prison colony 2 after a prisoner complained about his conduct.

On February 1, the government dismissed the deputy minister of justice for prisons on allegations of accepting bribes for awarding prison renovation contracts. After the deputy minister's dismissal, the MOJ disbanded the joint government-human rights community prison-monitoring group. A reconstituted monitoring group was established in August; however, it did not meet before year's end.

The government permitted prison visits by international and local humanitarian and human rights groups. The ICRC also had unobstructed access to prisoners of war and to civilians held in connection with the conflict over Nagorno-Karabakh. Foreign observers were allowed to enter maximum-security prisons and to meet with alleged political prisoners. On August 16, the government authorized a select group of local human rights activists to visit MIA-run police stations and MIA pretrial detention facilities in addition to prisons.

#### 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 MIA and MNS are responsible for internal security and report directly to the president. The MIA oversees local police forces and maintains internal civil defense troops. The MNS 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 2004 and again during the year, traffic police officers received a substantial pay raise to counter corruption; nevertheless, the low wages of other law enforcement officials continued to contribute to police corruption. The MIA reported that during the year it opened 189 investigations into internal police corruption and prosecuted 142 of these.

Police officers acted with impunity, and in most cases the government took little or no action. During the year, however, the government reported that it took disciplinary action against 84 police officers for wrongful arrest or misconduct in connection with police detentions. Of these, the government reported that it dismissed 12 officers from government employment, dismissed an additional 10 officers from the MIA police forces, demoted 1 officer, and criminally charged 6 officers for violating human rights and civil liberties.

An international foundation continued its training program in human rights theory, standards, and practices for 160 security officers attached to the Special State Protective Service (SSPS), a government agency responsible for protecting the Baku-Tbilisi-Ceyhan pipeline. The officers who participated in the training were recruited from the SSPS, the state border guard, the army, and police.

In May the MOJ granted approval for foreign governments to train law enforcement officials to meet international standards. The first training program took place in May. In June an international organization conducted community policing and crowd control training for 250 MIA police officers.

#### Arrest and 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 of law; however, the government did not respect these provisions in practice. Arbitrary arrest, often on spurious charges of resisting the police, remained a common 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, the prosecutor general 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 access to a lawyer or a fair trial (see section 1.c.).

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

On several occasions MIA police officers preemptively detained members of the political opposition to prevent their participation in planned but unsanctioned political rallies, on grounds that the individuals were suspected of planning to incite civil unrest. Within hours of the detentions, judges sentenced the individuals to jail for periods of 10 to 12 days on those grounds. On June 4, the government first granted permission for political rallies to be held in the capital at locations removed from the city center. Between then and November 6, election day, the government detained and sentenced 50 persons for attempting to participate in rallies in the city center for which it had denied authorization.

In July police detained several opposition party members who planned to hold rallies in Tovuz, Sabirabad, and Lenkoran. On September 29, police arrested 14 opposition party members prior to an unsanctioned rally; authorities convicted and sentenced the individuals from 7 to 10 days' imprisonment.

In April police arrested prominent opposition figure and former internal affairs minister Iskender Hamidov, beating him on the street while taking him into custody. Authorities released Hamidov the same day.

On June 13, the MNS and prosecutor general announced the arrest of Musavat party member Piralı Orujev for allegedly conspiring to kill two progovernment figures. The opposition Azadlıq bloc denounced the arrest, commenting that it was part of a government campaign to harass and slander the opposition. Orujev remained in pretrial detention at year's end.

On August 1, the government arrested Yeni Fikir opposition youth leader Ruslan Bashirli on charges of treason. In a widely broadcast videotape, Bashirli was shown taking money from and conspiring with Armenian and Georgian citizens to foment revolution in the country. Bashirli remained in special detention awaiting a hearing at year's end. International observers doubted the credibility of the evidence against Bashirli and suspected a case of entrapment to intimidate and embarrass the opposition.

On September 12, police detained Yeni Fikir opposition youth activist Said Nuriyev on charges of conspiring to overthrow the government, in connection with the investigation of Bashirli. Nuriyev's case was suspended because of a pre-existing medical condition, but he remained confined at a city hospital until after the November election. At year's end Nuriyev was no longer detained but continued to face criminal charges in connection with the alleged conspiracy to overthrow the government.

On September 14, the prosecutor general summoned Yeni Fikir opposition youth activist Ramin Tagiyev and arrested him on charges on threatening state security. Within days a judge convicted Tagiyev and sentenced him to prison for three months (until after the November parliamentary election) while his pretrial investigation continued.

On October 17, security forces arrested approximately 300 opposition party activists, including up to 20 parliamentary candidates, in connection with the anticipated return to Baku of exiled opposition leader Rasul Guliyev.

On October 19, the MNS arrested Presidential Aide Akif Muradverdiyev, Minister of Health Ali İnsanov, Minister of Economic Development Farhad Aliyev, former finance minister Fikrat Yusifov, and business leaders Fikrat Sadigov and Rafiq Aliyev for allegedly fomenting a *coup d'etat* in connection with the failed October 17 return to the country of exiled opposition ADP leader Rasul Guliyev. On October 31, the prosecutor general charged Natic Efendiyev, an ADP deputy chairman already in MIA custody, with aiding and abetting the coup plot. On November 2, government agents arrested prominent academic and Guliyev friend Eldar Salayev for allegedly planning to carry out the coup.

On November 1, several progovernment television channels aired videotaped footage of MNS detainees Yusifov, İnsanov, Muradverdiyev, and Sadigov testifying to their role in the plot to overthrow the government. Yusifov, a former finance minister whose testimony dominated the broadcast, described himself as the financial middleman in exiled opposition leader Rasul Guliyev's network of support within the government and business community. Yusifov confessed that Aliyev, İnsanov, Sadigov, and others gave him money, which he turned over to Salayev who was tasked with financing the opposition's activities. On November 16, the MNS released Salayev from detention on account of his age and poor health, although the charges against him stood. The other alleged coup conspirators remained in MNS and MIA custody at year's end. In total 11 persons were arrested in connection with plotting the coup. In November authorities released Fikrat Sadiqov, former head of a state-owned chemical company, on the condition he notify police before traveling outside of Baku.

The police arrested and detained members of certain religious groups—generally evangelical Christian denominations (see section 2.c.).

There were no reliable estimates of the number of political detainees. However, several hundred opposition party members were detained for short periods of between one day and two weeks during the pre-election campaign period.

Lengthy pretrial detention of between three and six months—and sometimes longer—was a serious problem. The prosecutor general routinely extended the permitted, initial three-month pretrial detention period in successive increments of months until the government completed an investigation.

#### Amnesty

During the year President Aliyev pardoned 215 prisoners, including 87 persons local human rights activists considered political prisoners. The pardon included all seven opposition political leaders arrested and imprisoned in the aftermath of the 2003 presidential election. Subsequently, on June 30 and July 5, the courts vacated the convictions of the seven opposition leaders, which enabled them to run for parliament in the November elections.

During the summer, the president pardoned and released Azerbaijan Democratic Party's Secretary Taliyat Aliyev, who was detained in

August 2004.

