

Azerbaijan

Country Reports on Human Rights Practices - [2004](#)

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Azerbaijan is a republic with a presidential form of government. The Constitution provides for a division of powers between a strong presidency and parliament (Milli Majlis), which has authority to approve the budget and to impeach the President. 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. There were similar irregularities during parliamentary elections in 2001 and 2003, and some domestic groups regarded the Parliament as illegitimate. Only 5 of the Parliament's 125 members were opposition members. The Constitution provides for an independent judiciary; however, it was corrupt, inefficient, and did not function independently.

The Ministry of Internal Affairs (MIA) and Ministry of National Security are responsible for internal security and report directly to the President. Civilian authorities maintained effective control of security forces. Members of the security forces committed numerous human rights abuses.

The Government continued programs to develop a market economy; however, the pace of reforms was uneven. The population was approximately 8 million, of which an estimated 2 million lived and worked abroad. Widespread corruption and patronage reduced competition. The slow pace of reform limited development outside the oil and gas sector, which accounted for more than 80 percent of export revenues. Private commercial agriculture remained weak; subsistence farming dominated the rural economy. Economic growth was approximately 10 percent. Nationwide poverty decreased, although 44 percent of the population lived below the poverty level. Unemployment estimates ranged from 15 to 20 percent.

The Government's human rights record remained poor, and it continued to commit numerous abuses. The Government continued to restrict the right of citizens to peacefully change their government. There were four deaths that occurred in custody allegedly due to beatings. Police tortured and beat persons in custody, and used excessive force to extract confessions. In most cases, the Government took no action to punish abusers. Prison conditions remained harsh and life threatening, and some prisoners died as a result of these conditions; however, the Government permitted independent monitoring of prison conditions by local and international humanitarian groups. Arbitrary arrest and detention and lengthy pretrial detention continued to be problems. After the October 2003 presidential elections, authorities conducted a wave of politically motivated arrests of more than 700 persons, including, opposition members, journalists and election officials. According to Organization for Security and Cooperation in Europe (OSCE) observers, many of the trials of those accused of post-election violence did not meet OSCE and other international standards. In a series of presidential pardons, a number of political prisoners, as defined by the Council of Europe (COE), were released. Authorities interfered with privacy rights.

The Government continued to restrict freedom of speech and of the press. Defamation lawsuits brought by officials against independent journalists and newspapers and high court fines for libel remained significant problems for the media. The Government restricted freedom of assembly and did not sanction any demonstrations by opposition political parties during the year. The Government continued to restrict freedom of association by harassing domestic human rights activists and nongovernmental organizations (NGOs). There were some restrictions and abuses of religious freedom, and low-level and local government officials continued to harass minority religious groups. Violence against women, societal discrimination against women and certain ethnic minorities, trafficking in persons, and limitations of some worker rights remained problems.

Despite a cease-fire in effect since 1994, minor outbreaks of fighting with Armenia over Nagorno-Karabakh occurred, resulting in six deaths of civilians and combatants during the year. Armenian forces continued to occupy an estimated 16 percent of the country's territory, including Nagorno-Karabakh. The occupation dominated national politics and undermined democratic and economic development in the country. The Government did not exercise any control over developments in territories occupied by Armenian forces, and little verifiable information was available on the human rights situation there.

Approximately 800,000 Azerbaijanis remained refugees or internally displaced persons (IDPs) after fleeing or having been forced from their homes between 1988 and 1993.

RESPECT FOR HUMAN RIGHTS

Section

1

Respect for the Integrity of the Person, including Freedom from:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports of politically motivated killings by the Government or its agents; however, during the year there were four deaths in custody due to alleged abuse and mistreatment. Authorities did not prosecute suspected abusers in these cases (see Section 1.d.).

In March, Etibar Najafov was arrested on misdemeanor charges and taken to Sabayil District Police Department. Authorities allegedly beat him during questioning, but the Government reported that he died while trying to escape from a 2nd floor window. In April, Akif Mirzayev died in a prison hospital after allegedly being beaten in the Organized Crime Department of the Ministry of Internal Affairs while serving a 5-year sentence for kidnapping. The Government said he was a drug addict who had cirrhosis of the liver. In May, Azer Safarov died after allegedly being beaten at the Sumgayit City Police Station. Authorities acknowledged arresting Safarov on burglary charges but denied responsibility for his death. In December, Badal Babayev died after allegedly being beaten in an Absheron police station. His body was covered in bruises. Authorities said Babayev died of a heart attack after he left the police station. Authorities did not conduct further investigations into any of these cases.

In October 2003, law enforcement officials beat to death one person at a post-election demonstration that turned violent (see Section 2.b.). There was no development in this case or in the 2002 death of Beylar Kuliyyev, who died in police custody after 10 days of interrogation.

During the year, the press reported that four army conscripts died of causes attributed to military hazing. Occasional cease-fire violations by both sides in the conflict with Armenia over Nagorno-Karabakh resulted in six deaths and injuries to civilians and soldiers during the year. According to the National Agency for Mine Actions, landmines killed 13 persons and injured 21 during the year.

b. Disappearance

There were no reports of politically motivated disappearances.

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 fighting over Nagorno-Karabakh began. Since the early 1990s, the ICRC has collected the names of approximately 3,100 individuals of various ethnic backgrounds that remain missing because of the conflict. However, the Government estimated that approximately 4,850 citizens remained missing and were allegedly held by Armenia.

During the year, the ICRC assisted in the return of four Azerbaijani citizens from Armenia at the request of the Government.

c. Torture and other Cruel, Inhuman, or Degrading

Treatment or Punishment

The law prohibits such practices and provides for punishment of up to 10 years in jail; during the year, there were fewer credible reports that security forces beat and tortured detainees and used excessive force to extract confessions during interrogations and pretrial detention. However, torture remained a problem.

Following post-election disturbances that turned violent in Baku in October 2003, MIA personnel detained, tortured, and beat three leading opposition leaders: Hope Party Chairman Iqbal Agazade, Azerbaijan Democratic Party (ADP) Secretary General Sardar Jalaloglu, and the ADP's election secretary Natiq Jabiyev (see Section 3).

In 2003, Human Rights Watch (HRW) documented numerous cases of beatings, torture, and verbal abuse, including threats of rape, by the MIA's organized crime unit following the post-election violence in October 2003 (see Section 1.d.). HRW reported that police also severely beat and tortured detainees to extract confessions and pressured them to sign false statements to denounce and implicate opposition leaders in the post-election violence. For example, during the trial of seven opposition leaders accused of organizing and participating in the post-election violence, some witnesses testified that they were coerced into giving false depositions (see Section 1.e.). By year's end, there had been no investigation into these abuses.

Police also harassed members of certain religious groups, such as Baptists, Adventists, Jehovah's Witnesses, and the Muslim Juma Mosque Community, and there were reports of several beatings of members of the Jehovah's Witnesses (see Section 2.c.). No measures were taken against police who detained and beat Haji Jubrail Alizade following clashes in 2002 in Nardaran between protesters and police.

Prison conditions remained harsh and sometimes life threatening. Overcrowding and poor medical care combined to make the spread of infectious diseases a serious problem. Tuberculosis (TB) remained the primary cause of death in prisons. The Government reported that 774 prisoners were treated for TB during the year. However, due to the absence of systematic medical screening, prisoners often started TB treatment when already seriously ill. Many prisoners relied on families for food and medicine, who often paid bribes to gain access to imprisoned relatives.

Harsh prison conditions resulted in deaths during the year

There were separate facilities for men, women, juveniles, convicts, and pretrial detainees.

In maximum-security facilities, authorities limited physical exercise for prisoners, as well as visits by attorneys and family members. Some pretrial detainees were kept in "separation cells," often located in basements, to conceal evidence of physical abuse and where food and sleep reportedly were denied to elicit confessions.

During the year, the Ministry of Justice (MOJ), which oversees the prison system, continued a program to improve prison conditions and renovated five prisons. In 2003, the Government built five new prisons and several were renovated.

