



**International covenant
on civil and
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HUMAN RIGHTS COMMITTEE
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**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT**

Concluding observations of the Human Rights Committee

AZERBAIJAN

1. The Committee considered the third periodic report of Azerbaijan (CCPR/C/AZE/3) at its 2638th, 2639th and 2640th meetings (CCPR/C/SR.2638-2640), held on 20 and 21 July 2009, and adopted the following concluding observations at its 2653rd meeting (CCPR/C/SR.2653), held on 30 July 2009.

A. Introduction

2. The Committee welcomes the submission of the third periodic report of Azerbaijan, submitted in accordance with the guidelines and the inclusion in the report of information on a number of measures taken to address the concerns expressed in the Committee's previous concluding observations (CCPR/CO/73/AZE). The Committee also notes the delegation's explanation that non-governmental organizations were consulted in the preparation of the present report as well as the fact that the report was placed on the internet site of the Ministry of Foreign Affairs. It welcomes the dialogue with the delegation, including the written replies (CCPR/C/AZE/Q/3/Add.1) submitted in response to the Committee's list of issues, as well the additional information and clarifications provided during the consideration of the report.

B. Positive aspects

3. The Committee commends the State party for the continuing process of bringing its domestic legislation into line with the provisions of the Covenant and other human rights treaties. It welcomes the various constitutional amendments, as well as legislative, administrative and practical measures taken to improve the promotion and protection of human rights in the State party since the examination of the second periodic report, in particular:

- (a) The agreement between the State party and the International Committee of the Red Cross (ICRC), and the possibility for the ICRC to conduct regular visits in prisons and detention facilities;
- (b) The efforts made in order to improve the conditions of detention of prisoners and the measures taken in cooperation with the ICRC resulting in the reduction by a factor of 15.8, in the last ten years, of the rate of tuberculosis mortality in prisons;
- (c) The adoption, in 2007, of a national programme to combat domestic violence and of the action plan on family and women's issues 2009-2012; the ongoing project "Combating violence against women in the twenty-first century" conducted in cooperation with the United Nations Population Fund;
- (d) The measures adopted regarding children with special needs and persons with disabilities that seek to eradicate stereotypes, rehabilitate persons with disabilities and children with special needs and to provide them with increased opportunities to take part in all areas of public life and to gain better access to employment. The Committee also welcomes the accession of the State party to the Convention on the Rights of Persons with Disabilities and its Optional Protocol in January 2009;
- (e) The adoption of the Gender Equality Act in 2006;
- (f) The progress made in combating trafficking in human beings, through the adoption of the law on the Fight against Human Trafficking in 2005, the amendment of the Criminal Code (2005), and the creation of a relief fund for victims of human trafficking.

C. Principal subjects of concern and recommendations

4. The Committee regrets the lack of comprehensive information and detailed statistical data on the number of complaints received and processed by the State party's Office of the Human Rights Commissioner (Ombudsman) during the reporting period. It regrets the lack of information on the outcome of such complaints as well on the impact of the Ombudsman's recommendations (art. 2).

The State party should provide the Committee with detailed information on the number and the outcome of complaints received and determined by the Office of the Human Rights Commissioner, as well as on the concrete action taken by the authorities in each case

5. The Committee is concerned that, despite the effort undertaken, both in terms of legislative measures and measures taken in practice, violence against women still continues, in particular domestic violence. The Committee further notes with concern that only a very limited number of complaints of rape are registered by the authorities. It is also concerned at the absence of a sufficient number of safe shelters for victims of domestic violence (art. 3, 6, 7 and 26).

The State party should intensify its efforts towards the elimination of violence against women, inter alia, through effective implementation of the action plan on family and women's issues 2009-2012. The State party should undertake focused information campaigns aiming at raising the awareness of women regarding their rights. It should also continue providing specific training in this regard to law enforcement authorities, as well as to medical and social workers. The State party should also consider strengthening its legislation and its application to deal effectively with domestic violence. Finally, it should increase the number of shelters equipped to receive women and children victims of domestic violence.

