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**THE COMMISSIONER FOR HUMAN RIGHTS  
(OMBUDSMAN) OF THE REPUBLIC OF AZERBAIJAN**

**COMPLEMENTARY REPORT**

**of the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan  
to the UN Committee on the Rights of the Child**

**Baku – 2020**

## **INTRODUCTION**

- One of the key areas of the activities of the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan (Hereinafter HRCA) is to examine ensuring child rights, protect these rights and restore the violated rights of children.

- The first complementary report reflecting the state of implementation of the Convention on the Rights of the Child (Hereinafter CRC) in the country and recommendations and suggestions aimed at addressing the existing problems of children was developed by the HRCA and submitted to the CRC Committee in 2011. The Committee welcomed the measures taken by the Human Rights Commissioner's Office to receive and investigate complaints on child rights violations.

- The HRCA took measures to receive and investigate complaints on child rights violations guided by the CRC Committee recommendations as well.

- The present report was prepared based on the HRCA's annual reports, the appeals received on child rights, the outcomes of monitoring held, analysis of the proposals made during meetings with children and international experience.

- It provides a brief overview about the HRCA's activities carried out for the protection of child rights in the country in light of the CRC Committee recommendations.

## **LEGISLATION**

- Both the CRC, the Constitution of the Republic of Azerbaijan and the Law of the Republic of Azerbaijan on the Rights of the Child emphasize that preference should be given to the best and legitimate interests of children and ensuring and protection of their rights in the work of public authorities. With a view to ensuring more effective coordination of the work of the HRCA in this area, the Office and Ombudsman's Regional Centers in Ganja, Sheki, Jalilabad and Guba, which cover 35 districts altogether, employ advisors on child rights.

## **STRATEGIC DOCUMENTS**

- The National Program for Action to Raise Effectiveness of Protection of Human Rights and Freedoms in the Republic of Azerbaijan, "Azerbaijan 2020: Look into the Future", the State Program "Azerbaijani Youth in 2017-2021", State Strategy on "The Development of Education in 2017-2021" and its Action Plan, the State Program on Development of Inclusive Education for Children with Disabilities in the Republic of Azerbaijan for 2018-2024, Strategy of the Republic of Azerbaijan on Children for 2020-2030, contain provisions aimed at addressing children's problems and they are being implemented successfully. Furthermore, the Sustainable Development Goals for 2016-2030 approved in Sustainable Development Summit of UN Member States in 2015, being universal goals covering everyone including children, are guided by the principle of leaving no one behind.

- The Law on Protection of Children from Harmful Information, which was proposed by the HRCA in 2006 and following years to prevent the damage inflicted on the psychological development of children by harmful information they obtain through mass media, internet websites and other tools, was adopted as Law No.1310-VQ of October 30, 2018, and entered into force on January 1, 2020.

- Taking into account the proposals submitted by the Commissioner as well, the "Strategy of the Republic of Azerbaijan on Children for 2020-2030" was approved by the Order of the President of the Republic of Azerbaijan dated June 2, 2020. The goal of the strategy is to bring the child protection

system of the country in conformity with the requirements of the Constitution of the Republic of Azerbaijan, the CRC principles, create equal opportunities for all children in the country, protect their interests, ensure more effective protection of the rights of children in need of state care, and render social support services for them. Shortly, it is planned to approve and implement the Action Plan for the implementation of the Strategy.

- Nonetheless, there is always a need to improve the legislation and adopt new state programs and strategies in line with the requirements of the modern period.

### **Recommendations:**

- Make additions and amendments to the relevant legislative acts to consider everyone under the age of 18 a child;

- Amend the Law of the Republic of Azerbaijan on the Youth Policy to set the age of 18 as the minimum age for youth;

- Speed up the development of the Strategy of Azerbaijani Family, National Action Plan on Gender Equality, Child Code for the realization of the objectives mentioned in the “Azerbaijan 2020: Look into the Future” approved by Decree of the President of the Republic of Azerbaijan dated December 29, 2012.

- Set an age limit and provide definitions for the notions of “child”, “adolescent” and “youth” in the legislation;

- Sign and ratify third Optional Protocol to the CRC on a Communications Procedure;

- Make relevant amendments to the legislation to ensure that the psychological condition of the child victim, offender or witness is examined by a psychologist before the interrogation in a police agency and that a psychologist, along with other persons of trust to the child, is present during the interrogation;

- Speed up the adoption of the Law on Reproductive Health;

- Speed up the adoption of the draft laws on the arrangement of leisure time and rest of children;

- Give preference to the best interests of children in court decisions (on divorces, division of property etc.);

- Adopt the Law of the Republic of Azerbaijan on Juvenile Justice.

## **INDEPENDENT MONITORING**

- With a view to ensuring reliable protection of the rights of the child, the HRCA takes effective measures in the fields of examination of complaints on violation of child rights, monitoring children’s situation, in general, and, in particular, the situation of children in state-owned public care institutions, preparation of proposals to improve the national legislation on child rights, implementation of awareness-raising and advocacy activities in the capital, regions and rural areas, ensuring participation of children, discovery and development of their talent, and cooperation with public authorities, non-governmental organizations and international organizations functioning in this area.

- During the years of its operation, the Ombudsman Institution advocated, with support from UNICEF and in light of the Committee’s recommendations, for creation of an independent monitoring mechanism for child rights under the auspices of Ombudsman’s Office. Furthermore, improvement of legislation on child rights was also advocated.

- In consideration of the Committee’s recommendations provided with respect to the country’s 2006 and 2012 reports, the HRCA, with a view to enabling more effective implementation of independent monitoring mechanism for child rights, proposed establishment of a child rights

department (structural unit) in the Ombudsman's Office and making of relevant additions and amendments to the Constitutional Law of the Republic of Azerbaijan on Human Rights Commissioner (Ombudsman) of the Republic of Azerbaijan (Hereinafter Constitutional law) to this end.

- The institution takes immediate measures with respect to calls received by 916 hotline, operates 24/7. The appeals mainly were regarding the violation of the right of a child to education, child's medical treatment, provision with residence, addressed social aid, domestic violence, ensuring child with pre-school education, late payment of alimony. Legal consultations were provided, when necessary, investigations were carried out on-site, which allowed shaping the self-defense skills of the children subjected to exploitation and other abuse and legal violations, and succeed in restoration of violated rights.

