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U.S. Department of State**Azerbaijan Country Report on Human Rights Practices for 1998**

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AZERBAIJAN

Azerbaijan is a republic with a presidential form of government. Heydar Aliyev, who assumed presidential powers after the overthrow of his democratically elected predecessor in 1993, was reelected in October in a controversial election marred by numerous, serious irregularities, violations of the election law, and lack of transparency in the vote counting process at the district and national levels. President Aliyev and his supporters, many from his home region of Nakhchivan, continue to dominate the Government and the multiparty 125-member Parliament chosen in the flawed 1995 elections. The Constitution, adopted in a 1995 referendum, established a system of government based on a division of powers between a strong presidency, a legislature with the power to approve the budget and impeach the President, and a judiciary with limited independence. The judiciary does not function independently of the executive branch and is corrupt and inefficient.

After years of interethnic conflict between Armenians and Azerbaijanis, Armenian forces and forces of the self-styled "Republic of Nargono-Karabakh" (which is not recognized by any government) continue to occupy 20 percent of Azerbaijan's territory. A cease-fire was concluded in 1994, and the peace process continues. Exchanges of fire occurred frequently along the Azerbaijan-Armenian border and along the line of contact with Nargono-Karabakh causing casualties, including some civilians. Military operations continued to affect the civilian population. There are 800,000 Azerbaijani refugees and internally displaced persons (IDP's) who cannot return to their homes. In the part of Azerbaijan that Armenians control, a heavily militarized ruling structure prevents ethnic Azerbaijanis from returning to their homes. In the part of Azerbaijan that the Government controls, government efforts to hinder the opposition continue to impede the transition to democracy.

Police, the Ministry of Internal Affairs, and the Ministry of National Security are responsible for internal security. Members of the police committed numerous human rights abuses.

Azerbaijan continued economic reform in 1998 and the economy is in transition from central planning to a free market. Economic growth has been spurred by substantial foreign investment in the hydrocarbon sector, but it is offset by a highly organized system of corruption and patronage. The country has rich petroleum reserves and significant agricultural potential. Oil and oil products are the largest export, followed by cotton and tobacco. Other key industries are chemicals and oil field machinery. The Government signed 5 oil production sharing agreements with foreign oil companies in 1998, bringing the total to 14. Agriculture employs 33 percent of the labor force and contributes 20 percent to the gross domestic product (GDP). The leading crops are wheat, fruit and vegetables, cotton, tobacco, and grapes. Privatization of industry continues through auction sales of small- and medium-sized state-owned enterprises. Large enterprises remain almost exclusively under government control and operate at a fraction of their capacity. Accumulation of large wage arrears is common. Private retail enterprises, cotton gins, and grain mills are proliferating. About 90 percent of the nation's farmland is now in private hands, but new small farmers have poor access to credit and markets, and commercial agriculture remains weak. Per capita GDP is approximately \$500 per year. Much of the labor force is employed by the state sector where wages are low. The overall economic situation of the average citizen remains tenuous, although in urban

areas a growing moneyed class with trade and oil-related interests has emerged. According to the World Bank, 60 percent of the citizens live in poverty. Economic opportunity for the average citizen still depends largely on connections to the Government. Severe disparities of income have emerged that are partly attributed to patronage and corruption.

The Government's poor human rights record improved in a few areas, but government actions toward the end of the year negated some of the positive developments, and serious problems remain. Police beat persons in custody, arbitrarily arrested and detained persons, and conducted searches and seizures without warrants. In most instances, the Government took no action to punish abusers, although perpetrators were prosecuted in a few cases. In a variety of separate incidents, the Government arrested and opened criminal proceedings against approximately 40 members of opposition parties. Prison conditions remained harsh. The judiciary is corrupt, inefficient, and subject to executive influence. Corruption continued to pervade most government organs, and it is widely believed that most persons in appointed government positions and in state employment generally purchase their positions. The Government holds an estimated 75 political prisoners. The Government infringed on citizens' privacy rights. The Government eased restrictions on freedom of speech and the press. After open discussion in the press, the Government abolished censorship in August. Scores of opposition and independent newspapers continued to publish and discuss a wide range of sensitive domestic and foreign policy issues. However, the Government cracked down on the media later in the year in the postelection period. The Government continued to deny broadcast licenses to several organizations applying to open independent television and radio stations. The Government restricted freedom of assembly, association, religion, and movement when it deemed it in its interest to do so. Police suppressed or refused to allow many peaceful public demonstrations, while allowing others to occur. Opposition political parties carried on open and vigorous public activities in the months leading up to the election. In August-September, the Government allowed a number of public demonstrations, and closed its criminal investigation of eight prominent figures from opposition parties. After these positive steps, the Government clamped down on freedom of assembly after the election. The Government tolerated the existence of many opposition political parties, although it continued to refuse to register some of them. The Government continues to restrict citizens' ability to change their government peacefully. Although the Government passed an improved election law, the presidential election was marred by many irregularities, and a number of international and independent organizations concluded that it did not meet international standards. The Government was critical of certain domestic human rights activists, although it was open to limited dialog with domestic and international human rights organizations. Societal discrimination and violence against women and discrimination against certain ethnic minorities are problems.

