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## Country Report on Human Rights Practices 2012 - Azerbaijan

### EXECUTIVE SUMMARY

The Azerbaijan constitution provides for a republic with a presidential form of government. Legislative authority is vested in the Milli Mejlis (parliament). In practice the president dominated the executive, legislative, and judicial branches of government. The 2010 Milli Mejlis elections did not meet a number of key standards of the Organization for Security and Cooperation in Europe (OSCE) for democratic elections. Although there were more than 50 political parties, the president's party, the Yeni Azerbaijan Party, dominated the political system. Separatists, with Armenia's support, continued to control most of Nagorno-Karabakh and seven other Azerbaijani territories. The final status of Nagorno-Karabakh remained the subject of international mediation by the OSCE Minsk Group, cochaired by Russia, France, and the United States.

The most significant human rights problems during the year were:

1. Restrictions on freedom of expression, including intimidation, arrest, and use of force against journalists and human rights and democracy activists online and offline.
2. Restrictions on freedom of assembly. While the government approved three peaceful protests in the spring and released all persons arrested for participating in protests in spring 2011, it limited approved demonstrations to a location far from the center of Baku, regularly denied other applications for peaceful political protests, forcefully dispersed unsanctioned protests, and often detained demonstrators.
3. Unfair administration of justice, including continued reports of arbitrary arrest and detention, politically motivated imprisonment, lack of due process, executive influence over the judiciary, and lengthy pretrial detention. Authorities failed to provide due legal process with regard to property rights, resulting in forced evictions, demolition of buildings on dubious eminent domain grounds, and inadequate compensation for property taken by the state.

Other human rights problems reported during the year included reports of torture and abuse in police or military custody that resulted in at least four deaths; harsh and sometimes life-threatening prison conditions; continued arbitrary invasions of privacy; restrictions on the religious freedom of some unregistered Muslim and Christian groups; constraints on political participation; corruption at all levels of government; continued official impediments

to the registration of human rights nongovernmental organizations (NGOs); violence against women; and trafficking in persons.

The government failed to take steps to prosecute or punish most officials who committed human rights abuses. Impunity remained a problem.

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

### **a. Arbitrary or Unlawful Deprivation of Life**

There were no reports that the government or its agents committed arbitrary or unlawful killings during the year. However, human rights monitors reported that at least four persons died in police or military custody. For example, on June 26, Atash Khudiyev died while in the custody of Sumgayit police. Khudiyev was driven to the police station by a taxi driver who accused him of not paying the fare. According to police, Khudiyev died of heart failure at the station. Khudiyev's family, however, alleged police brutality, claiming Khudiyev was bruised and his clothing bloodstained.

Abuse in the military was widespread and at times resulted in death. Local human rights organizations reported at least 97 deaths in the military during the year, 77 of which were not related to combat, including 11 soldiers killed by fellow servicemen and 19 suicides. Impunity for abuses continued.

Separatists, with Armenia's support, continued to control most of Nagorno-Karabakh and seven other Azerbaijani territories. During the year shooting incidents continued along the militarized line of contact separating the two sides in the Nagorno-Karabakh conflict and resulted in numerous casualties on both sides. Figures for civilian casualties along the line of contact were not available. The final status of Nagorno-Karabakh remained the subject of international mediation by the OSCE Minsk Group, cochaired by Russia, France, and the United States.

### **b. Disappearance**

There were no reports of politically motivated disappearances during the year.

The State Committee on the Captive and Missing reported that 4,031 Azerbaijani citizens were registered as missing persons as the result of the Nagorno-Karabakh conflict. It further reported that three Armenian military personnel and one civilian departed the territory of Azerbaijan. The Office of the UN High Commissioner for Refugees (UNHCR) sent these three military personnel to a third country and the International Committee of the Red Cross (ICRC) facilitated the return of civilians to Armenia. The state committee also reported the return of one Azerbaijani soldier under the auspices of the ICRC.

The ICRC continued to process cases of persons missing in connection with the Nagorno-Karabakh conflict and worked with the government to develop a consolidated list of missing persons. At year's end, according to tracing requests made by relatives to the ICRC, 4,627 persons remained unaccounted for as a result of the Nagorno-Karabakh conflict, with 4,220 cases being handled by the ICRC in Azerbaijan, including Nagorno-Karabakh.

The ICRC continued to assist prisoners of war and civilian internees (POWs/CIs) and conducted monthly visits throughout the year to ensure their protection under international humanitarian law. The ICRC regularly facilitated the exchange of Red Cross messages between POWs/CIs and their families to help them reestablish and maintain contact. The government reported that the ICRC facilitated the repatriation of one civilian internee.

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

The constitution and criminal code prohibit such practices and provide for penalties of up to 10 years' imprisonment. On May 22, parliament passed legislation implementing the constitutional provisions and providing for the ethical treatment of detainees. However, domestic human rights monitors reported that security forces abused 141 persons in custody during the year (including a number of reported instances of torture), compared with 136 in 2011. Reports indicated that most mistreatment took place while detainees were in police stations and that abuse ceased once detainees moved to pretrial detention facilities. Impunity remained a problem. Authorities

reportedly maintained a de facto ban on independent forensic examinations of detainees who claimed mistreatment and delayed their access to an attorney.

Following his June 8 arrest for alleged weapons possession, Ilham Amiraslanov claimed Sabirabad police repeatedly beat him to coerce a confession and disavow involvement with Kura, a civil society group that accused the government of misappropriating funding for flood victims. Following the beating, Amiraslanov complained of severe eardrum and internal organ pain and appealed to the Ministry of Justice, the prosecutor general, and the Ombudsman's Office for medical assistance. On June 9 and 28, Ministry of Justice doctors examined him and stated that no beatings or perforation had occurred. Local media reported that Prison Service Center physicians examined Amiraslanov on July 27 and stated that eardrum perforation had occurred. On August 1, the Prosecutor General's Office confirmed that eardrum perforation had occurred but asserted that it had been caused by a chronic illness stemming from childhood.

Local observers reported widespread bullying and abuse in military units during the year, including physical and sexual abuse. In one example, on July 31, the Ministry of Defense claimed that 19-year-old soldier Ismayil Ibayev shot himself while on duty; however, Ibayev's family claimed his body bore signs of physical abuse, such as burns from cigarettes and bruises. The Military Prosecutor's Office opened a formal investigation into the case.

## Prison and Detention Center Conditions

Most prisoners experienced harsh detention conditions, some of which were life threatening. While the government continued to construct new facilities, it housed most prisoners in Soviet-era facilities that did not meet international standards. Overcrowding, inadequate nutrition, deficient heating and ventilation, and poor medical care combined to make the spread of infectious diseases a problem in some facilities. The majority of prisoners and detention centers provided access to potable water.

Physical Conditions: The prison population numbered approximately 20,000 persons. Of these, 13.5 percent were in pretrial detention; 2.3 percent were women. Authorities held men and women together in pretrial detention facilities but housed women in a separate prison facility after they were sentenced. Local NGO observers reported that female prisoners lived in better conditions than male prisoners, were monitored more frequently, and had greater access to training and other activities. Although minors were also supposed to be held in separate facilities, international monitors observed some children being held with adults.

Authorities limited physical exercise for prisoners as well as visits by attorneys and family members. There were few opportunities for prisoners to work or receive training. Former prisoners reported guards punished prisoners with beatings or by holding them in isolation cells. Local and international monitors continued to report poor conditions at the maximum security Qobustan Prison.

The Ministry of Justice reported that 111 persons died in detention during the year, compared with 113 deaths in 2011. The ministry reported that 84 of the deaths were in medical facilities and due to medical conditions. The ministry reported treating 621 prisoners for tuberculosis, down from 746 in 2011. Tuberculosis remained the leading cause of death in prison facilities, followed by cancer and heart disease.

