

# **Alternative report On the Implementation of the International Covenant on Economic, Social and Cultural Rights by Azerbaijan Republic**

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**This report was prepared by the Human Rights Center of Azerbaijan (AHRC) jointly with the  
International Federation for Human Rights (FIDH)**

## Introduction

The Alternative Report on Economic, Social and Cultural Rights, submitted to the UN Committee, is prepared by the Human Rights Center of Azerbaijan (HRCA) jointly with the International Federation of Human Rights (FIDH), to which HRCA is affiliated.

The report contains article-by-article information on the fulfilment of the obligations of Azerbaijan Republic within the framework of the International Covenant on Economic, Social and Cultural Rights for the period of 1997 up to October 2004. It covers both positive and negative aspects of the social-economic situation of Azerbaijan Republic from the standpoint of non-governmental sector and protection of citizens.

We considered it necessary to suggest a number of recommendations to Azerbaijan Republic, as well as to international organisations, primarily to the UN, with the purpose to improve the general situation. During the preparation of this report were used commonly available materials and private sources of information; as well as data on the human dimension gathered by the United Nations Development program (UNDP).

It makes sense to note that during the preparation process of this alternative report, the authors contacted the head of the State Group on preparation of the official report with the request to get familiar with the text of the official document, submitted to the Committee review. However, the request was ignored.<sup>1</sup>

The additional information is available at the AHRC and at the FIDH.

## Main changes for the period FOLLOWING submission of the preliminary report

After the submission of the preliminary report by Azerbaijan Republic in November of 1997, a number of significant changes took place which had a positive impact on the situation of economic, social and cultural rights.

In particular, the legislation was renewed and improved. The special strong impulse for this was the accession of Azerbaijan to the Council of Europe in January 2001, which was conditioned to the ratification of a number of European Conventions and national laws by the country. However, at the date of the report submission, some of the obligations of Azerbaijan toward the Council of Europe haven't been fulfilled yet. Thus, the European Social Charter hasn't been ratified in the previous terms.

In 2001-2002, the Azerbaijan Government made individual applications to CAT, CERD and CEDAW possible. In January 2004 the citizens were given access to the Constitutional Court, which received over 1,700 individual complaints for the first half of the year. Elected bodies were renewed on the following years: in 1999 municipal elections took place (the next municipal elections will be held in December 2004); parliamentary elections in 2000 ; presidential elections in 1998 and 2003. On the latest election the leader of the country was changed for the first time in 10 years.

Along with that, during the reporting period, no significant improvement in the fight against corruption was observed. Corruption is recognised by the society and international organisations as one of the major obstacles to solving social-economic problems in the country. Besides, a number of important recommendations made by the Committee in the conclusions following the review of the preliminary governmental report<sup>2</sup> have not been fulfilled.

Now as before there is still no progress on the settlement of Nagorno-Karabakh conflict that makes a negative impact on the situation of human rights within this region and throughout the whole country.

## Information on articles of THE convention

### Article. 1. Self-determination

1.As a non-national State, Azerbaijan Republic (AR) turned to be the arena of ethnic separatism even before the collapse of the USSR. In 1988, the authorities of the Nagorno-Karabakh Autonomous Oblast (NKAO) with a dominating Armenian population decided to separate from Azerbaijan and to join Armenia. Finally in September 1991, the Armenians of Nagorno-Karabakh made secession and self established the "Nagorno-Karabakh Republic". That caused an armed conflict with further occupation of over 16% of the territory of Azerbaijan<sup>3</sup>. Since May 1994, a cease-fire is being maintained on the front line, with sporadic shootings and the future status of Nagorno-Karabakh is a focus of negotiations under umbrella of OSCE Minsk Group.

2.In June 1993, the group of Talish nationalists, with the support of one of the military units, declared the creation of the Talish-Mugan Autonomous Republic (TMAR) in a number of southern regions of AR. The attempt ended up in August 1993 due to the liquidation of TMAR and arrest of its active supporters.

3.In 1992-1994 the movement "Sadval" was active in the northern parts of the country. The movement supported the creation of "Lezgistan" - the State of ethnic Lezgis on the territory of Russia and Azerbaijan. In 1994-1996 the active adherents of the movement were arrested and condemned.

4. In 2001 the group of Avar nationalists made armed attacks on policemen in Zagatala and Balaken regions. The majority of members of the group were arrested and condemned to a further prison term of 3 years.

5.In all these cases the slogans in favour of national self-determination were followed by aggressive actions by central governmental authorities and human casualties.

### The Situation of Nagorno-Karabakh conflict

6.For the period since the submission of the previous report to the Committee, there haven't been significant changes in the settlement of Nagorno-Karabakh conflict. As before, the armed forces of Armenia and self-declared "Nagorno-Karabakh Republic" occupy the territory of 17,100 square km of the territory of Azerbaijan, out of which 142,994 families or 570,459 people (taking into account the natural birth rate since 1992-1993) were driven out. About 180,000 ethnic Azeris cannot return to Armenia and about 300,000 ethnic Armenians have to live outside the borders of Azerbaijan, their former home land.

7.According to official data, the republic lost about 20,000 people during the Karabakh war; about 100,000 people were wounded.

8.International Committee of Red Cross (ICRC) continues searching the missing people. Currently the list of missing people counts 3,000 people, 2,577 of which are Azeris; 413 are Armenians<sup>4</sup>. The data of the State Committee on the captives, missing and hostages state that 4,812 citizens of AR

are in the list of missing people during the Karabakh conflict. Among them : 314 are women; 253 elderly people, 61 citizens of minor age (at the moment of missing).

9.The National Agency for Mine Clearance - ANAMA, informed that the cleared territory of Azerbaijan amounts to 12,467,649 square meters; and the number of discovered and neutralised landmines and UXO-s amounts to 6,221. Since early 2004, due to the mine explosions there have been 11 death casualties and 17 wounded people<sup>5</sup>.

10. It is necessary to note that Nagorno-Karabakh conflict continues to be the ground for asylum seekers in the Western Europe: for ethnic Armenians from Azerbaijan and for ethnic Azeris from Armenia. Along with that, criminal groups making fake documents for Azeris, renaming them as Armenians are periodically discovered. For example, in May 2004 in Azerbaijan was disclosed a group preparing a whole pack of "Armenian" documents for Azeris for a fee of 5,000 USD<sup>6</sup>.

### Peaceful settlement of the conflict

11.At the accession of Azerbaijan to the Council of Europe, it was notified: «The Parliamentary Assembly considers that the accession of both Azerbaijan and Armenia could help to establish the climate of trust needed for a solution to the Nagorno-Karabakh conflict. The Assembly considers that the OSCE Minsk Group is the optimum framework for negotiating a peaceful settlement to this conflict. The Assembly takes note of the letter from the President of Azerbaijan reiterating his country's commitment to a peaceful settlement of the Nagorno-Karabakh conflict and stressing that Azerbaijan's accession to the Council of Europe would be a major contribution to the negotiations process and stability in the region... The Assembly calls on the Azerbaijan and Armenian authorities to continue their dialogue with a view to achieving a peaceful settlement of the Nagorno-Karabakh conflict and giving new impetus to regional co-operation»<sup>7</sup>.

12. Thus, following the UN in 1996, the Council of Europe in 2000 recognised the leading role of OSCE Minsk Group in the settlement of Nagorno-Karabakh conflict. However, the co-chairmen of the Group are Russia, having military basis and agreement on the territory of Armenia; the USA, involved in the oil contracts in Azerbaijan; France, which, according to the common opinion in Azerbaijan, is in favour of the Armenian position. Such a selection of mediators violates the fundamental principles of conflict settlement and therefore, the OSCE Minsk Group has not made any progress in recent years.

13. As to concrete obligations of Azerbaijan toward the Council of Europe in the area of settlement of Nagorno-Karabakh conflict, their core was:

- a) to continue efforts to settle the conflict by peaceful means only;
- b) to settle international and domestic disputes by peaceful means and according to the principles of international law (an obligation incumbent on all Council of Europe member States), resolutely rejecting any threatened use of force against its neighbours.

14. At the same time, it is obvious that the authority underestimates the role of civil society in the peaceful settlement of the conflict. During recent years, there have been frequent statements by high- ranked officials concerning military settlements of the conflict as well as accusations and threats to the address of representatives of civil society, who entertain contacts with Armenians. It stimulates campaigns in pro-governmental mass media outlets and initiates hooligan acts against peacemakers on the side of pro-governmental groups with the support of the police.