### **Recommendations:**

- Establish a relevant structural unit in the Ombudsman's Office on the protection of child rights and make relevant additions and amendments to the Constitutional Law with a view to enabling more effective implementation of an independent monitoring mechanism for child rights, considering the Committee's recommendations provided in connection with 2006 and 2012 country reports;

- Provide the Commissions under the local executive authorities on minor's affairs and the protection of their rights with necessary human and technical resources, make necessary changes to the relevant regulations to reform the work, structure and mandate of the commissions to enable them to operate more effectively in the field of child rights taking into consideration recommendations reflected in the annual reports of the HRCA, as well as the recommendations of the CRC Committee (February 3, 2012) concerning the reports of the Government of Azerbaijan.

### **DISSEMINATION, TRAINING AND AWARENESS-RAISING**

- The HRCA, in partnership with various international and local organizations, continuously expands legal awareness-raising measures on international treaties and local legislative acts on human rights.

- A series of training were held in various regions of Azerbaijan by the HRCA on the Universal Human Rights Declaration, CRC and protection of child rights in Azerbaijan with the participation of the employees of local executive authorities, employees of the commissions for juvenile affairs and protection of juvenile rights, employees of courts, police agencies, prosecutor's offices, educational and healthcare facilities, municipalities, child institutions, representatives of civil society and children.

- In frames of the National Program for Action to Raise Effectiveness of Protection of Human Rights and Freedoms in the Republic of Azerbaijan, the Ombudsman's Office has been organizing activities on promotion of clean environment and healthy lifestyle among the population, especially youth and children, rehabilitation of alcohol addicts and persons living with HIV/AIDS, including awareness raising measures in the institution and regions, TV and radio programs on the eve of December 1 - World AIDS Day.

- The HRCA has also made an initiative to develop relevant modules (programs) and materials to make sure that child rights-related topics are covered in phased teaching of human rights at every phase of education (2<sup>nd</sup> to 4<sup>th</sup> grades, 5<sup>th</sup> to 7<sup>th</sup> grades and 8<sup>th</sup> to 10<sup>th</sup> grades) in general education schools. The program was first signed by the HRCA and the Minister of Education for the academic year of 2009-2010 and was piloted in three schools of Baku. Every year, the members of the legal awareness-raising team hold training at three levels in 20 schools (12 in Baku and 8 in regions). Active participation children and teachers in the training was ensured.

- Overall, the phased teaching program on child rights held since the academic year of 2009-2010 has involved over 190 schools from Baku and regions; over 11,500 pupils distinguished in this process were provided with certificates by the Ombudsman; over 900 directors and teachers received a certificate of appreciation.

- The booklet titled “Convention on the Rights of the Child” and the textbook titled “Selected topics on Hierarchic child rights education”, other publications and posters are used in the teaching process. A so-called Child Rights Cabinet was created in the schools that participated in the phased teaching program. The peer-to-peer teaching of child rights, which is the key objective of the program, was carried out by the schoolchildren and the program is continuing successfully.

- On the occasion of November 20 - World Children’s Day, Child Rights Month-long Campaign is organized every year from October 20 to November 20 at the initiative of the Ombudsman. In order to inform the public, banners are installed in the central streets of the city to announce the campaign during which events are held by the Central Office and regional centers of the Ombudsman, local executive authorities, other public authorities, municipalities, NGOs and communities in the capital city and regions and settlements densely populated by IDPs with the direct participation of children; various types of contests and competitions are organized among children in the educational facilities.

- The conclusions of the activities carried out by the central and local executive authorities in frames of the Child Rights Month Campaign of are summarized and publicized with a view to inform that issues related to children, problems in this area have been once again studied and steps were taken to address them. The awareness-raising activities, painting and essay competitions, sports contests helped increase legal knowledge of children and enabled upbringing of children as patriotic leaders for the future.

- In the frames of a 5-week Training of Trainers (TOT) program, jointly organized within the “Children’s Rights Promotion” project by UNICEF and “ASAN Volunteers” Organization and with the involvement of a representative of the Ombudsman’s Office as an expert, modular training were held on the based on the CRC, child rights and the defense mechanisms thereof, topics on children in conflict with the law and their legal situation were taught in a detailed and interactive manner and certificates were awarded. The volunteers who took part in the training will share the new knowledge and information with a wider audience of volunteers.

## **PARTNERSHIP WITH CIVIL SOCIETY ORGANIZATIONS**

- The cooperation between the HRCA and NGOs on the protection of child rights continues successfully.

- The members of the Council of Experts, the Working Group on Business and Human Rights established at the Commissioner for Human Rights, carry out events and organize various workshops (including online) related to the topic of child rights protection. The staff of the HRCA, including the members of the National Preventive Group (NPG), as well as representatives of various NGOs are actively involved in these events. Besides, partnership with NGOs is considered particularly useful in studying the situation of children in the country, holding monitoring and surveys to collect statistical data, and in awareness-raising activities.

- Events on relevant topics covering children have been organized as part of the activity of the Working Group on Business and Human Rights, which consists of the representatives of relevant state bodies and mass media outlets and NGOs. It was created at the initiative of the HRCA.

- The Commissioner held an online meeting with human rights defenders, representatives of NGOs including those specializing in the field of child rights. Future perspectives and priorities of activities of the Council of Experts, coordinated activity in the implementation of SDGs, improvement of legislation for further strengthening the Ombudsman's activity, developing collaboration with international and regional human rights organizations, conducting relevant research and monitoring together with the staff of the Ombudsman Office, organizing joint awareness-raising work targeting different population groups were discussed during the meeting.

### **Non-discrimination (Art. 2)**

- In its last recommendation, the CRC Committee expressed concern over the facts of repeated discrimination against children in a vulnerable situation. The HRCA and the staff of her regional centers regularly monitored educational, medical, penitentiary and social service facilities, conducted on-site investigations, studied the situation of the children deprived of parental care, children with limited physical capacities and children in conflict with the law, gave instructions and recommendations to the responsible persons of the facilities related to domestic conditions, social problems and health and other rights of these children and settlement of issues related to inadmissible affairs such as violence and discrimination. Besides, they also took measures aimed at raising the legal awareness of these people and elimination of any discrimination, inhuman treatment and other legal violations committed against them.

