

# AZERBAIJAN

## IMPUNITY FOR TORTURE

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## SUMMARY

Physical abuse and torture are rampant in police custody in Azerbaijan. Police routinely beat detainees—whether suspected of petty common crimes or political offenses—to coerce them into confessing or giving testimony. The government at the highest levels has shown little commitment to curbing police impunity for physical abuse, and to vigorously implementing the drastic reform of the legal system that is urgently needed to protect detainees. The result is a clear message to lower-level officials that torture is an acceptable practice during criminal investigations.

A plethora of testimony from victims, their relations, and attorneys points to a systematized pattern of physical abuse and torture of those detained on suspicion of politically motivated crimes, such as participation in the attempts to overthrow the government, and common crimes. In January 1997, Azerbaijan's National Security Ministry, Ministry of Internal Affairs, and Procuracy General issued a joint statement reporting that between October 1994 and January 1997 approximately 2,000 people had been arrested on suspicion of terrorist activity and plotting to seize power. Those arrested included employees of the Ministry of Internal Affairs and Ministry of Defense, alleged members of "illegal armed formations" or paramilitary organizations, members of the former Azerbaijani Popular Front government, and other prominent opposition politicians. Also arrested were political activists, journalists, and those who demonstrated publicly against the government of the President of Azerbaijan Heydar Aliyev after he assumed power in 1993. Many of these cases went to trial in 1996 and 1997. The trials of some of these individuals brought to light widespread allegations that the police and other security forces systematically tortured detainees to extract confessions and false testimony. Many defendants at trial retracted their signed confessions and testimony against others, providing detailed descriptions of the systematic abuse—in some cases shocking in its brutality—that they suffered during lengthy periods in the lock-up of the Baku City Police Department and in other facilities.

Human Rights Watch's investigation found that systematic abuse of political detainees occurred in the lock-up of the Baku City Police Department, but also in other facilities, including the Presidential Special Department, a special military counterintelligence unit. In some cases, Human Rights Watch found that abuse of many political detainees went on for months during prolonged periods of incommunicado detention in these facilities.

Our investigation also found that police routinely subject those detained for nonpolitical criminal offenses, ranging from petty property crimes to drug possession or murder, to severe beatings, depriving them of food and water, and restricting their access to family members and lawyers. Such abuse frequently occurred at local police stations where suspects and witnesses are held immediately after detention, but in some cases abuse continued throughout the prolonged periods of pretrial detention. The physical abuse suffered in these facilities resulted in death for some suspects, while others suffered months-long incapacitation and hospitalization.

The Azerbaijani criminal justice system—which has seen little reform since the Soviet period—offers some insight into how such persistent and wide-scale abuse occurs unchecked, as it grants the prosecution wide powers concerning pretrial custody, access to lawyers, and access to forensic evidence. Under Azerbaijani law, detainees do not have the right to appeal to a judge regarding the lawfulness of their detention or to protest ill-treatment until their case goes to court, an egregious violation of international law governing detainees' rights. Custody during the investigation and prior to trial is the rule, rather than the exception, which often takes the form of incommunicado detention. Azerbaijani law provides for suspects to be granted bail or to be released on their own recognizance, but such conditional release is almost never granted—even for first-time offenders accused of petty property crimes. The vast majority of detainees remain in custody in temporary holding facilities or remand prisons.

After detention, suspects are frequently kept without charge in temporary holding facilities in police stations well beyond time limits prescribed in Azerbaijani law. Equally alarming, Azerbaijani law empowers the procuracy to extend pretrial detention periods repeatedly, and in exceptional circumstances without limits. Human Rights Watch found that the most severe and routine physical abuse of detainees takes place just prior to and during the preliminary investigation, as police and other investigators isolate detainees from all contact with the outside world, and beat and coerce confessions from suspects and statements from witnesses.

During the same period that detainees are being coerced into making statements, police also frequently pressure them not to seek counsel or to accept a state-appointed government lawyer who in fact does not defend their interests. When detainees or their families can afford an independent defense lawyer, police and investigators have simply refused requests from lawyers for access to their clients in lock-ups and remand prisons. Even if the detainee's lawyer succeeds in obtaining permission from the procuracy investigator to meet with his or her client as required under Azerbaijani criminal procedure, the Ministry of Internal Affairs has jurisdiction over—and thus control of physical access to—the majority of pretrial detention facilities in Azerbaijan, while all remaining pretrial facilities are under the jurisdiction of the Ministry of National Security or other security forces. Lawyers complained that procuracy investigators and prison and other ministry officials simply refused them access to their clients, and that in some facilities access is almost never granted. This has led to lengthy incommunicado detention of detainees in remand prisons, which allows the evidence of beatings and abuse, such as bruises, burn marks, and broken bones, to heal and fade.

