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U.S. Department of State

Azerbaijan Country Report on Human Rights Practices for 1996

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AZERBAIJAN

Azerbaijan is a republic with a presidential form of government. Heydar Aliyev, who assumed presidential powers after the overthrow of his democratically elected predecessor, was elected President in 1993. He and his supporters, many from his home region of Nakhichevan, dominate the Government and the multiparty, 125-member Parliament chosen in the November 1995 elections. The Constitution, adopted in a November 1995 referendum, established a system of government based on division of powers between a strong presidency, a legislature with the power to approve the budget and impeach the President, and a judiciary with limited independence. After years of interethnic conflict between Armenians and Azerbaijanis, Armenian forces affiliated with the self-styled "Republic of Nagorno-Karabakh" (which is not recognized by any government) occupy 20 percent of Azerbaijan's territory. Although both sides largely continue to observe the cease-fire concluded in May 1994 and the peace process continues, there are continued reports of cease-fire violations from both sides and military operations continued to affect the civilian population. There are about 780,000 Azerbaijani refugees and internally displaced persons (IDP's) who cannot return to their homes. In the part of Azerbaijan that the Government controls, government efforts to hinder the opposition continue to impede the transition to democracy. In the part of Azerbaijan that Armenians control, a heavily militarized ruling structure prevents ethnic Azerbaijanis from returning to their homes.

Police and the Ministry of National Security are responsible for internal security. Members of the security forces committed numerous human rights abuses.

Azerbaijan has a state-dominated economy rich in oil, natural gas, and cotton. An informal private

sector, operating outside official channels but often with ties to persons in the Government, plays an important role in the economy. In June and December, the Government signed contracts for third and fourth international consortiums to develop additional oil fields. Oil bonus payments from these consortiums contributed importantly to the Government's budget and fiscal stability. However, the economy continued to suffer from the lack of significant economic reform and the slow pace of privatization. The Parliament passed a revised mass privatization law in November 1995, but to date the Government has only privatized about 3,000 small service enterprises. Russian measures to restrict transport flows at the northern border hamper trade. The loss of the Nagorno-Karabakh region and surrounding territories, which took significant amounts of agricultural land out of production, led to reduced agricultural output. Widespread corruption is an obstacle to economic development. The overall economic situation of the average citizen remains precarious, although in urban areas a growing monied class with trade and oil-related interests has emerged. Both underemployment and unemployment are extremely high.

The Government's human rights record continued to be poor, and the Government continued to commit serious abuses. The security forces beat persons and some beatings resulted in deaths. Security forces also arbitrarily arrested, and detained persons; conducted searches and seizures without warrants; and suppressed peaceful demonstrations. In a variety of separate incidents, the Government arrested 25 members of the opposition Azerbaijan Popular Front Party and 9 members of the Islamic Party. In May one member of the Islamic Party died after being arrested and beaten by security force officials. The Government did not take effective action to punish any abusers. Prison conditions remained harsh. The judiciary is corrupt, inefficient, and subject to executive influence. The Government tolerated the existence of many opposition political parties, although it continued to refuse to register some of them. The Government restricts citizens' ability to change their government peacefully. Government efforts to hamper opposition candidates marred parliamentary runoff elections in February. The Government restricted freedom of speech, press, assembly, association, religion, and privacy when it deemed it in its interest to do so. Press censorship continued, and the Government closed a leading independent newspaper for 1 month. However, scores of opposition and independent newspapers continued to publish and discuss a wide range of sensitive domestic and foreign policy issues. Discrimination against ethnic minorities and societal discrimination and violence against women are problems.

Nevertheless, there were some positive signs. The Government was open to increased dialogue with domestic and international human rights organizations; undertook to investigate the alleged beating of a journalist; and was responsive to interventions on individual cases. For example, the Government released from custody a former Foreign Minister and an opposition leader.

Cease-fire violations by both sides in the Nagorno-Karabakh conflict resulted in civilian injuries and deaths and the taking of prisoners. Insurgent Armenian forces in Nagorno-Karabakh and the occupied territories continued to prevent the return of IDP's to their homes. This restriction resulted in significant human suffering for hundreds of thousands of people.

RESPECT FOR HUMAN RIGHTS

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

a. Political and Extrajudicial Killings

A member of the Islamic Party of Azerbaijan, Haci Qablaqa Quliyev, died in May after severe beatings by guards in prison. Rafiq Ismaylov, a barber not involved in politics, died after being beaten while in police custody in Massali province at the end of 1995. Ilqar Samedov died in pretrial detention on July

29 as a result of injuries sustained during beatings by police. A Human Rights Watch report states that, according to a coroner's report, he died of "blows to the head with a blunt object." The Government took no action against offenders in any of these cases.