#### 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 was corrupt and inefficient.

The executive branch exerts a strong influence over the judiciary. The president appoints supreme and constitutional court judges (subject to parliamentary confirmation) and lower court judges (without parliamentary confirmation).

Judges' salaries steadily increased over several years; nevertheless, there continued to be credible allegations that judges routinely accepted bribes. There were also credible reports that judges and prosecutors took instruction from the presidential administration and the MOJ, particularly in cases international observers were interested in.

Courts of general jurisdiction may hear criminal, civil, and juvenile cases. District courts try the majority of cases. The supreme court may not act as the court of first instance. One judge presides over district court level trials, while a three-judge panel hears cases at the court of appeals, the court of grave crimes, and the supreme court. The constitution provides all citizens with the right to appeal to the constitutional court. Citizens also have the right to appeal to the European Court of Human Rights, which they exercised frequently.

On October 3, the MOJ for the first time granted approval to an international NGO to train judges on compliance with election law. The first training took place on October 16.

#### 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. The law provides for the presumption of innocence in criminal cases, the right to review evidence, a defendant's rights to confront witnesses and present evidence at trial, a court-approved attorney for indigent defendants, and appeal for both defendants and prosecutors--provisions not generally respected in practice. Plans to begin jury trials were not implemented. Foreign and domestic observers usually were allowed to attend trials. Although the constitution prescribes equal status for prosecutors and defense attorneys, in practice prosecutors' privileges and rights outweighed those of the defense.

The law limits representation in criminal cases to members of a state-controlled collegium of lawyers (bar association), thereby restricting the public's access to legal representation of choice. In June the parliament approved an amendment to the law on advocates that was expected to reform the legal profession and establish a more independent bar association by allowing all licensed lawyers to join the collegium automatically. Some provisions in the amended law left open the possibility that the collegium could refuse a fully qualified lawyer for failing to meet other, unspecified requirements. The collegium admitted 9 of 231 licensed lawyers entitled to automatic admission to the association.

The constitution prohibits the use of illegally obtained evidence; however, despite 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 (see section 1.c.). Investigations often focused on obtaining confessions rather than gathering physical evidence against suspects. Serious crimes brought before the courts were likely to end in conviction, as judges generally required only a minimal level of proof and collaborated closely with prosecutors. In the rare instance when a judge determined the evidence presented was not sufficient to convict a defendant, judges could and did return cases to the prosecutor for additional investigation, in effect giving the prosecution a "second chance" for a conviction.

In the period preceding the November parliamentary elections, judges often sentenced to jail opposition members arrested for participating in unauthorized political rallies within hours of their detention, and without a fair trial.

The country also has a military court system with civilian judges. The military court retains first jurisdiction over any case in which "crimes against the state" are adjudicated.

#### Political Prisoners

Local NGOs maintained that the government continued to hold political prisoners, although estimates of the number varied. NGO activists maintained that the government held approximately 45 political prisoners. At year's end three political prisoners arrested in connection with the 2003 presidential election and listed in the COE's Experts Report remained incarcerated: Elchin Amiraslanov, Safa Poladov, and Arif Kazimov.

On March 17, the president pardoned the seven opposition leaders arrested in 2003 postelection violence (see section 1.d.).

The government permitted unrestricted access to political prisoners by international humanitarian organizations.

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

The law prohibits arbitrary invasions of privacy and monitoring of correspondence and other private communications; in practice the

government restricted privacy rights.

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 MNS and MIA monitored telephone and Internet communications, particularly those of foreigners and prominent political and business figures.

Police continued to intimidate and harass family members of suspected criminals and increased harassment of opposition political party members and their families.

On June 3, authorities detained Almaz Guliyeva, relative of exiled opposition leader Rasul Guliyev, at the airport on charges of carrying a gun. Guliyeva, a British citizen, collapsed when airport police showed her the supposed weapon. Authorities took Guliyeva to the hospital and released her after she recovered three weeks later; she departed the country immediately thereafter. International observers doubted the credibility of the evidence in the case.

On October 17, the government arrested Etibar Guliyev, Rasul Guliyev's nephew. A court eventually sentenced Guliyev to three months in prison for assaulting the police with a weapon in connection with Rasul Guliyev's planned return to the country. Authorities did not charge Guliyev with this specific crime at the time of his arrest, and prosecutors obtained a court conviction only after detaining him on unrelated charges for several days.

## 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; the government often did not respect these rights in practice.

In July the Organization for Security and Cooperation in Europe (OSCE) representative on freedom of the media visited the country and issued a report assessing the high degree of pluralism in the print media and the reduction in the number of libel and defamation suits against journalists positively, while commenting negatively on the continued acts of violence against journalists. On September 1, police officers beat opposition youth activist Vugar Mehdiyev for distributing political pamphlets in a city park. Following an investigation the MIA alleged that the victim's injuries were self-inflicted, a result of running into a tree. The government did not prosecute or punish any police officers in the case.

A large number of opposition and independent media outlets operated during the year. The print media enjoyed more freedom than the broadcast media and expressed a wide variety of views on government policies. However, most broadcast media adhered to a progovernment line in their news coverage.

There were over 40 active independent newspapers and magazines and 23 television and 12 radio stations. There also were 10 national state newspapers and 80 newspapers funded by city or district level officials. In contrast to progovernment newspapers, the distribution of many opposition newspapers was limited to the capital, and their circulation was low.

During the year many opposition and government-run newspapers reduced circulation, and several, including prominent opposition newspaper *Yeni Musavat*, reduced frequency. Moderate independent newspapers *Echo* and *Zerkalo*, however, maintained their circulation.

Some private television channels broadcast the views of both government and opposition officials, but their programs were not available in all parts of the country. Space TV and ANS TV, popular channels regarded as independent, provided balanced news coverage, especially of the parliamentary elections.

On August 29, the government launched independent, public television channel ITV, which broadcast television debates between parliamentary candidates and provided candidates with free airtime consistent with the requirements of the election code. However, the OSCE preliminary election assessment reported that government-funded ITV devoted 79 percent of its prime time news coverage to almost exclusively positive or neutral coverage of the president, the administration, government, and ruling party.

There were no restrictions on satellite broadcasts by foreign stations.

The government intimidated and harassed the media, primarily through defamation suits, prohibitively high court fines for libel, and measures that hampered printing and distribution of independent newspapers and magazines. However, in contrast to 2004, the number of defamation suits threatening the financial viability of the print media declined significantly during the year because of the mediation of local and international NGOs.

Harassment and violence against individual journalists continued. The Media Council, an independent NGO, reported that 40 journalists faced physical attack or harassment during the 6-month period preceding the November parliamentary election.

On February 1, Akrep Hasanov, a journalist from *The Monitor* newsmagazine, was reportedly abducted by military officials, detained for five hours, and forced to sign a statement of apology in response to an article he wrote about abuse and mismanagement of the Goranboy military unit. The case drew wide media coverage.

On February 25, two employees of an opposition party newspaper were allegedly kidnapped, stripped, and photographed naked with prostitutes. Photographs of the incident were broadcast repeatedly on state television channels in an effort to humiliate the newspaper.