- The HRCA also emphasized the need to consider the National Action Plan on Prevention and Elimination of Gender-biased Sex Selection in Azerbaijan (GBSS) for the period of 2020-2025 which was approved with the relevant decree of the Cabinet of Ministers, community-level awareness-raising activities on the fight against gender-biased sex selection, as well as reproductive health and family planning, discrimination against the girl child in mother's womb as a result of selective abortion and to organize activities related to the fight against this.

- The action plan is considered to play a vital role in the elimination of imbalances in the population sex ratio in Azerbaijan. Action Plan reflects the implementation of measures to ensure accessible and reliable data on newborns' sex ratio and improving relevant legislative framework, development of proposals to ensure gender equality and improve legislation in the field of reproductive health, strengthening control over the implementation of the "List of socio-medical indications for abortion", awareness-raising measures to prevent girls from dropping out of school, increasing support for women's entrepreneurship etc.

### **Best interests of the child (Art. 3)**

- With a view to giving preference to the position and best interests of the child in court proceedings, the cases on offences committed by juveniles must be dealt with by experienced judges. There are three judges specialized in child cases in Baku Court of Grave Crimes. The representatives of the Ombudsman's Office, in partnership with UNICEF, conduct training and awareness-raising activities on "Increase of monitoring skills in the field of child rights" with the participation of about 200 judges, representatives of prosecutor's offices and police bodies covering 27 districts in nine regions.

- The HRCA emphasizes that it is observed that ensuring of best interests of children is recognized as a priority both in the activities of the public authorities and their relevant facilities and in the families and that the recent social, economic and legal reforms conducted in the country have led to

ensuring of the protection of human rights, including child rights by the state and adoption of some important laws and state programs, which are being successfully implemented. In frames of the reforms conducted by President Ilham Aliyev as of early 2019, more than 2 billion manats have been allocated for social security of 3 million citizens. The amount of wages, including the minimum threshold of wages, pensions, allowances, pensions, allowances for children with limited physical capacities has doubled on average since the beginning of the year.

- The HRCA attaches particular importance to the exploration of international experience on the best interests of children. Since 2008, Ombudsman's Office of Azerbaijan has been taking an active part in the work of the European Network of Ombudspersons for Children (ENOC). Specifically, every year an employee of the Ombudsman's Office and members of Azerbaijan Child and Youth Peace Network (ACYPN) take part in the General Assembly of ENOC and forums of European Network of Youth Advisors (ENYA), which was organized based on the HRCA's recommendation. The representatives of the Ombudsman's Office and ACYPN participated effectively in the forum of ENYA. That is, 5-minute video clips were made at the end of "Let's talk young, Let's talk about the violence!" project. These video clips were brought together in a 50-minute documentary which was widely demonstrated in various countries. Besides, another documentary was made and presented as part of the ENYA 2018 "Let's Talk Young, Let's Talk About Mental Health!" child participation project.

### **Recommendations**

- Establish a Child-Friendly Budget as benefiting from the UNICEF experience that will reflect the realization of children's rights as a prior goal. Specifically, national budgets that adequately address children's issues, such as poverty, malnutrition, illiteracy or child protection can be considered to be equitable child-friendly budgets. Nevertheless, the goal of these child-friendly budgets is the prioritization of children and other socially vulnerable groups in the public expenditure system.

- Establish Alimony Fund (prepare and apply a mechanism for payment of alimony by the relevant public authority on the condition that it will later recover the alimony from the debtor);

- Ensure public insurance of children to protect their health, provide special financial support to families with twins or triplets, including a nurse (assistant) for children, and add pregnant mothers, breastfeeding mothers, mothers with a child under 3 years of age or multiple children to the list of recipients of medical services at the expense of state budget, and develop and apply a targeted program aimed at ensuring social protection of families with a baby, ailing child or child with limited physical capacity; (social measures, the standard of living)

## **CIVIL RIGHTS AND FREEDOMS**

### **Access to information and protection from harmful information (art. 17)**

- Sometimes information about the identification of children subjected to violence or in conflict with the law, their addresses and other information are disclosed in mass media without their permission or the permission of their legal representatives. This, in turn, affects the psychological condition and development of children. Besides, the airing of brutal scenes on TV without any warning not only affects the development of the children adversely but can also result in perpetration of violence against them. The HRCA, in her annual report, especially emphasized that these problems were raised before to the country President and relevant public authorities and was heard and discussed in the Parliament. In order to strengthen preventive measures in this direction and proper assessment of the current situation, the Commissioner submitted appeals to the Ministry of Internal Affairs, Press Council, National TV and Radio Broadcasting Council and, as a result, the airing of such programs and advertisements in TV stations has been stopped. In addition to the above-mentioned, there is a

need to create a Child Television in order to develop and air TV programs aimed at teaching, educating and raising awareness of children.

- In her annual reports, the HRCA proposed to adopt a relevant law to prevent the damage inflicted on the psychological development of children by harmful information they obtain through mass media, internet websites and other tools, and the Law on Protection of Children from Harmful Information was adopted in 2018.

- Information reflecting the active participation of children in education, creativity and social life is regularly published in *Savalan* newspaper. Besides, they participate and express their opinions and proposals in TV programs that discuss child-related issues.

### **Recommendations**

- Provide more space in mass media for legal education of children and social advertisements with the aim to discourage them from committing legal violations.
- Prevent airing of materials that promote violence, brutality and legal violations at times when children can watch them on TV;
- Carry out awareness-raising activities for mass media representatives.

## **VIOLENCE AGAINST CHILDREN**

- This is an undeniable fact that children, particularly girls drop out of education for early marriage. They also face other negative consequences such as suffering from health problems, failure to ensure their financial independence in future, and these often lead to violation of girls' rights and sometimes the rights of their baby (babies) with physical or mental disability. In order to address early marriages, the HRCA has recommended relevant authorities to carry out awareness-raising activities, air social footages on TV channels on a regular basis, and bring the person marrying an underage girl into criminal liability under Article 152 of the Criminal Code in cases where police and prosecutor's offices reveal such affairs. According to the annotation under the same article, liability arises when the age difference between the perpetrator and the victim is more than two years. This enables abuse, as well as sexual relations between peers under the age of 16.