The Ministry of Internal Affairs reported three deaths in pretrial detention facilities. One death was reportedly a suicide and the other two the result of natural causes.

Administration: Prison recordkeeping appeared sufficient. Prisoners had access to family visitors and were permitted religious observance. While most prisoners reported that they could submit complaints to judicial authorities and the Ombudsman's Office without censorship, domestic NGOs reported that some prisoners in high-security facilities experienced difficulty in submitting such complaints. Prison authorities regularly read prisoners' correspondence. The national human rights ombudsman received a variety of human rights complaints, including from prisoners. While the Ombudsman's Office reported systematic visits and investigations into complaints, NGOs reported a lack of interest in fully addressing prisoner complaints.

Monitoring: The government permitted some prison visits by international and local humanitarian and human rights groups, including the ICRC, the Council of Europe's Committee for the Prevention of Torture, the OSCE, the EU (accompanied by some of its members' embassies), and the Azerbaijan Committee against Torture. The Ministry of Justice required the Azerbaijan Committee against Torture to obtain prior notification before visiting its facilities, but the Ministry of Internal Affairs continued to allow the committee immediate access to its pretrial detention centers. The ICRC generally was permitted access to the POWs/CIs who were held in connection with the conflict over Nagorno-Karabakh as well as to detainees held in facilities under the authority of the Ministries of Justice, Internal Affairs, and National Security.

A joint government-human rights community prison monitoring group, known as the Public Committee, was able to gain access to prisons but only with prior notification to the Penitentiary Service. On some occasions during the year, however, the group reportedly experienced difficulty obtaining access, even with prior notification. Nevertheless, the committee received permission to conduct the majority of visits that it had requested: 17 monitoring visits, consulting with 310 prisoners.

**Improvements:** According to the ICRC, the government undertook significant efforts to improve detention conditions by building new facilities and modernizing existing detention centers. During the year the Ministry of Justice assumed responsibility for an ICRC-initiated campaign to fight tuberculosis in detention facilities, a program that experts considered a model in the region. The Ministry of Internal Affairs reported that it opened three new detention facilities and renovated 18 facilities. The Ministry of Justice reported that during the year it undertook or continued retrofitting at 19 facilities and large-scale renovations at six prisons in Ganja, Lankaran, and Baku. Construction of the Shaki mixed regime penitentiary was completed.

## **d. Arbitrary Arrest or Detention**

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

### **Role of the Police and Security Apparatus**

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

Police crowd tactics during the year varied. Police used excessive force in some cases during the protests surrounding the Eurovision song contest in May. However, international observers reported that in response to protests held later in the year, police utilized more measured and proportional tactics, such as during anticorruption protests held in the center of Baku on October 20, November 2 and 17, and December 10.

While security forces generally acted with impunity, the government asserted that it took action against 255 Ministry of Internal Affairs' employees during the year. The ministry further reported that it brought 177 counts of misconduct against ministry officials accused of violating citizens' rights.

The Ministry of Justice reported that 460 of its employees were disciplined for violating citizens' legal rights during the year. The ministry dismissed three employees, referred two other cases of misconduct to the Prosecutor General's Office for investigation and reassigned 12 employees.

### **Arrest Procedures and Treatment While in Detention**

The law states that persons detained, arrested, or accused of a crime should be advised immediately of their rights, given the reason for their arrest, and accorded due process. The government did not always respect these provisions.

The law allows police to detain and question an individual for 48 hours without a warrant. However, police detained individuals for several days without warrants. Legal experts asserted that in other instances judges issued warrants after the fact. There were no reports of detainees not being promptly informed of the charges against them, although in several cases, charges were drastically amended later. In one high-profile example, on June 21, the Nizami District Court sentenced the *Tolishi-Sado* newspaper editor in chief, Hilal Mammadov, to three months of detention based on drug charges. After 15 days of imprisonment, in what observers called a politically motivated act, police changed Mammadov's charges to high treason and inciting national, racial, and religious hatred and ethnic discrimination. Authorities continued to hold Mammadov in pretrial detention at year's end.

The law provides for access to a lawyer from the time of detention. In practice access to lawyers was poor, particularly outside of Baku. Although entitled to legal counsel by law, indigent detainees often did not have such access. Family members reported that authorities occasionally restricted family-member visits, especially to persons in pretrial detention, and occasionally withheld information about detainees. Days sometimes passed before families could obtain any information about detained relatives.

Politically sensitive suspects were at times held incommunicado for several hours or sometimes days while in police custody. For example, the Ministry of Internal Affairs' Organized Crime Unit held blogger and democracy activist Zaur Gurbanli incommunicado for more than 48 hours after his arrest on September 29.

There was no formal, functioning bail system, although individuals were sometimes permitted to vouch for detainees, enabling their conditional release during pretrial investigation. In addition authorities in some cases independently released defendants during the investigative phase.

Arbitrary Arrest: Arbitrary arrest, often based on spurious charges of resisting police, remained a problem throughout the year, especially during the series of peaceful demonstrations that occurred in the weeks leading up to and during the Eurovision Song Contest in late May. Police violations of arrest and detention procedures were also reported. In particular, police detained members of opposition political parties who attempted to hold peaceful political demonstrations.

Lengthy pretrial detention of up to 18 months occurred. The prosecutor general routinely extended the initial three-month pretrial detention period permitted by law in successive increments of several months until the government completed an investigation.

Amnesty: On March 15, the president pardoned 66 individuals, including democracy activists Ruslan Bashirli and Elnur Israfilov. On June 4, the president pardoned democracy activist and former parliamentary candidate Bakhtiyar Hajiyev after 15 months of imprisonment on draft evasion charges. On June 22, the president pardoned nine democracy activists (Arif Hajily, Sahib Karimov, Tural Abbasli, Mahammad Majidli, Ahad Mammadli, Zulfugar Eyvazli, Rufat Hajibeyli, Ulvi Guliyev and Babak Hasanov) arrested in connection with their role in protests in April 2011. Observers considered the imprisonments of these activists politically motivated. On December 26, the president pardoned 79 additional prisoners, including Shahin Hasanli and Vidadi Iskandarov, the last two individuals to be released in connection with peaceful protests in April 2011.

## **e. Denial of Fair Public Trial**

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

The executive branch continued to exert a strong influence over the judiciary. The Ministry of Justice controlled the Judicial Legal Council, which administered the examination for judge candidates.

Credible reports indicated that judges and prosecutors took instruction from the presidential administration and the Justice Ministry, particularly in cases of interest to international observers. There continued to be credible allegations that judges routinely accepted bribes. The ministry reported that the Judicial Council suspended two judges and disciplined five other judges during the year.

### **Trial Procedures**

The law provides for public trials except in cases involving state, commercial, or professional secrets or confidential, personal, or family matters. The law provides for the presumption of innocence in criminal cases; the right of the defendant to review evidence, confront witnesses, and present evidence at the trial; the right of indigent defendants to a court-approved attorney; and the right of both defendants and prosecutors to appeal. However, these provisions were not always respected in practice. Defendants had the right to be informed promptly of charges against them in detail, with free interpretation if necessary.

Judges often failed to read verdicts publicly or give the reasoning behind their decisions, leaving the accused without knowledge of the reasoning behind the judgment.

Jury trials were not used. Foreign and domestic observers usually were allowed to attend trials, except those involving espionage or treason charges. The use of small courtrooms with inadequate seating and last-minute changes in start times prevented public attendance at some hearings. Information regarding trial times and locations was generally available, although there were some exceptions, particularly in the Court of Grave Crimes.