There has been no action by the Government in the murder of opposition Azerbaijan Popular Front (APF) MP Shakhsultan Jafarov in July 1995.

b. Disappearance

There were no reports of politically motivated disappearances. All sides to the Nagorno-Karabakh conflict still detain prisoners. The International Committee of the Red Cross (ICRC) visited 122 people held in relation to this conflict. In July the parties freed a total of 109 in a prisoner exchange: 39 by Azerbaijan, 11 by Armenia, and 59 by the authorities in Nagorno-Karabakh. Subsequently, 21 additional people have been detained: 17 Armenians held by Azerbaijan, including 2 women and one child, and 4 Azerbaijanis held by the authorities in Nagorno-Karabakh. The ICRC repeatedly asked the concerned parties for notification of any person captured in relation to the conflict, access to all places of detention connected with the conflict, and release of all such persons. The ICRC also urged the parties to provide information on the fate of persons reported missing in action. The Government presented to the ICRC a list of 856 persons allegedly held by the Armenians.

The Human Rights Center of Azerbaijan, together with other local human rights organizations, successfully negotiated with the Ministry of Justice to visit a woman's prison.

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

Torture is illegal; however, the security forces' practice of beating prisoners during arrest and interrogation was widespread. Ministry of National Security officials arrested, beat, and then released Mirsaleh Jafarov, a member of the Islamic Party in April/May. Two persons died after beatings by security force officials, one while in police custody, and another while in prison (see Section 1.a.).

Prison conditions are harsh, especially in the special security prisons. The quality of food, housing, and medical care is poor. Prisoners often must rely on their families to procure food and medicine. There are widespread reports that authorities deny, or give inadequate, medical treatment to prisoners for serious medical conditions. The family of Kenan Gurel, on trial for participating in a coup attempt, reported that he receives inadequate treatment for a kidney ailment. Authorities severely limit opportunities for exercise for prisoners in security prisons.

Despite Government assurances that former Interior Minister Iskendar Hamidov is receiving medical care, Hamidov's relations say that his medical care is inadequate and that he continues to suffer from ill health in prison. Hamidov remains in the central Ministry of National Security prison, despite a sentence to a regular prison. The Government claims that incarceration of Hamidov in a regular prison would be dangerous for Hamidov, who as Interior Minister was responsible for placing many of the prisoners in jail.

On two occasions, police beat a journalist (see Section 2.a.). Police also dispersed demonstrators by force (see Section 2.b.).

There were no further developments in the 1995 arrest and beating of Farrukh Agaev for allegedly reading (opposition-oriented) bulletins on a wall in Lenkoran.

Various foreign embassies have petitioned the Government for permission to visit all prisons. In general, when asked, the authorities grant foreign officials access to regular prisons to visit imprisoned nationals of their countries. However, the Government denies access to detainees held in security prisons.

Human rights organizations were able to visit prisons on at least one occasion. The ICRC visits most prisons in the country.

d. Arbitrary Arrest, Detention, or Exile

Arbitrary arrests without legal warrant occur. Often authorities do not notify family members after arrests. Frequently, it is days before family members are able to obtain information as to whether authorities have arrested someone and where authorities are holding the detainee. Family members do not enjoy the right of visitation. Authorities generally deny bail to detained individuals and often do not inform detainees of the charges against them. Access to lawyers is often poor.

Authorities arrested Kemal Talibov in Nakhichevan after he published a newspaper article criticizing political and economic conditions in the Nakhichevan Autonomous Republic. Police arrested, beat, and then released Turkish journalist Yashar Tezel, who was found in the company of former Prime Minister Penah Huseynov. In the course of the year, the police arrested 25 members of the opposition Azerbaijan Popular Front Party. Among them was former Prime Minister Panah Huseynov. Security forces also arrested 9 members of the Islamic Party.

Despite such actions, the Government did release some detainees. The Government freed former Foreign Minister Tofiq Qasimov from detention in February and allowed him to remain at home with family to seek medical treatment after Qasimov suffered medical problems during incarceration. The court postponed Qasimov's trial pending his recovery. In July the Government released deputy chair of the Azerbaijan Popular Front Party Arif Pashayev after 25 months in prison. In both cases, international and local human rights organizations, and foreign embassies, intervened on behalf of the prisoners.

Various local estimates put the number of political detainees currently under arrest on politically motivated charges at approximately 35. Authorities charged them with common crimes or with treason.