On March 2, unknown assailants killed the widely respected founder and editor of *The Monitor*, Elmar Huseynov, in front of his Baku apartment. The government characterized the killing as a terrorist act meant to destabilize the regime and launched an investigation into the case. The investigation revealed that the assailants disabled telephone and electricity lines into the apartment building prior to the killing. Some human rights activists described the killing as a warning to those critical of the regime, a suggestion that government officials vehemently rejected. In July press reports stated that the government's investigation identified two Georgian citizens, Tahir Khubanov and Teymuraz Aliyev, as suspects. At year's end the investigation continued, and no arrests had been made. *The Monitor* ceased publication in April, and in May Huseynov's former colleagues started a new publication, *Realniy Azerbaijan*.

During the year police officers beat three local journalists from independent and opposition newspapers covering unauthorized political rallies in the capital, despite being clearly identifiable as members of the press. On May 21, riot police severely beat journalist Farid Teymurxanlı from independent newspaper *Zerkalo*, and in separate incidents on October 9, police beat a local journalist from *Boz Gurd* newspaper and beat unconscious a local journalist from *Ayna* newspaper. Police detained and released 24 journalists in connection with their coverage of unauthorized political rallies. On November 26, police beat 10 journalists at a government-authorized Azadliq bloc political rally, which authorities violently dispersed.

In December 2004 police beat Alim Kazimli, a photojournalist for the opposition *Yeni Musavat* newspaper, because he complained to the authorities about the inefficient processing of passport applications at the passport office. Kazimli recovered from his injuries but died six months later, reportedly from a heart condition. However, opposition newspapers attributed his death to conditions arising from the police beating.

By year's end the government did not announce the arrest of any police officers or the results of an investigation into election-related police clashes with journalists and opposition activists in 2003. No developments were expected.

The government did not charge anyone in the investigation of the July 2004 attack on Eynulla Fatulliyev, a staff writer for *The Monitor*. No developments were expected in the investigation.

In April a leading independent electronic media group, ANS TV and Radio, launched independent, monthly newsmagazine *Hesabat*, which published controversial and politically sensitive articles. While President Aliyev publicly defended the company's right to publish this information, the firm continued to face harassment from other quarters of the government. In April ruling party members of parliament denounced ANS and publicly threatened the company's president. One member of parliament sued *Hesabat's* editor in chief for libel after the newsmagazine named the parliamentarian one of the country's richest persons. The court case was ongoing at year's end.

The government periodically used state-run television to denounce and harass political parties and leaders who criticized the government. State-operated AzTV rebroadcast footage of opposition youth activist Ruslan Bashirli allegedly conspiring with Georgian and Armenian citizens to foment revolution in the country. Progovernment news agencies described Bashirli's organization, *Yeni Fikir*, as a part of Ali Kerimli's Popular Front Party (PFP) and attacked Kerimli and his party in daily news broadcasts. The coverage incited several violent protests outside of the PFP's offices. On August 11, in Baku, a group of 30 youths vandalized the PFP's headquarters, throwing stones through the windows. On August 10, a group of youths attacked PFP's headquarters in Lenkoran.

The government's licensing authority harassed independent private channel ANS TV. Based on a restrictive interpretation of the licensing law, the National Television and Radio Council (NTRC) revoked ANS' radio license for its affiliate in the city of Sheki six weeks before the parliamentary election. In the ensuing dispute, the NTRC chairman publicly threatened, but did not revoke, ANS' nationwide television broadcast license.

There was no transparent or independent licensing mechanism for broadcast media--the NTRC was responsible for issuing licenses and monitoring broadcasts, but it was inefficient and did not function independently of the government. In addition the MOJ must register corporations such as a TV network operating company in order for it to have legal existence. During the year the NTRC granted a license only for the establishment of the state's first public television channel. The NTRC interpreted the licensing law in a manner that prevented some independent news organizations from entering local media markets.

In September the MOJ initially rejected the registration application of a regional television network consisting of local stations on the grounds that the network was sponsored by an international media development NGO. The network revised its incorporation documents to remove the international NGO from the title, and the MOJ registered the new entity.

Most newspapers and magazines were printed in government publishing houses or on private printing presses owned by individuals close to the government. The majority of independent and opposition newspapers remained in a precarious financial position; they continued to have problems paying wages, taxes, and periodic court fines.

The government prohibited 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.

As a result of legal provisions favoring candidates from large political parties over independents, candidates from the ruling party and the largest opposition blocs--Azadliq, New Politics (YeS), and the Liberal Party--dominated the free airtime during the parliamentary campaign period, to the exclusion of the majority of candidates who ran as independents. Over the course of the campaign period opposition politicians consistently had free, unrestricted access to state television airtime and paid, unrestricted access to private television time, although news

coverage was heavily skewed in favor of the ruling New Azerbaijan Party.

In violation of the free media access requirements of the election code, the government restricted the opposition's access to a state television channel during the 72-hour-period following the attempted October 17 return of exiled opposition leader Rasul Guliyev.

It was widely believed that the government blocked the satellite broadcasts of Azadliq TV, which was reportedly affiliated with the political opposition, shortly after the channel's August launch.

Libel is a criminal offense; the law allows for large fines and up to three years' imprisonment. Although the number of libel suits against journalists continued to decline during the year, some officials continued to use libel suits to prevent the publication of embarrassing or incriminating information. According to the OSCE, the criminal conviction rate for libel was historically low, but civil cases often crippled news organizations financially.

The president spoke out against libel suits briefly following Elmar Huseynov's murder.

In October the Baku city mayor sued the editor in chief of *Realniy Azerbaijan* Eynulla Fatulliyev for libel in a case that was ongoing at year's end. Fatulliyev, a former staff writer at Elmar Huseynov's *Monitor*, founded *Realniy Azerbaijan* after Huseynov's death.

Baku-based journalists reported that authorities in the exclave of Nakchivan continued to block distribution of opposition newspapers.

As in the previous year, the government tightened enforcement on unregistered, independent newspaper vendors who mainly distributed opposition newspapers, stating that the illegal vendors created traffic hazards on city streets. In March the government lifted a prohibition on the sale of opposition newspapers within the subway system.

*Gaya*, the country's largest independent newspaper distributor, reopened 11 of its 20 newsstands in Baku that were torn down in 2002 by the Baku mayor's office.

The government 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. There was no evidence to support the widely held belief that the government monitored Internet traffic of foreign businesses and opposition leaders.

The government generally did not restrict academic freedom. However, during the year the government expelled four students from Baku State University, the State Economic University, and the Pedagogical University due to their political activities in support of opposition parties. For example, in separate incidents on November 9, university authorities threatened to expel Elturan Mursalzade and did expel Polad Mehdiyev for their involvement in postelection opposition political activities. Officials cited Mehdiyev's failure to complete final exams as the reason for his dismissal. Classmates reported Mehdiyev was told to denounce the opposition on television in return for permission to return to school. On December 28, the minister of education readmitted Mehdiyev after he made a public apology to the rector. On November 25, Baku State University authorities expelled Turan Aliyev for inciting public disorder on campus in support of the opposition's political activities. Within days of his expulsion, Aliyev received military enlistment orders. On December 28, Aliyev began a hunger strike, which drew increasing media attention and continued at year's end. Three opposition youth activists joined the hunger strike in protest of the universities' expulsions.