6. While acknowledging the appointment of gender policy coordinators in all executive bodies, the constitutional amendment of March 2009, and the adoption of the Gender Equality Act (2006), the Committee remains concerned that, in practice, women are still victims of discrimination in numerous areas of life. The Committee is also concerned about the limited percentage of women in Parliament, as well as in high-ranking positions, particularly in the higher echelons of the judiciary and decision-making posts in the public sector (art. 2, 3, 25 and 26).

The State party should seek ways to promote the access of women to high-level and managerial positions in the public sector including, where possible, through targeted measures, with a view to ensuring, in practice, that women and men receive equal treatment and are offered equal opportunities in all areas of public life.

7. The Committee notes with concern that a large number of under age marriages which cannot be registered occur each year in the State party, in particular for girls belonging to the families of internally displaced persons. It is also concerned at the fact that the legal age for marriage of girls is 17, whereas for boys it is 18 (art. 2, 3, 17, 23, 24, 26).

The State party should take urgent measures to eradicate the practice of unregistered marriages and to take measures, including awareness-raising campaigns, to ensure that marriages do not take place before the legal age. It is also invited to align the legal age of marriage of girls to that of boys.

8. The Committee is concerned that, although the Constitution entitles every suspect or accused person to legal assistance immediately after his/her apprehension, this is not systematically respected in practice. It is also concerned that, as acknowledged by the delegation, an apparent shortage of lawyers exists, especially outside the capital. In addition, the Committee notes that under the State party's law, a person suspected of a criminal offence may be kept in police facilities for 48 hours before being brought before a judge, and that if the detention is confirmed, the police have a further 24 hours to bring the individual concerned to a remand detention centre. The Committee notes with concern that such situations can result in detention of individuals by the police for up to 72 hours, without representation by a lawyer (art. 9, 14, 26).

The State party should take urgent measures to ensure that all individuals concerned are systematically provided with legal aid, as required by the State party's Constitution, without discrimination. The State party should envisage the

immediate transfer to remand centres of all individuals placed in pretrial detention by a court.

9. The Committee is concerned about information that individuals, who have been denied access to the relevant asylum procedures in the State party, have been expelled to countries where they could face the risk of torture or ill-treatment. It regrets that the delegation did not provide any concrete information on how, in practice, individuals in such a situation are effectively protected (art. 7 and 13).

The State party should not extradite, expel, deport or forcibly return aliens to a country where they would face the real risk of torture or ill-treatment. The Committee recalls that article 2 requires that States parties should respect and ensure the Covenant rights for all persons in their territory and all persons under their control. It, therefore, entails an obligation not to extradite, deport, expel or otherwise remove a person from their territory, where there are substantial grounds for believing that there is a real risk of irreparable harm, such as that contemplated by articles 6 and 7 of the Covenant, either in the country to which removal is to be effected or in any country to which the person may subsequently be removed (general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant). The Committee further recalls that the relevant judicial and administrative authorities should be made aware of the need to ensure compliance with the Covenant obligations in such matters. The State party should also establish a mechanism allowing aliens who claim that their forced removal would put them at risk of torture or ill-treatment to file an appeal with suspensive effect.

10. While noting the delegation's reference to the possibilities of a review on the matter, the Committee remains concerned about the existence of a pretrial investigation centre under the jurisdiction of the Ministry of National Security instead of the Ministry of Justice (art. 7, 9, and 10).

The State party should close down the pretrial detention centre of the Ministry of National Security or place it under the jurisdiction of the Ministry of Justice.

11. The Committee is concerned at persistent reports of confessions obtained under torture and ill-treatment during investigation. It is also concerned at information that such confessions have served as evidence in court on a number of occasions, and that torture and ill-treatment complaints are not being duly and systematically investigated. The Committee is also concerned about reports of deaths in police detention centres, remand centres, or prison facilities. Finally, it remains concerned at the lack of a fully independent mechanism for investigating complaints against acts by members of the police or prison guards, despite the explanations of the delegation as to the existence of an inspectorate to control the execution of punishments and a department of human rights and public relations (Ministry of Justice) with certain prerogatives in this respect (art. 2, 6, 7, 9, 10, 14).