The Government does not practice forced exile.

e. Denial of Fair Public Trial

The Constitution provides for a judiciary with limited independence. The President appoints Supreme and Constitutional Court judges, subject to confirmation by Parliament. The President directly appoints lower level judges with no requirement for confirmation. Constitutional provisions for judicial independence to the contrary, judges do not function independently of the executive branch. The judicial system is subject to the influence of executive authorities and has been widely seen as corrupt and inefficient.

Courts of general jurisdiction may hear criminal, civil, and juvenile cases. District and municipal courts try the overwhelming majority of cases. The Supreme Court may also act as the court of first instance, depending on the nature and seriousness of the crime.

The government organizes prosecutors into offices at the district, municipal, and republic levels. They are ultimately responsible to the Minister of Justice, are appointed by the President, and confirmed by Parliament. The Constitution prescribes equal status for prosecutors and defense attorneys before the

courts. In practice, however, prosecutorial prerogatives still generally outweigh those of defense attorneys. Investigations often rely on obtaining confessions rather than obtaining evidence against suspects.

Cases at the district court level are tried before a panel consisting of one judge and two lay assessors. Judges frequently send cases unlikely to end in convictions back to the prosecutor for "additional investigation." Such cases may be either dropped or closed, occasionally without informing the court or the defendant.

The Constitution provides for public trials except in cases involving state, commercial, or professional secrets, or matters involving confidentiality of personal or family matters. The Constitution provides for the presumption of innocence in criminal cases, and numerous other rights, including an exclusionary rule barring the use of illegally obtained evidence, a suspect's right to legal counsel, to be informed immediately of his legal rights, and of the charges against him. The Government has not made significant efforts to enforce these rights throughout the criminal justice system. Defendants may confront witnesses and present evidence. The court appoints an attorney for indigent defendants. Defendants and prosecutors have the right of appeal. The Government has generally observed the constitutional provision for public trial. Foreign and domestic observers were able to attend trials, including sensitive trials involving high-profile political figures.

The Government held approximately 100 political prisoners at year's end, a figure comparable with 1995 levels.

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

The population widely believes that the Ministry of National Security monitors telephones, especially those of foreigners and prominent political and business figures. The police have periodically raided the offices of opposition political parties and the homes of their members, allegedly searching for illegal weapons or other materials. These searches are usually conducted without a warrant, and investigations can result in confining the individuals to their city of residence or a brief jail sentence for questioning. There were no reported cases of such limitations being imposed in 1996.

g. Use of Excessive Force and Violations of Humanitarian Law in internal Conflicts

There were continued reports of civilian deaths and injuries due to shelling by Armenian forces. The Armenian press reported deaths and injuries to Armenian civilians from Azerbaijani shelling. Foreign diplomats who visited areas in Azerbaijan near the front lines met individuals who claimed that they or family members were injured in shellings by Armenian forces. These sources reported civilian deaths from Armenian shelling. According to the Government, six persons were wounded by Armenian activity in the first 2 months of 1996. No annual figures were available on civilian and military casualties.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and the press, and specifically outlaws press censorship; however, the Government often did not respect these rights in practice. While the press debated a wide variety of sensitive topics, censorship limited the public's ability to be informed about and discuss political issues. Censorship continued at approximately 1995 levels, although the Government did not prevent independent and opposition press from continuing to play an active,

influential role in politics. Officially, the Government limited censorship to military topics. In practice, however, censorship of political topics continued. The Ministry of Information can legally close a newspaper for 1 month for violating censorship rules. Censors deleted portions of newspaper articles or entire articles. Journalists often exercised self-censorship and are forbidden to write about censorship. A major opposition newspaper claimed to have been subjected to 105 cases of censorship in the course of the year. Censors banned an entire issue of one opposition newspaper for having previously published a mildly satirical article about the President. The Ministry of Information took another independent newspaper to court and had it closed for 1 month due to previously published articles on sensitive foreign policy subjects. The President's office rescinded this order 1 week later. On two occasions, the Speaker of Parliament banned a journalist from entering Parliament. In one of those cases, a court rendered an apparently prearranged verdict that confirmed the ban and ruled that the journalist had slandered Parliament. Authorities in the Nakhichevan Autonomous Republic banned an opposition journalist from Nakhichevan after she published an article critical of conditions there. On two occasions, police beat a journalist attempting to cover demonstrations that the Government had not authorized. In one of these cases, when the journalist filed a complaint about police behavior, the prosecutor's office opened an investigation of police behavior. The investigation was ongoing at year's end.