## b. Freedom of Peaceful Assembly and Association

### Freedom of Assembly

The law provides for freedom of assembly; however, the government restricted this right in practice. On May 11, the president issued a decree ordering the government to hold free and fair parliamentary elections in November consistent with international standards. In compliance with the decree, on June 4, the government partially restored the constitutional right to freedom of assembly, which had not been permitted since the demonstrations following the 2003 presidential election. However, the government restricted implementation of this right in the period before the November elections. The government interpreted the law to require individuals and political parties to obtain permission from the authorities in order to assemble and organize demonstrations.

In the pre-election period, the government authorized political rallies exclusively at predetermined venues approved by local authorities. Most of these locations were removed from city centers. The opposition held authorized rallies at some of these locations and attempted to hold unauthorized rallies in city centers.

Opposition parties often held unauthorized rallies when government permission was not granted. In these instances authorities restricted public transportation to the sites, and in one instance, blockaded Azadliq's local party offices to prevent opposition party members from congregating in the downtown area.

In some cases local authorities also interfered to undermine authorized opposition rallies. For example, on October 15 in Agstafa and Tovuz, credible reports indicated that local authorities prohibited public buses from transporting individuals to the city center where the opposition planned a demonstration.

On May 21, the government deployed riot police throughout Baku's city center in response to an unsanctioned Azadliq bloc rally of approximately one thousand participants. Riot police used truncheons to beat approximately 15 members of the opposition parties Popular

Front, Musavat, and the Azerbaijan Democratic Party, as well as a member of the press, when they attempted to gather near the main train terminal. Police detained over 60 persons, sentencing them to 1 to 5 days in jail; an additional 30 persons were detained preemptively, before the event took place (see section 1.d.).

On June 4, the Azadliq bloc held its first authorized rally in Galaba Square. The 15 thousand participants gathered a mile from the square and marched peacefully toward the venue. The police deployed approximately 500 riot troops, who cordoned off the square; the police acted with restraint, and the event concluded peacefully after several hours of speeches by opposition figures.

At a June 28 rally, a group of 30 demonstrators briefly clashed with an equal number of police when the demonstrators broke through a portion of the police line. The police used minimal force to restore their position. No one was seriously injured or arrested.

In late September Azadliq unsuccessfully sought government authorization to hold political rallies in downtown Baku. On October 1 and 9, the opposition attempted to hold multiple, simultaneous, unauthorized rallies in Baku. The government deployed more than a thousand riot police, closed off several central city squares, and used force to disperse crowds. Police beat with truncheons 40 opposition activists, seriously injuring 27. Police also seriously beat three local journalists covering the rallies. On October 1, authorities detained 14 persons and on October 9, 12 persons, for periods of 7 to 12 days. On October 23, Azadliq held its fourth unauthorized pre-election rally in central Baku. Groups of 200 to 300 Azadliq supporters gathered in pockets around the city center before being dispersed by riot police. Police detained approximately 65 Azadliq supporters in a police station near the city's central square for several hours.

Following the November 6 parliamentary election, Azadliq held four government-authorized political rallies at Baku's Galaba Square to protest the election's conduct.

On November 26, approximately 800 security forces violently dispersed a government-authorized Azadliq bloc rally at Galaba Square in response to an opposition leader's call for a participant "sit down" to protest the results. Diplomatic observers reported that riot police charged through the crowd of seven thousand opposition supporters striking them with truncheons. Riot police, joined by MIA special forces units and plainclothes police officers, charged the platform where opposition leaders were standing, destroying it and the cordon that surrounded it. Two opposition leaders, Ali Kerimli and Lala Shovket Hajiyeva, were struck in the melee. Police seriously beat a third opposition leader, Liberal Party Deputy Chairman Avaz Temirhan, while apprehending him. Police used truncheons and water cannons to remove protesters from the square.

Diplomatic observers witnessed at least one person beaten unconscious and several beaten to the ground. Opposition officials subsequently reported that 90 persons were seriously injured (broken bones), 4 were taken to city emergency rooms in critical condition, and 67 others sustained minor bruises.

Despite the peaceful conduct of participants, the government arrested 57 opposition supporters for "hooliganism" and "public disorder" at the November 26 rally. Within hours of the arrests, courts sentenced 27 opposition supporters to jail for 10 to 15 days. The remaining 30 were released with administrative penalties or fines. No police officials were held accountable for the excessive use of force.

On January 12, a court convicted 10 individuals on charges stemming from their alleged participation in demonstrations following the 2003 presidential election. Two defendants received three-year prison sentences, and the other eight received three-year suspended sentences.

#### Freedom of Association

The law provides for freedom of association, although in practice the government continued to restrict this right. A number of provisions allowed the government to regulate the activities of political parties, religious groups, businesses, and NGOs, including a requirement that all organizations register either with the MOJ or the State Committee on Work with Religious Associations (SCWRA). Although a new law requiring the government to act on registration applications within 30 days of receipt was implemented, vague, cumbersome, and nontransparent registration procedures continued to result in long delays that effectively limited citizens' right to associate.

The government used a 2003 requirement for all existing NGOs to reregister with the MOJ to delay or deny registration to some previously registered groups, often citing the failure of applicants to follow proper procedures. During the year the MOJ registered 379 NGOs, which it reported was more than twice the number registered in 2004. However, the MOJ did not provide information on the total number of NGO applications received or the number of NGO applications rejected during the year.

In May the OSCE issued a report on NGO registration, identifying problems and offering recommendations. Its conclusions noted that the government procedurally evaded NGO registration by taking an excessive amount of time to discover shortcomings, which unduly prolonged processing times for NGO registration applications. While the report noted many of the shortcomings in applications cited by authorities were valid, most of them were correctable during the registration process and should not have been grounds for final rejection.

#### c. Freedom of Religion

The law provides for freedom of religion; however, there were some abuses and restrictions in practice. 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."

A number of legal provisions enable the government to regulate religious groups, including a requirement that religious organizations, including individual congregations of a denomination, be registered by the government (see section 2.b.). 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; control over the publication, import, and distribution of religious literature; and the ability to suspend the activities of religious groups violating the law.

Registered Muslim organizations are subordinate to the CMB, a Soviet-era entity which appoints Muslim clerics to mosques, periodically monitors sermons, and organizes annual hajj pilgrimages. It has been subject to some interference by the SCWRA, which has attempted to share control with the CMB over the appointment and certification of clerics and internal financial control of the country's mosques. Some Muslim religious leaders objected to interference from both the CMB and SCWRA.

The SCWRA continued to delay or deny registration to some Protestant Christian groups, including two Baptist churches. Three of the Baptists' five main churches successfully reregistered. At the end of August, the SCWRA had registered more than three-quarters of the number of religious communities previously registered. Jehovah's Witnesses and other nontraditional faiths continued to have problems registering. Some groups reported that SCWRA employees tried to interfere in the internal workings of their organizations during the registration process.