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

The law limits representation in criminal cases to members of the country's government-influenced Collegium (bar association). The number of lawyers who were Collegium members increased to 818 defense lawyers at year's

end from 738 and 761 in 2011 and 2010, respectively. The proportion of Collegium lawyers practicing outside the capital remained relatively steady at approximately 25 percent of all lawyers.

The presidium is the managing body of the Collegium and has the authority to suspend or expel lawyers in conjunction with its disciplinary committee. The presidium was elected in 2004 to a five-year term, which should have ended in 2009. No new election has since been held. During the year the presidium suspended two lawyers. The presidium also stated it withdrew its 2011 reprimand of Osman Kazimov for "failing to uphold the standards expected of defense lawyers." Local NGOs and international organizations had criticized his reprimand as politically motivated.

The constitution prohibits the use of illegally obtained evidence. However, despite some defendants' claims that testimony was obtained through torture or abuse, courts did not dismiss cases based on claims of abuse, and there was no independent forensic investigator to determine the occurrence of abuse. Judges often ignored claims of police mistreatment. Investigations often focused on obtaining confessions rather than gathering physical evidence against suspects. Serious crimes brought before the courts most often ended in conviction, since judges generally required only a minimal level of proof and collaborated closely with prosecutors. When a judge determined that the evidence presented was not sufficient to convict a defendant, the case could be returned to the prosecutor for additional investigation, effectively giving the prosecutor another chance at a conviction.

With the exception of the Court of Grave Crimes and the Military Court of Grave Crimes, courts often failed to provide interpreters. Courts are entitled to contract interpreters during hearings, with the expenses covered by the Ministry of Justice.

There were no verbatim transcripts of judicial proceedings; testimony, oral arguments, and judicial decisions were not recorded. Instead the court officer generally took notes that tended to be sparse and decided their content.

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

## **Political Prisoners and Detainees**

During the year the government released democracy activist Bakhtiyar Hajiyev and 14 other activists whom Amnesty International described in 2011 as "prisoners of conscience." However, local NGOs maintained that the government continued to hold political prisoners; estimates of the number varied from 10 to more than 100 but generally included approximately 30 prisoners. NGOs' lists of political prisoners and detainees included journalists, human rights defenders, opposition party members, and persons imprisoned in previous years, such as government officials and individuals arrested in 2005 on charges of plotting a coup and subsequently convicted of corruption.

In one case, on August 22, a court sentenced journalist Faramaz Novruzoglu (Allahverdiyev) to four and one-half years in prison for allegedly inciting mass disorderly conduct and border crossing violations. Local media and NGO sources believed that the charges against Novruzoglu, arrested on April 18, were fabricated and in response to Facebook postings in which he criticized the government.

During the three sanctioned protests that occurred in April, opposition newspaper reports indicated that police administratively detained at least 12 activists in the days before a planned demonstration. Administrative detentions ranged between six and 15 days.

During the silent protest in Baku that occurred on May 25, the evening preceding the Eurovision Song Contest finale, police detained 40 to 60 activists. According to the OSCE, three of the activists received sentences of five or six days of administrative detention.

A series of four protests in the fall advocating democratic reforms and calling attention to high-level corruption within the government resulted in numerous arrests and administrative detentions. For example, media reports indicated that 50 to 70 demonstrators were detained during a November 19 protest. All except 10 of the demonstrators were reportedly released with a warning or fine of 25 manat (\$31) or less, while 10 demonstrators--six of them opposition party members--were sentenced to five to seven days of administrative detention.

## **Civil Judicial Procedures and Remedies**

The law does not provide for an independent and impartial jury in civil matters; all trials are decided by the judge. District courts have jurisdiction over civil matters in their first hearing; appeals are addressed by the Court of Appeals and then by the Supreme Court. Citizens have the right to bring lawsuits seeking damages for, or

cessation of, human rights violations. As with criminal trials, all citizens have the right to appeal to the European Court of Human Rights (ECHR) within six months after exhausting all domestic legal options, consisting of an appeal to and ruling by the Supreme Court.

Regional Human Rights Court Decisions: Citizens continued to exercise the right to appeal to the ECHR and brought 1,299 claims of government violations of commitments under the European Convention on Human Rights during the year, of which 694 were rejected and 342 were accepted. The government's compliance with ECHR decisions was mixed.

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

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

While the constitution allows for searches of residences only with a court order or in cases specifically provided by law, authorities often conducted searches without warrants. It was widely believed that the Ministry of National Security and the Ministry of Internal Affairs monitored telephone and Internet communications, particularly those of foreigners, some political and business figures, and persons engaged in international communication.

Police continued to intimidate and harass family members of suspected criminals and political opposition members as well as employees and leaders of certain NGOs and their family members. Citizens reported that authorities fired individuals from their jobs in retaliation for the political or civic activities of family members.

NGOs reported that authorities did not respect the laws governing eminent domain and expropriation of property. In May the International Federation for Human Rights reported that homeowners often received compensation well below market value and had little legal recourse. The country's midyear scores for the protection of private property in the *Index of Economic Freedom* conducted by the *Wall Street Journal* and the Heritage Foundation indicated that private property rights were only weakly protected. Domestic monitors reported that the number of property rights complaints they received continued to rise compared with previous years. NGOs reported that many citizens did not trust the country's court system and were therefore reluctant to pursue compensation claims. The Norwegian NGO Human Rights House (HRH) reported in May that the government forcibly evicted homeowners and demolished their homes in order to build the arena for the Eurovision Song Contest.

According to a local NGO, another major cause of dislocation was the continued construction of the Oghuz-Gabala-Baku water pipeline project. The project reportedly displaced 16,000 individuals across eight regions, with little compensation. Despite a court verdict providing for compensation of landowners, by the end of the year, national water management agency Azersu provided monetary compensation to only two landowners.

On April 18, security guards of the State Oil Company of Azerbaijan beat residents protesting the demolition of their houses in the Sulutepe settlement of Baku. Authorities' investigation of the incident cited no wrongdoing on the part of the security guards.

## **Section 2. Respect for Civil Liberties, Including:**

### **a. Freedom of Speech and Press**

The law provides for freedom of speech and press and specifically prohibits press censorship. However, the government often did not respect these rights. The government continued to limit freedom of speech and media independence. Journalists faced intimidation and were beaten and imprisoned. Although the government released 15 individuals widely considered to have been imprisoned for having exercised freedom of speech or the press, international observers reported that at least six remained imprisoned at year's end (see section 1.e.).

Freedom of Speech: The constitution provides for freedom of speech, but the government restricted this right regarding subjects it considered politically sensitive. For example, while authorities permitted three opposition-organized protests in March and April, the protests were permitted only in a remote location, inconvenient to public transportation and seven miles outside of the center of Baku. Authorities routinely denied other requests to hold public meetings. During the weeks leading up to the Eurovision Song Contest in May, they prevented youth and opposition activists from holding peaceful demonstrations in Baku and detained those they suspected of participating in such activities. During the year the incarceration of 19 persons who attempted to exercise freedom



of speech raised concerns about authorities' use of the judicial system to punish dissent. In a November open letter to President Aliyev, democratic reform advocate and former prisoner of conscience Emin Milli wrote that many citizens did not exercise their right to freedom of expression online or offline due to fear of reprisal for criticism of government policies.

The government attempted to impede criticism by monitoring political and civil society meetings. During a media freedom seminar sponsored by a local NGO during Eurovision festivities in May, individuals believed to be planted by the government regularly interrupted speakers expressing criticism of authorities and engaged in long speeches denouncing those who spoke critically of government officials and practices.