The government permitted visits by international and local humanitarian and human rights groups. In 2002, the Government extended the ICRC's access to all detainees and prisoners. The ICRC also had access to prisoners of war (POWs) 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. During the year, human rights activists worked with the MOJ to create a monitoring group that could visit prisons regularly and report on conditions. The group worked with the MOJ's Deputy Minister to increase accountability of prison staff and to improve prison conditions. In September, the head of one Baku prison was dismissed after the monitoring group complained to the MOJ about his conduct. Domestic observers' access to police stations remained restricted.

d. Arbitrary Arrest or Detention

The Constitution prohibits arbitrary arrest and detention; however, the Government generally did not observe these prohibitions in practice, and impunity remained a problem.

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

Police corruption mainly consisted of levying spurious and informal fines for traffic and other minor violations and extracting protection money from local residents. Police officers received a pay raise during the year; however, low wages of law enforcement officials continued to contribute to police corruption.

In most cases, the Government took little or no action to investigate reports of arbitrary arrest or detention; however, the Government reported that during the year, it took disciplinary action against 78 police officers for 57 cases of abuse of human rights and civil liberties. Of these, 11 officers were dismissed from the Ministry of Interior, 12 officers were charged criminally, 6 officers were dismissed from their positions, and 1 officer was demoted.

By year's end, the Government did not arrest any police officers or announce the results of an investigation into election-related police clashes with journalists and opposition activists in September and October 2003.

The Government did not investigate or take any punitive action against individuals named in a 2003 HRW report that documented numerous cases of torture and abuse of opposition supporters that were detained by the MIA's Organized Crime Department following the post-election violence in October 2003. Several of the officers allegedly involved in the abuses received promotions during the year, including the Chief of the Organized Crime Department, who was promoted from Colonel to General (see Sections 1.c. and 2.b.).

During the year, an international foundation trained more than 160 security officers attached to the Special State Protective Service (SSPS) in human rights theory, standards, and practices. The officers who participated in the training were recruited from the SSPS, the State Border Guard, the Army, and police. The SSPS, a government agency responsible for protecting the Baku-Tbilisi-Ceyhan pipeline, coordinates pipeline security with different ministries.

Authorities often arbitrarily arrested and detained persons without legal warrants. The law allows police to detain and question individuals for 3 hours without a warrant. The Constitution also states that persons who are detained, arrested, or accused of a crime should be advised immediately of their rights, reason for arrest, and should be accorded due process of law; however, authorities did not respect these provisions in practice.

The Constitution also provides for access to a lawyer from the time of detention; however, access to lawyers was poor, particularly outside of Baku (see Section 1.e.). Authorities often restricted family visits

and withheld information from family members; frequently, days passed before they could obtain any information about detained relatives. Bail was commonly denied and lengthy pretrial detention was a serious problem.

Police detained more than 700 persons across the country in October 2003, most of whom were members of the opposition Musavat party, following post-election demonstrations in Baku that turned violent. Of 126 persons found guilty, 41 were given prison terms, 79 others received suspended sentences, and 6 received limited liberty sentences. The trial for the remaining 10 defendants continued at year's end. Other opposition parties also reported numerous brief detentions before the October 2003 presidential election.

In August, authorities again detained ADP Secretary Taliyat Aliyev following an incident outside the trial of seven opposition leaders charged with participating and organizing the October 2003 post-election violence (see Section 1.e.). Authorities charged Aliyev with pressuring a witness to give false testimony and with assaulting and injuring a police officer and detained him while the charges were investigated. At year's end, the case had not been tried and Aliyev remained in detention. Authorities had also detained Aliyev in September 2003.

As compared with the previous year, there were fewer incidents of police harassing members of opposition political parties or their families.

In August, police reportedly threatened the family of Gabil Rzayev, Deputy Chairman of the Umid ("Hope") Party, to disclose his whereabouts. According to party officials, Rzayev sought political asylum outside the country after he alleged that police tortured him in detention in September 2003.

On April 2, a three-judge panel convicted Ilgar Ibrahimoglu, the Imam of the independent Juma Mosque, of inciting and committing violence in connection with a post-election demonstration in October 2003 that turned violent. He was given a 5-year suspended sentence and released immediately, having served 4 months in pre-trial detention. On July 30, authorities detained the Imam again together with 25 members of the Juma Mosque in connection with activities of the Juma Mosque but released him the same day (see Sections 2.c. and 4).

Two relatives of former Speaker of Parliament and exiled ADP leader Rasul Guliyev remained in jail at year's end after convictions for crimes related to corruption during Guliyev's term in office. In September, authorities pardoned one other relative who was jailed in 2003.

During the year, President Aliyev pardoned 810 prisoners, including 55 prisoners considered political prisoners by local activists. For example, in March, 33 persons accused of participating in 2 coup attempts against the late President Heydar Aliyev were freed. They included former Prime Minister Surat Huseynov. In May, Faina Kunqurova, an ADP member convicted on hooliganism charges in 2002, and Jan Mirza-Mirzoyev, who publicly criticized the Minister of Defense and was convicted of murder in 2001, were both pardoned. In September, former separatist leader Alikram Humbatov and four other persons connected with coup attempts against the late President were freed. None of the 126 persons convicted on charges stemming from the October 2003 post-election violence were pardoned. Forty-one remained in prison, and the others were either on suspended sentences or limited liberty.

Also during the year, authorities reportedly released three POWs from Armenia taken in connection with the Nagorno-Karabakh conflict.

e. Denial of a Fair Public Trial

The Constitution provides for an independent judiciary; however, 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, whom Parliament confirms. The President appoints lower-court judges without confirmation, as well as the Prosecutor General and the Deputy Prosecutor General, both of whom Parliament confirms. The Prosecutor General hires prosecutors at the district and republic level.

Judges' salaries have steadily increased over several years; however, there continued to be credible allegations that judges accepted bribes, which contributed to the overall lack of respect for the rule of law. There were also credible reports that judges and prosecutors took instruction from the Presidential Administration and the MOJ, particularly in cases that drew attention from international observers.

Judges preside over and direct trials. 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 hears cases at the district court level, 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.

The Constitution provides for public trials except in cases involving state, commercial, or professional secrets or matters involving confidential, personal, or family matters. The Constitution provides for the

presumption of innocence in criminal cases, pretrial discovery, 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; however, these provisions were not generally respected in practice. Foreign and domestic observers usually were allowed to attend trials. Although the Constitution prescribes equal status for prosecutors and defense attorneys, in practice prosecutors' prerogatives 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. In August, the Government enacted a law that was expected to reform the legal profession and establish a more independent bar association by allowing independent lawyers to join the Collegium automatically. However, by year's end, there was still no independent bar association. The Government retained control over the Collegium by using a narrow and questionable interpretation of the new law that prevented most independent lawyers from joining the bar. Instead, the state-controlled Collegium instituted examinations for new members and for the right to argue cases before the Supreme and Constitutional Courts. In December, several groups of independent lawyers filed lawsuits against the Collegium and the MOJ challenging the membership rules. At year's end, one case was decided against the lawyers, and two others were pending.

The Constitution prohibits the use of illegally obtained evidence; however, investigations often focused on obtaining confessions rather than gathering physical evidence against suspects. 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.). Serious crimes that were brought before the courts were likely to end in conviction; this was a result of judges requiring only a minimal level of proof and the close collaboration between prosecutors and judges. 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.

On October 22, the Court of Grave Crimes found seven opposition leaders guilty of inciting post-election violence in October 2003 and sentenced them to prison terms ranging from 30 months to 5 years. On November 19, the Court of Appeals upheld the convictions. At year's end, the defendants' appeal was pending with the Supreme Court. The defendants were: Rauf Arifoglu, Deputy Chairman of the Musavat Party and Editor-in-Chief of Yeni Musavat newspaper; Arif Hajili, Deputy Chairman of Musavat Party; Ibrahim Ibrahimli, Deputy Chairman of Musavat Party; Panah Huseynov, Chairman of the People's Party; Sardar Jalaloglu, General Secretary of the ADP; Igbal Agazade, Chairman of the Hope Party; and Etimad Asadov, Chairman of the Karabakh Veterans Association.