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

RESPECT FOR HUMAN RIGHTS

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

a. Political and Other Extrajudicial Killing

There were no reports of political or other extrajudicial killings.

There has been no action by the Government in the killing of opposition Azerbaijan Popular Front Member of Parliament Shakhmerdan Jafarov in July 1995.

Three police officers were convicted and given prison sentences ranging from 6 to 7 years for fatally assaulting detainee Jamal Aliyev in 1994 in order to force a confession.

There have been no further confirmed developments in the cases of the death of Firuz Gurbanov in August 1997, after which a police official was arrested, or in the death of Samir Zulfugarov in

Baku in August 1997 where a police official reportedly was under investigation in connection with the death.

Cease-fire violations by both sides in the Nagorno-Karabakh conflict resulted in the death and injury of civilians.

b. Disappearance

There were no reports of politically motivated disappearances.

All sides to the Nagorno-Karabakh conflict still detain prisoners. The International Committee of the Red Cross (ICRC) visited 11 persons held in relation to this conflict, 6 held by Azerbaijan, and 5 held by Nagorno-Karabakh authorities. Azerbaijan holds both soldiers and civilians. The ICRC repeatedly asked the concerned parties for notification of any person captured in relation to the conflict, access to all places of detention connected with the conflict, and release of all such persons. The ICRC also urged the parties to provide information on the fate of persons reported as missing in action. The Government has presented to the ICRC a list of 856 persons allegedly held by the Armenians, but there was no information on further revision of the list during the year.

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

Torture is illegal; however, there are credible reports that the police practice of beating prisoners during arrest, interrogation, and pretrial detention was widespread.

On at least three occasions, police or other government officials beat journalists (see Section 2.a.).

Prison conditions are harsh. The quality of food, housing, and medical care is poor. Prisoners must rely on their families to procure food and medicine. There are widespread and credible reports that authorities deny or give inadequate medical treatment to prisoners with serious medical conditions. Authorities severely limit opportunities for exercise and visits by family members of prisoners in security prisons.

The family of Kenan Gurel convicted of participating in a coup attempt continues to report that he was receiving inadequate medical treatment.

Human rights organizations were able to visit prisons on several occasions. However, the Government continued to deny the ICRC access to prisons except those where persons held in relation to the Nagorno-Karabakh conflict were detained. Various embassies have petitioned the Government for permission to visit all prisons. In general the Government denies access to detainees held in security prisons that hold both high risk common criminals and high risk persons sentenced for crimes with a political connection, for example, persons sentenced in connection with coup attempts and military mutinies.

d. Arbitrary Arrest, Detention, or Exile

Authorities arbitrarily arrest and detain persons without legal warrants. Often authorities do not notify family members after arrests. Frequently, it is days before family members are able to obtain information as to whether authorities have arrested someone and where authorities are holding the detainee. Family members do not enjoy the right of visitation. Authorities generally deny bail to detained individuals and often do not inform detainees of the charges against them. There is no legal protection concerning the right of detainees to be charged or released within a certain period of time, or for accused persons to receive an expeditious trial. Access to lawyers is often poor. In the past, police sometimes detained relatives of suspects being sought in an attempt to force the family to reveal a suspect's whereabouts (see Section 1.f.).

During the year, police arrested at least 40 members or supporters of opposition parties who were participating in peaceful demonstrations. All were released, but 21 had criminal charges lodged against them that were still pending at year's end. Police also briefly detained journalists (see Section 2.a.).

The Government continued to harass parties critical of the Government by arbitrarily arresting party members, including close associates of opposition party leaders. The Government arrested an aide to the chairman of the Popular Front Party, accusing him of illegal possession of a pistol and hand grenade that independent observers believe were planted. It arrested two other associates of the Popular Front Party chairman at a demonstration in November. The Government continues to detain without charge a deputy director of a state oil refinery previously run by Rasul Guliyev, a former chairman of the Parliament now living abroad whom the Government accuses of large-scale embezzlement. The detainee's family claims that he has a heart condition and was being denied adequate treatment. The actions taken against some of Guliyev's relatives were politically motivated. At year's end, the political detainees also included the nephew of Rasul Guliyev.