15.For example, in April 2003 the office of HRCA was exposed to pogroms for 3 days with participation of activists from the ruling party. The office of the Institute of Peace and Democracy was targeted as well. It caused the negative reaction of the UN special Rapporteur on Human Rights Defenders and of the UN Committee on Torture<sup>8</sup>. Police investigation on pogroms started due to international pressure, but later was shut up "on the basis of lack of witnesses". On June 10, 2004, the Azerbaijani co-ordinator of the International Working Group on Search for the Missing People, Captives and Hostages - Avaz Hasanov was exposed to abuses and threats of death by unknown people, because of his trips to Karabakh and Armenia.<sup>9</sup>

16. On June 22 2004 these pogrom-makers interrupted the official meeting of NATO program "Partnership for the Sake of Peace" because of the participation of Armenian officers there. The pogrom-makers were sued and condemned to criminal penalty, but were released later.

#### Impact of the conflict on the situation with national minorities

17. On the meeting held on July 13th, 2004, the Committee of Ministers of the Council of Europe noted that "the Nagorno-Karabakh conflict and its consequences have considerably hampered efforts to implement the Framework Convention [on Protection of National Minorities]. Despite the general spirit of tolerance in Azerbaijan, the continued occupation of large parts of Azerbaijani territory and the displacement of a high number of people have caused tensions which have resulted in disconcerting manifestations of intolerance. It is to be hoped that a lasting and peaceful solution to the existing conflict will be found and that efforts to that effect will be accelerated. The eventual settlement should provide protection of the rights of all persons concerned, in conformity with the territorial integrity of the country and other principles of international law"<sup>10</sup>. Azerbaijan undertook to comply with obligations that are still not fulfilled - «to adopt, within three years of its accession, a law on minorities which completes the provisions on non-discrimination contained in the constitution and the penal code and replaces the presidential decree on national minorities».

18. First of all, the concern of the Council of Europe is to deal with the situation of the rest of the Armenian population (outside Nagorno-Karabakh region). According to the census of 1999, there were 657 people of Armenian nationality officially registered in Azerbaijan. Nevertheless, according to the chairman of the State Statistical Committee - Arif Veliyev, there are approximately 20,000 Armenians in Azerbaijan in reality. However, in accordance with UN recommendations, during the census people were not requested to provide documents identifying their nationality<sup>11</sup>. It means that 96,7% of Armenians preferred hiding their origins even during the formal survey fearing to draw attention on them.

19. The issue of the Nagorno-Karabakh conflict was raised again, when a discussion about the issue of old Christian graveyard in Narimanov district of Baku City, where mainly ethnic Armenians are buried, started. Due to the plans of Baku City Administration to set a new street on this part of the territory on which the graveyard is located, it was declared that remains had to be re-buried by 1 April 2003. The majority of relatives of the deceased, currently living in Armenia, Israel or Russia, were not duly notified. Besides, because of the conflict, the Armenians cannot enter at all in the country for re-burial of relatives. Due to broad discussions, the deadline for re-burial was postponed, but the problem was not solved anyway.

20. It should be noted that Armenian graveyards are kept in a number of towns and regions of Azerbaijan, but, reportedly, not in the Nakhichevan province<sup>12</sup>. At the same time, the destiny of Azerbaijan graveyards on the occupied territories and in Armenia itself causes concerns because the majority of them haven't been visited by the relatives since 1988-1993.

#### Article 2. State Parties obligations

##### Discrimination based on political affiliation

21. Dismissals based on political affiliation are widely spread in Azerbaijan, particularly at the time of pre-election campaigns.

22. For example, during and after presidential elections of 15 October 2003, 114 members from the opposition party Musavat were dismissed in 30 towns and regions of Azerbaijan. Among them, some belong to dominating groups - teachers (74), professors (3), deans (3), engineers in mechanics

(13), doctors (6), employees in communication (7), people working for town authorities(2); others are employed in culture, law, communal administrations, power engineering, accountability and business. By the end of March 2004, only 26 people were rehabilitated into their jobs. 11 dismissed Musavat members appealed to the court to restore their rights. Applications made by 2 Musavat members were not considered at all and complaints by 8 Musavat activists were rejected. Only 1 complaint obtained a favourable ruling but the executive bodies refused to implement the court decision. Though, these people were mainly dismissed after presidential elections, decrees of dismissals were dated as if they had been made earlier. A few of the rehabilitated were given lower positions and working hours for the teachers were reduced. The Committee against Falsified Elections and Repression says that the total number of those dismissed for political motives is 150 people.<sup>13</sup>

23. After the creation of the Committee for the Protection of Oilmen's Rights in 1996, the co-chairwoman Mirvari Gahramanly, who is also a member of the Management Board of the opposition Azerbaijan Democratic Party, was pressured at her work place in State Oil Company. On March 2002 she was fired. Her daughter, working in the same company, was dismissed too.

24. Only a few decrees on dismissals contained open reference to political motives. Usually these political motives are curtailed behind alleged work inconsistency (Article 70 of the Labour Code).

### Discrimination based on religion

25. In June 2001 the State Committee on Work with Religious Structures was created. Later in October 2001 the Committee initiated the re-registration process of religious establishments. According to data from the chairman of the State Committee Rafiq Aliyev there were 2,000 religious organisations. 410 of them (20%) were officially registered. Though, the re-registration process was supposed to take 6-7 months, by the end of 2003 only 199 organisations were re-registered, i.e. less than half of the initial number.<sup>14</sup> By early October 2004 only 290 religious communities completed State registration, 27 of them were non-Muslim. Among 2,000 religious establishments there are 1,300 mosques, over 500 holy worship places of Muslims, over 40 churches, synagogues and prayer houses.<sup>15</sup>

26. Thus, the number of registered communities has not increased during the re-registration process. Moreover, 120 previously registered religious communities (29%) lost the official status. Those communities, which were in the re-registration process (e.g. Baptists), faced problems while conducting religious ceremonies, because police forces dispersed assemblies, considering them as illegal ones.

27. A significant reason why many Muslim communities avoid registration is their obedience to the Administration of Caucasian Muslims (ACM), as the preliminary condition for registration by the Ministry of Justice. Thus, for example, the community of "Juma Mosque" in Icheri Sheher (Baku City) had been functioning for 10 years without registration, until 2004 when ACM drove the believers out from the mosque with the help of police. This event caused wide resonance and is not isolated. It should be noted that Azerbaijan's laws do not provide for an administrative body, similar to ACM, for Christians and Jews.

28. Besides, the discriminative terms of the laws "On religious freedom", "On legal status of foreigners and stateless" and the Code on Administrative Transgression, prohibiting the religious activity of foreigners, are still acting. On this sole ground in 2003, 30 foreigners were deported and on 24 September 2003 a warning was issued to the attention of the head of the Roman-Catholic community Daniel Pravda<sup>16</sup>. However, religious activities of foreigners from so-called "traditional" confessions, e.g. Orthodox or Judaism does not cause the aversion of authorities.

29. For several years, the Department on Passport Registration of the Ministry of Internal Affairs of AR started giving civil foreign passports based on a new model. But female Muslims (believers) faced the problems of prohibition of the photos taken with hijab (Muslim headscarf, which leaves the face visible). The fact, that these women cannot be photographed with uncovered head and submit these photos for receiving the documents, is ignored. At the same time, the lack of passport

makes travels and pilgrimages abroad impossible. A group of such women appealed to the court in 2002 but lost their cases<sup>17</sup>. Girls wearing Muslim headscarves happened to face problems in schools.

30.Despite an obligation to create alternative service and adopt relevant amendments in the Constitution adopted by Referendum in August 2002, Azerbaijan hasn't adopted the law "On alternative service" and hasn't created the service either. The Regulation "On the order of performing alternative service (labour duty)" taken in 1992, is almost not enforced. It creates problems for those refusing to perform military service on the grounds of their opinions. Thus, in 2002 2 criminal cases were brought against the members of the community "Jehovah Witnesses", dissolved after the Referendum. In 2004, the court considered a civil suit against another member of "Jehovah Witnesses" - Mahir Bagirov, who was forced to perform the military service.<sup>18</sup>

31.It should be noted that the current legislation doesn't provide the possibility to object to performance of the military service on the basis of atheistic or pacific opinions. Only members of religious communities, like priests and students of higher religious schools, can object to military service.