The trial began with pretrial testimony in May and was marked by lengthy delays and questionable court decisions. In August, several witnesses testified that they either had been beaten or pressured to give false depositions against the defendants (see Section 1.c.). However, the judges neither requested a thorough investigation into the allegations of torture, nor gave the witnesses' testimony serious consideration in the conviction and sentencing. The OSCE, in its report issued after the trials, stated that many of the international rights that defendants were entitled to were violated, from the time of arrest through the right to a public and reasoned judgment. Specifically, officials did not adequately investigate pervasive, credible claims of torture; the seven defendants did not have adequate access to the prosecution's evidence or time to prepare a defense once they were given the materials; there were questions as to the impartiality of the judges; and the judgment, which rejected the defense's witnesses on spurious grounds and did not address inconsistencies in witness testimonies, was not reasoned.

The country also has a military court system with civilian judges. Cases go either to the Court of Grave Crimes on Military Cases or to the Collegium on Military Cases under the Court of Appeals and the Supreme Court.

Local NGOs maintained that the Government continued to hold political prisoners. However, NGO estimates of the number of political prisoners varied, due in part to differing definitions of what constitutes a political prisoner. For example, some reported that the Government held more than 200 political prisoners, including those sentenced in connection with the post-election violence in October 2003. During the year, NGO activists forwarded to the COE more than 170 names for consideration as political prisoners.

In 2002, the COE tasked 2 independent experts to examine 716 cases of individuals whom local NGO activists said were political prisoners. Using a definition of political prisoners developed by the COE for Azerbaijan and Armenia, independent experts eliminated 504 names for lack of accurate information, such as a person was not actually detained or a person's case had already been investigated. Of the remaining 212 cases, the COE experts rendered decisions on 104 and released those findings in July.

The COE report stated that the experts determined that 45 persons were actual political prisoners. Of these 45, 11 were retried (in retrials later determined not to meet international standards), 34 were pardoned either in 2003 or during the year, 2 were released following a retrial, and 4 others were released 2 months after a retrial.

At year's end, 9 persons deemed to be political prisoners by the COE, together with approximately 170 other persons who NGO activists said were political prisoners, remained in prison.

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

The Constitution prohibits arbitrary invasions of privacy and monitoring of correspondence and other private communications; however, in practice, the Government restricted privacy rights.

The Constitution allows for searches of residences only with a court order or in cases provided by law; however, authorities often conducted searches without warrants, particularly after the October 2003 election.

It was widely believed that the Ministry of National Security and MIA monitored telephone and Internet communications, particularly those of foreigners and prominent political and business figures; however, there was no evidence to support this claim.

Police continued to intimidate and harass family members of suspected criminals. In comparison to the previous year, there were fewer allegations that the authorities interfered with opposition members and members of their families (see Section 1.d).

Some local officials continued to prevent Muslims from wearing headscarves (see Section 2.a.).

Section

2

Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press and specifically prohibits press censorship; however, the Government did not respect these rights in practice.

The Government intimidated and harassed the media, primarily through defamation suits, prohibitively high court fines for libel, and through measures that hampered printing and distribution of independent newspapers and magazines. The print media enjoyed more freedom than the broadcast media, and there was lively public debate of government policies. However, the Government continued to control state-run television and radio, which was the primary source of news and information for most of the population.

A large number of opposition and independent media outlets operated during the year. There were more than 40 active independent newspapers and magazines and 24 television and radio stations. There also were 10 "national" state newspapers and 80 newspapers funded by city or district-level officials.

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 court fines. These financial difficulties were worsened by the Government's practice of prohibiting state businesses from buying advertising in opposition newspapers and pressuring private business to do the same. In January 2003, the late President Aliyev suspended until the end of 2005 an estimated \$300,000 (1.5 billion manat) in debt that newspapers owed to the state-owned publishing house. These unpaid debts continued to put indirect pressure on opposition newspapers by influencing their decision to shut down temporarily.

Government-run and independent kiosks distributed most newspapers and periodicals. Distribution of independent and opposition newspapers outside of Baku was sporadic. Baku-based journalists reported that authorities in the exclave of Nakchivan continued to block distribution of opposition newspapers.

In Baku, the Government tightened enforcement on unregistered, independent newspaper vendors who mainly distributed opposition newspapers. Authorities claimed that the illegal vendors created traffic hazards on city streets. In December, the administrator for the Baku subway system prohibited the sale of opposition newspapers within the subway system; however, government-affiliated newspapers continued to be sold. The country's largest independent newspaper distributor, Gaya, did not report any new closures of its kiosks during the year. However, it was unable to reopen any of its newsstands that were torn down in 2002 in an effort to run the company out of business. Gaya reported that of the 55 newspaper stands it once operated throughout the country, it retained 36. In June, the Economic Court ruled that the 13 Gaya newsstands dismantled in Baku should be re-opened. The Baku Executive Authority appealed the court's ruling, and both the Court of Appeals and the Supreme Court upheld the appeal against Gaya. There were no independent newsstands in Nakchivan or other parts of the country.

The Hurriyet newspaper closed in March, and the financial situation of most other opposition newspapers remained precarious due to government harassment, high court fines, libel lawsuits, and declining readership. Unlike previous years, the courts began collecting libel fines primarily through freezing bank

accounts and collecting profits through distribution agencies, which increased the financial burdens of some opposition newspapers. During the year, many opposition and government-run newspapers reduced circulation and several, including prominent opposition paper Yeni Musavat, reduced periodicity and stopped printing for short periods because of lack of funds. Other publications like Monitor Magazine stopped printing at times during the year because of technical difficulties. However, some government newspapers also reduced circulation and moderate independent newspapers like Echo, Zerkalo, and Ayna either maintained their circulation or slightly increased it.

In addition, Monitor magazine, Yeni Musavat, and Baki Kheber endured additional difficulties when they were forced to relocate after landlords threatened them with eviction due to government pressure. Other opposition newspapers endured threats from the state-owned publishing house, which stated that it would not print opposition newspapers with unpaid debts.

Government-controlled radio and television remained the main sources of news and information for much of the population. The Government periodically used state-run television to denounce and harass political parties and leaders who criticized the Government. Private television channels broadcast the views of both government and opposition officials, but their programs were not available in all parts of the country. A total of 36 television and radio channels were registered with the MOJ, although only 15 television stations and 9 radio stations operated. Most television stations were either controlled by the Government or by individuals close to the Government.

Radio was oriented largely to entertainment programming. Radio Free Europe/Radio Liberty (RFE/RL) and the Voice of America operated without restriction; however, in January, the MOJ rejected RFE/RL's October 2003 registration application because the paperwork was not in order. In April, RFE/RL reapplied, and the MOJ approved the application in May. There were no restrictions on satellite broadcasts by foreign stations.

Harassment and violence against journalists continued. The Azerbaijan Committee for the Protection of Journalists (RUH) reported 81 incidents of physical attacks or harassment during the year, in contrast to 170 during 2003.

In July, unknown persons allegedly kidnapped and beat Aydin Guliyev, editor of the Baki Kheber newspaper. He was subsequently released. On July 25, two unknown assailants struck Eynulla Fatulliyev, a staff writer for Monitor magazine, on the head with a lead pipe. Both journalists had written articles critical of presidential chief of staff Ramiz Mekhdiyev; however, there was no evidence to suggest the attack on Fatulliyev was connected with his work. The Government continued its investigation into the incidents at year's end.

In 2003, police injured and detained many journalists at various election-related events (see Sections 1.c. and 1.d.). Most of the injuries occurred at election-related demonstration in October 2003. According to the Azerbaijan Journalists Confederation and RUH, police beat 54 journalists, detained or arrested 18, and damaged the equipment of 6 others.

There is no transparent or independent mechanism to issue licenses for television or radio stations. The National Council for Television and Radio, which was created in 2002, was responsible for issuing licenses and for monitoring television and radio broadcasts. However, it was inefficient and did not function independently of the Government. Because the Government had not established a fee structure to obtain a broadcast license, no new television stations could be licensed within the provisions of the law during the year. At year's end, nine applications for license renewals from entertainment-oriented television stations remained pending.