At year's end, an aide to opposition leader Isa Gambar was still detained for political reasons and had not been brought to trial. A relative of Gambar, previously detained for political reasons and charged with failure to notify the Government of a crime was convicted and sentenced to 3 years in prison (see Section 1.e.).

The Government does not practice forced exile.

e. Denial of Fair Public Trial

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

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

The Government organizes prosecutors into offices at the district, municipal, and republic level. They are ultimately responsible to the Minister of Justice, are appointed by the President, and confirmed by Parliament. The Constitution prescribes equal status for prosecutors and defense attorneys before the courts. In practice, however, prosecutors' prerogatives still outweigh those of defense attorneys. Investigations often rely on obtaining confessions rather than obtaining evidence against suspects. No judge has dismissed a case based on a prisoner's claim of having been beaten.

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

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

Opposition political parties and NGO's credibly estimate that the Government held about 75 political prisoners at year's end, a reduction apparently reflecting a combination of releases of

some prisoners in a general amnesty and completion of jail sentences for others. The Government continues to assert that it holds no political prisoners.

Nonetheless, the Government continued to convict and imprison persons for political reasons. For example, the Government sentenced a student member of the Popular Front Party to 18 months in prison. The student authored a document outlining a strategy of popular resistance to the Government that police retrieved from a computer hard drive, but the document was never published and the party disavowed it. The Government used the document to launch a 3-week media campaign against opposition parties in May and June. On June 2, a military court sentenced three persons, two of them members of a political party affiliated with former parliamentary speaker Rasul Guliyev (see Section 1.d.) that the Government has refused to register, to terms of 9, 5, and 2 years' imprisonment for falsely accusing the Minister of the Interior of trying to entrap them in a plot against the President. A court sentenced a relative of Musavat party chairman Isa Gambar to 3 years in prison for allegedly failing to inform authorities of a crime.

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

The Government infringed on these rights. The Constitution provides for secrecy of correspondence and telephone conversations, subject to limits provided by law in criminal investigations or in prevention of a crime. The Constitution allows searches of residences only with a court order or in cases provided by law. However, citizens widely believe that the Ministry of National Security monitors telephones, especially those of foreigners and prominent political and business figures. Police often conducted searches without a warrant, and investigations sometimes resulted in confining the individuals to their city of residence or a brief jail sentence for questioning. There were credible allegations that police continued to intimidate and harass family members of suspects.

There were credible reports that individuals linked to opposition parties were fired from their jobs (see Section 2.b.).

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and the press and specifically outlaws press censorship; however, the Government in some cases did not respect these rights in practice. The Government gradually eased press censorship and then abolished censorship in August. Nonetheless, government actions created an atmosphere in which journalists exercised self-censorship. Prominent politicians criticized the Government without reprisal; however, in one case, former president Elchibey was charged with slander after he accused the President of having helped organize a terrorist organization during the Soviet era. The charges were dropped in early 1999.

While the press debated a wide variety of sensitive topics for part of the year, a limited form of censorship somewhat restricted the public's ability to be informed about and discuss political issues. Most newspapers are printed in the Government's publishing house. Until August they had to submit their copy to government censors. However, the censors tended to be inconsistent in exercising their power to prevent publication. The Government's near monopoly of publishing facilities and its control over the price of newsprint gave it leverage over the press, a critical matter given the precarious finances of most opposition newspapers. In April the Cabinet issued new licensing requirements for all print and broadcast media, but the enforcement and effect of this measure was not clear at year's end.

In February police, citing no legal authority, seized all remaining issues of the monthly magazine Monitor from newsstands, claiming, along with other government officials, that an article in that issue contained material insulting to the Azerbaijani nation. Three individuals then sued the magazine for defaming the Azerbaijani nation. The court awarded a punitive fine on the magazine exceeding that demanded by the prosecution, which has since prevented the magazine from publishing. In addition, according to the Human Rights Watch annual report, in April the Minister

of Internal Affairs sent journalists from the Monitor a letter demanding that they retract an article on torture published in the February issue that police had seized. In November senior government officials brought libel suits and demanded large punitive damages against the two largest opposition newspapers for articles they claimed were defamatory. The court decided against the newspapers, but as of year's end, the newspapers were appealing their cases; no fines had been paid; and no newspapers were closed.

Police or other government officials beat a journalist in February. According to the Committee to Protect Journalists, police attacked 34 journalists as they were reporting on an opposition rally in Baku on September 12 and also attacked 4 journalists as they were protesting peacefully the defamation trial against Yeni Musavat on November 13.

There were no further developments in the beating of a journalist in 1996. In 1997 the investigation was reported as continuing, but no charges had been brought.