Freedom of Press: A number of opposition and independent media outlets operated during the year. The print media expressed a wide variety of views on government policies. Newspaper circulation rates remained low, not surpassing 5,000 in most cases. Credible reports indicated that opposition newspapers were available outside of Baku only in limited numbers due to the refusal of a number of distributors to carry them. Opposition newspaper *Azadliq* faced closure due to financial strains reportedly caused by fines imposed in defamation cases, by the unwillingness of companies to advertise in the newspaper, and by the takeover of its distributor's kiosks. The broadcast media adhered to a progovernment line in their news coverage. Foreign broadcasters, including the Voice of America, Radio Free Europe/Radio Liberty, and the BBC, remained prohibited from broadcasting on FM frequencies.

A local NGO monitoring media freedom stated that six journalists were in prison or facing criminal charges at year's end. For example, *Khural* editor Avaz Zeynalli and journalist Aydin Janiyev, whose reporting exposed corruption within the government, remained incarcerated. Blogger and photographer Mehman Huseynov, whose photographs of police obstruction of opposition protests during the Eurovision festivities gained broad international exposure in May and June, was detained and charged with hooliganism on June 12. While he was released the following morning, the charges, which carry a maximum penalty of five years' imprisonment, remained pending. Human Rights Watch and Amnesty International characterized the charges as clear retaliation for his journalism.

Violence and Harassment: A media-monitoring NGO reported 71 incidents involving verbal or physical assaults on 67 journalists during the year, compared with 90 such incidents in 2011. On May 31, days after the Eurovision Song Contest, when media reporting of human rights abuses proliferated in online media, Presidential Administration spokesman Ali Hasanov called for a show of "public hatred" against opposition media.

The government used the media to harass and discredit those with dissenting views. In March, for example, three newspapers widely believed to be state-controlled press outlets--*New Azerbaijan*, *Voice*, and *Both Sides*--published criticism of investigative journalist Khadija Ismailova and her family. Ismailova's work linked the president's family to corruption. Days before the publication of the derogatory articles, unknown persons attempted to blackmail Ismailova by threatening to publish a surreptitiously obtained video of her intimate life. After Ismailova refused, the video was posted on the Internet. The case provoked strong international and local condemnation, with many citing it as a clear attempt to intimidate a journalist. The Presidential Administration criticized the invasion of her privacy, and an official investigation into the case, which a local NGO criticized as biased, continued at year's end.

On April 18, journalist Idrak Abbasov sustained serious bodily injury by security forces of the State Oil Company of Azerbaijan as he attempted to film home demolitions on the outskirts of Baku. The government's ombudsman for human rights, Amnesty International, and Human Rights Watch urged authorities to conduct a prompt investigation. Following the investigation, authorities concluded no wrongdoing had occurred.

There were reports of police officers' harassing, and in some cases physically harming journalists trying to cover the pre-Eurovision protests (see section 2.b.). There were no indications that authorities held any police officers accountable for physical assaults on journalists in recent years.

Journalists and media rights leaders continued to call for accountability for the November 2011 killing of Rafiq Tagi, against whom Iranian cleric, Grand Ayatollah Fazel Lankarani, issued a fatwa, and the 2005 killing of Elmar Huseynov.

Lawsuits suspected of being politically motivated were also used to intimidate journalists and media outlets. The majority of independent and opposition newspapers remained in a precarious financial situation and continued to have problems paying wages, taxes, and periodic court fines. Most relied on political parties, influential sponsors, or the State Media Fund for financing.

The government prohibited some state libraries from subscribing to opposition newspapers, prohibited state businesses from buying advertising in opposition newspapers, and pressured private businesses not to advertise

in them. As a result paid advertising was largely absent in opposition media. Political commentators noted that these practices reduced the wages that opposition and independent outlets could pay to their journalists, allowing progovernment outlets to hire away quality staff. In addition international media monitoring reports indicated intimidation by officials of the Ministry of Taxes further limited the independence of the media.

Local observers reported the demolition of newspaper kiosks by local authorities resulted in a large decrease in the distribution of opposition newspapers. Observers reported that the kiosks built to replace them distributed a small number of progovernment newspapers and served more as convenience stores than newsstands.

Censorship or Content Restriction: Most media practiced self-censorship and avoided topics considered politically sensitive.

While there were no restrictions on systems to receive satellite broadcasts by foreign stations, the National Television and Radio Council required that local, privately owned television and radio stations not rebroadcast entire news programs of foreign origin.

Libel Laws/National Security: Libel remains a criminal offense. The law allows for large fines and up to three years' imprisonment for persons convicted of libel. Administration officials stated publicly in 2009 that this provision would be removed from the criminal code, and subsequently courts overturned the conviction of two journalists for libel. According to a local media rights organization, during the year claims totaling approximately 5 million manat (\$6.3 million) were brought against newspapers or their owners, with judgments totaling \$200,000 awarded.

Publishing Restrictions: The editor of opposition *Azadliq* newspaper reported difficulty and uncertainty in printing due to debt owed by the newspaper to a government-run publishing house. The newspaper was in turn owed money by the newspaper distributor Qasid, which local observers suspected might be owned by members of the government.

## Internet Freedom

The government generally did not restrict access to the Internet, but it required Internet service providers to be licensed and have formal agreements with the Ministry of Communications and Information Technologies. According to International Telecommunication Union statistics, approximately 70 percent of the country's population used the Internet during the year.

There were indications that the government monitored Internet communications of democracy activists. In November the Expression Online Initiative, a consortium of domestic NGOs, issued a report that described the most significant threat to freedom of expression online as the targeting by authorities of individuals who expressed critical opinions on the Internet. Such opinions included calling for protests, exposing official corruption, or criticizing the president and his family. Individuals who engaged in this activity risked imprisonment or other forms of retaliation. According to the report, *Searching for Freedom: Online Expression in Azerbaijan*, five cyber activists remained in detention or imprisoned and another faced criminal charges in connection with their exercise of freedom of expression online.

There were occasional reports of denial of service attacks on opposition Web sites. For example, the Web sites of the opposition newspaper *Azadliq* and news portal site *Contact* suffered denial of service attacks. In the exclave of Nakhchivan, Web site blockages were reportedly more common.

## Academic Freedom and Cultural Events

The government on occasion restricted academic freedom. For example, during the year authorities denied further attempts by two students expelled for participating in 2011 protests, Tural Abbasli and Elnur Majidli, to reregister at Baku State and Western Universities, respectively.

Some domestic observers raised concerns that the government's selection of participants for state-sponsored study abroad programs was biased and took political affiliation into account. The government denied the allegation and claimed its selection process was transparent. Opposition party members continued to report difficulties in finding jobs teaching at schools and universities. Most known opposition party members teaching in state educational institutions were fired in previous years.

NGOs reported that local executive authorities occasionally prevented the expression of minority cultures, for example, by prohibiting cultural events. In the months preceding his arrest, Hilal Mammadov, the editor in chief of the Talysh newspaper *Tolishi-Sado*, was reportedly contacted by authorities and forbidden to organize Talysh cultural events.

## **b. Freedom of Peaceful Assembly and Association**

### **Freedom of Assembly**

The law provides for freedom of assembly. However, the government severely restricted the right of assembly in practice. On November 2, the Milli Mejlis passed amendments to laws significantly increasing fines on participants and organizers of unauthorized protests. The amendments permit participants to be fined either 300 to 600 manat (\$377 to \$755), sentenced to 15 days' administrative detention, or ordered to perform 160 to 200 hours of community service. Organizers may be fined 1,500 to 3,000 manat (\$1,900 to \$3,800), sentenced to 15 days' administrative detention, or ordered to perform 200 to 340 hours of community service.