32.The center for the protection of liberty of conscience and Religion (DEVAMM), as well as the Azerbaijan branch of the International Religious Liberty Association (IRLA) cannot obtain registration since 2002.

### Language policy

33.In 2000, before accession to the Council of Europe as a full member, Azerbaijan ratified the Framework Convention for the Protection of National Minorities. On June 4 2002, a governmental report was submitted to the Convention. On May 22 2003 the opinion of the Advisory Committee of the Convention was delivered to the country's authority.

34.At the same time, Azerbaijan failed to implement another obligation imposed by the Council of Europe in that area, which is "to sign and ratify, within one year of its accession, the European Charter for Regional or Minority Languages"<sup>19</sup>. The Charter provides that regional and minority languages are languages which are «traditionally used within a given territory of a State by nationals of that State who form a group numerically smaller than the rest of the State's population; and different from the official language(s) of that State». In this context, the authority of Azerbaijan would also have the obligation to determine the special status of Russian language as regional, which is used more broadly than any other regional non-state languages; though unofficially it is actively forced out and considered as a foreign language.

35.In April 2002 the Parliament adopted an amendment to the Criminal Code according to which a new article 315-1 on the "creation of obstacles in using State language" was added. Cases of explicit and implicit propaganda against State language, resistance to its use and development are punished by a fine of 20-40 conventional financial units for ordinary people; 50-90 units for State officials; 150 - 300 units for legal people. Though this provision hasn't been applied yet, the uncertainty of definitions creates grounds for misuse and arbitrary conduct.

36.On September 30 2002 a law "On usage and protection of Azeri language".was adopted According to the law, the volume of TV and radio programs using non-State languages cannot exceed 1/6 of total on-air broadcasting. It provides for the impossibility to create even private local TV & radio stations broadcasting in minority languages. At the same time, the broadcast of foreign TV & radio stations in English, French and Russian languages is made without any obstacle.

37.Latest events in language policy caused concern among the Committee of Ministers, during the assembly held on 13 June 2004. The Committee reviewed and adopted the Resolution on fulfilment of Framework Convention for Protection of National Minorities"<sup>20</sup> by Azerbaijan. It says:

38."Despite certain positive legislative initiatives, there are a number of shortcomings in the legislation pertaining to the implementation of the Framework Convention. The 2002 Law on the State Language contains regrettable reductions in the legal guarantees relating to the protection of national minorities. These put at risk, for example, certain commendable practices in the field of

electronic media. The process of amending the said law should be pursued further with a view to making it compatible with the Framework Convention.

39. There is a need to couple the Law on State Language with improved legal guarantees for the protection of national minorities in such fields as minority language education and use of minority languages in relation to administrative authorities, with a view to consolidating and expanding the positive practices that exist. Priority should be given to the adoption of a new law on the protection of national minorities, providing the necessary guarantees for the implementation of relevant minority language standards".

40. It makes sense to notice that not enough attention has been paid to the teaching the Azeri language to the Russian-speaking adult population. As a result, since 1991 following the independence, thousands of employees from governmental enterprises have been discriminated against for bad knowledge of State (Azeri) language. Even 13 years later there are numerous references to the absence of State programs for Azeri language education. For example, the topic was discussed during the meeting of the delegates of the Second Assembly of Russian Community of Azerbaijan with the president of the country I. Aliyev. The weakness of the technical base of State language education was emphasised, "particularly, there are no dictionaries, manuals for self-tuition and audio- & video-records".<sup>21</sup>

### Article 3. Equality between men and women

41. The women of Azerbaijan have the right to vote since 1907 and the right to be elected to Parliament since 1918. In November 2000, parliamentary elections took place. Only 13 seats among 124 were won by women; that makes 10.5% less compared to in the 1995 elections (15 women). 16 candidates took part in additional elections for 3 seats to the Parliament (Milli Mejlis), which took place on the 19 October 2004. Among them, there was only one woman - a member of the ruling party "Yeni Azerbaijan", the deputy chief of the regional executive authority, who was elected to the Parliament.

42. Best of all, women are represented in the delegation of Azerbaijan in the Parliamentary Assembly of the Council of Europe (PACE) - 2 women out of 6 deputies.

43. There is only one woman (2.6%) out of 38 ministers and heads of State committees, who kept the position of chairwoman of the State Committee on Women's Issues. Generally, women constitute only 9% of the bodies' staffs of executive authority.

44. According to UNDP report (1998-2001) women's share in labour force increased from 48.7 to 50.3%. For the same period, women's wages constituted 70% of men wages. In some branches of the economy, the situation was even worse. Thus, in 2000, in the health care and social service arenas, women wages represented 54% of men wages; and 56% in the oil-gas production industry.

45. Moreover, according to official statistics the number of unemployed women compared to that of men is higher - 52.9%. It means that women are dismissed more frequently. Officially, young women with nice appearance are preferred for job placement in private sector, that is obvious discrimination of women above 30 years old.

46. The literacy level is dropping among women, too. Thus, less and less females graduate ifor the full high school curriculum. In 1998 t55.4% were female alumni, but in 2001 only 49.1%. In 1995 the balance of girls and boys among the schoolchildren was close to the natural one - 50,.% versus 49.2%, but in 2000 the girls constituted only 48.5%. In 1995 among students in State universities girls represented 44.8%; in 2000, the ratio was reduced to 42.2%. In private universities in 1995, girls represented 35.6%, but in 2000 they grew to 39.6%. Women with PhDs constitute 30.8% of the total (2,572 out of 8,356), but female doctors in science represent only 11.2% (152 from 1,510) of the related student population.

47. Certainly higher education for women is not stimulated. On the one hand, it is dictated by the Eastern stereotype of women as housewives; at best, young female secretary or nice saleswoman. On the other hand, the reality of labour market and experience show that women have much less



chance to make a successful career, e.g. to be ministers, deputies, senior managers in enterprises, etc.

48. In January-June 2004 women share in the criminals population was 13.9%. At the same time women are often provided alternative methods of punishment. There is only one prison for women in Azerbaijan, where the number of prisoners varies between 250 and 300 women. It makes less than 2% of the prison contingent and under 75 criminals per 100,000 women; while the index for men is 450 per 100,000.

49. Although prostitution isn't considered officially as a crime, since 2000 it has been considered as an administrative offence, which is punished with a fine of about \$ 65. Besides, women, caught in prostitution, are forced to undertake medical examination and treatment of social diseases in the hospital in Ramany village. Factually, they get deprived of freedom for several weeks.

50. In 1998, the President Decree of Azerbaijan Republic "On the strengthening of women's role in public life of Azerbaijan Republic" was adopted. In the same year was established the State Committee of Women's Problems.

51. In 1999, the project on National Plan of Actions on Improving Women's Situation for 2000-2005 was submitted and adopted by the government of AR.

52. On March 6, 2000 was adopted the President Decree "On realisation of women's politics in AR", which provides for equal representation of women and men at administration levels in all State structures of AR.

#### Article 6.: The right to work

53. By early July 2004, the registered number of active population was 3,807,100 people or 46.6% of the whole population. According to official data, 98.55% (3,751,800 people) of the able population are employed in different sectors of the economy. Only 1.45% or 55,300 people have an unemployment status. For this period, a job offer received 6 applications. Among officially unemployed, 52.9% are women. In June the amount of unemployed allowance was fixed to 127,200 manats (\$ 26), that is 27.6% of the average monthly salary of hired workers<sup>22</sup>.

54. Official statements (98% of employment rate) compared to the background of economy stagnation and mass labor migration raise serious questions about the reliability of official statistics, particularly of latent unemployment. In many cases the employees, who are on unpaid vacations for years, continue to be regarded as "employed" in Azerbaijan, but in reality they are engaged in trading in Russia.

55. In November 2003 the president of Azerbaijan issued the Decree "On Measures on fastening of social-economic development in Azerbaijan". The cabinet of Ministers was in charge of studying the state of implementation of the State programs in various spheres of the economy. They are about in particular: the development of small and medium enterprise in Azerbaijan Republic in 2002-2005; the reduction of poverty and economic development in Azerbaijan Republic in 2003-2005; the application of the European Social Charter norms; the tourism development in Azerbaijan Republic in 2002-2005; economically sustainable social-economic development in Azerbaijan Republic and other programs taken in the last few years; as well as to secure timely and full implementation of measures within these programs. The state program on social-economic development of regions for 2004-2008 is at the stage of approval.