Once suspects are charged, most in Baku are sent either to the Bail or Shuvelan remand prison, where detainees are warehoused for months and sometimes years. A visit in November 1997 by a Human Rights Watch investigator to Bail found conditions in this facility so poor that they amounted to cruel and inhuman treatment. Bail was so overcrowded as to require detainees to sleep in shifts in cells that lack proper ventilation and light. Detainees in some cases were seen to be extremely thin and malnourished, raising concerns about lack of adequate food and vitamins. Former detainees who had been in other remand prisons reported that these facilities are equally or more overcrowded.

Even when lawyers do gain access to clients in lock-ups and remand prisons, they do not have the right under Azerbaijani law to arrange independent, objective forensic medical examinations to establish the nature and cause of a detainee's injuries, key evidence at trial to support a claim that the detainee has been tortured, and that their confession or other testimony was obtained through coercion. Azerbaijani law grants the police or procuracy investigator handling a case the authority to approve or reject a detainee's or lawyer's request for a forensic medical examination, and appeals of such a refusal may be made only to higher level procuracy officials. Moreover, forensic medical examiners are all state employees, and detainees do not have the right to be treated by their own doctors. Only testimony by a doctor from the state forensic medical examiner's office is acceptable to establish the cause of a detainee's injuries in court. Human Rights Watch found that some judges also denied requests for forensic medical examinations that could prove torture, while in other cases lengthy periods of pretrial detention allowed signs of abuse to heal so that forensic examinations could not establish the cause of injuries.

This report is based primarily on a fact-finding mission to Azerbaijan in November and December 1997, when Human Rights Watch interviewed twenty-two victims of abuse, their relatives, and lawyers. We also spoke at length with officials from the Procuracy General, the Ministry of Internal Affairs, the Ministry of Justice, the Supreme Court, and the presidential administration. During the mission Human Rights Watch researchers traveled to Baku, Lenkoran, and Ganja and visited eight detention facilities. The present report focuses on victims of the rampant and unchecked abuse of detainees in recent years in Azerbaijan. As such, it does not focus on abuses committed by the security forces under previous Azerbaijani governments, and is not intended to minimize that abuse. Human Rights Watch notes that credible allegations of abuses under each of the preceding governments of Azerbaijan were widespread and severe, including allegations of summary executions, and beatings and other abuse that led to the deaths of suspects in custody.

## RECOMMENDATIONS

### **To the government of Azerbaijan:**

- Investigate all complaints of physical abuse and undertake criminal prosecution of staff of the procuracy, Ministry of Internal Affairs, and other security forces who are found to be responsible;
- Make public the results of investigations into allegations of physical abuse by procuracy and security force personnel, and ensure that prosecution is prompt, impartial and that information on sentencing is made public;
- Ensure that the serious nature of the crimes of torture and other physical abuse by police and other security officials is recognized by a provision in the criminal code criminalizing torture, and ensure that sentencing for those found guilty is in conformity with the seriousness of the crime;
- Allow regular and routine access to international human rights and humanitarian organizations to all detention facilities in Azerbaijan;
- Reform criminal procedure to provide detainees and defendants procedural guarantees prior to trial and during trial that correspond to international human rights law and standards; in particular, provide detainees with the right to prompt judicial review of pretrial detention;
- Ban in law the mere presence of implements devised expressly for torture in all police stations, immediately dismiss any police officer who possesses such implements, and set up regular and routine inspections to certify that none exist; and
- Ensure that objective, independent forensic medical examinations are consistently and routinely available to detainees and defendants from the moment they are placed in police custody.

**To the United Nations Committee against Torture:**

- Address the conditions described in this report in the context of its review of Azerbaijan's initial report and call on the government of Azerbaijan to adopt recommendations made in this report.

**To the United Nations Special Rapporteur on Torture:**

- Conduct a fact-finding mission to Azerbaijan and issue a public report on the mission's findings that reflects recommendations made in the present report.

**To the Organization for Security and Cooperation in Europe (OSCE):**

- In line with the 1990 Copenhagen Document, the OSCE Permanent Council and the Chairman-in-Office should reaffirm that the prevention of torture is a priority matter of the OSCE and publicly condemn the widespread practice of torture in Azerbaijan, the impunity enjoyed by the security forces, and the government's failure to adopt and fully implement the legal reforms necessary to guarantee detainees' and defendants' rights in accordance with international human rights law and standards.