The State party should establish without delay an independent body with authority to receive and investigate all complaints of use of force incompatible with the Code

of Conduct for Law Enforcement Officials (General Assembly resolution 34/169) and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990), and other abuses of power by law enforcement officials. The State party should ensure that all complaints relating to torture or ill-treatment are examined promptly and thoroughly and that the victims are compensated. Those responsible should be prosecuted and punished. The State party should ensure that all places of detention are subject to regular independent inspection. The State party should provide adequate training to its law enforcement and prison officials and ensure that the rights under the Covenant are fully protected. The introduction of systematic use of audio and video equipment in police stations and detention facilities should also be seriously considered.

12. The Committee remains concerned that, despite the reforms undertaken and the progress made during the reporting period, through, inter alia, the amendments in the Judges Act, the adoption of the Judicial Council Act, the establishment of the statute of the Judges' Selection Committee, the Code of Ethics for Judges, the State party's judiciary does not appear to be fully independent from the executive branch or from political pressure. The Committee is also concerned about reports that corruption within the judiciary remains a problem (art. 14).

The State party should strengthen its efforts to ensure a fully independent judiciary. Given the important prerogatives of the Judicial Council, in particular regarding selection, promotion, and disciplining of members of the judiciary, the State party should ensure that the Judicial Council, in its composition and work, is fully independent from the executive so as to create conditions ensuring full independence of the judiciary. The State party should increase efforts to combat corruption, in particular within its judiciary, by investigating promptly and thoroughly all incidents of suspected corruption. If corruption is established, the officials concerned should face criminal and not only disciplinary sanctions.

13. The Committee notes with concern that, notwithstanding the delegation's explanation that the practice of religion is not restricted in the State party, religious communities are requested to register and obtain legal personality in order to be able to function freely, as the lack of legal personality may prevent such communities from the enjoyment of a large number of rights. The Committee is further concerned at the obligation for Muslim religious communities to obtain a prior authorization from the Caucasus Muslim Board before applying for official registration. It regrets the absence of any information on the exact composition, criteria and prerogatives of this Board, or on the possibilities for appealing against the negative decisions of the Board. The Committee is concerned at the information that no person may teach religion in the State party if he or she has graduated abroad (art. 18).

The State party should take steps to ensure full respect for the right of freedom of religion or belief and ensure that its legislation and practices conform fully to the requirements of article 18 of the Covenant.

14. The Committee remains concerned that no legal provision regulates the status of conscientious objectors to military service (art. 18).

The Committee recommends that a law exempting conscientious objectors from compulsory military service and providing for alternative civilian service of equivalent length be adopted at an early date in compliance with article 18 of the Covenant and the Committee's general comment No. 22 (1993) on article 18 (Freedom of thought, conscience or religion).

15. The Committee remains concerned at the extensive limitations to the right to freedom of expression of the media, the closure of independent newspapers, and the removal of licences to broadcast locally for a number of foreign radio stations. It also remains concerned at reports of a pattern of harassment and criminal libel suits or hooliganism charges against journalists. Furthermore, the Committee is concerned at reports of killings or beatings of journalists which have not been elucidated. Finally, the Committee is concerned at the recent arrest and detention on remand of individuals who had expressed opinions in non-conventional media, especially since no explanation was provided as to why the arrest took place after the individuals had reported to the police attacks on themselves and why the judicial proceedings against them for hooliganism were not held in public (art. 19).