56. The same Decree provided for a policy to create 600,000 new work positions on 5 years. The results for the first year are not good. The official statistics show that during 10 months of Ilham Aliyev presidency 75,845 work positions places were created 1/3 (25,479) of them being temporary jobs. 10.9% of new positions have been created in governmental sector<sup>23</sup>.

57. Black market is still very important. The chairman of the State Statistical Committee Arif Veliyev evaluated it at 20% of GDP, but admitted that it is "difficult" to estimate the real volume of the black market<sup>24</sup>.

#### Economical migration and trafficking

58. Economical stagnation in the country caused economic migration from Azerbaijan to other countries of CIS. Though there are 622,000 Azeris officially registered in Russia, according to All-Russian Azerbaijan Congress (ARAC), over 1.5 million of Azeris-immigrants live there, part of which live in the condition of temporary registration; another part - illegally<sup>25</sup>. There are plenty of evidence on the discrimination of these immigrants by the authority of Russia. A number of cases of increased racism and xenophobia towards the immigrants from Caucasus following the Chechnya war and terrorism acts - is growing.

59. Up to now, a law on Trafficking in the country hasn't been adopted. According to the director of Azerbaijan Branch of the International Organisation on Migration, Joost van der Aalst, the 12 applicable laws regulating the migration process don't complement but contradict one another: "there is a problem of trafficking in Azerbaijan. The history of your country is used not only as "caravan" to transport people as trafficking". Facts prove the export of Azeri themselves abroad. Moreover, Azerbaijan is a market for trafficking"<sup>26</sup>.

60. The report by the US State Department in 2004 on the world situation of trafficking says that Azerbaijan remains the country, from which and through which people are exported for sexual exploitation and slavery. Particularly, women and girls from Azerbaijan were exported for that purpose to United Arab Emirates, Turkey and Pakistan. Besides, girls, women and orphans from regions of Azerbaijan are transferred to the capital, where there are exposed to sexual harassment, too. The government of Azerbaijan doesn't fulfil the standards for prevention of trafficking, but makes some efforts. There are no proper statistical recording of similar crimes in the country and the law enforcement bodies are not active enough to investigate such crimes. The official sources provide information for only 23 arrests for these kinds of crimes, 20 of which ended up with relevant punishment. The country's authorities do not take any measures to protect the victims from trafficking and do not provide them with necessary information<sup>27</sup>.

61. According to the report of International Organisation on Migration (IOM) on transit migration through the territory of Azerbaijan, the majority of cases of transit migrants are inhabitants of the Middle East, South Africa and CIS countries - women and men above the age of 16. All of them express the desire to move to USA, Canada, France, Germany, Austria, Italy, Norway and Sweden. The majority of migrants explain their choice of Azerbaijan by geographical position of the country, language and cultural points, safe situation in the country, presence of relatives and loyalty of authorities. The majority of illegal people use false documents, approximately 30% of migrants arrive to Azerbaijan in illegal way. In 2002, the frontier guards detained 348 foreign citizens from Asia and Africa, attempting to cross the border of Azerbaijan with false documents. For 6 months during 2003 there detained 61 foreigners<sup>28</sup>.

62. On May 6<sup>th</sup> 2004 the President signed the Decree for the adoption of the National Plan of Action on the struggle against trafficking in Azerbaijan. The Ministry of Internal Affairs is designated to implement necessary measures, along with organs from the executive authority<sup>29</sup>.

## Unemployment and crime

63. Out of 8,358 established criminals between January and July 2004 - 85.2% were major, but none of them were working nor were educated; 9.9% were recidivists; only 3.7% were employed.

64. At the time of the USSR, the majority of criminal institutions used to have industrial enterprises. Although, even today, socially useful works are considered as one of the main ways to re-habilitate and educate condemned criminals; in reality, the industrial production in the criminal institution system has been rolled up since the independence. The experts of UN and the Council of Europe repeatedly pointed out the absence of any intelligent activity in the majority of prisons of Azerbaijan.

## Article 7. The right to fair and favourable labour conditions

65. At present, payment for almost all categories of employees cannot be called fair. Thus, since August 2004, the minimum wage in the governmental sector has been 100,000 manats (\$20) per month, but from January 2005, it will grow up to 125,000 manats (\$25,5). The average salary in general is 445,800 manats (\$91), while the food basket per person, calculated by trade unions, is about 247,900 manats (\$50) in June 2004; The average living minimum was 361,600 manats (\$73), 437,600 (\$89) for an employee, and 656,400 manats (\$134) for an employee having one or more dependent family member<sup>30</sup>.

66. In such labour spheres, as public healthcare and education, the average salary is significantly less than the average index through the country (36.8% and 81.2% accordingly)<sup>31</sup>. It is not surprising that in these areas the corruption is widespread.

67. Besides, we note discrimination of the local personnel in comparison with non nationals. In 2000 the average salary of foreign employees in Azerbaijan was 3.38 millions manats (about \$ 760), or 17 times as high as the salary of domestic employees (204,000 manats = \$ 45). In 2001 these indices were 12,196 million and 253,200 manats (\$ 2,605 and \$55,5) and the wages gap increased 46 times. Further publication of the information on foreigners' wages was impeded, but human rights organisations state that for a similar position for a similar work, immigrants from third countries get salaries that are 10 times higher than salaries of locals<sup>32</sup>.

## Article 8. Trade unions rights

68. Today the trade unions of Azerbaijan have lost their function of protectors of employees' social-economic interests.

69. "Red" trade unions, created by the communists as a tool of political influence of the ruling party on hired employees, have ceased to exist almost everywhere since 1992 after the creation of "free" trade unions. In the oil industry, which is leading in the country, there are 2 types of trade unions: so-called "yellow" (former "red" ones) and "free" ones. Since the end of 1996, administrative pressure has been made on "free" trade unions and in May 1997 they were dissolved.

70. Since that time there had not been any alternative to the pro-governmental trade unions. The attempts to create new trade unions, e.g. "Union of Workers of Azerbaijan" face the counter measures by the Ministry of Justice, which refuse to register them. Same problems exist with the registration of non-governmental organisations, which are engaged in the protection of social and economic rights of citizens. Thus, for example, the Committee for Oilmen's Rights Protection was denied registration for the 5th time during the period of 1996-2004.

71. At present, the employee is automatically enrolled in trade unions in governmental sector. Similarly, membership fees are automatically subtracted from salaries. As a matter of fact, trade unions include both hired employees and employers (administration). In the oil industry seniors of administration head the committees of trade unions.

72. The change in labour legislation led to the situation where the preliminary approvals of the trade unions are not necessary to dismiss hired employees. Labour disagreements are solved via courts but even in those cases, trade unions do not stand for the employees. On the contrary, often following order by the administration, the committees of trade unions submit negative information concerning plaintiffs to the courts.

73. In foreign companies, the employees are not allowed to create trade unions at all, and if the company is created jointly with the Azerbaijani oil industry enterprise, the existing trade union is abolished.

74. The former immovable property of trade unions, such as sanatoriums, rest houses were taken away and passed to the joint-stock company "Kurort". However, trade unions continue spreading tickets to these places of rest, but the income goes to another owner<sup>33</sup>.

## Article 9. The right to social security and social insurance

75.The system of social security, existing in Azerbaijan in 1990, was significantly reformed following recommendations of international organisations. As a matter of fact, against the background of dropped salary and pensions rates, all social privileges were liquidated and the pension age was increased to 60 years for women; and 65 for men.

76.According to the law "On elderly", adopted in 2001, people above 70 years old are considered elderly. Currently, there are 1,607 invalids, 82% of them are lonely elderly women<sup>34</sup>.

77.Taking into account that in 2001 the average life expectancy was 71,9, then it means that after getting the elderly status, the citizens of Azerbaijan will live only for 2 years and be on pension for 7 -12 years.

78.In Azerbaijan there are 2 pension homes for invalids, veterans of labour and war, and about 2,000 lonely elderly people live there. The service providing assistance to lonely elderly people and invalids at home counts 1,622 employees and all of them are women. In towns and settlements one employee works with 12 elderly and disabled; in villages the ratio is 1 to 8. The visits are twice a week, depending on the state of the visited person. The employee's duties include clearing, cooking, purchase of food and medicine, accompanying to the doctors, etc.