While the constitution stipulates that groups may peacefully assemble after notifying the relevant government body in advance, the government continued to interpret this provision as a requirement for prior permission. Local authorities continued to require all rallies to be preapproved and held at designated locations, always far from city centers. Most political parties and NGOs found such requirements unacceptable and believed them to be unconstitutional. Authorities throughout the country routinely refused to acknowledge notifications, thereby effectively denying the freedom to assemble.

In March and April, authorities permitted three public demonstrations, all at remote sites on the outskirts of Baku with no public transportation. One organized by political youth groups took place on March 17 and another organized by the Public Chamber, an opposition umbrella group, was held on April 8 and attended by an estimated 2,500 persons. On the eve of the April 8 demonstration, authorities detained nine opposition activists handing out brochures and charged them with resisting police; one detainee was released immediately, and eight were sentenced to administrative detention for periods of one to 15 days.

During the weeks preceding the Eurovision Song Contest in May, youth and opposition activists organized a number of unsanctioned peaceful protests calling for democratic reforms and the government's resignation. Authorities quickly and forcibly dispersed the protests, temporarily detaining several participants. On May 21, authorities detained 41 demonstrators during peaceful opposition protests in central Baku. The protest was widely covered by international media present in Baku for Eurovision and included images of several protesters injured by plainclothes and uniformed police. Amnesty International criticized authorities for suppressing the peaceful protest. In a second example, on May 24, police and plainclothes agents detained between 35 and 60 opposition activists during the Public Chamber's attempt to hold an unsanctioned protest on Baku's seaside boardwalk. Protesters were forced into waiting vans and buses and taken to a local police station, where they were held for approximately seven hours, charged with administrative offenses, and released. Three protesters were sentenced to up to six days in prison, while nine were fined up to 25 manat (\$31). Local and international NGOs criticized authorities for what they characterized as excessive use of force.

Authorities applied restrictions on unsanctioned protests arbitrarily, permitting protests against the political opposition even when advance notice had not been officially provided. For example, on May 25, authorities neither detained nor arrested progovernment demonstrators who participated in an unsanctioned rally outside the home of an opposition leader; the demonstrators called the opposition leader a "traitor," and made allegations about his sexual orientation, playing on popular prejudices against homosexuality.

### **Freedom of Association**

The law provides for freedom of association, although the government restricted this right in practice. A number of provisions allow the government to regulate the activities of political parties, religious groups, businesses, and NGOs, including a requirement that all organizations register either with the Justice Ministry or the State Committee on Work with Religious Associations. Although the law requires the government to act on registration applications within 30 days of receipt, vague, cumbersome, and nontransparent registration procedures continued to result in long delays that limited citizens' right to associate. For example, authorities ordered the HRH to cease operations in March 2011 and continued to prevent the group from operating during the year (see section 5).

In March 2011 the government issued a decree implementing a 2009 law that requires international NGOs operating in the country to reregister with the Ministry of Justice, the Ministry of National Security, and the Ministry of Foreign Affairs. The NGOs are required to demonstrate that they support "the Azerbaijani people's national and spiritual values" and commit not to be involved in religious and political propaganda. The decree does not specify any time limit for the reregistration procedure, and NGOs complained about burdensome procedural delays.

In an October 2011 opinion, the Council of Europe's Venice Commission raised a number of concerns about the compatibility of the law with human rights standards and noted with concern that "to condition the views, activities, and conduct of an NGO before allowing it to obtain the legal personality necessary for its operation, goes against the core of the values underlying the protection of civil and political rights."

The law on NGOs restricts freedom of association, including by requiring deputies of NGO branches to be Azerbaijani citizens and requiring foreign NGOs to sign an agreement with the government before opening an office. In addition a presidential decree modifying the law on NGOs includes a requirement that NGOs register all grants they receive with the Ministry of Justice.

Some experts estimated that approximately 1,000 NGOs remained unregistered at year's end. The Ministry of Justice stated that it registered 172 NGOs during the year and 144 in 2011.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/j/drl/irf/rpt](http://www.state.gov/j/drl/irf/rpt).

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

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation; however, the government limited freedom of movement at times, particularly for internally displaced persons (IDPs).

The government cooperated with the UNHCR and other humanitarian organizations in providing protection and assistance to IDPs, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern. The State Migration Service was responsible for all refugee matters, including refugee status determination. International NGOs continued to report that this department remained inefficient and did not operate transparently.

Foreign Travel: Since 2006 the government has prevented the foreign travel of Popular Front Party chairman Ali Kerimli by refusing to renew his passport. The government cited an outstanding civil complaint against him from 1994 as the reason for the refusal, although it renewed Kerimli's passport without objection on several occasions in the years since the complaint was filed. Kerimli's appeal of the decision was rejected at all levels of the court system. In 2009 Kerimli submitted a complaint to the ECHR, which did not hear the case before year's end.

The law requires men of draft age to register with military officials before traveling abroad. Those pursuing higher education may request a deferment to complete their studies. The law on military service does not stipulate deferments for undergraduate or graduate studies although military draft boards commonly granted such deferments upon annual presentation of proof of enrollment. Some travel restrictions were placed on military personnel with access to national security information. Citizens charged with or convicted of criminal offenses and given suspended sentences were not permitted to travel abroad.

While official government policy allows citizens of ethnic Armenian descent to travel, low-level officials reportedly often requested bribes or harassed ethnic Armenians who applied for passports.

#### **Internally Displaced Persons (IDPs)**

As of year's end, the UNHCR reported 600,336 registered IDPs in the country, representing 153,336 families. The vast majority fled their homes between 1988 and 1993 as a result of the Nagorno-Karabakh conflict.

IDPs were required to register their places of residence with authorities and could live only in approved areas. This "propiska" registration system carried over from the Soviet era was enforced mainly against persons who were forced from their homes after separatists took control of Nagorno-Karabakh and seven other Azerbaijani territories. The government asserted that registration was needed to keep track of IDPs in order to provide them assistance. According to the Internal Displacement Monitoring Center, many IDPs who resided in Baku were unable to register their residences or gain access to formal employment, government assistance, health care, education, or pensions, and had difficulty buying property.

The UNHCR reported that during the year the government rehoused 4,553 families, representing approximately 22,765 individuals. The rehousing occurred in the Agjabadi, Goranboy, Absheron, Baku, and Qazax regions.

## Protection of Refugees

**Access to Asylum:** The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to some refugees through the Refugee Status Determination Department at the State Migration Committee. The UNHCR recognized 1,465 individuals (asylum seekers, persons of concern to the UNHCR, and refugees recognized under the UNHCR mandate) in Azerbaijan and provided them with UNHCR letters of protection; 27 individuals had asylum applications pending. As in the previous year, the three largest active refugee populations were Chechens, Afghans, and Iranians.

**Temporary Protection:** The government has no legal mechanism to provide temporary protection to individuals who do not qualify as refugees. The government accepted the protection letters the UNHCR issued to those it considered refugees. As a result the UNHCR continued to carry out all protection and assistance functions for populations of concern in the country. Despite UNHCR recognition of Chechens, Afghans, and Iranians as populations of concern, Azerbaijani laws on residence, registration, and the status of refugees and IDPs do not apply to these persons, who are required to register with police and are not entitled to residence permits. Neither those refugees recognized by the State Migration Committee nor those protected by the UNHCR's letters were allowed to work legally.

## Stateless Persons

Citizenship is derived by birth within the country or from one's parents. The law provides for the right to apply for stateless status. However, some persons could not obtain the documentation required for the application and therefore remained formally unrecognized. The law on citizenship makes it difficult for foreigners and stateless persons to obtain citizenship.