**To the Council of Europe:**

- The Parliamentary Assembly should issue a strong statement condemning the widespread gross violations of detainees' rights in Azerbaijan. The Special Rapporteurs on Azerbaijan should make no recommendation that the Parliamentary Assembly vote on Azerbaijan's membership until such time as the government investigates credible allegations of torture and adopts and fully implements the legal reforms necessary to recognize and safeguard detainees' and defendants' rights.

**To the European Parliament:**

- Adopt a resolution condemning Azerbaijan for the widespread gross violations of detainees' human rights, the impunity enjoyed by the security forces, and the government's unwillingness to adopt and to fully implement the legal reforms necessary to guarantee detainees' and defendants' rights in accordance with international human rights law and standards; and
- Condition future assistance, with the exception of that intended for humanitarian purposes and the development of democratic institutions, on prompt reform of the Azerbaijani criminal justice system and on clear and measurable efforts to reform the security forces to prevent torture. If such efforts are not taken, the European Union should suspend assistance that is not humanitarian in nature or is not intended for the strengthening of the rule of law.

**To the U.S. government:**

- The president, through the Treasury Department, should issue instructions with regard to the World Bank that security forces of the government of Azerbaijan are engaging in a pattern of gross violations of internationally recognized human rights, including arbitrary detentions and torture with impunity, and that Section 701 of the International Financial Institutions Act requires the U.S. government to withhold World Bank support for governments engaged in gross violations of human rights. In accordance with these instructions, the U.S. Executive Director of the World Bank should condition support for World Bank projects on the Azerbaijani government's clear and measurable efforts to reform the security forces and establish safeguards to stop the practice of torture. If the government of Azerbaijan does not implement such measures, the U.S. Executive Director should withdraw support for such projects;
- The president, through the State Department, should submit a determination that in accordance with Section 2 of the Export-Import Bank Act of 1945, that because the government of Azerbaijan is engaged in gross human rights violations, that it is not in the interest of the United States to approve Export-Import bank financing for Azerbaijan unless the government of Azerbaijan undertakes clear and measurable efforts to reform the security forces and establish safeguards to stop the practice of torture. If such measures are not implemented, the U.S. government should deny Export-Import Bank financing for Azerbaijan; and
- The president, through the State Department, should submit a determination pursuant to section 116 of the Foreign Assistance Act, that the government of Azerbaijan is engaged in gross human rights violations that undermine rule of law and contribute to a climate of increased risk to international investment contrary to U.S. national interest, and accordingly, the U.S. should not approve OPIC financing for Azerbaijan unless the government of Azerbaijan undertakes clear and measurable efforts to reform the security forces. If such measures are not implemented, the U.S. government should deny OPIC financing for Azerbaijan.

**To multilateral lending institutions active in Azerbaijan, including the World Bank, International Monetary Fund, and the EBRD:**

- Issue an unequivocal public statement that reform of the legal and judicial system to meet international standards provides the necessary framework to guarantee that human rights are protected, and that failure to establish this protection precludes sustainable long-term economic development. And as such, the government's failure to meet targets in the area of legal reform are grounds for discontinuing lending;
- Make a clear commitment to institutional reform in Azerbaijan by making lending conditional on progress in legal and judicial reform that includes adoption of criminal procedures that provide detainees and defendants' rights in accord with international human rights law and standards, and discontinue lending should targets relating to judicial and legal reform be ignored; and

- Expand the World Bank's capacity to conduct analysis of judicial systems and of criminal procedure to enable it to identify areas that are not in compliance with international human rights law and standards, and to assist in the formulation of lending targets in these areas.

**To international concerns doing business in Azerbaijan:**

The leading member of the Azerbaijan International Operating Company (AIOC) consortium has a stated policy to respect the rule of law, conduct its business with integrity, and show respect for human dignity and the rights of the individual. Given this policy commitment to the rule of law, the consortium and other corporations operating in Azerbaijan should:

- Privately and publicly make clear that the Ministry of Internal Affairs and other security forces' flagrant and widespread disregard for the international human rights instruments to which the government is a party threatens the rule of law and raises concerns that the government may be insufficiently committed to other agreements and contracts to which it is a party;
- Privately and publicly make clear that Azerbaijan's legal system is not in conformity with international human rights law and standards, and that this represents a serious threat to the rule of law without which there can be no secure investment climate;
- Privately and publicly make clear that the Azerbaijani security forces' pattern of gross human rights violations is a concern for companies operating in Azerbaijan because it may jeopardize U.S. government approval for economic assistance and export guarantees from bilateral and multilateral financial institutions under Section 701 of the U.S. Financial Institutions Act, Section 116 of the Foreign Assistance Act, and Section 2 of the Export-Import Bank Act of 1945;
- Privately and publicly urge consortium members' home governments and multilateral and bilateral financial institutions to step up calls on the government of Azerbaijan to ensure that it investigates and prosecutes credible allegations of torture, and adopts legal reforms to guarantee detainees' and defendants' rights in accordance with international law and standards; and
- Incorporate information about human rights practices and the conformity of the legal and judicial system in Azerbaijan to international standards, and consult with independent national and international human rights organizations as part of ongoing country risk analysis.