The independent and opposition press played an active, influential role in politics. Articles critical of government policy and high government figures, including the President, and discussing sensitive areas of domestic and foreign policy, appeared routinely in the opposition and independent print media. Newspapers and broadcast media openly discussed censorship itself prior to its abolition.

A large number of newspapers continued to publish. One reliable source put the number of registered newspapers at 375, and the number actually publishing at nearly 100. These included independent newspapers and newspapers with links to major and minor opposition parties. Government-run kiosks and independent news distributors distributed opposition and independent newspapers.

However, the Government tightly controlled official radio and television, the source of information for much of the population. Opposition parties had virtually no access to the official electronic media, except for television spots for registered presidential candidates during the election campaign. The Government periodically used state television to conduct campaigns of denunciation and harassment against political parties and leaders critical of the Government. There are a limited number of private television stations, whose broadcasts can be received only in Baku or in local areas outside the capital. Independent radio, preferred by the overwhelming majority of listeners, is largely entertainment oriented, but one independent station airs political topics, although news is only a small portion of its program.

Government newspapers made a number of references to the ethnic affiliation (Jewish) of the director of the Azerbaijani service of Radio Free Europe/Radio Liberty (RFE/RL) in the context of criticizing RFL/RL for unbalanced coverage of events in the country (see Section 5).

The Ministry of Justice continued to deny registration to 15 independent television stations, 13 of which did not broadcast. Six independent television stations operate in Baku and other regions. Four of six independent television stations operating outside of Baku were ordered to close; they are now rebroadcasting but without frequency licenses. Several foreign television stations and radio programs are rebroadcast locally through Azerbaijani facilities and are seen and heard in most parts of the country. The Government shut down for 2 weeks the local retransmission of Radio Free Europe/Radio Liberty in April; however, broadcasts were also available on short-wave bands during the shutdown. There are no restrictions on reception of foreign stations via satellite. The Government granted no new broadcast licenses this year, despite several applications that remained pending. Of the three stations licensed since 1993, one television station is aligned with the Government, and one television and one radio station are entertainment oriented.

The Government has limited Internet access by licensing only two Internet providers and denying transmission licenses to several others.

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

journals.

Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly; however, the Government restricts this right when it decides that it is in its interest to do so. Authorities frequently prevented political parties critical of the Government from conducting indoor congresses and meetings as well as outdoor gatherings. However, the Government eased these restrictions beginning in May as preparations began for the October presidential elections and allowed limited freedom of assembly. The Government permitted opposition parties and presidential candidates to organize some rallies but cited questionable security considerations to divert the rallies from the sites of their choice. It refused to allow other demonstrations. In August, for example, the Government allowed the opposition to hold a rally but insisted that it take place on the outskirts of Baku rather than in the downtown area as rally organizers had requested. Police briefly detained over 300 persons proceeding to the rally or who engaged in unsanctioned pickets of government buildings associated with the rally.

In November the Government reapplied serious restrictions on freedom of assembly in the context of opposition parties' contesting the results of the flawed presidential elections. The crackdown began following a November 6 speech by President Aliyev in which he warned the opposition to act within constitutional limits (see Section 3). Police used force to disperse a peaceful, opposition demonstration on November 7, after denying the participants permission to hold the demonstration. Seven participants in that rally were tried on criminal charges and given suspended sentences. The Government gave a permit for another opposition rally on November 8 that proceeded peacefully until unknown persons attacked rally leaders. Four participants in that rally were arrested and sentenced to jail terms of up to 3 years; 10 others were convicted and received suspended sentences. None of the attackers has been arrested, despite the fact that the faces of the attackers apparently were recorded on film. The Government permitted no more public demonstrations during the remainder of the year. On November 13, the Parliament passed a law on public assembly giving authorities wide latitude to regulate and ban demonstrations. Authorities used the law to deny permits for several demonstrations by parties critical of the Government on the grounds that they would "disrupt stability" or threaten public order. Police dispersed demonstrations on at least 2 occasions in September and November by force and briefly detained over 100 persons participating in those demonstrations.

The Government provides for freedom of association; however, it restricted this right when it decided that it was in its interest to do so. The Government requires political parties to register. There are over 30 registered political parties. Some of these are affiliated with or support the President's party. At least 10 registered parties are considered opposition parties. There are at least three opposition parties that the Government continued to refuse to register. The Supreme Court, without explanation, reversed its 1997 ruling that the Azerbaijan Democratic Party should be registered. Nevertheless, unregistered political parties continued to function openly, and members of unregistered political parties can run for president but must be sponsored by a registered party or an independent "voters initiative group." Members of unregistered parties may run for Parliament, but only as independents in a direct constituency, not on a party list. A party must be registered to run a list of candidates.