- In 2009, the HRCA turned to the Parliament suggesting that the age of marriage for men and women must be 18. It is noteworthy that under the Law of the Republic of Azerbaijan on Amending the Family Code of the Republic of Azerbaijan, the age of marriage for women was raised to 18 in 2011.

### **Recommendations**

- Continue regular awareness-raising activities, with a view to preventing early marriages and ensuing problems, among parents throughout the country, especially in rural places through the representative offices of the heads of district and city executive powers in villages and settlements, municipalities, local educational and medical institutions and police field inspectors.
- Remove the annotation of Article 152 of the Criminal Code and raise the age of sexual freedom from 16 to 18 with the goal to prevent early marriages and early maternity.

The HRCA put forward a proposal to create regional shelters and resource centers covering cities and districts of the country for victims of violence, including women and children, the elderly suffering from domestic violence, and to train social workers and psychologists to serve such people. As a result, mental health departments were created in the structure of child polyclinics in seven big cities of the country in 2016 to develop the psychological and social rehabilitation of children and adolescents. The staff of the departments include child psychologists working with children with special needs, social workers, rehabilitation specialists, speech therapists and educators.

- The Ombudsman's Office, in cooperation with UNHCR, carried out a series of awareness-raising activities in Baku, Ganja, Goranboy, Mingachevir and Sumgayit with the goal to increase awareness of IDPs on the fight against domestic violence, including violence against women and children. In these events, the participants received detailed information about legislation in the field of fight against domestic violence, legal, social, psychological and institutional grounds of the fight against violence, existing problems related to domestic violence and measures taken to address, solve and prevent these problems.

- In consideration of the majority of proposals made by the HRCA, the Law of the Republic of Azerbaijan on Prevention of Domestic Violence was adopted in 2010; "The Guidelines for preventive registration of the perpetrators of domestic violence and preventive-corrective work with these persons" and "Guidelines for setting up and maintaining data bank on domestic violence" were approved under relevant resolutions of the Cabinet of Ministers on December 19, 2011.

- National Action Plan on Elimination of and Fight against Domestic Violence in the Republic of Azerbaijan was prepared and submitted for adoption taking into account the proposals of the HRCA on the fight against domestic violence.

- CoE Convention on Protection of Children against Sexual Abuse and Sexual Violence (also known as Lanzarote Convention) was approved by the relevant Decision of the Parliament upon the HRCA's recommendation in this regard.

- Taking into account of the case of two minors abused by their parents in Zabrat settlement in Sabunchu district of Baku and the possible recurrence of child abuse and public and legal content of an issue, the Ombudsman appealed to the Prosecutor-General of the Republic of Azerbaijan to investigate the case and take measures for bringing responsible persons to the justice and also, to inform her about the findings. Upon the court decision, father was arrested for 3 months and stepmother was placed under the police surveillance because of her pregnancy.

## **Recommendations**

- Carry out regular awareness-raising activities with the participation of public authorities working with children and teachers through developing awareness-raising materials on legislative provisions prohibiting violence against children and using these materials;

- Adopt a national strategy in line with the Convention on the Rights of the Child with a view of preventing all acts of violence against children;

- Conduct awareness-raising events on investigation, documentation, reporting on the acts of violence committed against children and ensuring confidentiality.

## **FAMILY ENVIRONMENT AND ALTERNATIVE CARE**

- The interests of children are sometimes not considered properly during the division of property or ordering of alimony when the child remains with one of the parents upon a court decision

on divorce; thus, the children experience financial challenges, and such affairs have increased in recent periods. Furthermore, court decisions sometimes are not executed timely or fully without any good reason, which affects the financial and psychological condition of the child. Therefore, one of the key challenges is related to the non-payment of the alimony for the support of the child. The HRCA receives a number of complaints in this regard. The key reason for the manifestation of this problem might be that the person paying alimony is abroad, evades payment or is unemployed or does not have any property. From this point of view, in light of the multiple problems emerging for the implementation of court decisions and payment of the ordered alimony for the support of the child, the HRCA has proposed to create and apply state-funded Alimony Fund, a public authority which would be in charge of paying the alimony (and recovering it from the debtor in an obligatory manner) ordered by court decision to be paid to the plaintiff by the defendant.

## **CHILDREN DEPRIVED OF PARENTAL CARE**

- As described in the recommendations of the CRC, the Ombudsman's Office, in cooperation with UNICEF, conducted monitoring in various years both independently and with the participation of the representatives of the Ministry of Education to study the status of implementation of State program for the placement of children living in state-owned child institutions in families (deinstitutionalization) and alternative care in the Republic of Azerbaijan (2006-2015). The conclusions of the monitoring were sent to relevant authorities along with the recommendations. The analyses showed that the risk of institutionalization of children can significantly decrease if alternative services are set up. There is some progress in this area, but there are not enough developed alternative services to prevent institutionalization of children.

- The HRCA has received appeals concerning the appointment of a guardian and custodian on children without parental care, placement of these children in family-like institutions, violence committed against children in the institutions, provision of housing to children leaving the institutions and other issues. The appeals were investigated and relevant measures were taken. Besides, in frames of the National Preventive Mechanism (NPM), the employees of the Ombudsman's Office pay visits to children's homes and boarding schools in the capital city and regions. The aim of the visits is to assess the current situation of the above-mentioned institutions and their needs.

- The Ministry of Labor and Social Protection of Population was tasked with improvement of management in the field of adoption; a working group was created under the Ministry in this regard and proposals are being developed for the improvement of legislation on adoption and rules of adoption of children deprived of parental care.

### **Recommendations**

- Strengthen the protection of the property owned by children in residential care;
- Further facilitate the establishment of alternative services to prevent institutionalization of children;
- Encourage adoption of children living in institutions, particularly in children's homes and strengthen control over this field;
- Expand the coverage of centers providing daily care services to vulnerable children and families based on the orders of the Ministry of Labor and Social Protection of Population, as well as community-based social rehabilitation centers to prevent institutionalization of children.
- Raise the amount of the monthly allowance paid to custodians (guardians) of the children without families or deprived of parental care to an amount that allows meeting minimum needs;

- Set a lump sum allowance for parents (persons) who take custody of a child from public institutions (orphanages) or boarding schools;
- Allocate funding for Foster Family model, a new and successful practice in the country, with a view to continuing support to the establishment of daily care and rehabilitation and development centers of public care institutions;
- Increase funding allocated for “Family-like small group homes” model.