**BACKGROUND**

**Political Turmoil**

The tumultuous period since Azerbaijan achieved independence from the Soviet Union in 1991 has been marked by losses of territory to the combined forces of the Republic of Armenia and the Nagorno Karabakh separatist enclave, political upheaval, and several revolts by the security forces. It has also been marked by substantial international interest and investment in the oil sector.

Armenian forces now occupy up to 20 percent of Azerbaijan, including the former Nagorno Karabakh autonomous *oblast* and significant territory surrounding it. While a cease-fire has been in effect since 1994, the twelve-year-old conflict is one of the longest unresolved in the former Soviet Union and has resulted in more than 20,000 deaths. The United Nations High Commissioner on Refugees (UNHCR) estimates that there are currently 795,000

forcibly displaced civilians and refugees in Azerbaijan, although exact numbers vary.<sup>1</sup> The very large number of displaced persons in relation to Azerbaijan's total population, estimated at 7.6 million, has exacerbated social tensions and placed a significant burden on the government to provide food, housing, medical care, and education for its uprooted population.

In June 1993, Surat Husseinov, a renegade colonel who had commanded a militia brigade that was loosely incorporated into the newly-created Azerbaijani army, overthrew the Azerbaijani Popular Front (APF) government led by President Abulfaz Elchibey. The APF had come to power in May 1992, and by the time of Husseinov's revolt was besieged over losses in Nagorno Karabakh.<sup>2</sup> Husseinov's revolt paved the way for the rise to power of Azerbaijan's current president, Heydar Aliyev, who first had himself installed as chair of the parliament. On October 3, 1993, Aliyev was elected to the presidency in an improbable Soviet-style election in which he received 98.8 percent of the vote. An inexplicably high 96 percent of eligible voters were reported to have participated. President Aliyev named Surat Husseinov prime minister.

Both the Elchibey and Aliyev governments have been characterized by poor human rights records, including harassment of political opponents through arrest and censorship, allegations of beatings and torture by the police, and other violations of basic civil rights. In the fall of 1993 and early 1994, supporters of the APF held public meetings and street demonstrations to protest Elchibey's ousting and some of the policies of the new Aliyev government. Ministry of Internal Affairs forces used mass arrests, beatings, and torture to suppress protesters during and following these demonstrations; in 1994, the Aliyev government imposed a state of emergency that outlawed rallies and public demonstrations altogether. Also arrested were those accused of participation in alleged coup attempts, attempts to carry out sabotage campaigns or terrorist activities, and those accused of being members of "illegal armed formations" or paramilitary brigades formed originally to fight in the Nagorno Karabakh conflict. Those arrested included journalists, demonstrators, former senior members of the Elchibey government, and other government officials in Baku, Ganja, Nahkichevan, and other parts of the country.

Members of the security forces attempted several highly publicized revolts in late 1994 and 1995. In October 1994, Surat Husseinov was accused of plotting a Russian-backed coup; Husseinov fled to Russia, but others in the government were arrested.<sup>3</sup> This alleged coup attempt was accompanied by an uprising of troops in a special task police unit known by its Russian acronym, OPON.<sup>4</sup> The OPON rebelled again in March 1995, with the alleged

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<sup>1</sup> According to UNHCR estimates that include refugees from other FSU countries. The Azerbaijani government estimates the total number of displaced persons and refugees as a result of the conflict to be 1 million. All parties to the conflict, including ethnic Armenian forces, committed serious violations of international humanitarian law. See, Human Rights Watch/Helsinki, *Azerbaijan: Seven Years of Conflict in Nagorno-Karabakh* (New York: Human Rights Watch, 1994); Human Rights Watch/Helsinki, "Bloodshed in the Caucasus: Indiscriminate Bombing and Shelling by Azerbaijani Forces in Nagorno Karabakh," *A Human Rights Watch Report*, vol. 5, no. 10, July 1993; and Human Rights Watch/Helsinki, *Bloodshed in the Caucasus: Escalation of the Armed Conflict in Nagorno Karabakh* (New York: Human Rights Watch, 1992).