Although unregistered religious groups continued to function, some, such as Seventh-day Adventists, Jehovah's Witnesses, and Baptists, reported official harassment, including disruption of religious services and police intimidation, fines, and occasional beatings of worshippers by police. Some nontraditional religious groups operated in an atmosphere of fear.

For example on June 12, police conducted televised raids of the Jehovah's Witnesses' place of worship detaining 29 persons overnight, including foreign nationals, and confiscating the group's imported religious literature.

In a mid-March television appearance, the head of the CMB described nontraditional religious groups as subversive sects. In a separate incident the chairman of the SCWRA, speaking on television, stated that Seventh-day Adventists used financial bribes to recruit adherents.

Local law enforcement authorities occasionally monitored religious services, and some observant Christians and Muslims were penalized for their religious affiliations. Christians were often suspected of illegally proselytizing but not political activity. Government authorities took various actions to restrict what they claimed were political and terrorist activities by Iranian and other clerics operating independently of the organized Muslim community. For example the government deported several Iranian and other foreign clerics operating independently of the organized Muslim community for alleged violations of the law. The government outlawed several Islamic humanitarian organizations because of credible reports about connections to terrorist activities. On May 8, the government closed a Saudi Arabian-sponsored Sunni mosque in the city of Sumgayit.

Jehovah's Witnesses reported that authorities regularly interfered with their ability to rent public halls for religious assemblies and on occasion fined or detained and beat individuals for meeting in private homes. On June 12, police raided a gathering of approximately 200 Jehovah's Witnesses in Baku, detaining 29 members of the group and then releasing them after several hours in police custody. Local television stations also aired "raids" of religious meetings for "exposes" of religious groups.

The law expressly prohibits religious proselytizing by foreigners, and this was enforced strictly. On April 24, police authorities seized Jehovah's Witnesses religious literature in Baku on these grounds.

In April 2004 following a flawed trial, a court convicted the imam of the Juma Mosque, Ilgar Ibrahimoglu, of participating in postelection demonstrations in 2003 and sentenced him to a five-year suspended sentence after he had spent four months in pretrial detention. Since his conviction, Ibrahimoglu has not been allowed to travel outside the country, including to several meetings of the UN and the OSCE where he was to be an official NGO participant (suspended sentences carry a restriction on international travel).

On June 30, the first anniversary of the Juma community's eviction from its mosque, police briefly detained and released Ibrahimoglu for leading a group of worshippers into the officially closed mosque to conduct prayers. He and approximately 30 members of the Juma Mosque community also participated in demonstrations earlier in the day in front of the SCWRA. Ibrahimoglu was also briefly detained on September 4 in Baku after leading a group of 30 persons marching in support of women's right to wear the *hijab* (headscarf).

Despite a court ruling in favor of the right to wear headscarves in passport photos, the Center for Protection of Conscience and Religious Persuasion Freedom reported that authorities continued to prohibit Muslim women from wearing headscarves in passport photos. In December 2004 a group of women appealed to the European Court of Human Rights to protest the ban. At year's end there was no resolution to the case, and no developments were expected.

Some local officials also continued to discourage Muslim women from wearing headscarves in schools. In June a court in Sumgayit upheld a school teacher's right to wear a headscarf while teaching and ordered the school to pay her back wages for the two months she was not allowed to teach.

The law permits the production and dissemination of religious literature with the approval of the SCWRA; authorities also appeared selectively to restrict individuals from importing and distributing religious materials. The procedure for obtaining permission to import religious literature remained burdensome, but religious organizations reported that the SCWRA appeared to be handling requests more effectively.

Some religious groups continued to report restrictions and delays in importing religious literature caused by government ministries, although the SCWRA facilitated the import of such literature. The SCWRA limited the number of copies of a Jehovah's Witnesses publication that could be imported. The Baptist Union reported the SCWRA restricted the quantity of religious books allowed after granting initial import permission.

On February 4, the supreme court ruled that, while the country remained in a state of war with Armenia, the military's service requirement superseded an individual's constitutional entitlement to alternative service due to religious beliefs and that, absent implementing regulations, the military was not obligated to provide alternative service. The defendant in this case and his family subsequently left the country.

#### Societal Abuses and Discrimination

There were an estimated 30 thousand Jews in the country. There were few cases of prejudice and discrimination against Jews, and in the few instances of anti-Semitic activity the government responded quickly. There was popular prejudice against Muslims who convert to non-Islamic faiths and hostility toward groups that proselytize, particularly evangelical Christian and missionary groups. The government appeared to encourage such social stigmatization through orchestrated exposes and raids of nontraditional groups.

For a more detailed discussion, see the [2005 International Religious Freedom Report](#).

#### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The law provides for these rights, although at times the government limited freedom of movement, particularly for internally displaced persons (IDPs). The law required 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 criminal offenses 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.

#### Internally Displaced Persons (IDPs)

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 forced from their homes after the Armenian occupation of western parts of the country. The government asserted that registration was needed to keep track of IDPs to provide them with assistance.

While official government policy allowed ethnic Armenians to travel, low-level officials often extracted bribes or harassed Armenians who applied for passports. According to the International Organization for Migration (IOM), 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 who applied with Azerbaijani surnames encountered no problems except for having to pay bribes.

There were approximately 575 thousand IDPs in the country. The vast majority of these persons fled their homes between 1988 and 1993 as a result of the Nagorno-Karabakh conflict.

During the year the government received \$30 million in assistance from international and domestic humanitarian organizations for refugees and IDPs. According to the government, it also allocated \$44 million (202 billion manat) from the country's oil fund to improve living conditions for IDPs and refugees. During the year the government constructed new settlements in Agdam, Agjabedi, and Bilasuvar under a 2004 presidential decree to improve living conditions for refugees and IDPs.

The State IDP and Refugee Committee's estimated expenditures were \$82 million (377 billion manat). IDPs received monthly food subsidies of \$6 (30 thousand manat) from the government.

According to the IOM, approximately 21 thousand IDPs lived in the Sabirabad, Saatli, Aghjabadi, and Barda camps. Many IDPs lived at below-subsistence levels, without adequate food, shelter, education, sanitation, and medical care. Approximately 28 thousand IDPs lived in settlements provided by the European Union, while another 12 thousand lived in housing provided by the UN High Commissioner for Refugees (UNHCR). Other IDPs were scattered among unfinished buildings (in some cases mud dwellings), hostels, public health facilities, and the homes of friends or relatives.

#### Protection of Refugees

The law provides for the granting of asylum and refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided some protection against *refoulement*, the return of persons to a country where they faced persecution, and granted refugee status or asylum during the year. The largest number of applicants was from Afghanistan; however, the government did not recognize these individuals as refugees.

The government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers. According to the UNHCR, over 90 percent of the 3,458 refugees and asylum seekers registered by the UNHCR in the country at the end of the year were Chechens from the Russian Federation. However, the government did not identify Chechens as refugees under the 1951 convention, and it did not accept applications for refugee status from Chechens. Instead, the UNHCR carried out all functions to provide Chechens with required assistance and protection to remain in the country legally. Only Chechens who registered with the UNHCR were protected from forced repatriation to their homeland.