According to State Migration Service statistics, there were 1,776 stateless persons in the country at the end of the year; however, the UNHCR registered 177. The vast majority of stateless persons were ethnic Azeris from Georgia or Iran. NGOs estimated there were many other undocumented stateless persons, with estimates ranging from hundreds to tens of thousands.

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

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

## Elections and Political Participation

**Recent Elections:** Although both progovernment and opposition political parties participated in the 2010 parliamentary elections, the elections did not meet a number of international standards for democratic elections. According to domestic and international observers, shortcomings included a biased candidate registration process, constraints on freedom of assembly and expression, a restrictive political environment, unbalanced media coverage of candidates, and unequal treatment of candidates by authorities. The final report of the OSCE observation mission concluded that overall, the elections did not meet a number of key OSCE commitments for democratic elections or important elements of domestic legislation. There also were reports of pressure on domestic election observers, candidates, and family members. Such pressure included the firing of such individuals from their jobs and, in Nakhchivan, beatings.

President Ilham Aliyev, the son of former president Heydar Aliyev, was elected to a second term in 2008, also in an election that independent observers agreed was flawed.

**Political Parties:** While there were 50 registered political parties, the ruling Yeni Azerbaijan Party continued to dominate the political system. Domestic observers reported that membership in the ruling party conferred advantages, such as preference for public positions. For the first time since the country's independence, the Milli Mejlis after the 2010 election did not include representatives of the Musavat and Popular Front opposition parties.

On April 20, the Milli Mejlis passed amendments to the law on political parties to establish state funding for

political parties, clarify restrictions on political party financing, and set new rules for disclosure of private contributions. While the law was generally approved by the Council of Europe's Venice Commission, local NGOs claimed the amendments would constrain political pluralism.

Opposition members were more likely to experience official harassment and arbitrary arrest and detention than other citizens. Members of regional and central branches of opposition parties reported that local authorities in Baku and Guba often attempted to prevent routine party activities, for example, by pressuring restaurant owners not to allow opposition parties to use their facilities for meetings and events. Regional party members often had to conceal the purpose of their gatherings and hold them in remote locations. Opposition party members reported that police often dispersed small gatherings at tea houses and detained participants for questioning. Opposition parties continued to have difficulty renting office space, reportedly because landlords were afraid of official retaliation; some parties operated from their leaders' apartments.

Participation of Women and Minorities: There were 19 women in the Milli Mejlis. One woman held a ministerial-level position. Members of minority groups, such as the Talysh, Avars, Russians, and Jews, served in the Milli Mejlis and in government.

## Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials. However, the government did not effectively enforce the law, and there were reports of widespread corruption with impunity, including in the civil service, government ministries, and the highest levels of government. Several criminal cases related to bribery and other forms of government corruption affecting daily life were initiated during the year, although senior officials were rarely prosecuted for corruption.

Transparency International and other observers described corruption as widespread during the year. For example, in a series of online articles, investigative reporter Khadija Ismailova reported that the concert hall constructed for the Eurovision song competition was built in part by a subcontractor in which the first family had hidden ownership (see section 2.a.).

Beginning in September, Elshad Abdullyayev, a parliamentary candidate in 2005 and a former university rector, released several videos implicating government officials in corruption. One video depicted Abdullayev as a candidate in the 2005 parliamentary elections meeting with then members of parliament Gular Ahmadova and Sevinj Babayeva; Ahmadova was filmed attempting to extort a bribe of \$1,000,000 for a parliamentary seat. In the video Ahmadova and Babayeva informed Abdullayev that his previous payment of \$500,000 had been delivered to "master Ramiz," which Abdullayev alleged was a reference to the head of the Presidential Administration, Ramiz Mehdiyev. Following the video's release, authorities opened a criminal investigation against Ahmadova, who was stripped of her seat and later expelled from the ruling New Azerbaijan Party. On December 27, Sevinj Babayeva's son announced she had died in mysterious circumstances in Turkey. At year's end Turkish officials were conducting an autopsy on Babayeva.

In June the Milli Mejlis amended the Law on Commercial Secrets to prohibit the public release of the names and capital investment amounts of business founders. Critics claimed the amendments were an attempt to curb investigative journalism into government officials' business interests and could decrease public access to information.

In February 2011 the government launched a well publicized anticorruption campaign. Many low- and mid-level bureaucrats were fired, and local observers reported a reduction in bribe seeking by government employees. The campaign did not reach the upper levels of government, and local sources reported that in some areas low-level government officials continued bribe seeking.

Criminal cases related to bribery and other forms of government corruption affecting daily life were initiated during the year, although no senior officials were prosecuted for corruption.

Members of the Kura civil society organization continued to blame local authorities and the Ministry of Emergency Situations for a lack of transparency in the appropriation of 460 million manat (\$578 million) for state emergency funds allocated for relief from massive floods in Sabirabad in 2010. Flood victims claimed that these funds had been misappropriated. During the year four Kura civil society activists were arrested on spurious charges, with at least two reporting police beatings in pretrial detention.

Corruption among law enforcement officers was a problem. Despite a decrease in bribe seeking beginning in early 2011, police later returned to their previous practice of levying spurious, informal fines for traffic and other minor violations and extracting protection money from local residents. During the year traffic police officers received pay raises to counter corruption, but the low wages of other law enforcement officials continued to contribute to police corruption.

During the year the Ministry of Internal Affairs reported that it investigated 36 counts of corruption. It took disciplinary action for corruption-related violations against 61 employees during the year, dismissing 36, demoting 21, and issuing official warnings to four.

Military service is universal for men between the ages of 18 and 35. Service may be waived for physical reasons such as poor eyesight. There was widespread belief in society that one could pay a bribe for a waiver from military service. Citizens also believed that assignments to easier military duties could be bought for a smaller bribe.

The law provides for public access to government information by individuals and organizations; however, the government often did not permit access. Although various 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, but the courts generally upheld the decisions of the ministries.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Although the government maintained ties with some human rights NGOs and responded to their inquiries, on occasion it criticized and intimidated other human rights NGOs and activists. The Ministry of Justice continued routinely to deny registration to some human rights NGOs on arbitrary grounds. For example, it routinely rejected the registration applications of NGOs whose names contained the words "human rights," "democracy," "institute," and "society." A number of cases challenging such rejections were making their way through the court system, and at least two were submitted to the ECHR. Local NGOs monitoring the registration process estimated that there were approximately 1,000 unregistered NGOs. During the year the Ministry of Justice registered 172 NGOs.

During the year a number of NGOs reported continued pressure against their activities. Some NGOs reported landlords were under pressure not to rent to them. Others reported that hotels would not rent them conference space due to pressure from authorities. Burdensome documentary requirements left some NGOs unregistered and vulnerable.

In late December the government prevented the return to Azerbaijan of a U.S.-British co-organizer of a human-rights campaign known as Art for Democracy by revoking her residency status while she was on vacation in the United Kingdom. The government's action appeared to be due to her human rights activism and involvement in the Art for Democracy campaign.

During the year a government council provided 2.31 million manat (\$2.9 million) to support 348 NGOs. While many of these NGOs were considered progovernment or politically neutral, some NGOs that were critical of the government also received grants.

On July 2, the Presidential Administration facilitated a large and conciliatory meeting with more than 100 civil society representatives, including some who were most critical of the government, to hear their complaints and offer a dialogue. At year's end the government had yet to convene a promised follow-up meeting.

On August 2, the Ministry of Justice approved the registration of National Democratic Institute (NDI). The ministry had ordered NDI to cease its activities in March 2011, although in September 2011 it allowed the organization to resume operation pending the completion of its registration request. However, the Ministry of Justice did not permit the HRH to resume its activities during the year after ordering it to cease operations in March 2011. The HRH had been registered since 2007.