<sup>2</sup> The Azerbaijani Popular Front represents a broad movement of disparate nationalist interests that unified to advocate Azerbaijan's independence from Russia. See Audrey L. Altstadt, "Azerbaijan's Struggle Toward Democracy," in Karen Dawisha and Bruce Parrott (eds.), *Conflict, Cleavage and Change in Central Asia and the Caucasus* (Cambridge: Cambridge University Press, 1997), which describes the Azerbaijani Popular Front's development as a cultural movement among Baku intellectuals in the 1970s that reevaluated Soviet history and Russian colonialism in Azerbaijan, and eventually moved to assert Azerbaijani political independence from Russian control.

<sup>3</sup> Russia extradited Husseinov to Azerbaijan March 26, 1997. He was subsequently sentenced to life imprisonment on February 15, 1999, after alleging that he was physically and psychologically abused prior to trial while in Azerbaijani custody. One month before the alleged coup attempt, four former government officials detained on high treason and other charges escaped from the Ministry of State Security's isolation unit. They were former Defense Minister Ragim Gaziyeu, Alikram Gumbatov, who had called for the creation of a Talish-Mughan Autonomous Republic in southern Azerbaijan in June 1993, Baba Nazarli, and Arif Pashayev. The minister of state security at the time, Nariman Imranov, as well as several other employees of the ministry were also arrested and charged with assisting the attempt.

<sup>4</sup> *Otryad politsii osobogo naznacheniya.*

participation of some pro-Turkish members of the former Elchibey government. The trials of defendants accused of involvement in these incidents became known in the Azerbaijani media as the “Case of the OPONs.”

The government denounced various other coup attempts, including alleged incidents that the government made partially public in August 1995, in which a group of high-ranking Defense Ministry personnel allegedly attempted to shoot down President Aliyev’s personal airplane with a surface-to-air missile and planted a bomb under a bridge timed to blow up as the president’s car passed. The subsequent trial of those accused of involvement became known in the Azerbaijani press as the “Case of the Generals.”

In January 1997, Azerbaijan’s National Security Ministry, Ministry of Internal Affairs, and Procuracy General issued a joint statement reporting that between October 1994 and January 1997 approximately 2,000 people had been arrested on charges of terrorist activity and plotting to seize power.<sup>5</sup> The cases cited above are the most high-profile examples of alleged coup attempts; the frequency of these government denunciations led the opposition to charge that President Aliyev was using the denunciations and subsequent waves of arrests, especially of Interior and Defense Ministry personnel, as an opportunity to brutally purge his opponents from the security forces and other government positions to consolidate his power. The opposition further charged that President Aliyev frequently used the Presidential Special Department, a military counterintelligence investigative body under the president’s direct authority, and certain other units of the police, to carry out arbitrary detentions of both military and civilian political opponents.

President Aliyev has frequently accused Russia of being behind the 1994 and other coup attempts as part of an effort to destabilize Azerbaijan and to allow Moscow to reassert its control over its former territory in what it considers its “near abroad.”<sup>6</sup> One coup attempt, the “OPON” revolt led by Rovshan Javadov in March 1995, was followed by official denunciations of Turkish involvement, and led to speculation that some elements of the Turkish security forces were involved.<sup>7</sup>

In 1996 and 1997, many of those accused in coup attempts stood trial. The trials brought to light widespread allegations that the police and other security forces systematically tortured detainees to extract confessions and false testimony against others allegedly involved. Many defendants at trial retracted their signed confessions and testimony against others, and provided detailed descriptions of the systematic abuse they suffered while in the lock-up of the Baku City Police Department as well as in other facilities. Human rights organizations in Azerbaijan also reported that

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<sup>5</sup> “Azerbaijan Says Prevented Coup, Dozens Arrested,” Reuters, January 28, 1997.

<sup>6</sup> The government has protested Russia’s lack of cooperation in extraditing alleged participants in coup attempts, including Azerbaijan’s first leader at the time of its independence, former President Ayaz Mutalibov. Mutalibov, who has been granted political asylum in Russia, has denied on several occasions the government’s allegations that he has been involved in coup attempts. Human Rights Watch strongly opposes the extradition of most Azerbaijani citizens from Russia to Azerbaijan. As this report details, they have a well-grounded fear of being subjected to torture.