In March, the President vetoed a bill on Public Television and Radio Broadcasting, sending it back to Parliament for revisions that would bring it more in line with international requirements set out by the COE. In September, the President signed a new version of the law, which provides for a public television channel to be created on the basis of a second, state-run channel, AZTV2. The primary state-run channel, AZTV1, would continue operating. International and local NGOs expressed concern that without abolishing AZTV1, a public television channel would not have the resources to become an effective alternative source for news and information.

Libel is a criminal offense; the law allows for large fines and up to 3 years' imprisonment. According to the RUH, 13 lawsuits were successfully brought against 7 print media outlets during the year. Six of these cases resulted in monetary fines, totaling approximately \$69,000 (345 million manat). In contrast, in 2003, 40 libel suits were brought against 18 journalists and media outlets for total fines of \$325,000 (1,592.5 million manat). In 2002 and 2003, the popular opposition newspaper Yeni Musavat was successfully sued for libel 22 times with fines totaling approximately \$100,000 (500 million manat).

In February, a libel suit brought against the Mukhalifat newspaper in 2003, ended with a 2-year suspended sentence against the editor and editor-in-chief. Two of three criminal charges brought in 2002

against Yeni Musavat's Editor-in-Chief Rauf Arifoglu were pending at year's end. Arifoglu himself was found guilty in October of inciting post-election violence in October 2003 (see Section 1.e.).

In August, Baki Kheber editor Aydin Guliyev was sentenced to a 1-year suspended sentence as a result of a libel suit brought by Jalal Aliyev, the brother of former president Heydar Aliyev. Guliyev had reprinted an article from Alternative newspaper; however, Aliyev did not bring a lawsuit against Alternative newspaper.

In October a district court in Baku ordered Eynulla Fatulliyev to begin paying a \$2,000 (10 million manat) fine for libeling two high-ranking Ministry of Defense officers in a Monitor Magazine article in 2002 about military hazing. Under the court order, Fatulliyev was required to pay \$2 (10,000 manat) every month for 30 years. In addition, court executors inventoried Fatulliyev's parents' apartment. The court also impounded Monitor Magazine's profits from distribution agencies to pay for its portion of the same libel fine.

The Government required Internet Service Providers to have licenses and formal agreements with the Ministry of Communications and Information Technologies. At year's end, there were 21 licensed providers. Public Internet access at a wide variety of Internet clubs and cafes cost less than 50 cents (1,500-2,000 manat) per hour; however, home connectivity and access to affordable computers were still cost-prohibitive for the average user. Internet usage grew significantly in Baku, Sumgayit, Ganja, Mingechevir, Lenkoran, and Sheki, but it was less common in other parts of the country. There was no evidence to support the widely held belief that the Government monitored Internet traffic of foreign businesses and opposition leaders (see Section 1.f.).

The Government generally did not restrict academic freedom. Several tenured professors were active in opposition parties; however, some faculty and students did experience political pressure. Following the October 2003 election, some professors and teachers said they were dismissed because of their membership in opposition political parties. Also in 2003, police harassed and detained Elnur Sadikhov, a university student and correspondent for the Popular Front Party's (PFP) Azadliq newspaper in Ganja. Ganja State University subsequently suspended his enrollment; press reports said Sadikhov had left the country.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly; however, the Government restricted this right in practice. While the law allows individuals and political parties to assemble and organize demonstrations, it also requires prior notification and in some cases a permit from government authorities. During the year, the Government sanctioned only 1 rally, a gathering of some 250 persons in September in Baku to protest the planned arrival of Armenian officers for a NATO exercise.

In May, the PFP applied several times for a permit to hold a demonstration. The Baku Executive Authority (BEA) repeatedly denied the requests stating that the issues the PFP wanted to protest were either being addressed by the Government or were not true. In June, the PFP sought to overturn the BEA's denials in district court, but the court upheld the BEA's actions. However, the Court of Appeals overturned the lower court's ruling and remanded the case back to the district court. The case remained pending at year's end. The BEA also repeatedly denied requests from other opposition political parties during the year for permits, and police frequently broke up pickets and demonstrations, at times detaining protestors.

In June, members of the Organization of Karabakh Liberation (OKL) protested the Armenian military presence at a planning conference for a NATO exercise. Several protestors shoved their way into the conference room by breaking a glass door. Authorities arrested 15 protestors. In August, six OKL members were convicted of hooliganism and disrupting public order; they were sentenced from 3 to 5 years' imprisonment. In September, the Court of Appeals reversed the jail terms and issued suspended sentences.

In the months before and after the October 2003 election, the Government routinely and forcibly disrupted unsanctioned protests. Police and MIA officers harassed, beat, and detained opposition party members, demonstrators, and journalists who took part in mostly peaceful demonstrations and political meetings in Baku, Lenkoran, and Nardaran. Authorities injured and detained many persons, some of whom were beat in detention (see Sections 1.c., 1.d., and 2.a.). On October 22, the trial of seven opposition leaders arrested in connection with the post-election demonstrations in October 2003 ended with guilty verdicts (see Section 1.e.). They were sentenced to imprisonment of up to 5 years for inciting clashes between police and protestors.

Following the election, Musavat Party supporters gathered outside party headquarters to protest election results; security forces broke up the meeting, harassing and beating many participants. The following day a large crowd gathered in downtown Baku for an unsanctioned demonstration that turned violent. Security forces used excessive force, beating demonstrators, killing 1 person, and injuring at least 300 persons. Several hundred persons were arrested. Of that number, 41 were convicted of crimes related to the

disturbances and given moderate prison terms. Another 79 were found guilty but given suspended sentences (see Sections 1.c., 1.d. and 1.e.). The trial of the remaining 10 defendants continued at year's end.

A joint monitoring group, created by an NGO and the MIA in 2003, continued to work to improve police-journalist interactions at demonstrations. During the year, the monitoring group distributed personal identification cards, vehicle identification cards, and special clothing to distinguish journalists from demonstrators.

During the year, the Government took no action to investigate or prosecute MIA officers who reportedly beat villagers in Nardaran in 2002.

The Constitution provides for freedom of association; however, 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). Registration was required to rent property, open a bank account, and function as a legal entity. However, the vague, cumbersome, and nontransparent registration procedures resulted in long delays that, in effect, limited citizens' right to associate. There were more than 40 registered political parties (see Section 3).

c. Freedom of Religion

The Constitution provides for freedom of religion, and the law expressly prohibits the Government from interfering in the religious activities of any individual or group except in cases where public order and stability may be threatened; however, several legal provisions allow the Government to regulate religious groups. There were some abuses, restrictions, and instances of discrimination against minority religions.

In the northern city of Khachmaz, community members reported that on several occasions police harassed and detained some Muslims who had disrupted public order. The police allegedly shaved the detainee's beards; however, police officials denied detaining anyone for religious reasons.

The Law on Religion requires religious organizations to register with the SCWRA. Government authorities gave SCWRA and its chairman, Rafiq Aliyev, sweeping powers over registration; control over the publication, import, and distribution of religious literature; and the power to suspend the activities of religious groups that violate the law. The registration process was burdensome; there were frequent, lengthy delays to obtain registration. Religious groups may appeal registration denials to the courts. Since SCWRA was established in 2001, more than 350 groups have successfully registered. Only registered religious groups may maintain a bank account, rent property, and act as a legal entity. Unregistered organizations were vulnerable to closure as a result of charges that they were engaged in illegal activities. These restrictions made it difficult, but usually not impossible, for groups to function.

Several religious groups reported that they were still not registered despite repeated applications; however, they continued to function. Unregistered churches included the Greater Grace Baptist Church, the Baptist community in Neftchala, and Protestant churches in Sumgayit.

On January 16, authorities ordered the Juma Mosque congregation in Baku to vacate its premises because of Imam Ilgar Ibrahimoglu's and the community's political activities. The law prohibits a religious organization from directly involving itself in political activities, and Ibrahimoglu was a human rights activist with DEVAMM and head of the Baku Chapter of the International Religious Liberty Association. The Juma Mosque congregation, which registered with the MOJ in 1993, has refused to reregister with SCWRA amid concerns that the new process might allow the Government to interfere with its practices. On March 1, the Sabayil District court ordered the mosque to be turned over to the Icheri Sheher Historical and Architectural National Reserve. The mosque belongs to city of Baku. On March 11, the community appealed the eviction. In April, the Court of Appeals upheld the Sabayil District Court Decision. On June 30, MOJ officials and police began the court-ordered eviction of the Juma Mosque community from its premises.