79.Azerbaijan Association of Invalids on Vision (AAIV), which has about 10,000 members, doesn't receive any subsidies from the government like during the USSR period, since 1992 and exists thanks to non-governmental organisations. In the USSR period, 17% of the output, produced in the light industry of Azerbaijan was due to the enterprises of AAIV, which closed down . The number of visually impaired, engaged in public labour, used to be up to 85%, but now it is a bit more than 0.1%. At that period (1976-1992) in Baku, the schools for teaching to the blind massage skills used to operate, but are closed now, too. The pension and subsidies for visually impaired are \$20-\$25 per month<sup>35</sup>.

#### Article 10. Protection of the family , mothers and children

80.Within the framework of State program of social-economic development of the country the government plans to implement a number of cardinal reforms by the end of 2005, which are targeted primarily at providing assistance to young families, lonely mothers and children. It is supposed to prepare the block of measures aimed at stimulating an increase in birth rates, e.g. the delivery of free infants' nutrition packs to nursing mothers, encouragement of mother with many children, allocation of privileged credits to young families. The government plans to take upon itself the organisation and financing of the summer vacation of schoolchildren in sanitary camps. The government plans to adopt statutes within 18 months, in order to regulate the determination of necessary privileges and guarantee housing provision for poor families that are in need of improving house facilities<sup>36</sup>.

81.Almost everything that was liquidated in 1990 will be restored following the recommendation of international financial institutions under the pretext of "liberalisation" of economical system.

The protection of family

82.Before the independence, "youth" citizens were those between the age of 14-28, but now youth are those between 16 and 35 years old. According to the data of State Statistical Committee, there are 2,880,000 young people in the country<sup>37</sup>.

83. According to data of the chief of the Department on Youth Work in the Ministry of Youth, Sport and Tourism - Natig Jafarov, a tendency of growing number of divorces and dropping number of marriages is observed. In 1991, 74,378 marriages and 10,679 divorces were registered, but 10 years later in 2001 these indices were respectively 41,861 and 5,382 . According to official statistics. For 2003, the number of marriages registered reached 57,100 and the number of divorces 6,500<sup>38</sup>.

84.Thus, against the background of population growth, the number of registered marriages is dropping. At the same time, the number of marriages registered by religious way is raising. These

marriages are not covered by statistics and do not allow a proper protection of women's interest . Cases of bigamy are getting more frequent, too. Having registered the marriage in Azerbaijan, young people tend to leave for CIS countries to earn money, set upon a new family there and slowly lose relations with the family in Azerbaijan. Such conditions are frequent reasons for divorce.

85. Another frequent problem is the division of joint property. Although Article 38 of the Family Code provides for the conclusion of marriage agreements, which avoid marriage registrations, the government does not encourage the conclusion of marriage agreements.

86. Data of the Republican Center of "Family Planning" emphasise the actual problem of sterility in Azerbaijan. The number of families, which cannot have children, is growing year by year and at the moment about 20% of young families have low reproductive capabilities. The reasons for sterility are inflammatory processes, early abortions, wrong use of contraception methods, etc<sup>39</sup>.

87. In parallel to the deteriorating situation of family creation, the birth rate is dropping as well. In 1999, 117,500 children were born in the country, but in 2000 only 116,994, and in 2001 110,356<sup>40</sup>. The Minister of Education - Misir Mardanov says that the number of children, entering schools at the age of 6, is dropping from 4,000 to 5,000<sup>41</sup>. The maternal mortality rate per 100,000 live births dropped from 41.1 in 1998 to 35.1 in 2001. The UNDP reports that only 14-18% of women use modern methods of contraception, while about 50% of women still prefer abortions<sup>42</sup>.

88. It should be noted that the situation of refugees and IDP families is significantly different as far as the demographic average rates . Thus, the UNDP states that in average women constitute 51% of population in Azerbaijan and the family member rate is 4.8 people; but among refugees these figures are 53.1% and 3.9 people accordingly<sup>43</sup>. The situation seems more critical if taking into account that these are mainly rural people, which traditionally used to be with many children, in comparison to urban families. It is mainly due to male losses during the armed conflict and the general social-economic situation.

## Protection of children

89. Foreign experts note the high rate of infant mortality (under the age of 1) in Azerbaijan. About 82,07 death casualties per 1,000 live-birth infants is reported <sup>44</sup>. The chief paediatrician of the Ministry of Health - Nasib Guliyev voiced the figure of 13.5 death casualties per 1,000 live-birth infants in 2002, which was calculated on the basis of data, submitted by medical institutions<sup>45</sup>.

90. The reasons of such situation are: large number of women-refugees, high level of poverty, corruption in public health institutions, which are formally free of charge. Thus, according to the law "On health of population", births must take place in State hospitals free of charge, but in reality it costs 50-100\$ in villages and 300-500\$ in larger towns<sup>46</sup>.

91. The poverty causes a significant number of "refused" children, especially children with physical or mental defects. In 20 boarding schools for mentally and physically retarded children, the number of permanent boarders is 2,906 children. 2 boarding schools are under the jurisdiction of the Ministry of Labour and Social Protection (366 people)<sup>47</sup> and among this group 60% of children have one or two parents, the rest, means 40%, are orphans<sup>48</sup>.

92. Along with the problems of refusal of children, there is that of illegal adoption of children by foreigners and their export to abroad. In this regard in 30 March 2004 the parliament ratified the convention "On children's protection and co-operation in the area of intergovernmental adoption".

93. In the course of parliamentary debates around the issue, it was stated that since 1998, foreigners had adopted 450 minor citizens from Azerbaijan. The chairwoman of Azerbaijan Children's Association, member of the Parliament - Gular Ahmedova expressed her concern on the lack of information about the destiny of adopted children. In this regard, the press outlets suggested that the children could have been used for transplantation of organs under the pretext of adoption.<sup>49</sup>

94. It was reported that by September 2004, the government of Azerbaijan was supposed to compose the list of countries, which would be refused adoption of Azeri children. She said that the list would include the countries with unfavourable social-economic situation and permanent terrorist threats<sup>50</sup>.

95. For the reporting period, illegal sale of children abroad took place. Thus, in 1997, it was disclosed that a group of doctors bought newborn babies and sold them, at least 30 of them to Israel. On October 2004, started the trial of the case of those 6 doctors of the House of Babies in Baku City. They are accused of violation of the law by facilitating adoption of 185 infants by foreign citizens. 156 of recipient families are Americans. Infants have been passed to the USA, Israel, England, France and Saudi Arabia in 2002-2004. All the accused are women<sup>51</sup>.

96. Thus, it is possible to emphasize the lack of implementation of previous recommendation of the Committee "to set up an efficient control over adoption of children by foreign citizens in order to prevent their sexual and other forms of exploitation"<sup>52</sup>.

97. On 6 May 2004, the president signed the decree approving the National Plan of Action for Struggle against Trafficking in Azerbaijan. The Ministry of Internal Affairs is in charge of performing relevant tasks together with the bodies from the executive authority.

98. In 2001, was adopted the law "On support of the children, deprived of parents and guardianship". One of its clauses authorises those living orphanages to stay there up to the age of 23. Before, at the attainment of majority they were in fact driven out to the street - that was a real tragedy, particularly for females.

## Violence against women

99. In 1998-2004 the State Committee on Women's Issues received 6,629 applications. Their number in 1998 reached 868, 983 in 1999, 1,079 in 2000, 1,219 in 2001, 1,327 in 2002, and 1,155 in 2003. The applications are mainly about domestic violence, financial and housing problems. The chief of the general department of the Committee Solmaz Zeynalova says that the problem of factual break-up of families on the grounds of males' labour migration to other countries of CIS - is very actual<sup>53</sup>.

100. According to the results of the survey on domestic violence, sponsored by UNDP in 1998, 80% of the victims were from poor families, and 40% voiced the poverty as a reason of the phenomenon. For example, among men-refugees only 10% are able to support the families and the level of suicides among them is 2.5 times higher than among women<sup>54</sup>.

101. According to Maya Zazimova - the co-ordinator of the "Helpline" service, which was created in 1997 in Baku within the framework of UNICEF project, main reasons for phone calls include common, interpersonal problems, state of health, family interrelations, sexual problems, unlucky love. There are about 15 calls concerning potential self-murderers per 1,000 phone calls, over 20 drug addicts, and about 150 prostitutes<sup>55</sup>.