## **CHILDREN WITH LIMITED PHYSICAL CAPACITIES**

During the tenure of the HRCA, investigations have been carried out to study the situation of the children with limited physical capacities. In her annual reports, the HRCA provided final recommendations and opinions for the improvement of the situation of the children with limited physical capacities; these recommendations were provided to competent authorities and the rights of these children were ensured.

- Previously, the HRCA made recommendations on the harmonization of the national legal framework with the UN Convention on the Rights of Persons with Disabilities (CRPD), adoption of a new draft law on the rights of persons with disabilities, changing the terms that are considered unacceptable for such persons, to degrade their honor and dignity, and to take this issue into account in the newly adopted legislative act. Already in 2018, a new Law on the Rights of Persons with Disabilities was adopted, and a number of existing legislative acts were amended accordingly “disabled child”, “physically handicapped”, “physically handicapped child”, etc. such degrading expressions are replaced by new modern terms. The HRCA also recommended exempting from the tuition fees of PWDs, who study on a paid basis in both public and private higher and secondary vocational education institutions and who do not have the finance to cover the tuition fees. Thus, according to the Presidential Decree of May 3, 2019, from 2019/2020 academic year, the tuition fees are paid from the state budget for persons with I and II degrees of disability and children with limited physical capacities under the age of 18, who are studying on a paid basis at the undergraduate and graduate (basic (higher) medical education and residency) levels, at the master level in the Azerbaijan National Academy of Sciences and secondary special education institutions.

- Moreover, the HRCA suggested that sign language, which is the only means of communication for the children with hearing loss, be recognized as an official language, included in the relevant curricula, especially in the field of sign language interpreters, and that necessary measures to be taken to develop it in the future and appropriate steps have already been taken in this direction.

- Consequently, in the draft law On Amendments to the Law of the Republic of Azerbaijan “On the Rights of Persons with Disabilities” prepared by the joint working group of the Ministry of Labor and Social Protection and the Ministry of Education, a sign language was officially recognized as a language of communication for persons with hearing or speech impairments in the areas where the state language is used orally in Azerbaijan

- Considering that the lack of pre-school, primary and secondary schools for children with limited physical capacities, of specialized rehabilitation and development, daily care and other alternative care centers, as well as of qualified and professional personnel, including speech therapists, social workers create serious challenges in setting up training and education and rehabilitation work, the HRCA proposed to create relevant modern centers for children with limited physical capacities and their parents (and/or guardians/trustees).

- The HRCA always attaches importance to equal enjoyment of all opportunities created for children and keeps attention on the education and development of children with limited physical capacities without being isolated from the public. It is also noteworthy that the 2018-2024 State Program on Development of Inclusive Education for Children with Disabilities in the Republic of Azerbaijan was approved by Decree of December 14, 2017, of the President of the Republic of Azerbaijan taking the HRCA's proposals into account.

- This should be mentioned to the point that the issues related to the determination of the disability due to autism, Down and other syndromes are already reflected in new criteria approved and adapted to WHO International Classification of Functioning, Disability and Health based on the proposal of the HRCA.

- Besides, the approval of the 2018-2020 National Action Plan on Early Prevention and Treatment of Childhood Disabilities under Decree of the President of the Republic of Azerbaijan dated May 10, 2018, will have a positive effect on reduction of the disability rate in the country.

- In accordance with the Resolution of the Cabinet of Ministers of the Republic of Azerbaijan on Approval of the List of Diseases Entitling to Education at Home and Organization of Education at Home dated May 10, 2002, the format of "Education at Home" was expanded based on a special teaching plan for pupils who are unable to receive education directly at general schools due to their health. But failure to include some diseases on this list creates enormous challenges in this respect.

- In the letters submitted to the Ministry of Health, the HRCA proposed that considering the high number of children with hearing impairments in our country, cochlear implant surgery, which enables the children with serious hearing impairments to hear, be conducted at the expense of state budget. The proposal of the HRCA was taken into account. Thus, a Commission was established to register, select, examine and treat children in need of surgery as of 2015; over 250 children with hearing and speech impairments were registered and examined.

- As the proposal of the HRCA regarding timely identification of children with serious hearing impairment and allocation of state funding for implementation of cochlear implantation at an early age was accepted, 58 children have undergone this surgery in past 3 years with financial support from the Ministry of Health.

- Moreover, upon the HRCA's recommendation amendments were made to the Law On Social Allowances of the Republic of Azerbaijan for the purpose of providing allowances to the children who lost a head of the family and has a disability for both circumstances, taking into consideration that the needs of children with limited health capacities are different from others.

### **Recommendations:**

- Assign two employees, instead of one for every 20 children with limited physical capacities at social service institutions considering their situation and needs, and increase their wages;

- Support small groups at a community level;

- Involve relevant medical workers in training and in-service training on early detection and prevention of child limited physical capacities and increase the knowledge of parents in this area;

- Widen the network of relevant rehabilitation and inclusive education facilities for children with limited health capacities in regions, also providing them with a social worker, psychologist and other specialists, increasing their wages

- Add Down syndrome, autism and other syndromes of this type to the list of diseases entitling to education at home.

- Organize comprehensive examination, treatment and rehabilitation of hearing impairment of newborns, prevent them from acquiring disability;
- *Adopt a law “On state care for people with autism”, including “On prevention, treatment, rehabilitation and control of autism” State Program”, “Rules for creating and maintaining the register of persons with autism”, “Volume of annual medical care provided to persons with autism (including necessary examinations), list and quantity of injections and other medicines” and other respective normative acts.*

## **HEALTHCARE AND MEDICAL SERVICES**

• Requests for examination and treatment of children prevailed among the requests received by the HRCA. Based on the HRCA’s request, a total examination of children living in various cities and districts at the expense of state budget was organized and relevant requests were fulfilled. The HRCA also received complaints regarding the right of the children to life and health in connection with the irresponsible approach of doctors and sometimes the poor level of professional skills of doctors; these complaints were investigated and the problems were solved.