Reports of harassment, including beatings, of political figures continued. There were credible reports that individuals linked to opposition parties were fired from their jobs. The Government did not return the Popular Front's headquarters nor many of its regional offices, which were seized in 1993.

Explicitly ethnically or religiously based parties were prohibited from participating in past elections.

The Government generally allowed private associations to function freely. The Ministry of Justice requires private organizations to register but did not grant this registration freely and expeditiously. It denied or unduly delayed registration for numerous private voluntary organizations, including three private human rights organizations. Nevertheless, unregistered associations functioned openly.

c. Freedom of Religion

The Constitution allows persons of all faiths to practice their religion without restrictions, and the Government respects this provision in practice for Shi'a and Sunni Muslims, Russian Orthodox Christians, and Jews; however, a law on foreigners and stateless persons contains language that prohibits religious "propaganda" by foreigners. This provision was reinforced by a presidential decree in 1997. There is no state religion. The law on religion subordinates all Islamic religious organizations to the Azerbaijan-based Spiritual Directorate of Caucasus Muslims. This law also permits the production, importation, and dissemination of religious literature only with the agreement of local government authorities. In one case, officials stopped the importation of a shipment of religious literature by a private individual not associated with a local congregation. The Ministry of Justice requires that religious congregations be registered. It continued to deny registration to a foreign Christian group but allowed it to continue to function during the year. Registration enables a religious organization to maintain a bank account legally, rent property, and generally to act as a legal entity. Lack of registration makes it harder, but not impossible, for a religious group to function.

Non-Orthodox Christian groups complained credibly of official harassment. Police in July detained approximately 40 persons belonging to the Word of Life religious group after they held a religious meeting in a private apartment. Nine Azerbaijanis and three foreign nationals were found guilty of holding an "illegal religious gathering" and were fined. One of the foreigners was expelled from the country. During 1996 and 1997, articles appeared in progovernment and independent newspapers crudely depicting non-Orthodox Christian missionary groups as a threat to the nation; however, in 1998 the number of such articles declined to near zero. Because of anti-Armenian sentiment and the forced departure of most of the Armenian population, Armenian churches remained closed. The Jewish community has freedom to worship and conduct educational activities and, during the year, enjoyed the public support of the Government.

There was no further action in the 1997 case where an official in the Baku city prosecutor's office struck two Jehovah's Witnesses during questioning. Although the official was dismissed from the case, no action was taken against him.

There is some evidence of strong prejudice against ethnic Azerbaijanis who have converted to Christianity. Some government bias against foreign missionary groups persists. Nevertheless, a number of these groups continue to function.

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

The Constitution provides for the right of citizens to choose freely their place of domicile and to travel abroad and return, and the Government generally respects these provisions, although at times it limited the movement of members of opposition parties. Residents of border areas in both Azerbaijan and Iran travel across the border in this restricted zone without visas. Foreigners and citizens require a visa to travel to the Autonomous Republic of Nakhchivan. In the past, there were reports that local officials denied passports to members of the Armenian minority (see Section 5).

In August the Government ended a criminal investigation and lifted an associated travel ban, which had been in effect for several years, against eight members of opposition parties, including Musavat party chairman Isa Gambar and Musavat party deputy chairman Sulheddin Akper. Until August these persons were prohibited from traveling outside the capital. Former president Elchibey was prevented from traveling outside Baku for approximately 2 months while under investigation and on trial for insulting the President; the charges were dropped in early 1999.

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

have harassed Azerbaijani citizens of Armenian origin wishing to emigrate or obtain passports.

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

The number of refugees and internally displaced persons from the Nagorno-Karabakh conflict is approximately 800,000. Armenians have settled in parts of the occupied territories. However, Armenians have not allowed the hundreds of thousands of Azerbaijanis who were forced out of the now-occupied territories to return to their homes. The Government provides almost no assistance to these persons, who rely on donations from foreign countries. Most of these internally displaced persons continue to live in camps and other temporary shelters, often at below-subsistence levels, without adequate food, housing, education, sanitation, or medical care. The parties to the conflict have cut normal trade and transportation links to the other side, causing severe hardship to civilians in Nagorno-Karabakh, Armenia, and the Azerbaijani exclave of Nakhchivan.

The Constitution provides for political asylum consistent with international norms. The Government is receptive to international assistance for refugees and internally displaced persons. It cooperates with international organizations to provide aid for them. The Government cooperates with the office of the United Nations High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The issue of the provision of first asylum did not arise. There were no reports of the forced expulsion of persons with a valid claim to refugee status.

The case of the two Iraqi refugees ordered to leave in 1996 remained pending at year's end awaiting refugee processing to travel to a third country.