The Committee urges the State party to take the necessary measures to put an end to direct and indirect restrictions on freedom of expression. Legislation on defamation should be brought into line with article 19 by ensuring a proper balance between the protection of a person's reputation and freedom of expression. In this respect, the State party is urged to consider finding a balance between information on the acts of so called "public figures", and the right of a democratic society to be informed on issues of public interest. The State party is also urged to effectively protect media workers against attempts on their integrity and life, and to pay special attention and react vigorously if such acts occur. The State party should not unreasonably restrain independent newspapers, as well as local broadcasting of radio stations. Finally, the State party should treat users of non-conventional media in strict compliance with article 19 of the Covenant.

16. The Committee is concerned at persistent reports according to which the State party's authorities unreasonably restrict the right of individuals to freedom of peaceful assembly, by refusing to deliver authorizations, or by dispersing peaceful demonstrations with excessive use of force (art. 21).

The State party should re-examine its regulations, policy and practice, and ensure that all individuals under its jurisdiction fully enjoy their rights under article 21 of the Covenant, and make sure that the exercise of this right is not subjected to restrictions other than the ones permissible under the Covenant.

17. The Committee is concerned at numerous reports regarding irregularities, in particular during the State party's 2005 parliamentary elections, but also in the context of the 2008 Presidential elections (art. 25).

The State party should take the necessary measures to ensure enjoyment by all its citizens of the rights provided for in article 25 of the Covenant, taking due account

of the Committee's general comment No. 25 (1996) on article 25 (Participation in public affairs and the right to vote).

18. The Committee remains concerned that, in spite of the achievements by the State party's authorities in addressing the problems of the large number of internally displaced persons following the 1991-94 conflict with Armenia in particular in Nagorny Karabakh, such people continue to face problems in obtaining address registration (*propiska*), which may expose them to corrupt practices, depriving them of a large number of social entitlements and allowances and of the enjoyment of a number of rights, including in the areas of employment and health. In general, the Committee reiterates its concern that the existence of the address registration (*propiska*) system violates the right to freedom of movement and choice of residence under article 12 of the Covenant. (art. 2, 12 and 26).

The State party should simplify its address registration procedure, so as to enable all individuals who reside legally in Azerbaijan, including internally displaced persons, to fully exercise their rights and freedoms under the Covenant.

19. The Committee is concerned at reports that individuals have been harassed by police and prison officials because of their sexual orientation (art. 26).

The State party should take measures in this respect by providing training activities to its law enforcement and penitentiary authorities and by elaborating a relevant code of conduct.

20. The Committee is concerned at the lack of information on the situation of members of minorities living in the State party or on the measures taken by the State party following the examination of its second periodic report. It regrets also the incomplete answers provided by the delegation on the measures taken following the adoption of the 2003 opinion of the Advisory Committee on the Framework Convention for the Protection of National Minorities. It further regrets the absence of clarification by the delegation on the steps taken to address significant concerns, in particular on the reductions in the legal guarantees relating to the protection of minorities in the State party's Law on the State Language (2002) and on the absence of consultative structures for representatives of minorities in the State party (art. 27).

The State party should ensure that members of minorities enjoy their rights in full compliance with article 27 of the Covenant. The State party should create a national consultative organ including representatives of minorities, in order to better take into account their specific needs and to enable them to take part in the decision-making process in respect of issues of interest to them.

21. The Committee requests the State party to publish its third periodic report and these concluding observations, making them widely available to the general public and to the judicial, legislative and administrative authorities. Printed copies should be distributed to universities, public libraries, the library of Parliament, lawyers' associations, and other relevant places. The Committee also requests the State party to make the third periodic report and these concluding observations available to civil society and to the non-governmental organizations operating in

the State party. In addition to Azerbaijani, the Committee recommends that the report and the concluding observations be translated into the main minority languages spoken in Azerbaijan.

22. In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on its implementation of the recommendations of the Committee made in paragraphs 9, 11, 15, and 18 above.

23. The Committee requests the State party to include in its fourth periodic report, due to be submitted by 1 August 2013, specific, up-to-date information on follow-up action taken on all the recommendations made and on the implementation of the Covenant as a whole. The Committee also requests that the fourth periodic report be prepared in consultation with civil society organizations operating in the State party.