Authorities demolished a Baku building housing three NGOs, including the Institute for Peace and Democracy, in August 2011. The institute's head and owner of the building, prominent human rights advocate Leyla Yunus, considered the demolition to be government retribution for her activism and reported receiving no compensation or

acknowledgement from authorities during the year.

UN and Other International Bodies: While the government generally permitted unrestricted access to alleged political prisoners by international humanitarian organizations such as the ICRC as well as by UN representatives and the OSCE, authorities did not issue a visa to the Council of Europe rapporteur on political prisoners, Christoph Straesser, during the year.

Government Human Rights Bodies: Citizens may appeal violations committed by the state or by individuals to the ombudsman for human rights, Elmira Suleymanova, or the ombudsman for human rights for the Nakhchivan Autonomous Republic, Ulkar Bayramova. The ombudsman may refuse to accept cases of abuse that were more than a year old, anonymous, or already being handled by the judiciary. Human rights NGOs criticized the Ombudsman's Office as lacking independence.

The Ombudsman's Office received 12,470 complaints during the year, a 1.7-percent decrease from 12,680 complaints in 2011. The top three complaint categories were property rights (18 percent), legal rights (13 percent), and social provisions (8 percent). Human rights offices in the Milli Mejlis and the Ministry of Justice heard complaints, conducted investigations, and made recommendations to relevant government bodies. Officials of the Human Rights Office in the Ministry of Foreign Affairs met with the diplomatic community to discuss issues of concern.

## Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

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

### Women

Rape and Domestic Violence: Rape is illegal and carries a maximum sentence of 15 years in prison. The Ministry of Internal Affairs reported 19 counts of rape, 12 counts of attempted rape, four counts of violence of a sexual nature, and one count of sexual violence against a minor.

During the year female members of the Milli Mejlis and the head of the State Committee for Women and Children increased their activities against domestic violence. Media coverage of domestic violence issues also began to raise awareness of the problem. The law establishes a framework for investigation of domestic violence complaints, defines a process to issue restraining orders, and calls for the establishment of a shelter and rehabilitation center for victims. Some critics of the domestic violence law asserted that a lack of clear implementing guidelines reduced its effectiveness. Despite the law 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. For example, Fikrat Jabbarov beheaded his wife in the middle of a street in a community neighboring Baku during an argument on June 27. Prior to the incident, Jabbarov's wife reportedly complained to local police of abuse but did not receive assistance.

In Baku a women's crisis center associated with the Institute for Peace and Democracy provided free medical, psychological, and legal assistance to women. The center also worked on a number of projects funded by international donors to combat gender-based violence and trafficking in persons in the Caucasus region.

Sexual Harassment: While the law prohibits sexual harassment, the government rarely enforced the prohibition. The Ministry of Internal Affairs reported 36 counts of sexual harassment. The State Committee for Family, Women, and Children Affairs worked extensively on women's problems, including organizing and hosting several conferences which raised awareness of sexual harassment and domestic violence.

Reproductive Rights: Couples and individuals have the right to decide freely the number, spacing, and timing of their children. Information was accessible so families and individuals could make reproductive decisions free from discrimination, coercion, and violence. Contraception was widely available, but demographic surveys showed low levels of use. Skilled attendance during childbirth was accessible, as was prenatal care and essential obstetric and postpartum care. Women and men had equal access to the diagnosis and treatment for sexually transmitted infections. Patriarchal norms, based on cultural, historical, and socioeconomic factors, in some cases limited



women's reproductive rights.

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

Gender-biased Sex Selection: According to a September 2011 report by the Parliamentary Assembly of the Council of Europe, the gender ratio of children born in Azerbaijan was 112 boys for every 100 girls. The State Committee for Family, Women, and Children Affairs reported that it carried out an awareness campaign regarding gender-biased sex selection.

## Children

Birth Registration: Citizenship is derived by birth within the country or from one's parents. Registration at birth happened routinely for births occurring in hospitals or clinics. However, among some of those born at home (for example, Romani families or those suffering from economic deprivation), registration sometimes did not occur, and statelessness for the children was a problem. The Ministry of Internal Affairs and the Ministry of Justice continued the progress made in the previous year in registering undocumented children after identifying them as a population vulnerable to trafficking.

Education: While education was compulsory, free, and universal until the age of 17, large families in impoverished rural areas sometimes placed a higher priority on the education of male children and kept girls in the home to work. Some poor families forced their children to work or beg rather than attend school. A Baku NGO working with street children reported that boys and girls engaged in street begging and prostitution.

Child Abuse: During the year the Ministry of Internal Affairs reported the receipt of two counts of rape involving underage victims; one count of sexual violence against minors; 109 counts of statutory rape; and four counts of immoral acts against minors. There were reports that children were trafficked for sexual exploitation and begging. Statutory rape is defined as "the sexual relations or other actions of sexual nature, committed by a person who has reached 18, with a person who has not reached 16" and is punishable by up to three years' imprisonment.

Child Marriage: Under the age of consent law, a girl can legally marry at the age of 18 and, with the local authority's permission, at the age of 17. The law further states that a boy can marry at the age of 18. In 2002 the Caucasus Muslim Board defined 18 as the marriage age, but the fatwa failed to have much effect on religious marriage contracts (kabin or kabin-nama).

NGOs reported that the number of early marriages continued to increase. Girls who married under the terms of religious marriage contracts were of particular concern, since these evade governmental oversight and do not entitle the wife to recognition of her status in case of divorce. The Social Union of Solidarity among Women reported numerous instances in which men moved to Russia for work, leaving their underage wives in Azerbaijan.

Sexual Exploitation of Children: Pornography is prohibited by law, and its production, distribution, or advertisement is punishable by three years' imprisonment. The recruitment of minors for the purpose of prostitution (involving a minor in immoral acts) is punishable by a sentence of three to five years, although the presence of such aggravating factors as violence could increase the potential sentence to five to eight years. During the year the Ministry of Internal Affairs reported one count involving the illegal distribution of pornographic materials and two involving the recruitment of minors for prostitution.

Displaced Children: A large number of refugee and IDP children lived in substandard conditions. In some cases these children were unable to attend school. During the year the government reported that it spent 517million manat (\$650million) on assistance to IDPs, primarily for housing, health care, and education. The government stated that it spent 3.9 billion manat (\$4.9 billion) on assistance to IDPs during the previous five years.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

## Anti-Semitism

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

between 15,000 and 20,000 individuals.

## Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

## Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, air travel and other transportation, access to health care, or the provision of other state services, but the government did not enforce these provisions effectively. Employment discrimination remained a problem. A common belief persisted that children with disabilities were ill, and needed to be separated from other children and institutionalized. Several international and local NGOs facilitated educational campaigns to change social perceptions and reintegrate children with disabilities.

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

Care in facilities for persons with mental and other disabilities varied; some provided adequate care, while in others qualified caregivers, equipment, and supplies were inadequate to maintain sanitary conditions and provide a proper diet.

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

## National/Racial/Ethnic Minorities

Some of the approximately 20,000 to 30,000 citizens of Armenian descent living in the country historically complained of discrimination in employment, housing, and the provision of social services. Citizens who were ethnic Armenians often concealed their ethnicity by legally changing the ethnic designation in their passports. There were no reports of violence against Armenians during the year.

Some groups reported sporadic incidents of discrimination, restrictions on their ability to teach in their native languages, and harassment by local authorities. These groups included Talysh in the south, Lezghi in the north, Meskhetians, and Kurds.

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

Antidiscrimination laws do not specifically enumerate lesbian, gay, bisexual and transgender (LGBT) individuals. Intolerance based on sexual orientation and gender identity remained a problem. Numerous incidents of police brutality against individuals based on sexual orientation occurred, according to a local NGO. Authorities did not investigate or punish those responsible for such acts. A local NGO reported 70 police raids directed at LGBT persons during the year.