Despite government censorship, articles critical of government policy and high government figures appeared routinely in the print media. Newspapers were able to publish articles opposing government views in sensitive areas such as Azerbaijan's relations with Russia and Iran, the Nagorno-Karabakh peace process, conflicts within the President's political party, and government failures in economic reform.

A large number of newspapers continued to publish. One reliable source put the number at more than 300. These include independent newspapers and newspapers with links to major and minor opposition parties. Government-run kiosks and independent news distributors distributed opposition and independent newspapers. Most independent newspapers, many of which operated with precarious finances, remained dependent on the Government for printing facilities.

The Government tightly controlled most radio and television. Opposition parties had virtually no access to the official electronic media. The Government appointed a new director of state television, who said that it was the duty of state television to implement the policies of the President. There is a limited range of private television stations, and some of them are accessible only to those local residents who own modern, foreign-produced television sets. Independent radio, the choice of the overwhelming majority of listeners, is almost entirely entertainment oriented. Independent television and radio broadcasters are reluctant to air controversial political topics for fear of Government retaliation.

An order from the Ministry of Justice in June ordered the closing of all independent television stations pending the passage of a national law regulating independent television. The authorities closed three stations, pending receipt of applications for broadcast licenses. Authorities closed another station after it interviewed a leader of an opposition party. Six independent television stations continue to operate in Baku and other regions. Broadcasts of several foreign television stations can be seen in Azerbaijan, and there are no restrictions on reception of foreign stations via satellite.

The Government did not pursue a case against those responsible for beating the head of an independent TV station in Baku in 1995. There is no evidence that the individual filed a complaint with the police.

Appointments to government-controlled academic positions are heavily dependent on political connections. Nevertheless, several professors with tenure are active in opposition parties. There were no complaints of violation of academic freedom or of censorship of books or academic journals.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for these rights; however, the Government restricts the right of peaceful assembly and association when it decides that it is in its interest to do so. The Government permitted demonstrations on some occasions, but on others it restricted citizens' rights to assemble freely.

Although the authorities allowed a demonstration by opposition political parties at a foreign embassy, they denied permits for demonstrations in the capital on at least three occasions, and dispersed demonstrators by force when they attempted to gather. Security forces broke up two demonstrations near the Russian embassy protesting the treatment of Azerbaijanis in Russia in July and August. In the Nakhichevan Autonomous Republic, the police seized the local headquarters of the opposition Azerbaijan Popular Front Party.

The Government cited no clear criteria when it denied permission to assemble. Police broke up a demonstration called by a former leader of an opposition party. Authorities evicted Azerbaijan Popular Front Deputy Chairman and Member of Parliament Ali Kerimov from a hall in which he was addressing supporters in his electoral district. In the latter part of the year, opposition parties began active preparations for mounting campaigns for the 1998 presidential elections. As of year's end, there had been no government effort to obstruct these activities.

The Government requires political parties to register. There are over 40 registered political parties. Some of these are affiliated with or support the President's party. At least 10 registered parties are considered opposition parties. There are at least three opposition parties that the Government has refused to register.

The Government generally allowed associations other than political parties to function freely. However, the Ministry of Justice requires private organizations to register. It denied or unduly delayed registration for numerous private voluntary organizations, including one private human rights organization. Reports of harassment of political figures continued. Individuals and groups involved in human rights activities reported a mixed record--while the Ministry of Justice declared that the operation of unregistered human rights organizations might be illegal, the Ministry also worked with these groups on specific human rights issues.

c. Freedom of Religion

The Constitution provides for no state religion and allows people of all faiths to practice their religion without restrictions. The Government respects this provision in practice for Shi'a and Sunni Muslims, Russian Orthodox Christians, and Jews. However, a new law on foreigners and stateless persons contains language which prohibits religious proselytizing by foreigners. In July Parliament passed an amendment to the law on religion that subordinated all Islamic religious organizations to the Azerbaijan-based Directorate of Caucasus Muslims. This law permits the production, importation, and dissemination of religious literature only with the agreement of local government authorities. The Ministry of Justice denied registration to a foreign Christian group, but has allowed it to continue to function. Two non-Orthodox Christian groups were evicted from facilities in which they held religious services and prevented from renting other facilities, but both groups had found facilities and continued to operate by year's end. Non-Orthodox Christian groups have complained of official harassment. Numerous articles in Government and progovernment newspapers crudely depicted various religious groups including some non-Orthodox Christian groups as a threat to national identity, traditions, and morals. Some opposition newspapers also attacked Christian missionary activity. Because of anti-Armenian sentiment and the forced departure of most of the Armenian population, Armenian churches remained closed. Azerbaijan's Jewish community has freedom to worship and conduct educational

activities.