<sup>7</sup> See Thomas Goltz, *Azerbaijan Diary: A Rogue Reporter’s Adventures in an Oil Rich, War-Torn, Post-Soviet Republic* (New York: M.E. Sharpe, 1998), p. 451, regarding speculation of involvement of rogue elements of the Turkish security forces.



security detainees died while in custody as a result of torture and severe and brutal ill-treatment, and that authorities' denial of urgently needed medical care to others led to further deaths.<sup>8</sup>

Although these trials drew attention on torture to defendants charged with political crimes, those under investigation for nonpolitical criminal offenses are also routinely subjected to physical abuse in Azerbaijan. Senior Ministry of Internal Affairs officials state that they have been under intense pressure to curb the increased street crime resulting from the sharp deterioration in social and economic conditions the country experienced after independence,<sup>9</sup> and arrests followed by systematic torture have occurred in this context.

## **Oil and the Economy**

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<sup>8</sup> See for example, "Deaths of Political Prisoners in Azerbaijan," report by the Human Rights Center of Azerbaijan, Baku, December 15, 1995.

<sup>9</sup> Human Rights Watch interview with Col. Nasimi Gojayeve, Chief of Investigation, Sadiq Guselov, Chief of Information Department, and Col. Abdul Akhmedov, Chief of Foreign Relations, Baku, November 21, 1997.

In September 1994, the Azerbaijani government signed a landmark oil production sharing agreement with the Azerbaijan International Operating Company (AIOC), a consortium of international oil companies led by British Petroleum and Norway's Statoil. The estimated U.S.\$8 billion deal represented the largest single foreign investment in the former Soviet Union at the time of its signing, and Azerbaijan's considerable oil reserves have attracted the interest of international oil companies and western governments. The signing set off an intense debate over oil pipeline routes and a flurry of lobbying by Turkey and the U.S. to secure alternative routes through Georgia, with the expectation of eventually extending the line to Ceyhan on Turkey's Mediterranean coast.<sup>10</sup> The Russian government reacted with alarm to the deal, and repeatedly urged Azerbaijan to transport the majority of its oil reserves through the existing Russian pipeline system to world markets.<sup>11</sup> The Azerbaijani government views exclusive reliance on Russia as an outlet to world markets for its oil as ceding excessive control to the Russian government.

A compromise agreement was reached in late 1995, which called for some of the oil initially extracted by the AIOC consortium to be shipped through Russia, while the remainder would be transported by a second pipeline through Georgia. The sharp drop in oil prices in March 1998 caused the AIOC to delay endorsement of the major export pipeline to Ceyhan, the estimated cost of which ranges from U.S.\$2.8 billion to U.S.\$4 billion.<sup>12</sup> Also under discussion is the possibility of a natural gas pipeline, heavily favored by the U.S. government, to carry gas produced in Turkmenistan along a similar route, a project that would cost an estimated U.S.\$2.5 billion.<sup>13</sup>

Foreign investment in the oil sector and other credits have so far not led to broad-based economic growth that benefits the majority of the Azerbaijani population. The dissolution of the former Soviet Union took an extremely heavy toll on Azerbaijan's economy, and since independence in 1991, the collapse of industry and losses of markets for goods have resulted in widespread unemployment and underemployment. The total decline in GDP from 1991 to 1995 was estimated at nearly 60 percent.<sup>14</sup> Hyperinflation in late 1994 and the collapse of the banking system eroded the life savings of many, while the value of wages and pensions paid by state-owned enterprises and the government dropped to below-subsistence levels.

Concurrent with the near collapse of Azerbaijan's economy was the influx of refugees from Armenia and of internally displaced persons after the losses of territory surrounding the Nagorno Karabakh enclave in 1993 and 1994. There are currently approximately 300,000 displaced persons living in Baku, the capital city. But the vast majority are scattered in approximately sixty-five towns and villages throughout Azerbaijan, many housed in poor conditions in makeshift camps in rural areas, and in communal facilities such as schools, sanitariums, and hotels.

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<sup>10</sup> See, John Roberts, "Caspian Pipelines," an occasional paper published by The Royal Institute of International Affairs (London, 1996), p. 34.

<sup>11</sup> Since independence Azerbaijan has been one of the few former Soviet republics to decline agreements that would allow Russian troops to guard its borders or station troops on its territory, with the exception of a small contingent of Russian troops who staff the Gabala air station, an early warning station for missile attacks on Russia's southern flank.

<sup>12</sup> "Political Pressure Won't Speed MEP Construction," *Caspian Investor, R.I., Inc.*, (Los Angeles) November/December 1998.

<sup>13</sup> "Trans-Caspian Gas Pipe Plans Advance," *Caspian Investor, R.I., Inc.*, November/December 1998.