Reports of arbitrary harassment, detention, and arrests of undocumented Chechens continued to be a problem, although UNHCR noted fewer cases than in the previous year. The laws on residence, registration, and the status of refugees and IDPs did not apply to Chechens,

who were required to register with the police and not entitled to residence permits. Chechens may enter the country visa-free following the March implementation of a new bilateral external passport system with Russia, which required Chechens to carry Russian passports to enter Azerbaijan. Chechen children were allowed to attend public schools. Access to basic medical services for Chechen refugees was available.

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

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

#### Elections and Political Participation

The government held national parliamentary elections on November 6. The OSCE's preliminary election assessment concluded that the elections did not meet a number of the country's OSCE commitments and COE standards for democratic elections.

In the pre-election period, President Aliyev repeatedly and publicly affirmed the government's commitment to holding free, fair, and transparent elections and issued a decree instructing national and local government officials to conduct an election process that would meet international standards. In spite of the decree, there were numerous credible reports of local officials' interference with the campaign process to the benefit of progovernment candidates. For example in Sabirabad, domestic and international monitors reported that the executive authorities threatened public school teachers with dismissal for failing to support the progovernment candidate.

During the campaign period, the government did not punish local executive authorities' widespread misuse of state resources. Local executive authorities frequently misused administrative resources to the benefit of progovernment candidates. Local authorities also restricted freedom of assembly for opposition candidates. Police used disproportionate force to disrupt rallies (see section 2.b.). State and private television news coverage of the campaign period disproportionately favored progovernment candidates, although opposition candidates had access to free and paid airtime on a daily basis throughout the campaign period while independent candidates had access to paid airtime and free airtime on a limited number of regional channels and through public interest programming.

On October 25, two weeks before the election, President Aliyev issued a second decree on the election ordering the Central Election Commission (CEC) to use finger inking at polling stations to prevent voter fraud and instructing the public prosecutor to investigate and prosecute election fraud complaints. However, the late issuance of the decree hampered its implementation on election day. According to the OSCE assessment, 11 percent of polling stations visited failed to follow inking procedures, a shortcoming it attributed to inadequate training for election officials.

More than 500 candidates withdrew in the final weeks of the parliamentary election campaign; many cited government pressure to withdraw.

The government generally respected the legal provisions of the election code. Candidates were able to hold numerous town hall meetings with voters, although police disrupted some gatherings. According to the OSCE, June amendments to the election code made limited improvements to the electoral framework, although most recommendations were not implemented or only partially implemented. The CEC approved a number of regulations to enhance the integrity of voting, counting, and the vote tabulation process. The CEC undertook an extensive, pre-election voter education campaign.

The president's October 25 decree also reversed a ban on election observation by NGOs receiving greater than 30 percent of their financial support from international sources. The change had no impact on this election, as all observers were required to have registered in advance; however, domestic election observers were generally able to register as individuals (rather than NGOs as entities). There were an estimated three thousand individual domestic NGO observers for the parliamentary election.

Voting proceeded in a more orderly and transparent manner than in previous national elections, although there were some irregularities. The OSCE-led International Observation Mission assessed 87 percent of the more than 2,500 polling stations it visited during the daytime voting process as positive. However, in some instances international observers reported unauthorized persons, such as policemen, in the polling station during the voting. Observers also witnessed candidates or candidate representatives attempting to influence voter choices and ballot box stuffing in one-third of the polling stations visited as well as family (group) voting in one-fifth of the polling stations visited.

Fraud and major irregularities marred the vote counting and tabulation process. International observers assessed the ballot counting process as bad or very bad in 43 percent of polling stations observed, reporting that election precinct officials refused to count election ballots in front of them and attempted to complete official tabulation protocols behind closed doors. In one precinct, observers witnessed election commission members taking instructions from an unidentified person in the polling station's basement. In Ganja international observers witnessed a precinct chairwoman writing the vote tally in pencil, which would have given officials the ability to alter the final results. In Shamkir observers witnessed a precinct chairwoman hide an already completed election protocol after an unidentified person handed it to her. On election night in Baku, a candidate objecting to the fraudulent vote counting procedure at a polling station in his district was detained, along with his wife, at a local police station for more than an hour. International observers reported that precinct-level voting results were not posted in 54 percent of the counts observed.

Following the election, authorities acted to address some instances of election fraud. The CEC annulled results from 423 of more than 5,100 election precincts. President Aliyev dismissed three local executive authorities because of their interference in the campaign and voting process. The prosecutor general opened 17 criminal cases against local government officials, election commission members, and opposition candidates for violations of the election code on voting day. The prosecutor also ordered the arrest of four local election officials for election fraud, who were in pretrial detention at year's end. The CEC annulled four constituency results and ordered reruns of these races in May

2006. The CEC overturned the results of two other constituencies in favor of opposition candidates because of serious precinct irregularities and dismissed the election commission members of these six constituencies citing the members' involvement in fraud or failure to following election procedures. The CEC also dismissed a total of 108 precinct-level election commissions and 6 constituency commissions, also on fraud-related grounds.

In a December 1 hearing to certify the election results, the constitutional court annulled the results of an additional 6 constituencies, bringing to 10 the total number of annulled constituencies that will be rerun in May 2006; however, the 6 additional annulments also included the court's reversal of previous CEC decisions. Opposition supporters criticized the court's action because it cancelled a race previously awarded to an opposition Azadliq bloc candidate as well as a race that Azadliq claimed it had won in a fair contest.

The CEC and constitutional court actions did not fully address reports of fraud and other irregularities or allay the concerns of the international community about the extent to which the results fully reflected the will of the people.

Some opposition members refused to take their seats in protest of election fraud. The OSCE's final election assessment was pending at year's end.

The most recent presidential election was held in October 2003 and formally brought Ilham Aliyev to power. This election failed to meet international standards for democratic elections due to a number of serious irregularities.

In December 2004 nationwide municipal elections were marred by widespread fraud and serious irregularities, including ballot-box stuffing, forging of voters' signatures, multiple voting, voting without proper identification, and intimidation of election officials and voters by local government authorities appointed by the presidential administration. There were also technical problems.

Opposition parties played an active role in politics. There were 48 registered political parties in the country, at least 20 of which were considered to be opposition. Members of the opposition were more likely to experience official harassment and arbitrary arrest and detention than other citizens. Incidents of police harassing members of opposition political parties or their families increased (see section 1.f.) in connection with November's national parliamentary elections.

In August violent gangs attacked the party offices of the PFP in Baku and Naxhchivan in the immediate aftermath of the government's high-profile arrest of Ruslan Bashirli on charges of fomenting a revolution. Progovernment media outlets attempted to link opposition PFP leader Ali Kerimli to Bashirli's arrest, which spurred attacks on the party's offices.

On March 17, the president pardoned the seven opposition leaders arrested in 2003 postelection violence (see section 1.d.). On June 24, the courts vacated the convictions of these persons, allowing them to run for parliament in the November election.

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. The practice continued of "family voting," whereby men voted on behalf of their wives and other female family members. There were 15 women in the 125-seat parliament. Several women held senior government positions, including deputy speaker of parliament and deputy chair of the CEC.