• The HRCA also proposed that the need of the children suffering from diabetes mellitus for Lantus drugs be fully met. At the initiative of the Ministry of Health, this proposal was accepted and the need of the children for Lantus was fully met.

• The establishment of Medical Area Divisions Management Union (TABIB) under the State Agency for Mandatory Medical Insurance for implementation of mandatory medical insurance and optimization of the activities in the field of insurance in light of international best practices for introduction of mandatory medical insurance countrywide as of 2020 will contribute to increasing of the quality of medical services provided to the population through more effective management methods.

• The approaches based on the prevention of the outbreak of pandemic in the Republic of Azerbaijan have been brought in line with the standards of the World Health Organization. Following the instructions of the country President, immediate measures are being carried out, the work on providing preventive and effective medical services is being strengthened.

• The outbreak of the COVID-19 infection makes it necessary to investigate the consequences of the global pandemic from the children’s rights perspective. This activity is of great importance with regard to raising the efficiency of adequate measures. The course of current coronavirus pandemic shows that children are not equally exposed to the negative impact of the globalized infectious diseases, but in many cases, they are more vulnerable.

• Thus, the HRCA conducts monitoring on the issue of protecting and ensuring the rights of different population groups, including the children’s rights within the framework of measures carried out to fight against coronavirus disease in the country.

• On this eve, the children residing in boarding schools were returned to their families, and returning of those in children’s homes, who were sent to their families, have been suspended, also a special quarantine regime and social distancing measures were enforced in other groups of facilities.

• As a result of the investigations, the given recommendations reflected issues like raising awareness of children residing in children’s homes, educational, healthcare and social service establishments and persons working with them based on the CRC, COVID-19 Guidance of the OHCHR, Recommendations of SPT and principles adopted by CPT, strengthening control over proper

treatment and detention conditions, satisfying applications on supply and other matters, providing options for alternative communication via internet and telephone.

## **Recommendations**

- Organize free of charge medical services and consulting for pregnant women, mothers and babies at the expense of state budget, restore patronage service, develop programs for the protection of reproductive health;
- Promote feeding of infants and young children with breast milk, which carries the unique features of national identity and culture, and restore so-called 'Breast milk kitchens' effectively following the Law of the Republic of Azerbaijan on Infant and Young Child Nutrition;
- The HRCA recommends to the Food Safety Agency, that exercises state control over the quality and safety of artificial food products within its competence in accordance with the legislation according to Article 9 of the Law of the Republic of Azerbaijan "On Nutrition of infants and children of early age", further strengthening the control over the relevant area, taking control of those products both produced in the country and those imported;
- Carry out awareness-raising activities among medical workers and parents (and/or guardians/trustees) based the Law of the Republic of Azerbaijan on Compulsory Dispenserization of Children and Decree of the President of the Republic of Azerbaijan from December 10, 2013;
- Adopt the Program on Encouraging Recruitment of Medical Personnel in Medical Facilities in Rural Areas, and to adapt to modern requirements the benefits envisaged in the resolution of the Cabinet of Ministers on the same issue.
- To provide medical rooms at schools with the proper equipment and necessary medication and assign sanitary inspectors in order to cover all classrooms.
- To prevent possible suicides, there is a need to develop purposeful programs, promoting the healthy lifestyle, providing information on how to manage stress, and considering the development of mental health of children and young people, as well as to expand the psychological rehabilitation measures.

## **Education, leisure and cultural activities (art. 28–31)**

• During the tenure of the HRCA, the representatives systematically visited schools and preschool educational institutions where they conducted monitoring on preparation to the next academic year; the schools in the emergency or dangerous conditions were determined and relevant appeals were submitted to the Ministries of Education and Emergency Situations to address the issue and, as a result, new school buildings were constructed and put into exploitation. The HRCA received complaints regarding violation of education right. The investigations of the complaints revealed some deficiencies and the guilty were punished.

• The NPG members paid visits without prior notice to Guba Special Vocational School of the Ministry of Education and Full Boarding School for Children deprived of parental care, investigated the conditions of detention of children and the issues on treatment by employees of the institution, as well as the status of ensuring child rights. Classrooms, educational and recreation rooms, library, kitchen, canteen, bathroom, administrative rooms and common area were reviewed at Guba Special Vocational School, and it was observed that the infrastructure was not suitable for children, opportunities for children to get quality education, an efficient organization of leisure time, getting used to professional skills were at a very poor level.

- Failure to take relevant timely corrective measures with respect to the children evading education, lack of control over them by parents or educational institutions make them inclined towards legal violations and commit administrative offences and even crimes.

- In accordance with the joint work plan of the HRCA and UNICEF Azerbaijan, surveys on violence against children were conducted among children with the participation of experts in general secondary schools, orphanages and boarding schools in frames of activities carried out in 2014. 30 children of different ages from 26 high schools, one orphanage and three boarding schools were randomly selected for the survey. The survey was analyzed and summarized by an expert. The analysis of the survey results revealed a decrease in the rate of violence among children at schools, children's homes and boarding schools compared to the previous years. As for the age of the perpetrators of violence, it turned out that the violence was largely committed by peers of children. Unfortunately, both the perpetrators and victims of violence accept violence, especially moral violence as a method of upbringing.

- The Government took significant actions for re-establishing the preschool education facilities (kindergartens) and improvement of their conditions and equipment. However, the relevant monitoring conducted to verify the problems indicated in the appeals as well as observations showed that both, the number of places did not fit the number of preschool-aged children living in the relevant area and in the process of admission these facilities seriously violated the law, in addition, they were making wrong

- The insufficient number of kindergartens leads to the fact that a large number of preschool children are left out of the preschool education and training, including intellectual, moral, physical and psychological development. It should be particularly noted that almost in all cases parents, who applied for admission to their preschool educational institutions, have been denied. In general, since the past undermining the need for pre-school education by the local executive authorities, and failure to take measures for repair and reconstruction of the kindergartens to meet the modern standards also raise our concern. Though some steps have been taken to achieve the required and international standards of the education and its quality, the overall, inappropriate organization of the education process in a number of schools and failure to fulfil the duties by the school administration, teaching staff and separate teachers caused for complaints, as well.