The Caucasus Muslim Board, which approves Muslim religious groups, appointed a new religious leader to replace Ibrahimoglu. The mosque remained open for worship with the new Imam leading prayers. On July 8, authorities closed the building for renovation. The following day, approximately 30 members of the Juma Mosque community started afternoon prayers on the steps of the mosque. Police used excessive force in arresting five worshippers. On July 30, police detained 26 members of the Juma Mosque community, including Ibrahimoglu, who had gathered at a private home for funeral rites. They were all released several hours later. On August 11, the Supreme Court upheld the decision to evict the Juma Mosque community from the historic mosque.

In April, following a flawed trial, a court convicted Ibrahimoglu of participating in post-election demonstrations in October 2003 and sentenced him to a 5-year suspended sentence; Ibrahimoglu had already spent 4 months in pretrial detention (see Section 1.d.). Since his conviction, Ibrahimoglu has not been allowed to travel outside the country, including to several OSCE meetings as an official NGO

participant because the law prohibits citizens convicted of criminal offenses and with suspended sentences from traveling abroad.

Some local authorities at times discriminated against members of minority religions and harassed nontraditional religious groups. In many instances, abuses by authorities reflected the popular prejudice against conversion to Christianity and other nontraditional religions (see Section 5).

Members of Jehovah's Witnesses also 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.

The Government remained concerned about "foreign," primarily Iranian and Wahhabi Muslim, missionary activity. There were reports that the Government closed Muslim groups and organizations with alleged ties to terrorists. In April and September 2003, the Court for Grave Crimes sentenced six Muslim clerics in Ganja to between 3 and 7½ years' imprisonment for allegedly preparing a forcible seizure of power.

The law prohibits religious proselytizing by foreigners, and this was strictly enforced. Authorities deported several Iranian and other foreign clerics operating independently of the organized Muslim community for alleged violations of the law. Although there were no legal restrictions on large religious gatherings, authorities interfered with attempts by the Jehovah's Witnesses and the Pentecostal "Cathedral of Praise" to rent halls for religious assemblies.

Some local officials continued to discourage Muslim women from wearing headscarves in schools. The International Religious Liberty Association reported that women were still prohibited from wearing them for identification and passport photos, which complicated voter registration. In December, a group of women appealed to the European Court of Human Rights to protest the ban.

Some religious groups, including the Union of Baptists, the Adventist Church, and the Jehovah's Witnesses reported that some government ministries continued to restrict and delay the importation of certain religious literature. However, at the same time, the SCWRA facilitated the import of some religious materials.

Cases of prejudice and discrimination against Jews in the country were very limited, and in the few instances of anti-Semitic activity, the Government was quick to respond. Jewish community leaders consistently remarked on the positive relationship they have with the Government and leaders of other religious communities. In April, however, a rabbi in Baku received a threatening letter prior to the start of Passover. Authorities responded quickly and took security precautions to ensure that the festival proceeded without incident. In July, a new Jewish Community Center was opened in Baku with high-level government participation. Authorities also reserved one wing of a Baku school for secular and religious classes for 200 Jewish students.

During the year, several newspapers and television broadcasts depicted nontraditional religious groups as a threat to the country's identity. Some of these highly critical reports extended to humanitarian organizations in the country that had links with foreign religious organizations. Such hostility was also directed toward foreign Iranian and Wahhabi Muslim missionary activity, which was viewed as a threat to stability and peace and an attempt to politicize Islam. Pro-government media targeted some Muslim communities that the Government claimed were involved in illegal activities.

In those parts of the country controlled by Armenians, all ethnic Azerbaijanis have fled, and mosques not already destroyed did not function. Animosity toward ethnic Armenians elsewhere in the country forced most Armenians to emigrate, and all Armenian churches, many of which were damaged in riots that took place more than a decade ago, remained closed. As a consequence, the estimated 20,000 ethnic Armenians who remained in the country were unable to attend services at their traditional places of worship.

The Constitution provides the right to alternative military service; however, members of the Jehovah's Witnesses continued to have difficulties exercising this right since there is no legal mechanism to implement this provision. At year's end, the case of Mahir Baguirov, a Jehovah's Witness called into military service in 2000 and again during the year, remained pending with the Supreme Court.

For a more detailed discussion, see the [2004 International Religious Freedom Report](#).

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

The Constitution provides for these rights; however, at times, the Government limited freedom of movement. IDPs were required to register their place of residence with authorities and could live only in approved areas. This so-called "propiska," a carryover from Soviet times, was imposed mainly on persons forced from 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.

Residents of border areas in both the country and Iran traveled across the border without visas. There were no exit visa requirements. 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.

There were approximately 800,000 refugees and IDPs in the country. The vast majority fled their homes between 1988 and 1993 as a result of the Nagorno-Karabakh conflict. According to the State Statistics Committee, approximately 200,000 were refugees and 572,000 were IDPs. There were credible reports that Armenians from outside of the country, including ethnic Armenian immigrants from the Middle East had settled in parts of Nagorno-Karabakh and possibly other Azerbaijani territories occupied by Armenian forces. The Government appealed to the U.N. and the COE regarding those reports, and an OSCE Fact-Finding Commission was established to investigate the matter.

The Constitution prohibits forced exile, and the Government did not use it in practice.

There were no prohibitions against the return of citizens who left the country. However, the government agency responsible for reintegrating citizens who were refused asylum in other countries lacked the capacity to accommodate these individuals upon their return.

Approximately 20,000 Armenians, almost all of mixed parentage or in mixed marriages, continued to live in the country. This total does not include Armenians living in the occupied territories. According to unofficial estimates, between 200 and 250 ethnic Armenians of mixed marriages leave the country each year. 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), 43 Armenians of mixed descent reported to an Azerbaijani 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.

The Armenian Government continued to prevent the hundreds of thousands of Azerbaijanis forced out of their homes in the occupied territories from returning; however, the Armenian Government did permit the return of some ethnic Armenians.

In July, the President issued a decree to improve living conditions and to increase employment for refugees and IDPs. Under the state-run program, all IDPs are expected to be resettled from camps to newly constructed housing. According to the Government, it directed \$3.14 million (15.7 billion manat) from the State Oil Fund to build housing and to improve socio-economic conditions of refugees and IDPs. At year's end, the Government began construction of 5 new settlements in Agdam and 1 in Agjabedi for 3,600 families.

During the year, the Government received \$34 million (170 billion manat) in assistance from international and domestic humanitarian organizations for refugees and IDPs. According to the Government, it also allocated \$18 million (88 billion manat) from the country's oil fund to improve living conditions for IDPs and refugees. In August, the IDP and Refugee Committee's estimated expenditures were \$60.8 million (297.7 billion manat).

According to the IOM, approximately 40,000 IDPs continued to live in camps, 60,000 in underground dugout shelters, and 20,000 in railway cars; however, the Government took steps to relocate 40,000 IDPs out of railway cars and camps to special settlements. Still, the majority of IDPs lived at below-subsistence levels, without adequate food, shelter, education, sanitation, and medical care. At the same time, approximately 40,000 IDPs lived in settlements provided by the EU, while another 40,000 lived in housing provided by the U.N. High Commissioner for Refugees (UNHCR). The remainder were scattered among unfinished buildings, hostels, public health facilities, and the homes of relatives.

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection for 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 during the year.

The Government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers. These organizations reported full and unrestricted access to the refugee population. Unlike in previous years, all asylum applications were now sent directly to the Refugee Status Determination Department (RSD) of the State Committee for Refugees instead of through the UNHCR. By year's end, a total of 177 residual cases of asylum seekers from Afghanistan and Iraq (161 Afghans and 16 Iraqis) were handed over to the RSD. The UNHCR in Baku continued to provide assistance to asylum seekers while monitoring the RSD's processing of asylum cases and providing referrals to legal assistance for those whose claims were rejected.