102. It should be noted that both domestic and sexual violence are latent problems. Thus, for January-September 2004 period, only 17 cases of rapes were registered in Azerbaijan over an official 8 million population (one rape in two weeks all over Azerbaijan), which is 58% less than for the same period last year.<sup>56</sup> Naturally, the defenders of women's rights approach feel distrust to such official statistics.

## Article 11. The right to an adequate standard of living

103. Since June 2001, "the Program of Poverty Reduction and Provision of Economical Growth in Azerbaijan" (PRGF) has been performed within the framework of the International Monetary Fund allocated Azerbaijan 41,84 millions Euros (about 62 millions US\$). In total, this 3-year program that was extended to one more year, provides for the allocation of 80.45 million Euros to Azerbaijan (about \$119 million). Credit is given for 10 years at 0.5% annual interest with a privileged period of 5,5 years. Since 1992 Azerbaijan has received from the IMF credits an amount of 400 millions US\$.

104. In the meantime adopted measures don't bring any noticeable results. In that respect, the Confederation of Trade Unions of Azerbaijan says that the cost of food basket per person was 247,900 manats in June 2004 and has increased by 8.6 % in one year. At the same time, the costs of living per employed person was 437,600 manats, and 656,400 manats for the employed with a minimum of one dependent person. Both latter indices increased in comparison with June 2003 of

5.9%<sup>57</sup>. The chairman of the State Statistical Committee (SSC) Arif Veliyev says that at present time 66% of income is spent for nutrition<sup>58</sup>.

105. On the information of SSC, the average monthly salary for August 2004 was 464,000 manats (about \$95)<sup>59</sup>. It should be noted that UNDP reported on salaries to be the following: \$14,2 in 1995; \$44 in 1998, \$56 in 2001. The salary constituted 35.7% of the income of an average Azeri family, pensions and other social allowances - 18.3%, sale of agricultural products from private lands - 7.8%, and the rest, means 38.2% of incomes, had other sources.

106. A. Veliyev evaluated that 40% of the population is under poverty level, basing upon threshold of \$15 a month. However, the press and independent experts denied these figures. So, the pilot research of the information agency "Trend" and Independent Center of Social Researches "Prognoz" showed that in the rural region (Barda) the share of very poor (with income under 15\$ per month) constitute 33%; the poor (\$15-\$24) - 31%, relatively poor (\$25-\$46) - 29%, not poor (over \$46) - 7%. In the capital (Baku City) these categories are respectively of 14.4%, 12.5%, 26.6% and 46.5%. It characterises both the level of poverty and the gap of incomes between the urban and rural lives that causes the migration to the city.

107. The dependence on oil (39%) makes the State budget dependent on oil prices over world market. In January 2005 in the oil-gas producing country, it is planned to increase the prices of oil products by 25-50%, and 400% for gas, which has already influenced the market prices.

108. Today, despite of the oil income, the country has an external debt of \$1,582 million or \$186 per inhabitant.

### Corruption, Criminality and Poverty

109. The measures for struggling against poverty are not efficient due to an extremely high level of corruption; That is annually confirmed by the organisation "Transparency International". For example, in 2004 on the "index of corruption perception" Azerbaijan took the 140th place in the list of 146 researched countries. The chairman of the management board of "Transparency International" Peter Eigen noted that the tendency of high corruption is specific to the majority of the countries with significant oil reserves<sup>60</sup>.

110. For example, only one swindler - a famous Czech businessman Victor Kozeny, gained \$182 million during the period of privatisation allegedly for the assistance of State Oil Company of Azerbaijan, expecting the privatisation<sup>61</sup>. The accusations of embezzlement of millions of dollars were forwarded against different State officials, but practically all of them have avoided responsibility.

111. This is why the measures on the struggle against corruption were included into the list of requirements for the accession to the Council of Europe. In December 2003 was adopted the law "On the Struggle against Corruption", which will enter into force in January 2005. At the same time, the country ratified two European anti-corruption conventions (Civil Law Convention on Corruption and Criminal Law Convention on Corruption). In 2005 the Council of Europe will have started monitoring the fulfilment of these conventions. In August 2004 the president approved the State Program on Corruption.

112. It should be noted that the criticism on the activity of these or other ministries is often blocked by the high rank of the minister from the ruling party "Yeni Azerbaijan". Often the reports of responsible officials in public and the announcements of the State programs are held in the form of press conferences not in the cabinet of ministers, but in the headquarters of the party. It turns the ruling party into the adjunct of the State machinery, though not to the extent that used to be during the soviet period.

113. Redistribution of the property in Azerbaijan is accompanied with property crimes from all kinds of persons, be they officials, or common people. Thus, versus the background of general reduction of crimes of violence, as murders and attempted commission (-4%), inflicting heavy physical injuries (-15%), rapes (-58%), the number of crimes impinging at property is growing. According to data of the Ministry of Internal Affairs 123 cases of brigandage for the first 9 months of 2004

(growth of +12%), 126 cases of robbery (+2%), 427 cases of housing burglary (+2%), and 1097 cases of fraud (+17%) have been registered 62.

#### The situation of refugees and internally displaced persons (IDP-s)

114. In the view of the fact of the unsettled conflict with Armenia around Nagorno-Karabakh region of Azerbaijan and the remaining occupation of a significant part of territories by Armenia, as well as other conflicts, there are 789,832 refugees and IDPs (189,166 families). Out of them 219,373 people (46,172 families) are refugees, and 570,459 are IDPs (142,994 families) 63.

115. Among refugees about 50,000 refugees are Meskhetian Turks, deported from Georgia in 1944 and later from Uzbekistan in 1989. In spite of Georgia's obligation of, committed on 27 April 1999 at the accession to the Council of Europe to adopt a law on their rehabilitation and repatriation within the next 10 years, the process hasn't started yet. Only a few hundreds of Meskhetians could return to Georgia by different ways - particularly the youth, who refused Turkish identity and acknowledged themselves as Georgians.

116. Concerning other categories of refugees, the problem of former inhabitants of Chechnya deserves attention. By May 2004 the number of officially registered refugees from Chechnya was 8,204 people. Contrary to other categories of people, seeking asylums, they are almost not given the official status of refugees. For example, in 2003 the number of official refugees was 124 people, and 48 people for the first 5 months of 2004. The rest receive the letters from UNCHR that they are within the sphere of interest of this organisation and that UNCHR request not to deport them from the country until the end of the check up. Some of these people cannot get the official status even after being in the country for 3-4 years.

117. The results are that only 500 families get the monthly humanitarian assistance for an amount of 60-100\$, not more than for 3 months in a year. Converting it to the total number of de facto refugees from Chechnya, it means that every Chechen gets annually about 20\$ for lodging, nutrition and treatment. It makes sense to note that the activity of Arabian charity foundations, helping Chechens in Azerbaijan was stopped after the start of antiterrorism fight in Azerbaijan.

118. Although the majority of Azeri refugees live in towns, occupying public buildings, private apartments, since summer of 1993, dozens of thousands continue to live in tent camps, railroad cars and other kinds of temporary lodging places close to the conflict area (30.5% by 2001, 7.8% of them in tents) 64. Only since 2002, when the international organisations stopped humanitarian assistance for refugees, started the slow process of reduction of existing tent camps, resettling the refugees to community houses.

119. On the 2 of July 2004, was adopted the State Program for improving living standards and increasing the employment rates among refugees and IDPs. The program provides for the resettlement of refugees from tent camps, school building and other places, unsuitable for living to specially built settlements. The program also regulates the order of resettlement of IDPs to the places of original inhabitancy after the liberation of the occupied territories. Besides, the heads of private enterprises, higher and secondary educational institutions are recommended to offer the refugees and IDPs the necessary assistance for the issue of their employment privileges at education fee, etc. As Hasanov reported, the program implementation would allow the provision to the refugees and IDPs of about 20,000 working places 65.

#### The problem of the homeless

120. At the same time, the above-mentioned program included a special clause prohibiting the eviction of IDPs from public buildings, apartments and other places, regardless of the form of property, which they occupied in 1992-1998. It should be noted that in the reporting period the Azeri refugees occupied not only vacant real estates (mainly in Baku), but also apartments of the representatives of the national minorities (Armenians, Russians and Russian-speaking people) and marginal elements (alcoholics, elderly people and so on). The police, public prosecutor office and



the court refused to intervene , referring to the direct prohibition to evict the refugees. There were only a few cases which it came before a court, and then the enforcement of the eviction was delayed until the liberation of Karabakh from occupation. The UNDP reports that at least 9.5% of refugees live in illegally occupied apartments<sup>66</sup>.