- Some complaints have been examined on the spot with the presence of teaching staff, parents and pupils. The parties to the dispute have been listened to and they were explained their rights and duties, and consequently, the disputes have been solved through mediation. The shortages and gaps found out during the investigation, problems with the organization of education and the process in schools in overall, have been eliminated and the responsible school staff were punished.

- The HRCA's proposal was also taken into consideration by mentioning inclusiveness of the education in the Law of the Republic of Azerbaijan on Education and relevant amendments were made to other relevant regulatory and legal acts in this regard.

- With the goal to enhance the legal knowledge of children and to discover their creative skills, annual painting competition on the topic of "I and my rights" is organized on the occasion of 10 December - International Human Rights Day among children at the initiative of the HRCA. The winners are awarded.

- Considering the HRCA's proposal a Public Council under the Ministry of Education was set up. The main purpose of establishing the council is to increase the transparency of the ministry's activities, as well as to strengthen interaction with the public in the field of education.

## **Recommendations**

- Conduct investigation to reveal children of school age who do not go to school and have no access to education, and solve their problems and enroll them in education;
- Strengthen the work of psychologists to ensure control over the education quality in secondary schools and public monitoring the violence against children and teacher-pupil relations and reforms.
- Take measures for increasing inclusive education opportunities of such children and to eliminate the existed problems related to their integration into society.
- Involve children with physical or mental retardation but having a chance to be rehabilitated into complex rehabilitation services and to create reasonable and accessible opportunities for them.
- Create centers for child rights training and advocacy based on child creativity centers in the regions and equip them with necessary resources;
- Apply public control in cooperation with state educational authorities, HRCA, NGOs and mass media with the goal to strengthen control over education;
- Carry out awareness-raising activities in educational institutions and produce publications on relevant topics with participation of theologians with the goal to endow religious tolerance and raise children in the spirit of equal rights;
- Allocate funds to publish all textbooks, working books, teaching and assisting materials that are necessary for pupils and used in the application of curricula, as well as test books that teachers use obligatorily and provide these books and materials to pupils through state funding.
- In order to ensure the sustainable development of the country, the training of staff that meets modern requirements is a matter of priority. Considering the growing interest of young people in science, new technologies and advanced knowledge, to develop and implement educational programs that meet modern challenges is necessary.
- Rebuild and expand the network of pre-school upbringing facilities.
- Considering the development of out-of-school institutions, similar institutions are important for effective organization of children's leisure time and development of their creative abilities. This is, therefore, necessary to improve the work of these facilities and to further increase the knowledge and skills of their employees.

## **REFUGEE, IDP AND MIGRANT CHILDREN**

- The HRCA has held meetings with population in the areas settled by refugees, IDPs and places of detention of migrants, learning the living conditions, education, health and protection of the rights of children, assisting them in frames of her mandate.
- Based on the HRCA's instruction, the members of the National Preventive Group monitored the State Migration Service Detention Centers for Illegal Migrants in Baku and Yevlakh. The visits aimed at the investigation of the received appeals concerning the detention conditions and treatment in these facilities, as well as the legalization of the residence of migrants in the country and the status of relevant documentation.
- The HRCA also held awareness-raising training on CRC together with the heads of relevant representative offices of UNICEF and UNHCR for the pupils and teachers of the secondary schools constructed in new settlements built for IDP families in the country, including in the front line. The training, which was held with the active participation of children, was built on live and interactive discussions; child rights-related materials prepared by the Ombudsman's Office, as well as the booklet titled "Convention on the Rights of the Child" in the Azerbaijani language, was distributed among pupils and teachers.

- Overall, the HRCA has always prioritized the issue of the occupation of our territories, destruction of our natural resources, problems and violated rights of refugees, IDPs and migrants during the partnership with international organizations and called these organizations to make joint efforts for ensuring of the human rights of the people from these groups.

- Jojug Marjanli village, which was liberated from occupation, was recovered, fast construction and beautification works were carried out, a new school was built and the rights of the people were ensured through the improvement of the living conditions of the local population. Rebuilding works actively carried out in this settlement constituted the beginning of the Great Repatriation Program towards the liberation of our occupied territories.

- Refusal to allow unaccompanied children seeking asylum to enter the country is prohibited. At the same time, foreigners and stateless persons under the auspices of the UNHCR are not deported and their children are allowed to study in the country. Until the issue of granting “refugee” status to an unaccompanied child is resolved, the guardianship and custody authorities place him/her in social service institutions. Unaccompanied children in the country are equal to children who have lost their parents and been deprived of parental care and their social protection is ensured by the state, their rights and interests protected in accordance with the legislation. In order to improve the system of care for unaccompanied and separated children, a Working Group was established to provide an effective national referral mechanism in the field of child care according to the instructions of the Cabinet of Ministers. The State Committee on Family, Women and Children chairs the Working Group. Representatives of the State Migration Service, the Ministry of Labor and Social Protection, the Ministry of Education, the Ministry of Health and the Baku City Executive Power are also represented in the group.

- Unaccompanied children must be registered during the interview. which makes it possible to carry out further activities to ensure their best interests. Asylum-seeking children, especially those unaccompanied, have the right to special care and protection. Asylum seekers should not be arrested.

- According to the Laws of the Republic of Azerbaijan “On the Status of Refugees and Internally Displaced Persons” and “On the Rights of the Child”, foreigners and stateless persons who have received refugee status in the country have the opportunity to study at all stages of education in the Republic of Azerbaijan.

## **CHILD LABOR EXPLOITATION – CHILDREN IN STREET SITUATIONS**

- The risk for the children exposed to street life, dropped out of education to be engaged in labor, receiving poor, or totally no attention from parents, to become a victim of human trafficking is unfortunately much bigger. Upon the HRCA’s recommendation, the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse was ratified. In this regard, the HRCA’s proposals to speed up adoption of the Law on Protection of Children from Corporal Punishment, development and introduction of programs targeting social rehabilitation and social adaptation of the women and children who are subjected to domestic violence and human trafficking, to establish regional social shelters providing specialized socio-psychological rehabilitation service, are also very important.

- The HRCA has taken significant steps to strengthen measures for the fulfilment of obligations arising from the Constitution of the Republic of Azerbaijan, as well as relevant international conventions related to child labor mentioned in the National Action Program for the increase of effectiveness of the protection of human rights and freedoms, as well as the documents of International Labor Organization.