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

In theory the election law and Constitution allow citizens to change their Government by peaceful means; however, the Government continues to restrict citizens' ability to change their government peacefully by interfering in elections.

Azerbaijan is a republic with a strong presidency, and a legislature that the Constitution describes as independent. However, in practice the legislature's independence from the executive is marginal. The Parliament exercises little legislative initiative independent of the executive. As a result of the flawed 1995 parliamentary elections, the New Azerbaijan Party led by President Aliyev, along with other parties and nominally independent deputies loyal to the President, occupy the overwhelming majority of seats in the 125-member Parliament. Parties considering themselves as belonging to the opposition hold 14 seats. Opposition parties continued to be active outside the Parliament, agitating for their views in their newspapers and through public statements. However, the Government continued to deny registration to at least three opposition parties (see Section 2.b.).

The 1995 Constitution required the formulation of a municipal election law and the holding of municipal elections by November 1997. However, municipal elections were not held by the constitutionally mandated date and, as of year's end, such a law still had not been passed. The Government now has promised to hold municipal elections in 1999.

Parliamentary by-elections in July were marked by multiple voting by heads of families and ballot stuffing. The Government annulled the result in one district due to the high level of fraud.

In preparation for the October presidential election, the Government amended the election law to take broad account of recommendations of international organizations, including the OSCE. However, the Government took limited account of the international community's advice on election commissions. The OSCE/ODIHR final report noted that the law addressing the central election commission "influenced the entire structure and performance of the election administration" and undermined public confidence "in the election process and its integrity."

Five would-be opposition presidential candidates cited the belief that the election would not be fair and that the election commissions would not be impartial and boycotted the election. However,

one moderate opposition leader and four other candidates ran against the incumbent president.

The October 11 presidential election was an improvement over the July by-elections, especially in regard to reduced multiple voting and the presence of domestic observers. However, some domestic and international observers witnessed ballot stuffing and irregularities in vote counting, and some were barred from observing the vote counting. Neither domestic nor international observers were allowed to monitor the compilation of the national vote totals. The observed irregularities and lack of transparency in vote counting led to serious doubts about the accuracy of the 76 percent of the vote officially recorded for President Aliyev. International observers, including the OSCE/ODIHR, concluded that the election did not meet international standards.

Courts did not give serious consideration to the complaints filed by runner-up E'tibar Mammedov, who charged that the President did not receive the necessary two-thirds vote to avoid a run-off. The Central Election Commission did not publish vote totals of election districts within the time period required by the election law, and by year's end, it had not published vote totals for election precincts, as prescribed by the election law.

During and prior to the election campaign, the Government took a number of steps to improve the election and overall political environment. In addition to the Government's amending the election law, it abolished press censorship (see Section 2.a.), ended the criminal investigation of certain opposition figures (see Section 2.b.), allowed the opposition to conduct some rallies, and gave registered opposition presidential candidates access to state broadcast media. On the other hand, state media's reporting on the election was biased heavily in favor of the President. The Central Election Commission and local commissions were insufficiently representative and did not function impartially. The Government did not fully respect freedom of assembly (see Section 2.b.). The Government did not carry out the constitutional mandate to conduct municipal elections. Furthermore, after the presidential election, as the opposition contested the validity of the election, the Government reversed course and allowed no more public demonstrations and launched several lawsuits against opposition and independent newspapers (see Sections 2.a. and 2.b.).

There are no legal restrictions on women's participation in politics. However, traditional social norms restrict women's roles in politics. In past elections, and in the July parliamentary by-elections, in a practice known as family voting, men often cast the votes of their wives and other female members of their families. In the October presidential election, this practice was seen less often. There are 11 female Members of Parliament and 2 women with ministerial rank.

There are no restrictions on the participation of minorities in politics as individuals. However, explicitly ethnically or religiously based parties were prohibited from participating in past elections (see Section 2.b.). Members of indigenous ethnic minorities such as Talysh, Lezghis, and Kurds occupy some senior government positions.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Several human rights organizations monitor the human rights situation in the country. For the most part, the Government posed no objections to international human rights groups. Some of these groups investigate human rights abuses and disseminate their findings through the media. However, the Government has been critical of certain domestic human rights activists who have raised politically sensitive issues.

The Government has demonstrated a limited willingness to discuss human rights problems with international and domestic nongovernmental organizations (NGO's). The ICRC has had access to prisoners of war as well as civilians held in relation to the conflict over Nagorno-Karabakh. However, the ICRC has requested and been denied access to prisoners not related to the Nagorno-Karabakh conflict being held in special security and other prisons.