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

The Constitution provides for the right of citizens to choose freely their place of domicile and to travel abroad and return. Residents of border areas in both Azerbaijan and Iran travel across the border in this restricted zone without visas. The Government no longer tried to require foreigners to obtain visas to travel outside of Baku. Foreigners and citizens require a visa to travel to the Autonomous Republic of Nakhichevan.

There continue to be bans on travel outside of Baku on some prominent political leaders who are under criminal investigation. However, two opposition leaders under such restrictions--Isa Gambar of the Musavat Party (charged with using military force in the context of a rebellion leading to the overthrow of the Elcibey government in 1993); and Ali Kerimov of the Azerbaijan Popular Front (charged with concealing hand grenades in his pockets)--were permitted to travel outside of Azerbaijan.

The Government officially recognizes freedom of emigration. Jewish emigration to Israel is unrestricted. However, with the majority of those who wish to emigrate already having left, the number of Jewish emigrants is now small. The remaining Armenian population in Azerbaijan (other than Armenians residing in the Nagorno-Karabakh region of Azerbaijan) is approximately 10,000 to 20,000, mostly people of mixed descent or in mixed marriages. While official government policy is that Armenians are free to travel, low-level officials seeking bribes have harassed Armenians wishing to emigrate.

There were no draft notifications that restricted movement this year. Draft-age men must obtain documents from military officials before they can leave for international travel.

The number of refugees and displaced persons in Azerbaijan is approximately 780,000. Armenians have begun to settle in parts of the occupied territories. However, the Armenians have not allowed the hundreds of thousands of Azerbaijanis who were forced out of the now-occupied territories to return to their homes. Most of these people continue to live in camps and other temporary shelters, often at below-subsistence levels, without adequate food, housing, education, or medical care. The parties to the conflict have cut normal trade and transportation links to the other side, causing severe hardship to civilians in Nagorno-Karabakh, Armenia, and the Azerbaijani exclave of Nakhichevan.

The Constitution provides for political asylum consistent with international norms. The Government is receptive to international assistance for refugees and internally displaced persons. It cooperates with international organizations to provide aid for them. The Government cooperates with the Office of the United Nations High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The issue of the provision of first asylum did not arise. There were no reports of forced expulsion of those having a valid claim to refugee status. However, the Government ordered at least two Iraqis whose claims to refugee status were still under consideration by the UNHCR to leave the country, but did not act to expel or repatriate them to Iraq. They remained in the country at year's end.

Section 3 Respect for Political Rights: The Right of Citizens

to Change Their Government

In theory the election law and Constitution allow citizens to change their government by peaceful means. However, Government interference in elections restricted citizens' ability to change their

government peacefully.

The Government held the third round of runoff elections for the national Parliament in February. It was flawed by many of the same irregularities that marked the first and second rounds in 1995. The most serious irregularities involved reported turnouts much higher than those observed at the polls. A continuing problem was multiple voting, with one person voting for a group. Most often, male heads of household voted for entire families. Foreign observers noted a greater tendency for local election officials to inflate voter turnout than in the first election round in November 1995. The Government attempted to hinder international monitoring of these elections by not inviting some foreign observers until the evening before the election.

In this special election round, the Government made a major effort to prevent the election of opposition Musavat Party candidate Isa Gambar, who ran in a district in Sumgait. Gambar was able to campaign and hold speeches and rallies in Sumgait, despite his being confined to the city limits of Baku by court order as part of an ongoing investigation. However, police seized the Sumgait headquarters of the Musavat Party the week before the election and detained several Musavat party workers. There were numerous reports of government officials urging local election officials to prevent a victory by the Musavat Party leader.

A parliamentary by-election in July was flawed by multiple voting, failure to check voters identities, and a reported voter turnout (90 percent) far greater than election monitors observed. Election observers had access to polling stations. They were also able to observe the ballot counting process, which appeared fair.

As a result of the flawed 1995 parliamentary election, the New Azerbaijan Party led by President Aliyev and nominally independent deputies loyal to the President occupy the overwhelming majority of seats in the 125-member Parliament. Parties considering themselves part of the opposition hold only 9 seats. Opposition parties continued to be active outside the Parliament, agitating for their views in their newspapers and through public statements. However, the Government continued to deny registration to at least three opposition parties not represented in Parliament. Explicitly ethnically or religiously based parties were prohibited from participating in elections, including the February 1995 election. A candidate from the Talysh Party stood in the