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## U.S. Department of State

### Azerbaijan Country Report on Human Rights Practices for 1997

Released by the Bureau of Democracy, Human Rights, and Labor, January 30, 1998.

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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. Although Azerbaijan took significant steps toward economic reform in 1997, it made little progress in moving toward democracy. President Aliyev and his supporters, many from his home region of Nakhchivan, continue to dominate the Government, the multiparty 125-member Parliament chosen in the November 1995 elections, and the judiciary. The Constitution, adopted in a November 1995 referendum, established a system of government based on a 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 and forces of the self-styled "Republic of Nagorno-Karabakh" (which is not recognized by any government) occupy 20 percent of Azerbaijan's territory. A cease-fire was concluded in 1994, and the peace process continues. Serious clashes along the Azerbaijan-Armenian border and along the line of contact with Nagorno-Karabakh in the spring and summer caused scores of casualties. Military operations continued to affect the civilian population. There are 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, the Ministry of Internal Affairs, and the Ministry of National Security are responsible for internal security. Members of the police committed numerous human rights abuses.

The economy is in transition from central planning to a free market. A highly organized system of corruption and patronage hampers economic development. The country has rich petroleum reserves and significant agricultural potential. Oil and oil products are the largest export, followed by cotton. Other key industries are chemicals, oil field machinery, and air conditioning equipment. However, most industry languishes in a post-Soviet depression. The Government signed five oil production sharing agreements with foreign oil companies in 1997, bringing the total to nine. In agriculture, which employs 35 percent of the labor force, the leading crops are cotton, grapes, tea, and tobacco. The Government continued its policies of fiscal and monetary austerity, inflation continued to fall, and interest rates declined to less than half of 1996 levels. The pace of privatization accelerated with the initiation of auction sales of shares in large state-owned enterprises. Privatization of the cotton gins ended the Government's monopoly on trade in cotton. Privatization of farmland continued, but new small farmers have poor access to credit and markets, and commercial agriculture remains weak. Per capita gross domestic product is about \$300 per year. According to the World Bank, 60 percent of citizens live in poverty. Much of the labor force is "employed" by state enterprises that operate at very low levels of capacity and pay their workers intermittently if at all. The overall economic situation of the average citizen remains precarious, although in urban areas a growing moneyed class with trade and oil-related interests has emerged. Economic opportunity depends on connections to the Government. Severe disparities of income have emerged that are partly attributed to patronage and corruption.

The Government's human rights record continued to be poor, and the Government continued to commit serious abuses. Police beat persons in custody, and some beatings resulted in deaths. Police also arbitrarily arrested and detained persons; conducted searches and seizures without warrants; and suppressed and refused to allow peaceful public demonstrations. In most instances, the Government took no action to punish abusers. In a variety of separate incidents, the Government arrested at least 19 members of the opposition Azerbaijan Popular Front Party. Prison conditions remained harsh. The entire judiciary is corrupt, inefficient, and subject to executive influence. The Government holds about 120 political prisoners. 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. 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, as did the Government's control over the broadcast media. Discrimination against ethnic minorities and societal discrimination and violence against women are problems. Worker rights suffered a setback when managers in the state-owned oil industry, without a vote of the union membership, formed a progovernment union of oil and gas workers to displace the independent union that had represented the interests of workers in those industries.

Nevertheless, there were some positive signs. Scores of opposition and independent newspapers continued to publish and discuss a wide range of sensitive domestic and foreign policy issues. The Government abolished military censorship and the press began open discussion of the issue of censorship. Opposition political parties carried on a variety of public activities. After 4 years of internal exile, and 2 months of confinement to a village, former president Elchibey returned to Baku in October and resumed full political activity. Although critical of certain domestic human rights activists, the Government was open to limited dialogue with domestic and international human rights organizations. The Government arrested two police officials for inflicting injuries on detained persons that resulted in death.

Cease-fire violations by both sides in the Nagorno-Karabakh conflict increased. They resulted in injuries and deaths among combatants and the taking of prisoners, including civilians. 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 Other Extrajudicial Killing**

Shahin Hamidov died in January as a result of beatings after being held for 4 days in police custody in the province of Barda. The provincial prosecutor opened and later closed an investigation without filing charges. After having been beaten in a Baku police station, Firuz Gurbanov died in August. The Government arrested a police official in this case, but at year's end there had been no further action. Samir Zulfugarov died in a Baku police station in August of injuries inflicted while in police custody. A police official is under investigation for that death. None of the three victims was involved in politics.

There has been no action by the Government in the killing of opposition Azerbaijan Popular Front Member of Parliament 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 26 persons held in relation to this conflict. In April and May, the parties freed 27 persons in a prisoner exchange. Subsequently, Azerbaijan has detained three Armenians and Nagorno-Karabakh authorities have detained three Azerbaijanis. 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 as missing in action. The Government has presented to the ICRC a list of 856 persons allegedly held by the Armenians.

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

Torture is illegal; however, the police practice of beating prisoners during arrest and interrogation was widespread. Severe beatings were common in detention. Three persons died after being beaten while in police custody (see Section 1.a.).

On one occasion, police beat journalists (see Section 2.a.). Police also dispersed demonstrators by force (see Section 2.b.).

Prison conditions are harsh. 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 and credible reports that authorities deny, or give inadequate, medical treatment to prisoners with serious medical conditions. Authorities severely limit opportunities for exercise for prisoners in security prisons.

The family of Kenan Gurel, who was convicted of participating in a coup attempt, reports that he continues to receive inadequate treatment for a kidney ailment.

Human rights organizations were able to visit a prison on at least one occasion. The Government continued to deny the ICRC access to all prisons, except those where persons held in relation to the

Nagorno-Karabakh conflict were detained. Various 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.

#### 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. There is no legal protection concerning the right of detainees to be charged or released within a certain period of time, or for accused persons to receive an expeditious trial. Access to lawyers is often poor. In addition police sometimes arrest relatives of suspects being sought in an attempt to force the family to reveal a suspect's whereabouts.

During the year, the police arrested at least 19 members of the opposition Azerbaijan Popular Front Party and held them for short periods. Another member of an opposition party was arrested and sentenced to 10 years' imprisonment for illegal weapons possession and for forming an illegal armed group.

The Government released former Prime Minister Panakh Huseynov in February, after detaining him for 9 months without charge. Also released in March was Azerbaijan Popular Front member Kemal Talibov, who was held for 6 months, allegedly for threatening state officials, and "hooliganism."

At least two persons, an aide to opposition leader Isa Gambar and his relative, are known to be detained for political reasons; they were charged with failure to notify the Government of a crime, or possession of weapons.

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. However, 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 generally were able to attend trials. However, a trial of leaders of the Islamic party, which resulted in sentences of up to 12 years, was held without public observers.

The Government held ap