At year's end, the RSD had received 235 applications for refugee status for 432 individuals. Of that number, 117 applications came from the UNHCR; the remaining were new applications. The RSD granted refugee status to 18 persons during the year.

By year's end, the UNHCR registered 10,764 asylum seekers or refugees, including the 8,669 Chechens who fled from Russia and 581 Afghans. However, according to re-registration figures, there were only 161 long-term Afghan residents in the country. A small number of new refugees and asylum seekers from Iran, Iraq, and other countries also registered during the year.

Under the non-visa regime with Russia, Russian citizens can enter, exit, and move through the country without a visa, but they were expected to register with the Baku Police Department within 3 days of their arrival. However, in practice the majority of asylum seekers from the Russian Federation did not register and remained in the country illegally. During the year, the UNHCR received no information regarding expulsions or deportation of asylum seekers from Russia.

Arbitrary harassment, detention, and arrests of undocumented Chechens continued to be a problem; however, the 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 receive a 3-month visa. Chechen children were allowed to attend public schools. As of September, approximately 700 Chechen children out of an estimated 3,000 attended public schools. Access to medical services improved for Chechen refugees; however, access to specialized medical assistance remained problematic.

During the year, the UNHCR reported that police arrested seven Chechens: Six on suspicion of criminal activity and one for not having a residence permit. Chechens accused of criminal offenses and wanted by Russian authorities were extradited to Russia.

The RSD 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. Pursuant to UNHCR guidelines and to the Government's policy, most refugees from Russia that originate from Chechnya were considered persons of concern. Only Chechens who registered with the UNHCR were provided letters of concern, which protected them from forced repatriation to their homeland. These letters were not travel documents and were valid for a limited time.

According to IOM, the Government continued to deport illegal Iranian immigrants, many of whom were economic migrants who continued to return to the country even after they were deported.

Section

3

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

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

The October 2003 presidential election, which formally brought Ilham Aliyev to power, failed to meet international standards for democratic elections due to a number of serious irregularities. These included the lack of a level playing field in the pre-election campaign, police violence in the pre- and post-election periods, and partisan election commissions.

Serious irregularities noted by observers included disenfranchisement of voters because of inaccurate voter lists, intimidation of voters and election commission members, ballot box stuffing, and irregularities in vote counting and tabulation. The Government accredited approximately 2,000 domestic election observers but banned domestic NGOs that receive foreign assistance from observing the election.

However, there were some improvements in the October 2003 election, including application of parts of the Unified Election Code (UEC), which the President signed into law in May 2003 and is scheduled to take full effect in 2005. The Government also promptly posted election results on the Internet; however, the observed irregularities and insufficient transparency in vote counting and tabulation led to serious doubts about the accuracy of the 77 percent of the vote officially recorded for Ilham Aliyev. In the days prior to the announcement of preliminary results from the October 2003 presidential elections, the CEC denied OSCE/ODIHR observers access to its documents and activities, resulting in a lack of transparency during the final vote count (see Section 4). By year's end, the Government still had not investigated the irregularities.

In December, nation-wide municipal elections were marred by widespread fraud and serious irregularities. These included ballot-box stuffing, forging 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. For example, in some districts, up to 110 candidates competed for 19 municipal seats, which presented precinct commission members with the difficult task of accurately counting all votes, and many commissions failed to do so.

Most prominent opposition political parties boycotted the election due to an uneven playing field; however, many opposition candidates registered as independents. In a positive step to acknowledge the

gravity of the irregularities, the Central Election Commission (CEC) for the first time forwarded 95 complaints of election fraud to the Prosecutor General's office for criminal investigation. The law stipulates up to 1 year in prison for election-related fraud.

The October parliamentary by-elections were also marked by serious irregularities such as ballot-box stuffing, fraudulent voter lists, and falsification of figures on precinct protocols. Some voters received ballots without providing valid identification or by showing invalid documents, and election observers witnessed poll workers forging signatures on voter registration lists. Unauthorized persons, including representatives of local governments, were present in many precincts during the vote counting and in some cases directed the counting.

Two amendments passed in the 2002 referendum continued to be controversial. One eliminated the proportional representation system required for 25 of the 125 seats in Parliament; the second replaced the Chairman of the Parliament with the Prime Minister in the line of succession to the presidency, a change that makes it easier for the President to designate his successor. In August 2003, then President Heydar Aliyev named his son, Ilham, Prime Minister, which allowed him to assume unofficially the responsibilities of acting president because of his father's ill health, and to run as the incumbent in the October 2003 election.

During the year, authorities harassed and evicted opposition political parties from their offices. Limitations on opposition activities were particularly acute in certain remote regions, including Nakchivan where opposition activities were severely limited. The Government also applied organized pressure against opposition party members to limit their business activities and dismiss opposition-linked persons from state-funded jobs.

Throughout the summer, local authorities around the country interfered with a study on religious freedom conducted by the FAR Center, a Baku-based research organization. The interference allegedly occurred because the director of the center had close political ties to the opposition Musavat party.

In 2003, HRW documented more than 100 job dismissals around the country of either opposition members or their relatives. Many of those who were dismissed said their employers warned them before the election and explicitly told them afterwards that they were dismissed because of their opposition activity or the activity of their relatives. There were also credible reports that some election commission members who refused to sign falsified vote tallies were also dismissed.

At least 20 of the 42 registered political parties were considered opposition parties (see Section 2.b.). Unregistered political parties continued to function; however, authorities prevented them, as well as registered opposition parties, from conducting outdoor gatherings (see Section 2.b.). Registered parties were able to hold indoor meetings. Members of unregistered political parties may run for president but must be sponsored by a registered party or by an independent "voters' initiative group." Members of unregistered parties also may run for Parliament, although none was represented in the Parliament. Opposition members occupied 5 seats in the 125-member Parliament.

The 2003 UEC includes provisions for a new CEC, District Election Commissions, and Precinct Election Commissions that will come into force based on the results of parliamentary elections in 2005. The UEC, which combines four existing election laws and referenda, was drafted in consultation with international election advisers, including IFES, the COE, and OSCE/ODIHR. However, the UEC permits establishment of election commissions structured in favor of the ruling party, and did not change provisions contained in other legislation that prohibit domestic NGOs that receive foreign funding from observing elections.

The laws 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. The law on bribery carries a sentence of 2 to 7 years for receiving a bribe, and up to 5 years for offering a bribe. Presentation of a bribe to an official is punishable by 3 to 8 years' imprisonment. According to the General Prosecutor's office, 120 criminal cases related to corruption were opened during the year, with 10 specifically on bribery charges; however, these cases had little or no impact overall on the prevalence of bribery and corruption in the country.

In March, the President enacted a new law on corruption by decree, which is scheduled to take effect in January 2005. It requires public officials to report annual income, sources of income, property owned, and financial liabilities. It also prohibits nepotism and limits giving gifts and direct or indirect financial benefits to public officials or third parties.

The law provides for public access to government information by individuals and organizations; however, it does not specify procedures for obtaining government information.

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.

There were no legal restrictions on the participation of women in politics; however, traditional social norms limited women's political roles, and they were underrepresented in elective offices. The practice of "family voting," whereby men voted on behalf of their wives and other female family members, continued. There were 14 women in the 125-seat Parliament. Several women held senior government positions, including Deputy Chair of Parliament, Chairperson of the Supreme Court, and Deputy Chair of the CEC. Lezghins, Talysh, and Avars continued to serve in Parliament and Government.

Section

4

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

Many 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 some human rights NGOs and activists, and the MOJ routinely denied or failed to register some human rights NGOs (see Section 2.b.).

Several NGOs reported that the Government and police at times refused to protect them from so-called "provocateurs" who harassed and attacked NGO activists and vandalized their property. The NGOs accused authorities of inciting the harassment and attacks in some cases. For example, in June authorities in the exclave of Nakchivan allegedly beat and detained Avaz Hasanov, coordinator for an international working group on prisoners, hostages, and lost persons in Karabakh, after he returned from Nagorno-Karabakh. Also in June, the Ministry of Taxes and MOJ in Nakchivan threatened to close the NGO Resource Center because it was not registered. The Resource Center had applied for registration but was denied. However, in October, Nakchivan authorities approved the Resource Center's registration, making it the first registered NGO in the exclave. In May, Mahammad Rzayev, a lawyer working for the resource center who also worked part-time as a regional correspondent for opposition newspaper Azadliq, was kidnapped and beaten by police.