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

#### Government Corruption and Transparency

The law penalizes corruption by outlawing bribery; however, there was widespread public perception of corruption throughout all facets of society, including the civil service, government ministries, and the highest levels of government. According to the prosecutor general's office, criminal cases related to corruption were opened during the year, specifically on bribery charges; however, these cases had little or no impact on the prevalence of bribery and corruption in the country.

In January a new anticorruption law came into force that required public officials to report annual income, sources of income, property owned, and financial liabilities. It also prohibited nepotism and limited giving gifts and direct or indirect financial benefits to public officials or third parties; however, official records do not exist to validate the implementation of this law.

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.

#### Section 4 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 MOJ routinely denied or failed 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 National Group of ISHR, the Azerbaijan Foundation of Democracy Development and Human Rights Protection, Azerbaijani Committee Against Torture, and the Institute for Peace and Democracy. Most of the leading NGOs affiliated themselves with one of two independent, umbrella organizations: the Human Rights Federation or the Helsinki Citizens Assembly.

The government met with a variety of domestic NGO monitors. The MOJ formed a joint prison condition monitoring commission with several representatives of the NGO community. The ministry also formed a joint political prisoner review committee with several representatives of the human rights community. In August the MIA granted permission for the first time for an NGO to have immediate access to police and pretrial detention facilities; the NGO exercised this right without obstruction.

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. Leyla Yunus, director of Institute of Peace and Democracy, received several death threats in connection with her research and reporting. State television aired photographs of her private residence on television and described her as an apologist for Armenia.

Local officials continued to harass and intimidate NGOs working outside Baku. In March the government suspended the activities of the international agricultural development NGO Adventist Development and Relief Agency, based on the statements of a former employee that, 10 years ago, the organization proselytized on behalf of the Seventh-day Adventist Church, with which it is affiliated. In May in Mingechevir, local officials prevented the Legal Education Society, which operated with some foreign funding, from conducting a seminar on civil liberties. The president subsequently dismissed the head of Mingechevir executive authority.

Despite an April 2004 presidential decree to implement the NGO registration law, the process remained cumbersome. The 2003 amendments complicated requirements to register grants from foreign entities and subjected the funds to a social security tax of 22 percent on employee salaries, while 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 of the tax code inhibited their organizations' activities.

In August vigilante groups protested outside of the offices of a leading international democracy NGO because an arrested youth group activist falsely claimed that the organization trained him to foment revolution in the November election.

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

In July the OSCE representative on freedom of the media visited the country and subsequently issued a report of observations and recommendations (see section 2.a.).

On October 25, a presidential decree reversed a ban on election observation by NGOs receiving more than 30 percent of their financial support from international sources (see section 3).

Citizens may appeal violations committed by the state or by individuals to the ombudswoman for human rights. During the year the ombudswoman received 6,200 complaints, approximately 3 thousand of which were defined as authentic human rights violations accepted by the office for investigation. The ombudswoman may refuse to accept cases of abuse that occurred over a year ago, anonymous complaints, and cases already being handled by the judiciary. The ombudswoman traveled around the country to hear human rights complaints, cooperated with foreign diplomats working on human rights activities, and submitted an annual report to parliament. Compared with previous years, the ombudswoman was more outspoken in her criticism of government actions: in September she sharply criticized the NTRC for closing down a regional radio station of a large, independent media conglomerate before the election. 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 parliament and MOJ 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 Foreign Affairs Ministry regularly met with the diplomatic community to discuss issues of concern. The parliament's human rights body did not operate fully independent of government influence.

## Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The law provides for equal rights without respect to gender, race, language, disability, or social status, but the government did not always respect these provisions or effectively enforce them. Violence and discrimination against women, trafficking of persons, and discrimination against ethnic Armenians were problems.

### Women

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 are no laws on spousal abuse or specific laws on spousal rape. Rape is illegal and carries a maximum 15-year prison sentence. The government stated that 44 rapes and attempted rapes were reported during the year. Most rape victims reportedly knew their assailants but did not report incidents out of fear and shame.

There were no government-sponsored programs for victims of domestic violence or rape. In Baku a women's crisis center operated by the Institute for Peace and Democracy provided free medical, psychological, and legal assistance for women. During the year the center provided services to 2,772 women, and 1,518 women called the center's crisis hot line. The institute also broadcast three public service announcements and short films in the regions, covering women's legal rights and court procedures.

Prostitution is not a crime but is an administrative offense punishable by a fine of up to \$100 (500 thousand manat). Pimps and brothel owners may be sentenced to prison for up to six years. Prostitution was a serious problem, particularly in Baku. Trafficking in women for sexual exploitation was a problem (see section 5, Trafficking).

Sexual harassment was prohibited by law, and the government reported that it investigated 46 cases of sexual harassment during the year.

Women nominally enjoy the same legal rights as men; however, societal discrimination was a problem. Traditional social norms and poor economic conditions 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.

#### Children

The law requires the government to protect the rights of children with regard to education and health care. In practice difficult economic circumstances limited the government's ability to fulfill its commitments.

Public education was compulsory, free, and universal until the age of 17. The Ministry of Education reported 100 percent elementary school attendance, 97 percent middle school attendance, and 88 percent high school attendance during the year; the UN Children's Fund reported the elementary school figure was approximately 88 percent. The highest level of education achieved by the majority of children was high school. In impoverished rural areas, large families 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 beg rather than attend school (see section 6.d.).

The government provided a minimum standard of health care for children, but the overall quality of medical care was very low.

There were isolated reports of child abuse and of trafficking in children (see section 5, Trafficking), and the government reported that it opened an investigation into one case of child trafficking.

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

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

#### Trafficking in Persons

The government adopted new legislation in June and amendments to the criminal code in October criminalizing trafficking in persons. However, for most of the year trafficking was not a criminal offense. The government prosecuted traffickers under laws prohibiting rape, forced prostitution and labor, and forgery of travel documents. Most trafficking-related crimes prosecuted during the year carried maximum penalties between 3 and 6 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. During the year the government opened 160 criminal investigations resulting in 153 convictions of individuals charged with trafficking-related crimes.

The deputy minister of internal affairs was the national coordinator for government antitrafficking activities, monitoring relevant government bodies' efforts and dealing with the NGO community. Government bodies involved in antitrafficking included: the Ministries of Internal Affairs, Foreign Affairs, Justice, National Security, and Health; the prosecutor general; the state border guard; customs; and the State Committee on Women's Issues.

The government regularly collaborated with neighboring countries on antitrafficking investigations.

The country was primarily a country of origin and transit for trafficked women, men, and children for sexual exploitation and forced labor. Russian, Central Asian, and local women and girls were trafficked from or through the country to the United States, United Arab Emirates (UAE), Turkey, Iran, and Pakistan for work in the sex industry. There was also internal trafficking of women for sexual exploitation. The government reported it identified 231 trafficking victims: 218 Azerbaijani, 11 Uzbek, 1 Russian, and 1 Kyrgyz. During the year the government also reported one case of trafficking of a child.