121. Along with widely spread illegal apartment business, the occupation of apartments by refugees caused the appearance of about 50,000 homeless people in Baku<sup>67</sup>. Until 2003, this group of citizens was deprived of the right to receive identification cards, because living addresses were needed for passport registration. For that reason they were kept away from the voting process at all levels and could not register marriages and births of their children.

122. According to the data of Russian Community of Azerbaijan (RCA), gathering about 80 000 members, about 600 applications made by Russian-speaking residents were reviewed in the last 2 years, the majority of which contained complaints for illegal occupation of apartments. Although it happened 10-13 years ago, the legal owners could not get back their property before the intervention of RCA and the executive President Administration. Even after that, 38 families could not defend their rights<sup>68</sup>.

123. The practice of occupation of the apartments by the refugees under the protection of authorities is a clear violation of the recommendation of the Committee on the preliminary report of Azerbaijan in 1997, which quoted: "significance of data collection about the practice of forced eviction and the working out legislation on the residents' rights on guaranteed rent of the lodging within the control of observance of rights to sufficient habitation"<sup>69</sup>

124. The Committee on Homeless and Indigent Baku Residents, despite several years of existence has not been registered by the Ministry of Justice, regardless of the decision of the Constitutional court. At present , this group of homeless people appealed to the European Court on Human Rights with a complaint.

## Article 12. The right to the highest level of physical and mental health

125. At the moment of independence, Azerbaijan inherited a well-built system of public health. Last year, its efficiency significantly dropped. It is due both to budget reduction in this area, and widespread corruption. In the public health domain, the average salary represents only 36,8% of the average salary in the country.

126. Indirect indices of corruption in public health are showing sudden decrease of the number of patients in "free" hospitals, while public health has deteriorated, due to poverty's growth. Another index is the enormous network of drugstores, which are used by people for self-treatment at home. The latter phenomenon disfigures the statistics of sickness rate, which then look better.

127. There is a significant gap between the level of public health in the capital (Baku) and provinces. Thus, there are in average 34.1 doctors and 81.3 beds per 10,000 people all over the country, in Baku the figures are 84.4 doctors and 115 beds, but in rural areas figures show 9.3-18.7 doctors and 58.9-98.2 beds.<sup>70</sup>

128. The disclosure of new cases of tuberculosis raised from 37 cases per 100,000 in 1991 to 63.7 in 2000 (from 10.9 to 19.2 cases among the children under 14)<sup>71</sup>. In 2003, tuberculosis was at the level of 48 cases per 100,000 people<sup>72</sup>.

129. According to UNDP, in 2001 the average life expectancy was 71.9 years old. Other sources say that the 2004 index is in average 63.25 years for males - and 67.62 years old for females. At present the number of people above 65 constitute only 7.8% of the population (males 242,253, females 368,279)<sup>73</sup>.

## Drug addiction and AIDS

130. According to official statistics, there are currently about 13,000 drug addicts in (national or official) drug clinics and there are about 5,000 undetermined drug addicts. As it was reported to the information agency "Turan" by the chief expert in narcology of the republic - Araz Aliguliyev, the majority of drug addicts are males, but women constitute about 7-8%. In annual average, the number of registered drug addicts is 1,000, that make about 200 drug addicts per 100,000 people. These figures are considered to be largely underestimated, because they deal with criminal pursuits of drug addicts.<sup>74</sup>

131. By 1 July 2004, 647 HIV infected people were registered in Azerbaijan. Among them 50 cases were registered in 2004 only. According to data received from the Azerbaijan Center on AIDS, out of the total number of infected people 478 are males, 126 are females, 281 people live in Baku, 342 in other regions of Azerbaijan. Regarding their age, 8 of the HIV infected people are new-born babies, 11 15-19 years old, 69 20-24, 141 25-29, 265 30-39, 85 40-49; 11 50-59, 6 60-69 and 2 above 70. 380 HIV infected people are single. In 2004 60 HIV infected people died in Azerbaijan (52 - men and 8 - women), 58 people are on the second stage of sickness<sup>75</sup>. It should be noted, that among the 647 declared HIV infected people, 47,4% were infected through injections, 24,9% through heterosexual, 3 people (0,4%) through homosexual intercourses, 9 people (0,9%) were infected at birth, 1 person (0,1%) - at blood transfusion. Other 166 (25,5%) refused to provide the reason for their sickness, even when securing anonymity of the information<sup>76</sup>.

#### Health protection in prisons

132. There are approximately 17,000 prisoners in the country. At the beginning of October 2004, 861 of them were kept in a specialised unit for tubercular patients and 428 - in central prison hospital that makes 7-8% of the total number. These figures are 7.5 times as high as the corresponding indices of those in liberty. The majority of prisoners undergo medical treatment in medical units of penal institutions.

133. Due to organisation of tubercular unit and increase in expenses for the treatment, the mortality among prisoners in the period of 1997-2004 was reduced 3 times. For example, from January to May 2004 265 tubercular patients among the prisoners<sup>77</sup> were cured. But tuberculosis still remains the dominating disease, causing death casualties among the prisoners. However, it is the foreign specialists of ICRC, who take care of the treatment of tubercular prisoners tubercular patients, so the Ministry of Health does not take care in this program for a few years.

134. In May 2004 according to the decree of the Ministry of Justice, the prison doctors were taken out of the prison system, creating the Medical Administration of the Ministry of Justice. The new civil status of prison doctors has a positive impact on rendering medical aid to the prisoners, for example concerning their timely hospitalisation. Earlier, the non-medical personnel could prevent the transfer of prisoners to the hospital.

135. The conditions of life imprisonment - a new punishment since February 1998 deserve special attention. It is characterised by absolute absence of any intelligent activity: labour, programs of general education, communication with other prisoners. In the conditions of life imprisonment, the possibility of physical exercises (the possibility to use gym, trainers) does not exist. As a result, out of 128 prisoners, whose death penalty was changed to life imprisonment, 30 people died for 6 years<sup>78</sup>.

136. The UN special rapporteur on Torture, Sir Nigel Rodley, who visited the prisons of Azerbaijan in 2000, noted in his report that the Code of Execution of Punishments did not provide for any leisure time or educational measures for prisoners serving a life sentence<sup>79</sup>. In the same vein, the Committee against Torture noted in its recommendations to the second periodical report on Azerbaijan, that "the Committee also recommends [...] Azerbaijan to reconsider the treatment of people serving life imprisonment terms"<sup>80</sup>.

#### Articles 13 and 14 The right to education

137. According to the words of the Ministry of Education of Azerbaijan Misir Mardanov, in 4,500 high schools of the country 1,700,000 children study and 300,000 teachers work. In 47 institutes of higher education, including 15 private institutes, 120,000 students study and 12,000 specialists work, including 800 doctors of sciences and 5,000 PhD-s. Among the students 2,500 are foreigners<sup>81</sup>. At the same time, about 2,000 Azeris study abroad. In 2004, 204 citizens of Azerbaijan entered the universities abroad, and 600 foreigners - the institutes of Azerbaijan. Since 2000, Azerbaijan is a party to the Convention on the Recognition of Qualifications concerning Higher Education in the European Region.

138. At present, in Azerbaijan 20 boarding schools for mental and physically retarded children function, the number of which is 5,535 people. 2,906 of them live in the boarding schools, the rest - with parents, but get special education. 1,496 are engaged in the process of education and upbringing. From the above-mentioned institutions 18 are under the jurisdiction of the Ministry of Education (2,096 schoolchildren), 2 boarding schools - under the jurisdiction of the Ministry of Labour and Social Provision (366 children)<sup>82</sup>.

139. About 850 educational institutions of Azerbaijan were left in the zone of occupation of Azerbaijan. That is why the schools are overloaded, even in the capital. If there were 2-3 sessions of education in 59% of schools, in 2002 this figure was 76%. About 36% of children in 2002 studied in the second and in the third session (in 1990 this figure was 27.4%)<sup>83</sup>. Therefore, according to official statistics 150 new schools were built and 800 schools repaired <sup>84</sup>.

140. In 2004 139,481 children entered the first classes of schools in Azerbaijan. The ministry of education Misir Mardanov called it a "saddening tendency" that the number of 6-years-old children entering school decreased by 4-5 thousands every year<sup>85</sup>.