In September, in Baku, provocateurs disrupted a major, high-level NGO conference on coordinating NGO activity for December municipal elections by shutting off the power and removing tables and chairs. The same NGO also had problems holding similar conferences throughout the regions in the weeks leading up to the municipal elections. In November, Akifa Aliyeva, coordinator of the Ganja branch of the Azerbaijan Helsinki Citizens' Assembly (HCA) was presented on television as an enemy of the state after her interview on a peace-building project between Azerbaijanis and Armenians was edited to purposely distort her remarks. Individuals subsequently protested at the HCA offices in Baku and in Ganja.

In early 2003, Leyla Yunus, Director of the Institute of Peace and Democracy, and Eldar Zeynalov, Chairman of the Human Rights Center of Azerbaijan, were harassed for their work on Nagorno-Karabakh. In September 2003, the Committee for the Protection of Women's Rights reported that security officials at the Nakchivan airport refused to assist a group of human rights activists who were assaulted with eggs and tomatoes.

In April, the President issued a decree to implement the law on registering NGOs; however, the registration law remained cumbersome, and some provisions related to the liquidation of NGOs were vague. For example, amendments passed in 2003 complicated requirements to register grants from foreign entities and subjected the funds to a social security tax of 27 percent on employee salaries. However, grants from a few countries, which had bilateral agreements with the Government, were subject to a 2 percent tax on employee salaries. NGOs remained exempt from value added tax (VAT).

In December, the President issued another decree to establish a central registration point and eliminate artificial impediments to registration and other technical improvements. By year's end, no information was available on whether this decree eased the registration process. During the year, 168 NGOs were registered.

In September 2003, the MOJ revoked the registration of a Muslim NGO, Islam-Ittihad, on charges of spreading religious propaganda and attempting to establish a religious regime. The NGO focused on preventing alcoholism, narcotics abuse, and helping orphans and children with thalassemia. The Islam-Ittihad directors, Azer Ramizoglu and Ilgar Ibrahimoglu, who were both outspoken religious freedom activists, appealed the decision (see Section 2.c.). In July, the Supreme Court upheld the MOJ decision. Foreign diplomats, the ICRC, and COE delegations all had access to prisons to meet with prisoners (see Section 1.c.). The Government met with COE rapporteurs who visited the country to monitor political conditions, and allowed OSCE/ODIHR and other international observers to monitor the October 2003 election. However, in the days prior to the announcement of preliminary results from the October 2003 presidential elections, the CEC denied OSCE/ODIHR observers access to its documents and activities, resulting in a lack of transparency during the final vote count (see Section 3).

In 2002, Parliament established the office of an Ombudswoman for human rights. Citizens may appeal violations committed by the state or by individuals. The Ombudswoman may refuse to accept cases of abuse that occurred more than 1 year ago, anonymous complaints, and cases that are being handled by the judiciary. During the year, the Ombudswoman traveled around the country to hear human rights complaints and cooperated with foreign diplomats working on human rights activities. However, according to local human rights NGOs and activists, the Ombudswoman's work was ineffective. In December, the Ombudswoman presented her annual report to Parliament, which was not made public by year's end. The Parliament and MOJ also had human rights offices that heard complaints and followed up with investigations and recommendations to relevant government bodies. Officials of the human rights office with the Ministry of Foreign Affairs met with the diplomatic community to discuss issues of concern to the international community.

Section

5

Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution provides for equal rights without respect to gender, race, national origin, language, social status, or political affiliation; however, in practice the Government did not always respect some of these provisions.

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 rape. Rape is illegal and carries a maximum 15-year prison sentence. The Government stated that 25 rapes and attempted rapes had been 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. Since 2001, the center has provided services to more than 4,200 women, including 1,700 during the year. An additional 4,700 women have called the center's hotline. During the year, the Institute also completed work with Internews on a television series on women's rights, anti-trafficking, and gender issues, which was broadcast on regional channels and in Baku.

Prostitution is not a crime; it is an administrative offense punishable by a fine of up to \$100 (500,000 manat). Pimps and brothel-owners may be sentenced to prison for up to 6 years. The legal age of consent was 16. Prostitution was a serious problem, particularly in Baku.

Women nominally enjoy the same legal rights as men; however, societal discrimination and trafficking in women for sexual exploitation were problems (see Section 5, Trafficking).

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. For example, women were underrepresented in high-level jobs, including top business positions. The law prohibits pregnant women and women with children under the age of 3 from working at night; pregnant women and women with children under 18 months of age cannot work more than 36 hours per week.

There were approximately 50 registered NGOs that focused on problems affecting women. One of the most active, the Society for the Defense of Women's Rights, provided speech and communication training for women in politics, and urged political party leaders to appoint women to high-ranking positions.

Children

The law requires the Government to protect the rights of children with regard to education and health care; however, difficult economic circumstances limited the Government's ability to fulfill its commitments. Public education was compulsory, free, and universal until the age of 17. According to the Ministry of Education, 100 percent of school-age children attended school during the year; however, UNICEF reported that the figure was approximately 88 percent. The Government provided a minimum standard of health care for children, but the overall quality of medical care was very low.

The law prescribes severe penalties for crimes against children, and children were generally treated with respect, regardless of gender; however, there were some reports of abuse of children, including trafficking (see Section 5, Trafficking).

A large number of refugee and IDP children lived in substandard conditions in camps and public buildings (see Section 2.d.). In some cases, children were unable to attend 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 (see Section 6.d.).

A coalition of more than 30 local and international NGOs worked with the Government, the local community, and international organizations such as UNICEF and the World Bank, to raise awareness of

children's needs and to build capacity to meet those needs. During the year, the coalition worked with the World Bank to redistribute the social benefit package for children and families in need, and began work on the alternative report to the Government's spring submission on the status of its obligations under the U.N. Convention on the Rights of the Child.

From June through December, the coalition taught street children about healthy lifestyle choices, brought in an occupational therapist to assess conditions for children with disabilities in orphanages, and completed a public awareness campaign on the rights of children with disabilities. The coalition also met routinely with government officials for talks on the rights of children.

Trafficking in Persons

The law does not specifically prohibit trafficking in persons, although existing provisions of the law are used to prosecute trafficking cases, and there were reports that men, women, and children were primarily trafficked from the country for sexual exploitation and forced labor. Corruption in some government agencies facilitated trafficking.

While trafficking is not a criminal offense, traffickers may be prosecuted 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 carry maximum 15-year prison sentences. There also are criminal penalties for enslaving, raping, and forcing children into prostitution. During the year, the Government convicted 10 individuals on trafficking-related crimes. It also arrested 48 individuals and opened 32 trafficking-related criminal cases.

Numerous government officials and ministries were involved in efforts to combat trafficking in persons; however, problems remained with providing formal assistance for victims, corruption, and adopting anti-trafficking laws. In May, the President signed a decree that ordered all government bodies to implement a new national action plan to combat trafficking in persons. The decree named a Deputy Minister of Internal Affairs as the national coordinator for anti-trafficking efforts. Since then, the Government created a special anti-trafficking police unit and began drafting legislation and Criminal Code amendments to specifically criminalize trafficking in persons.

The MIA improved its capacity to track potential traffickers and victims transiting through the country's international airport. The Government regularly collaborated with neighboring countries on anti-trafficking investigations.

The country was primarily a country of origin and transit for trafficked women, men, and children for sexual exploitation and forced labor. Azerbaijani, Russian, and Central Asian women and girls were trafficked from or through the country to the United Arab Emirates (UAE), Turkey, and Pakistan for work in the sex industry. In addition, 162 Azerbaijani trafficking victims were identified in other countries, including 63 in Pakistan, 45 in the UAE, 40 in Turkey, and 14 in India.

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 possibly the United States where they at times had their passports confiscated and were subjected to forced labor. Traffickers generally targeted women.