<sup>14</sup> *Country Report: Georgia, Armenia, Azerbaijan*, 1st Quarter 1996, The Economist Intelligence Unit, London, p. 35.

A macroeconomic stabilization plan implemented by the government in conjunction with the International Monetary Fund resulted in control of hyperinflation in 1995, the economy improved slightly in 1996, and there was steady growth in 1997. However, wages remain depressed, with the minimum official wage at U.S.\$37 per month. Social services are almost nonexistent, and the majority of Azerbaijan's population—the World Bank estimated 68 percent in 1996—live in poverty.<sup>15</sup> Foreign investment has been concentrated in the capital-intensive oil sector, while there has been little investment in other sectors of the economy, such as agriculture and light industry, that could lead to job-creation.

The economy's sharp deterioration, combined with the influx of international oil investors vying to secure contracts with the government, has contributed to rampant corruption.<sup>16</sup> The government has proven unwilling to prosecute officials for corruption, and relies heavily on intricate patronage networks to maintain itself in power.<sup>17</sup> And although street crime has dropped dramatically since 1994, white collar crime—including bribery—involving senior and lower-level government officials and members of the security forces has reached unprecedented levels.<sup>18</sup> In 1997, Control Risks, a British consultancy firm, ranked Azerbaijan as the fourth most corrupt country in the world in which to do business.<sup>19</sup>

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<sup>15</sup> World Bank, *Azerbaijan Poverty Assessment*, February 24, 1997, Report No. 15601-AZ, vol. 1, p. 16. This is the percentage of individuals found to fall below the "food only" poverty line during research in 1995 and 1996, which measured those individuals and households whose actual food expenditures fell below a nutritionally-adequate food basket.

<sup>16</sup> The negative impact of sudden oil and natural gas booms on economic development, which includes rent-seeking and corruption by government officials as impediments to institutional reform and to the development of non-oil sectors of the economy, in countries with economies and political systems as disparate as Iran, Nigeria, Mexico, Algeria, and Venezuela, has been widely examined in political economy literature, including, Terry Lynn Karl, *The Paradox of Plenty: Oil Booms and Petro-States* (Berkeley and Los Angeles: University of California Press, 1997).

<sup>17</sup> See for example, *U.S. State Department 1998 Country Report on Human Rights: Azerbaijan*, which states "ECONOMIC GROWTH HAS BEEN SPURRED BY SUBSTANTIAL FOREIGN INVESTMENT IN THE HYDROCARBON SECTOR, BUT IT IS OFFSET BY A HIGHLY ORGANIZED SYSTEM OF CORRUPTION AND PATRONAGE."

<sup>18</sup> On December 22, 1997, in the *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Azerbaijan*, 22/12/97, E/C.12/1/Add.20, the committee expressed concern "that a large proportion of the resources necessary to finance social programs is diverted by corruption, which pervades state organs and the sectors of the economy that are still under state control." The committee recommended that as a matter of urgency the government address basic needs of the population, such as safe drinking water, food, health care and affordable housing.

<sup>19</sup>"UK: Ex-Soviet Viewed as a Hotbed of Corruption," Reuters, November 3, 1997. The Control Risks ranking, based on surveys of one hundred major multinational corporations, ranked Russia, Nigeria, and Ukraine as the first, second, and third most corrupt countries respectively in which to do business in 1997.

## Recent Human Rights Developments

In 1996, Azerbaijan began the application process for membership in the Council of Europe. But the government's poor human rights record—not only on torture—has made it clear that membership is premature.

In February 1998, the Azerbaijani parliament adopted legislation banning the death penalty, and President Aliyev issued a decree on promoting human rights, which among other things called for further cooperation with human rights organizations. A June 18 presidential order established a state program on human rights that called for improvements in a number of areas. In December 1998, the parliament adopted a law enabling individuals to sue for damages caused by officials in the criminal justice system, although presumably its full implementation must await amendments to the civil procedure code. But in other regards, there has been little improvement. During the first half of 1998, the government continued to stifle political dissent and civil society through official pre-publication censorship, arrest and harassment of journalists, onerous licencing requirements for the broadcast media, and by denying nongovernmental organizations the right to register. Although the government lifted pre-publication censorship in August 1998, under international pressure in advance of the October presidential elections, it continued to suppress freedom of the press through politically-motivated libel suits and beatings and detentions of journalists at the end of the year. The Ministry of Justice has repeatedly refused requests from human rights organizations, religious organizations, and lawyers' associations for registration, required for them to operate legally.