Women and girls were trafficked internally from rural areas to the capital for sexual exploitation, men were trafficked to Turkey and Russia for forced labor, and boys were trafficked internally for begging. Iranians, Iraqis, Afghans, and migrants from South Asia were smuggled through the country to Europe—particularly Germany, Sweden, France, and the Netherlands—and to the US, where they at times had their passports confiscated and were subjected to forced labor. Traffickers generally targeted women. Refugees, IDPs, and the rural poor faced a higher risk of being trafficked.

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 false 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. Some families willingly married their daughters to wealthy Iranians without concern for the actual outcome.

There was no evidence of official complicity in trafficking, but corruption in some government agencies facilitated trafficking.

In late June parliament passed antitrafficking legislation increasing protections for trafficking victims by relieving them from civil, administrative, and criminal responsibility for offenses committed under coercion, intimidation, or other trafficking conditions. The law also allows the use of pseudonyms to protect the identity of trafficking victims and provides for assistance and shelters for trafficking victims. October revisions to the criminal code implemented this legislation.

There was no standardized mechanism to return trafficked women to the country. According to the IOM, some Azerbaijanis and third country nationals who were either victims of trafficking or engaged in prostitution were deported to the country, primarily from Turkey and the UAE. However, the government had no program to assist them.

The government also referred victims to international organizations and domestic NGOs for assistance. The IOM and OSCE provided training for domestic NGOs on how to operate emergency hot lines, conduct awareness campaigns, and secure housing for trafficking victims. There were no known shelters for victims, but some NGOs, which cooperated with the government, reportedly sheltered victims in private homes.

During the year the government continued to implement its antitrafficking action plan. The government identified a site for a trafficking victims' shelter and by year's end began renovations to the building. With international assistance, the government developed but did not implement a standardized recruitment, selection, and testing process for police officers of the new antitrafficking unit.

Several NGOs, such as the Institute for Peace and Democracy and Clean World, and government bodies, such as the State Committee for Women's Issues, worked on antitrafficking activities. There were no government-sponsored antitrafficking public education campaigns, although the Ministry of Education supported school information programs run by domestic NGOs.

#### Persons with Disabilities

The law prohibits discrimination against persons with disabilities in employment, education, and access to health care, or 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 legal provisions mandating access to public or other buildings for persons with disabilities, and most buildings were not accessible.

Care 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 groups complained that authorities restricted their ability to teach or print materials in their native languages. Specifically, Farsi-speaking Tallish in the south, Caucasian Lezghins in the north, displaced Meskhetian Turks from Central Asia, and displaced Kurds from the Armenian-occupied Lachin region reported sporadic incidents of discrimination, restrictions on the ability to teach in their native languages, and harassment by local authorities.

Some of the approximately 20 thousand citizens of Armenian descent living in the country historically have complained of discrimination in employment, schooling, housing, the provision of social services, and other areas. Azerbaijani citizens who were ethnically Armenian often concealed their ethnicity by legally changing the ethnic designation in their passports.

#### Other Societal Abuses and Discrimination

The government did not officially condone discrimination based on sexual orientation; however, there was societal prejudice against homosexuals.

#### Section 6 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 independent journalists' unions.

Uniformed military and police are prohibited from participating in unions, although civilians working in the interior and defense ministries were allowed to do so. The law also prohibits managerial staff from joining a union, but in practice managers in state industries often had union

dues automatically deducted from their paychecks.

The law prohibits unions from engaging in political activity, although some government-aligned unions ignored this prohibition.

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. As a result unions did not have resources to carry out their activities effectively. Unions had no recourse to investigate the withheld funds.

The Azerbaijani Trade Union Confederation (ATUC) had approximately 1.5 million members, including 26 labor federations in various industrial sectors. Although registered independently, some workers considered the ATUC closely aligned with the government.

Membership in the Union of Oil and Gas Industry Workers remained mandatory for the State Oil Company's 60 thousand workers, whose union dues (1 percent of each worker's salary) were automatically deducted from their paychecks.

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. Most foreign oil companies did not allow union membership.

#### b. The Right to Organize and Bargain Collectively

The law allows trade unions to conduct their activities without government interference; in practice most unions were not independent. The law also provides for collective bargaining agreements to set wages in state enterprises, and trade unions actively negotiated with employers, particularly in the formal sector. In reality unions could not effectively participate in negotiating wage levels because government-appointed boards ran major state-owned firms and set wages according to a unified schedule. In addition the Labor Ministry reported that the government continued to have limited success in addressing worker-related issues with foreign companies.

The law provides most workers with the right to strike and workers exercised this right. Categories of workers prohibited from striking include high-ranking executive and legislative officials, law enforcement officers and court employees, health, electric power, water supply, telephone, fire fighters, and railway and air traffic control workers. Striking workers who disrupt public transportation can be sentenced up to three years' imprisonment. The law prohibits retribution against strikers such as dismissal or replacement.

There are no export processing zones.

#### c. Prohibition of Forced or Compulsory Labor

The constitution allows forced or compulsory labor under certain circumstances, and there were reports of forced or compulsory labor, including trafficking in persons (see section 5).

There were continued reports that some military officers used conscripts as unpaid laborers on construction projects.

#### 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, but there were few complaints of abuses of child labor laws.

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-olds may work in family businesses or at after-school jobs during the day that pose no hazard to their health with parental consent. 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 jobs with difficult and hazardous work conditions. The Ministry of Labor and Social Security is responsible for enforcing child labor laws.

There were reports that some parents forced their children to beg, and children were trafficked internally for this purpose. Children were also trafficked for the purposes of forced labor and sexual exploitation (see section 5).

#### e. Acceptable Conditions of Work

During the year the government raised the minimum monthly wage from \$25 to \$30 (150 thousand manat), the third raise in 18 months. The minimum wage was insufficient to provide a decent standard of living for a worker and family, although it was \$6 (30 thousand manat) above the official poverty level of \$24 (120 thousand manat) set by the government. The Ministry of Taxes, the Ministry of Labor, and the State Social Protection Fund legally share responsibility for enforcing the minimum wage. However, in practice the minimum wage was not effectively enforced.

The law provides for a 40-hour work week; 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. Local companies did not provide premium compensation for overtime, although international companies generally did. There was no prohibition on

excessive compulsory overtime. The Ministry of Labor reported little success enforcing such contracts and agreements in the informal sector, where most individuals were employed.

The law sets health and safety standards; government inspections of working conditions were weak and ineffective, and standards were widely ignored. The ATUC also monitored compliance with labor and trade regulations, including safety and health conditions. During the year the ATUC reported that it inspected 2,300 enterprises and organizations and found 570 legal and technical violations. The ATUC stated that virtually all of the violations were addressed, and no official complaints were registered.

Workers could not leave jobs that endangered their health and safety without fear of losing their jobs. According to the Oil Workers Rights Defense Council (ORDC), an NGO dedicated to protecting worker rights in the oil sector, five State Oil Company workers died at sea in workplace accidents. One other oil worker died in other industry-related accidents. Workplace accidents were also a problem in other sectors of the economy. The law provides equal rights to foreign and domestic workers, although local human rights groups, including ORDC, maintained that disparities existed, particularly in foreign oil companies.

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