LGBT individuals continued to refuse to lodge formal complaints with law enforcement bodies due to fear of social stigma, reprisal, or retaliatory repression. According to the NGO International Gay and Lesbian Human Rights Commission, the country's gay population had been "intimidated to the point of invisibility."

One NGO worked on LGBT problems, including prevention of HIV/AIDS, the provision of legal advice, psychological assistance, and outreach activities. The NGO reported no official harassment of its work.

There was societal prejudice against LGBT persons. While dismissing an employee for reasons related to sexual orientation is illegal, LGBT individuals reported that employers found other reasons to dismiss them. Discrimination in access to health care was also reportedly a problem. Playing on popular prejudice, progovernment protesters on one occasion sought to smear an opposition leader by alleging he was gay (see section 2.b.).

## Other Societal Violence or Discrimination

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

## Section 7. Worker Rights

### a. Freedom of Association and the Right to Collective Bargaining

The law, including related regulations and statutes, provides for freedom of association, including the right to form independent labor unions. Uniformed military and police are prohibited from joining unions. The law also prohibits managerial staff from joining unions, but managers in government industries often had union dues automatically deducted from their paychecks. The law allows unions to conduct their activities without government interference. The law provides most workers with the right to strike. Categories of workers prohibited from striking include high-ranking executive and legislative officials; law enforcement officers; court employees; fire fighters; and health, electric power, water supply, telephone, railroad, and air traffic control workers. Striking workers who disrupt public transportation could be sentenced to up to three years in prison. The law prohibits retribution against strikers, such as dismissal or replacement. The law provides workers with the right to bargain collectively; however, unions could not effectively negotiate wage levels and working conditions because government-appointed boards ran major state-owned firms and set wages for all government employees. The law requires the reinstatement of workers fired for union activity. A local NGO reported that many large companies reinstated workers on short-term contracts. The law does not prohibit trade unions from carrying out political activities. Restrictions on trade unions' associating with or receiving finances from political parties exist, although this provision was not uniformly enforced.

Although the labor law applies to all workers and enterprises, the government can negotiate bilateral agreements that effectively exempt multinational enterprises from national labor laws. For example, production-sharing agreements (PSAs) between the government and multinational energy enterprises did not provide for employee participation in a trade union. Labor organizations and local NGOs reported that some of these companies discouraged employees from forming unions, and most employees of multinational enterprises operating under PSAs were not union members, although there were exceptions. Workers employed by British Petroleum were unionized, but the situation was worse in other multinational corporations, especially companies with third-country subcontractors.

The Azerbaijani Trade Union Confederation (ATUC) was the only trade union confederation in the country. Although ATUC was registered as an independent organization, some workers considered it closely aligned with the government.

There were some restrictions on the right to form unions and conduct union activities. Most unions were not independent. The overwhelming majority of them remained tightly linked to the government, with the exception of some journalists' unions. Both local and international NGOs claimed that workers in most industries were largely unaware of their rights and afraid of retribution if they initiated complaints. This was especially true for workers in the public sector.

Collective bargaining agreements were often treated as formalities and not enforced. The ATUC, which only has access to those organizations that are affiliated with it, reported that at the start of the year it represented 1,600,000 members in 26 spheres. If a firm is not a member of the ATUC, responsibility falls to the Ministry of Labor and Social Protection. The ATUC stated that during the year it received approximately 149,174 appeals and resolved 98.6 percent of them. It reportedly helped 670 persons appeal their dismissal from work, of which 172 individuals were reinstated. Each year the ATUC signs a tripartite agreement with the Council of Ministers and the Confederation of Enterprises. Many of the state-owned enterprises that dominated the formal economy withheld union dues from workers' pay but did not deliver the dues to the unions. Employers officially withheld a quarter of the dues collected for the oil workers' union for "administrative costs" associated with running the union. Moreover, a complete lack of transparency made it impossible to tell exactly how dues were spent. Unions and their members had no recourse to investigate withheld funds. Legislation prohibits employers from impeding the collective bargaining process; however, employers engaged in activities restricting collective bargaining such as subcontracting and use of short-term employment agreements.

Membership in the Union of Oil and Gas Industry Workers remained mandatory for the State Oil Company's 65,200 workers, whose union dues (2 percent of each worker's salary) were automatically deducted from their paychecks.

### b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor, except in circumstances of war or in the execution of a court's decision under the supervision of a government agency. While they stated that some progress was made, local NGOs believed that overall the government did not effectively enforce the law. During the year the antitrafficking department within the Ministry of Internal Affairs inspected construction and agricultural sector sites and opened two forced labor cases under the trafficking in persons section of the criminal code, both of which remained pending at year's end.

Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

## **c. Prohibition of Child Labor and Minimum Age for Employment**

The minimum age for employment depended on the type of work. In most instances the law permits children to work from age 15; children who are 14 may work in family businesses or, with parental consent, in daytime after-school jobs that pose no hazard to their health. Children under 16 may not work more than 24 hours per week; children between the ages of 16 and 17 may not work more than 36 hours per week. The law prohibits employing children under 18 in difficult and hazardous work conditions and identifies specific work and industries from which children are barred, including work with toxic substances and underground, at night, in mines, in nightclubs, bars, casinos or other businesses that serve alcohol. The Ministry of Labor and Social Security is responsible for enforcing child labor laws. Although the ministry conducted inspections during the year, a local NGO reported the need for increased monitoring.

There were few complaints of abuses of child labor laws during the year. Two local NGOs stated that the drastic decline in cotton production reduced the number of children working in this sector. In addition the government, accompanied by an NGO, investigated and found no children working in the cotton fields. According to an NGO, children, the majority of whom were Roma, were reportedly trafficked for begging.

## **d. Acceptable Conditions of Work**

The national minimum wage was 93.50 manat (\$117.58) per month. The average poverty line during the year was 95 manat per month (\$119.47), adjusting the level for certain categories to 102 manat (\$128.27) for able-bodied persons, 72 manat (\$90.54) for pensioners, and 76 manat (\$95.57) per child. The law requires equal pay for equal work regardless of gender, age, or other classification.

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

The law provides equal rights to foreign and domestic workers. However, local human rights groups, including the Oil Workers Rights Defense Council, an NGO dedicated to protecting worker rights in the oil sector, maintained that employers, particularly foreign oil companies, did not always treat foreign and domestic workers equally. Domestic employees of foreign oil companies often received lower pay and worked without contracts or health care.

While the law sets health and safety standards, government inspection of working conditions was weak and ineffective, and standards were widely ignored. The ATUC monitored compliance with labor and trade regulations, including safety and health conditions. The ATUC reported good cooperation with Russian and Georgian authorities on the measures to protect Russian and Georgian migrant workers' rights and the safety of working conditions. The labor rights of other workers in the informal economy and hazardous sectors were reportedly monitored by the Ministries of Labor and Interior, although several NGOs stated that more comprehensive monitoring was needed.

According to the Oil Workers Rights Defense Council, there were 13 deaths (a decrease from 23 in 2011) and 59 complaints of on-the-job injuries during the year in the petroleum industry. There were also 46 complaints of failure to pay allowances.

The ATUC reported that industrial injuries totaled 52 and deaths totaled 24 during the year, with 10 of the deaths in the oil and energy sectors. A local NGO estimated the number of industrial deaths to be 82, of which 36 were in the construction sector. The ATUC and Ministry of Labor officials inspected work sites, particularly in the

construction, energy and oil sectors, and recommended improvements in labor conditions to employers.

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