## **Recommendations**

- Conduct monitoring in cooperation with NGOs to detect and eliminate child labor exploitation and send petitions to relevant public authorities based on results;
- Develop and apply rehabilitation programs for victims of human trafficking, as well as women and children subjected to violence, including domestic violence and commission new shelters and resource centers also covering the regions.

## **JUVENILE JUSTICE**

• The HRCA keeps under the focus on the selection of alternatives to custody for the persons accused in frames of criminal cases, paying attention to rules of minimum standard treatment with inmates, particularly the juveniles. The HRCA has underlined these issues in her annual reports and turned to the General Prosecutor's Office to address such affairs.

• In frames of the cooperation of Ombudsman's Office, UNICEF, Academy of Justice and Police Academy, training were held on the topics of "Child-friendly justice", "Juvenile justice" for judges in regions with a Court of Grave Crimes, officers of prosecutors' offices, police agencies, justice authorities and local executive authorities with a view to increasing their legal awareness-raising skills. These training organized based on the best practices of foreign countries in this field were aimed at capacity building and was also important in the evaluation of the impact of reforms in the juvenile justice system on children in conflict with the law and studying new approaches and existing challenges in the functioning of the Commissions for Minors' Affairs and Protection of their Rights under the local executive authorities.

• With support from UNICEF, the institution conducted an investigation to reveal the facts of torture and ill-treatment against children in conflict with the law. In addition, the national legislation and procedures existing in this area were analyzed and proposals were put forward on the improvement of legislation, detection and prevention of facts of ill-treatment and torture against children in conflict with the law.

• The HRCA regularly meets with underage inmates, studies their living conditions and listens to their complaints and requests in person. Besides, with support from the HRCA, cultural events are organized in the Correctional Institution of the Penitentiary Service of the Ministry of Justice on national holidays where presents are provided to underage inmates.

• The HRCA believes that it would be adequate to accelerate the adoption of the Law on Juvenile Justice to protect rights and interests of children in conflict with the law, thus she continues lobbying in this regard. Therefore, the structural reforms, improvement of the work and regulations of the commissions on juvenile affairs and protection of juvenile rights, training of social workers and psychologists, deployment thereof in child-care facilities has become a big necessity.

• The implementation of the Order signed by the President of the Republic of Azerbaijan on February 10, 2017, taking into account the HRCA's proposals, made positive changes with regard to elimination of application of restrictions on the right to liberty of juveniles who have committed

crimes and offences also, in the existing practice in the field of humanization of criminal prosecution and penitentiary policy, and the gradual abandonment of the practice of isolation.

- This should be noted that the effective implementation of the Order will also contribute to the reform of juvenile justice in the country.

- Within the framework of the HRCA's activity as the NPM, a three-year Strategic Plan was adopted to ensure the rights of the child and is focused on juvenile justice reform.

### **Recommendations:**

- Accelerate creation of juvenile courts, juvenile police, juvenile prosecutors' offices and a juvenile lawyers division in the Bar Association with the goal to ensure more effective protection of the rights of children committing legal violation;

- Improve the operation of the Child Rights Clinic dealing with rehabilitation of children in conflict with the law and establish such clinics in the regions, as well for children committing legal violations;

- Notify the children in conflict with the law about their rights at the time of their arrest, organize training on child rights for police officers and lawyers.

- Invite public organizations, professional social workers and peers to the facility in order to meet the moral needs of the children in conflict with the law;

- Ensure that the psychological condition of the child is examined by a psychologist before the interrogation in a police agency and that a psychologist, along with other persons, is present during the interrogation;

- Speed up the construction of a new Correctional Facility considering that the current one lacks repair and the living conditions of children fail to meet modern standards, and create a relevant infrastructure to engage them in vocational activities and sports and arrange their leisure time;

- Increase the amount of funds provided by the state to lawyers that provide legal assistance to children at courts;

- Increase the knowledge of the children about mechanisms to apply to various authorities;

- Create, in a regional format, covering several surrounding districts, the "Social shelters ensuring social rehabilitation and temporary residence of juveniles who are in a vulnerable situation and need urgent public care", which is envisaged in the Law of the Republic of Azerbaijan on "Prevention of neglect and legal violations of juveniles"

- Create a specific juvenile prosecution department in the General Prosecutor's Office to deal with the criminal cases related to the juveniles in the country.

### **CHILDREN IN ARMED CONFLICTS**

- Within the past period, as a result of targeted and intentional shelling of Alkhanli village of Fuzuli district by Armenian Armed Forces, Sahiba Allahverdiyeva, 51, and her 2-year-old

granddaughter Zahra Guliyeva were killed and Ramin Yusifov, 13, resident of Tovuz district was wounded. Overall, direct and intentional attacks of Armenia against the civilian population and civil objects of Azerbaijan is a gross violation of the international humanitarian law and human rights, particularly the Geneva Conventions of 1949 and Additional Protocol No.1, as well as the CRC and the Convention on the Protection of Human Rights and Fundamental Freedoms (ECHR). Members of Azerbaijan Child and Youth Peace Network, including the children and the youth held a protest action in connection with the death of children named Zahra, Fariz, Aygun and Ramin, who were killed by the Armenian Armed Forces, and demanded to put an end to the murder of children suffering from armed conflicts worldwide and prevention of this injustice. They also addressed an appeal to United Nations Secretary General's Special Representative for Children and Armed Conflicts on behalf of Azerbaijan and children and youth settled on the front line with regard the murder of the Azerbaijani children by the Armenian military. In this respect, the HRCA sent a relevant Statement to influential international organizations, including UNICEF Executive Director Anthony Lake. The response letter sent to HRCA, thanked the HRCA for the statement and also emphasized that no family in any community must suffer from child loss as a result of armed conflicts.

- In the meeting of UN Human Rights Council's 25<sup>th</sup> session on Child rights in the context of genocide and conflict, the HRCA made a speech emphasizing that the violation of the child rights in the context of war is in violation of CRC, Geneva Conventions for the Protection of War Victims and other international legal documents, as well as relevant resolutions of UN, Council of Europe and European Union on peaceful settlement of conflicts.