Government officials occasionally criticize human rights activists. The chief prosecutor threatened the chairman of the Azerbaijan Human Rights Center, Eldar Zeynalov, with criminal prosecution if he continued to claim that Azerbaijan held political prisoners. Zeynalov's organization continues these claims about political prisoners, and he has faced no legal action.

A government newspaper in one case accused a representative of a human rights NGO of being a "foreign spy."

The Ministry of Justice continued to deny registration to several local human rights NGO's, but the Government has not tried to halt their activities. Registration enables a human rights organization to maintain a bank account legally, rent property, and generally to act as a legal entity. Lack of registration makes it harder, but not impossible, for a human rights group to function.

The ICRC conducted education programs on international humanitarian law for officials of the Ministries of Interior and Defense, and for university and secondary school students.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution provides for equal rights without respect to gender, race, nationality or national origin, religion, language, social status, or membership in political parties, trade unions, or other public organizations. However, in the wake of the Nagorno-Karabakh conflict, there is widespread anti-Armenian sentiment in society. Preventing discrimination is not a major government priority.

Women

Discussion of violence against women is a taboo subject in Azerbaijan's patriarchal society. In rural areas, women have no real recourse against violence by their husbands, regardless of the law. Rape is severely punishable, but, especially in rural areas, only a small fraction of offenses against women are reported or prosecuted. Police statistics note 41 cases of rape in the first 9 months of the year. These figures probably reflect underreporting, especially from the conservative rural areas. There are no specific laws concerning spousal abuse or spousal rape.

Women nominally enjoy the same legal rights as men, including the right to participate in all aspects of economic and social life. In general women have extensive opportunities for education and work. However, traditional social norms continue to restrict women's roles in the economy. Representation of women is sharply lower in higher levels of the work force. There are few women in executive positions in leading economic enterprises.

Eighteen women's NGO's are registered and deal with the problems of women. The Association for the Defense of Rights of Azerbaijani Women spends most of its time fighting uniquely post-Soviet problems. It has helped divorced women, widows, and wives whose husbands are in prison, all of whom have become socially and legally vulnerable since the fall of the Soviet Union. It assisted widows whose landlords privatized their apartments and then evicted them. It also worked with divorced women who feel treated unfairly by divorce courts.

Children

The Constitution and laws commit the Government to protecting the rights of children to education and health. Difficult economic circumstances limit the Government's ability to carry out these commitments. Education is compulsory, free, and universal until the age of 17. The Constitution places children's rights on the same footing as those of adults. The Criminal Code prescribes severe penalties for crimes against children. The Government provides minimum standards of health care for children, although the quality of medical care overall has fallen significantly since the collapse of the Soviet Union. The Government has authorized subsidies for children in an attempt to shield families against economic hardship in the wake of price liberalization. The subsidies do not come close to covering the shortfall in family budgets, and the Government does not have the financial means to meet its commitments. There are a large number of refugee and displaced children living in substandard conditions in refugee camps and public

buildings. Children sometimes beg on the streets of Baku and other towns.

There is no known social pattern of abuse of children.

People with Disabilities

The law on support for the disabled, enacted in 1993, prescribes priority for invalids and the disabled in obtaining housing, as well as discounts for public transport, and pension supplements. The Government does not have the means in its current financial crisis to fulfill its commitments. There are no special provisions in the law mandating accessibility to buildings for the disabled.

National/Racial/Ethnic Minorities

The outbreak of hostilities and anti-Armenian riots in the final years of the Soviet Union led to the expulsion of many Armenians and the departure of others. An estimated 10,000 to 20,000 Armenians still live in Azerbaijan, mostly in mixed Azerbaijani-Armenian families. Some have changed their nationality, as reported in their passports, to Azerbaijani. With the nearly complete departure of the Armenian population, the number of problems reported by this ethnic minority has decreased. Armenians have complained of discrimination in employment and harassment at schools and workplaces and of refusal of local government authorities to grant Armenians passports or pay pensions. Armenian widows have had permits to live in Baku revoked. However, some persons of mixed Armenian-Azerbaijani descent continue to occupy government positions.

There are credible reports that ethnic Russians experience societal discrimination.

Indigenous ethnic minorities such as the Talysh, Lezghis, Avars, and Georgians do not suffer discrimination. However, Meskhetian Turks displaced from Central Asia as well as Kurdish displaced persons from the Lachin region complain of discrimination.

Jews do not suffer from discrimination, and the country is remarkably free from anti-Semitism. However, in a few isolated cases, government officials or those allied with the Government have used veiled anti-Semitic comments against perceived opponents for politically motivated reasons. For example, government newspapers made a number of references to the ethnic affiliation (Jewish) of the director of the Azerbaijani service of Radio Liberty in the context of criticizing Radio Liberty for unbalanced coverage of events in the country (see Section 2.a.).