Traffickers were either foreigners or ethnic Azerbaijanis who acted in loose concert with international networks. They approached victims directly and indirectly through friends and relatives. Traffickers also used deceptive newspaper advertisements that offered false work abroad.

Traffickers also used fraudulent marriage proposals from men posing as Iranian businessmen to lure women into prostitution in neighboring Iran. Traffickers approached some families who willingly married their daughters to wealthy Iranians without concern for the actual outcome.

There was no evidence of government complicity in facilitating trafficking in persons; however, NGOs suspected that low-level government workers and police officers accepted bribes from traffickers to overlook their activities. During the year, the Government dismissed the chief of a regional passport registration office and two inspectors for issuing illegal citizenship identification cards to several individuals.

There were no government-sponsored anti-trafficking public education campaigns, and no standardized mechanism to return trafficked women to the country; however, during the year Azerbaijani consular officials began to work on an ad hoc basis with international organizations to repatriate trafficking victims to the country.

The Government reported that by year's end it had sent 150 trafficking victims (141 Azerbaijanis, 6 Uzbeks, 2 Russians, and 1 Georgian) to a special healthcare center.

According to 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.

Several NGOs, like the Institute for Peace and Democracy and Clean World, and bodies such as the State Committee for Women's Issues, worked on anti-trafficking activities and programs to prevent prostitution. The IOM and OSCE provided training for domestic NGOs on how to operate emergency hotlines, conduct awareness campaigns, and secure housing for trafficking victims.

Persons with Disabilities

There was social discrimination against persons with disabilities in employment; however, there were no credible reports of discrimination in education or access to health care.

The law gives priority to persons with disabilities to obtain housing, pension supplements, and discounts for public transportation; however, the Government did not have the means to fulfill these commitments. There are no special provisions in the law mandating access to public or other buildings for persons with disabilities, and improving access was not a government priority.

Depending on the severity of the mental illness, some individuals were denied the right to vote.

The Ministries of Health and Labor and Social Welfare were responsible for protecting the rights of persons with disabilities. Care in facilities for the mentally ill and persons with disabilities varied. Some provided adequate care but others lacked qualified caregivers, equipment, and supplies to maintain sanitary conditions, and provisions to provide a proper diet. There were no credible reports of cruel treatment of patients in government-run mental health facilities. The Ministry of Health continued a program to renovate state mental health facilities in recognition of the need to provide better care for persons with mental disabilities.

National/Racial/Ethnic Minorities

Numerous indigenous ethnic groups lived in the country, and the Constitution provides them with the right to maintain their culture and language, and the Government generally respected these rights; however, there were some problems.

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

Some Armenians and persons of mixed Armenian-Azerbaijani descent said they were denied work, medical care, and education and could not register their residences due to their ethnicity. The approximately 20,000 citizens of Armenian descent also complained of discrimination in employment, schooling, housing, and other areas. They said they experienced discrimination and harassment at work and that local authorities refused to pay their pensions. Most Armenians concealed their ethnicity, legally changed the ethnic designation in their passports, or tried to leave the country. However, some persons of mixed Armenian-Azerbaijani descent held government jobs. Public figures in mixed marriages or of mixed-Armenian and Azerbaijani parentage were at times openly criticized by colleagues in newspapers and on television and radio.

There was one senior government official responsible for ethnic minority policy; however, preventing discrimination was not a government priority.

In the area occupied by ethnic Armenian forces, approximately 600,000 ethnic Azerbaijanis were forced to flee their homes during the Nagorno-Karabakh conflict (see Section 2.d.). The authorities who controlled the occupied areas effectively banned ethnic Azerbaijanis from all spheres of civil, political, and economic life.

Other Societal Abuses and Discrimination

The Government did not officially condone discrimination based on sexual orientation; however, there was societal prejudice against homosexuals, especially with regard to housing.

Section

6

Worker Rights

a. The Right of Association

The Constitution provides for freedom of association, including the right to form labor unions; however, there were some restrictions on this right in practice.

Uniformed military and police were prohibited from participating in trade unions, although civilians working in the Interior and Defense Ministries were allowed to do so. The law also prohibits managerial staff from joining a trade union; however, in practice, managers in state industries often had union dues automatically deducted from their paychecks. During the year, the Government refused to register a trade

union in the transportation sector because the Government alleged that it had engaged in criminal activity.

The law prohibits unions from engaging in political activity; however, some government-aligned unions ignored this prohibition. Individual members of trade unions were not restricted from political activity. Trade unions were allowed to draft legislation on labor, social, and economic matters, but most did not take part in such activity.

Many of the state-owned enterprises that dominate 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.

The overwhelming majority of labor unions continued to operate as they did under the Soviet system, and remained tightly linked to the Government; exceptions were independent journalists' unions.

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 a "yellow union" because of its close alignment with the Government.

The Union of Oil and Gas Industry Workers continued to operate without a vote by rank and file workers, and membership remained mandatory for the State Oil Company's (SOCAR) 60,000 workers, whose union dues (1 percent of each worker's salary) were automatically deducted from their paychecks.

There were no reports of government anti-union discrimination; however, labor disputes were primarily handled by local courts, which were widely considered corrupt. There were reports of anti-union discrimination by foreign companies operating in Baku. Most foreign oil companies did not allow union membership; however, in July free trade unions were established in one foreign company and one joint venture involving a foreign company.

b. The Right to Organize and Bargain Collectively

The law allows trade unions to conduct their activities without government interference; however, in practice, most trade 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. However, 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 tariff schedule. In addition, the Ministry of Labor 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. 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 3 years' imprisonment.

The law prohibits retribution against strikers such as, dismissal or replacement. In July, police twice prevented workers from striking at Baku Tram Park.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The Constitution allows forced or compulsory labor only under states of emergency and martial law, or in court decisions affecting condemned persons; although there were no reports of slavery or prison labor imposed by government authorities, there were reports of forced or compulsory labor, including trafficking in persons (see Section 5, Trafficking).

The law also permits compulsory labor in connection with the military or extreme situations based on legislative authorization and under governmental supervision.

Two departments in the General Prosecutor's Office were responsible for enforcing the prohibition on forced or compulsory labor.

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 economic exploitation and from work that is dangerous to their health, and 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 begin work at age 15; however, with the consent of their parents, 14-year-olds may work in family businesses or at after-school jobs during the day that pose no hazard to their health. Children under 16 may not work more than 24 hours per week; children between 16 and 18 may not work more than 36 hours per week. The law prohibits employing persons younger than 18 in jobs with difficult and hazardous work conditions. The Ministry of Labor and Social Security was responsible for enforcing child labor laws.

During the year, the Government ratified the ILO Convention 182 on the worst forms of child labor. The country also joined the European Charter Article on Protecting Child and Youth Rights. There were reports that some parents forced their children to beg.

e. Acceptable Conditions of Work

In December, a presidential decree raised the minimum monthly wage from \$20 (100,000 manat) to \$25 (125,000 manat). The move followed an increase in July that raised the minimum from \$12 (60,000 manat) to \$20 (100,000 manat). The \$25 minimum wage was slightly above the official poverty level of \$24 (120,000 manat) set by the Government. However, it was not sufficient to provide a decent standard of living for a worker and family.

Most workers earned more than the minimum wage, with the average monthly wage reaching \$93 (467,300 manat) during the first 8 months of the year. Many citizens also relied on extended families or on remittances from relatives working in Russia for support. The combination of these funds and other strategies allowed most urban dwellers to attain a subsistence income level.

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. The Government attempted to enforce the contracts and agreements; however, the Ministry of Labor reported little success in the informal sector, where most individuals were employed, because of poor cooperation from private companies.

The law set health and safety standards, but they were widely ignored; government inspections of working conditions were weak and ineffective. The ATUC also monitored compliance with labor and trade regulations, including safety and health conditions. Between 1997 and year's end, the ATUC reported that it inspected 2,000 enterprises and organizations and found 28,432 legal and technical violations. The ATUC said 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, six State Oil Company workers were lost at sea due to workplace accidents during the year. Another three oil workers 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, though local human rights groups, including ORDC, maintained that disparities existed, particularly in foreign oil companies.