141. Among the refugees and IDP-s, only 5.2 % can provide the children with school accessories, and 27.7%- cannot make it at all. Among this category of population, 2.9% are absolutely illiterate and about 21.8% of children do not attend the schools at all. 20.6% children did not complete the mandatory secondary education that is twice as much as the average figure all over the country<sup>86</sup>.

142. Taking into account the poverty of the population, free distribution of the text books is spreading. In 2003 all the pupils of the primary classes were provided with text books free of charge, in 2004 the pupils of 1-7 grades were provided with books, in 2005 it is planned to provide 8-11 grades with free textbooks. Furthermore second-hand books are provided. In total 2,864,000 textbooks have been published in 2004 , of which 17 titles are new.

143. As the deputy of the Minister of Foreign Affairs of Russia - Eleanora Mitrofanova informed, 5,5 millions of rubles (about \$180.000) was spent for purchase and delivery of the textbooks on Russian literature for high schools in Azerbaijan out of a total circulation of 150 thousand items<sup>87</sup>.

144. The UNDP reports that the average salary rate in education in 2000 was \$35,8, i.e. 81.2% of the average salary rate of the country for that period<sup>88</sup>. Despite some increase in the average salary , the tendency of low wages in the education sphere remains an issue. The deficit of teachers in rural areas of Azerbaijan amounts to 7,000 people<sup>89</sup>

145. After the beginning of the process of re-registration of religious establishments in 2002, 22 of 26 Medreses were closed (religious schools), certain inconsistency as to rules application in this area were disclosed. Thus, education was not held according to educational programs and teachers were not citizens from Azerbaijan. Some disciplines like the history and geography of Azerbaijan were not taught at all. Besides, certificates for the graduates of these Medreses must be conformant to the certificates issued by the Ministry of Education, so that the graduates may apply for any higher education institute of the country. However, the level of religious education in the country is at a very low level. That is why there are frequent cases of removal of male juveniles transferred from the southern zone to Iran and Saudi Arabia.

146. In the pre-election and post-election period of presidential elections of 15 October 2003, 80 teachers - opposition activists were fired from their work in secondary schools and higher education institutions. There were recorded isolated instances when the children of famous opposition activists were pressured by the schoolteachers. One of such cases happened in the school No 249 of Baku City, when the son of one of the leaders of the opposition party "Musavat" was insulted during

a school meeting and was driven away from the school because of his father. This case became the commonly public and even caused the indignation of officials. The director of the school was dismissed from this position, but 6 months later was rehabilitated to the same position in the school No. 6490.

147. During independence the secondary and professional-technical education in penal institutions was stopped (besides, the educational unit). Distance education is not practised by prisoners either. In one of the cases the refusal to continue distance education in one of the universities opposed to a young life prisoner was the subject of a suit against the prison administration. Though the refusal violated 8 international documents, the court was in favour of the prison administration<sup>91</sup>.

### Teaching in Russian language

148. Today, according to the data of the Ministry of Education, there are 22 schools with Russian-speaking education in Azerbaijan (6,581 pupils) and 356 more schools with education in Russian speaking sectors (110,000 pupils)<sup>92</sup>. In 18 higher education institutions and secondary special educational institutions in Russian language, 2,000 students study. The majority of Azeris send their children to the Russian speaking kindergartens, thinking that the knowledge of Russian language gives the opportunity to enter Russian universities, which still have a high reputation in Azerbaijan.

149. The number of pupils in Russian-speaking schools and sectors exceeds the number of Russian children (about 170,000 Russians live in Azerbaijan), that shows that Russian is the regional language, but not the language of the national minority. Thus, the state advisor on National Politics Hidayat Orudjov thinks that "even in the period of Russian Empire and later in Soviet era, people of Baku did not speak in Russian to such extent as they do now"<sup>93</sup>.

150. However, the Russian language being the regional language, which is used in the capacity of native tongue or language for millions in the country, is equal to foreign language in the Azeri speaking schools. Since 2003 according to the decree of the ministry of education Misir Mardanov the Russian language discipline was turned from basic program to optional subject. At the eve of new school year in 2004, hundreds of teachers of Russian language lost their jobs - they were suggested to get trained for a new profession - to that of teachers in history and geography<sup>94</sup>.

### The education on languages of national minorities

151. Although schools in the regions concentrating national minorities include educational programs on languages of national minorities (Tallish, Lezgi and other languages), only Russians have a complete system of education: primary, secondary and higher schools. Russian, Georgian and Jewish educational institutions have the possibility to get their textbooks from abroad.

152. However in the southern regions with high representation of of Talish people, , courses of Talish language in ordinary general education schools are held once a week, optionally, and by non-professionals. The teachers of Talish language in Azerbaijan are not trained. Last time the textbooks on Talish language were published is 1997. Except this book, the government hasn't published any fiction in Tallish language during the whole period of the independence<sup>95</sup>.

153. The first publication of the international standards on the languages of non-Russian national minorities ("Framework Convention for the Protection of National Minorities" in Talish and Lezgi languages) was implemented in 2004 by the Human Rights Center of Azerbaijan with the support of the Council of Europe.

## Recommendations

On the base of the above-given information, the authors of the alternative report consider it necessary to suggest the following recommendation

To the government of Azerbaijan:

1. To encourage the participation of local non-governmental organisations in the peacemaking process on Nagorno-Karabakh, particularly to stop the policy of public accusation and pursuit of peacemaking organisations;
2. To conclude the process of adopting a law on the rights of national minorities and the mechanisms of its implementation, particularly removing discriminative clauses regarding the language of electronic mass media outlets;
3. To stop the practice of legal pursuits against workers based on their political affiliation;
4. To suppress artificial obstacles for official registration of trade unions and non-governmental organisations;
5. To improve the process of registration of religious communities, setting the common standards both for Muslim and non-Muslim communities;
6. To create alternative service, anticipating the opportunity of refusal for atheist and pacifist opinions to perform the the military service in the relevant legislation s;
7. To eliminate discriminatory clauses in legislation, about religious activity of foreigners and Stateless;
8. To improve the national laws on the fights against trafficking;
9. To anticipate the measures on protection of the interests of local personnel in foreign companies established in Azerbaijan;
10. To respect gender balance when planning new working positions;
11. To put an end to the practice of artificial growth of crime indices, primarily concerning domestic and sexual violence;
12. To improve the methods of evaluation of poverty level;
13. To conduct and publish a thorough research on "black market" and its impact on the social and economic situation of the country;
14. To work out and implement the program on the fight against homelessness, including the protection of the rights of those, whose apartments were illegally occupied by refugees;
15. To raise the salary of employees in the area of education and health care in order to create favourable conditions for the fight against corruption;
16. To reconsider the conditions of life imprisonment in Azerbaijan to reach available level of physical and mental health;
17. To take significant steps in governmental support of school education and publication of textbooks using the Minority languages;
18. To restore school education in penal institutions, principally in the context of re-education of prisoners and facilitation of their social rehabilitation following liberation;
19. To increase the transparency on delivery and expenditure of credits granted for structural changes in the social-economic area by the government;
20. To guarantee a transparent preparation process of United Nations Treaty Bodies Reports in particular by including independent NGO and disseminate to the general public the final observations and recommendations addressed to the Government by the United Nations Treaty Bodies.

To international organisations:

1. To restore UN's own initiatives to search ways to settle the Nagorno-Karabakh conflict;
2. To encourage the participation of non-governmental organisations to a peaceful Armenian-Azerbaijani dialogue, as well as contacts between participants to official negotiations on Nagorno-Karabakh and informal peacemakers;
3. To monitor the situation and take measures for protecting cultural memorials on the territory of Armenia and Azerbaijan, including Nagorno-Karabakh regions, exposed to attacks in connection with the Armenia -Azerbaijani conflict;
4. To implement the monitoring of the situation of labour migrants from the countries of Southern Caucasus to Russia;
5. To initiate regional programs with participation of Azerbaijan for real fight against trafficking and protection of victims;
6. To hold international investigation about international adoption rules and process of adoption of children from Azerbaijan;
7. To draw the attention of UNHCR on the catastrophic situation of Chechnya refugees in Azerbaijan by providing them with the status of refugees.;
8. To pressure Georgia to implement its obligations before the Council of Europe on the repatriation of formerly deported Turkish-speaking Meskhetians;
9. To encourage publication of books using minority languages, particularly school textbooks and books conforming to international standards.