In the area of the country controlled by insurgent (Armenian) forces, the Armenians forced approximately 550,000 ethnic Azerbaijanis to flee their homes. The regime that now controls these areas effectively has banned them from all spheres of civil, political, and economic life.

Section 6 Worker Rights

a. The Right of Association

Most labor unions still operate as they did under the Soviet system and remain tightly linked to the Government. The Constitution provides for freedom of association, including the right to form labor unions. However, one or another subbranch of the government-run Azerbaijani Labor Federation organizes most industrial and white-collar workers. Most major industries remain state-owned.

An independent union of oil workers that was displaced by a progovernment union in 1997 has not been revived. In 1997 the state oil company formed a progovernment union, the Azerbaijan Union of Oil and Gas Industry Workers, which took over the former independent oil workers union without a vote of the union membership. It continues to operate without a vote of its rank and file workers. An independent group of oil workers, the Committee to Defend the Rights of Azerbaijani Oil Workers, operates outside of established trade union structures and promotes the interests of workers in the petroleum sector.

The Constitution provides for the right to strike, and there are no legal restrictions on strikes or

provisions for retribution against strikers. After a history of wildcat strikes in the oil industry in which some striking workers were fired, there were no reported strikes in that sector during the year. Oil workers continue to demand restoration of wage arrears amounting to several months pay. They do so internally but not through public protest. There are no established mechanisms to avoid wildcat strikes.

Unions are free to form federations and to affiliate with international bodies; however, none has done so.

b. The Right to Organize and Bargain Collectively

A law passed in 1996 provides for collective bargaining agreements to set wages in state enterprises. A labor inspectorate was established in 1997. However, these laws have not produced an effective system of collective bargaining between unions and enterprise management. Government-appointed boards and directors run the major enterprises and set wages. Unions effectively do not participate in determining wage levels. In a carryover from the Soviet system, both management and workers are considered members of the professional unions.

There are no export processing zones. Although there has been a United Nations Development Program-supported effort under way to create an economic zone in Sumgait since 1995, Parliament has not considered legislation to create such a zone.

c. Prohibition of Forced or Compulsory Labor

The Constitution allows forced or compulsory labor only under states of emergency or martial law or as the result of a court decision affecting a condemned person. The Government has not invoked this clause. Two departments in the General Prosecutors Office (the Department of Implementation of the Labor Code and the Department for Enforcement of the Law on Minors) enforce the prohibition on forced or compulsory labor. There are no constitutional provisions or laws specifically prohibiting forced and bonded labor by children, but such practices are not known to occur. There were no reports during the year of compulsory cotton picking by children or adults.

d. Status of Child Labor Practices and Minimum Age for Employment

The minimum employment age is 16 years. Primary school education is compulsory, free, and universal. Children are normally in school until the age of 17. The law allows children between the ages of 14 and 15 to work with the consent of their parents and limits the workweek of children between the ages of 14 and 16 to 24 hours per week. Children at the age of 15 may work if the workplace's labor union does not object. There is no explicit restriction on the kinds of labor that 15-year-old children may perform with union consent. The Labor and Social Security Ministry has primary enforcement responsibility for child labor laws. With high adult unemployment, there have been few, if any, complaints of abuses of child labor laws. The Government does not specifically prohibit forced and bonded labor by children, but such practices are not known to occur (see Section 6.c.).

e. Acceptable Conditions of Work

The Government sets the nationwide administrative minimum wage by decree. It is \$3.00 (12,500 manat) per month. The wage is not sufficient to provide a decent standard of living for a worker and family. The recommended monthly wage level to meet basic subsistence needs was estimated to be \$80 (310,000 manat). Since most persons who work earn more than the minimum wage, enforcing its low level is not a major issue in labor or political debate.

The disruption of economic links with the rest of the former Soviet Union continues to affect employment in many industries. Idle factory workers typically receive less than half of their former wage. Under these conditions, many workers rely on the safety net of the extended family. More workers and unemployed persons turn to second jobs and makeshift employment in the informal sector, such as operating the family car as a taxi, selling produce from private gardens, or

operating small roadside shops. Combinations of these and other strategies are the only way for broad sectors of the urban population to reach a subsistence income level.

The legal workweek is 40 hours. There is a 1-hour lunch break per day and shorter breaks in the morning and afternoon. The Government attempts to enforce this law in the private sector of registered private businesses, but does not enforce these rules in the informal sector where the majority of citizens make their living.

Health and safety standards exist, but they usually are ignored in the workplace. Workers cannot leave dangerous work conditions without fear of losing their jobs.

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