A series of elections in Azerbaijan characterized by widespread fraud has seriously undermined public confidence in government institutions. The November 1995 parliamentary elections, roundly criticized by international observers,<sup>20</sup> produced a parliament that is overwhelmingly dominated by members sympathetic to the government: of 124 members, only eight were members of the opposition. Subsequently, some ruling party parliamentarians have joined an opposition bloc, raising the number of opposition parliamentarians to approximately nineteen. International observers, including the OSCE and the Parliamentary Assembly of the Council of Europe, concluded that the elections were marred by extensive fraud. The government has violated constitutional provisions that mandated that municipal elections were to have been held by no later than November 1997, and such elections are scheduled for late 1999.

## POLICY

The governments of the U.S. and some European countries, concerned with securing alternative sources to the Middle East for oil and natural gas, limiting Russian influence in the region, and bolstering Turkey's role in the Caucasus and Central Asia, have become increasingly active since 1996 in Azerbaijan. Azerbaijan has welcomed western governments' increased interest, and has encouraged the presence of multinational oil companies and the construction of pipelines on routes independent of Russia to offset Moscow's influence. As a result, the U.S. and some European countries have strongly advocated Azerbaijan's integration into European and other international structures such as the World Trade Organization and the Council of Europe.

### The United States

In a major speech outlining U.S. policy in the region in July 1997, Deputy Secretary of State Strobe Talbott emphasized that "independence, prosperity and security" were mutually reinforcing goals for the countries in the region, and that it was in the interests of the U.S. government to promote these aspirations.<sup>21</sup> Talbott outlined four priorities in

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<sup>20</sup> The OSCE/UN joint electoral observation mission report on the November 12, 1995, parliamentary elections and referendum on the constitution stated that the mission had, "serious doubts as to the fairness of the election," and concluded that the elections "had in many respects not corresponded to international norms." The report cited the exclusion of several parties from participation, interference from local authorities, police in polling stations, and inflation of the required minimum turnout. *OSCE/UN Joint Electoral Observation Mission in Azerbaijan on Azerbaijan's 12 November 1995 Parliamentary Election and Constitutional Referendum*, The Office for Democratic Institutions and Human Rights and the UN, Warsaw: January 1996.

<sup>21</sup> Strobe Talbott, "A Farewell Flashman: American Policy in the Caucasus and Central Asia," speech delivered July 21, 1997

the region: promotion of democracy, free market economic reform, peace and cooperation among countries of the region, and their integration into the international community.

An outgrowth of this policy has been increased military cooperation between Azerbaijan, the U.S., European, and other governments under NATO auspices and through other bilateral programs. This derives in part from the need to ensure Azerbaijan's stability and the safety of the large investment that would be represented by pipelines to ship oil and gas reserves from the landlocked region to world markets. During President Aliyev's state visit to the White House in August 1997, U.S. Defense Secretary William Cohen and President Aliyev signed a joint statement on future U.S.-Azerbaijani defense and military relations. The joint statement advocated Azerbaijan's active integration into newly emerging European security structures, including NATO's Partnership for Peace and the Euro-Atlantic Partnership Council. An accompanying document expressed a willingness to continue exploring security cooperation through a bilateral security dialogue begun in March 1997. In January 1998, Azerbaijani Prime Minister Artur Rasizade stated at a Tokyo investment conference that the government had consulted informally with NATO regarding security arrangements for oil pipelines, and the government has subsequently advocated that a peacekeeping force under NATO auspices be deployed in Nagorno Karabakh. U.S. and European officials have made no on-record public responses to these suggestions. Meanwhile, other U.S. allies, such as Turkey, have signed military training agreements with Azerbaijan and are active in training personnel of the Azerbaijani Ministry of Internal Affairs.

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at the Central Asia Institute of the Paul H. Nitze School of Advanced International Studies of Johns Hopkins University. At the time, Talbott was Acting Secretary of State.

The U.S. government, along with Russia, has been active as a co-chair of the Minsk Group, established under the auspices of the OSCE, in peace talks to settle the Nagorno Karabakh conflict. A cease-fire was declared in May 1994, but the subsequent talks to determine Nagorno Karabakh's political status have yielded no results to date. U.S. Senator Mitch McConnell, the influential chairman of the Senate Subcommittee on Foreign Operations Appropriations, indicated in March 1998 that he would favorably consider Clinton Administration proposals for allocation of up to 1,500 U.S. troops to an OSCE-sponsored peacekeeping or observer force should a political agreement on Nagorno Karabakh's status be reached.<sup>22</sup> This was significant as it represented the first public statements by U.S. officials regarding willingness to consider committing U.S. ground forces to the region.

The formulation of U.S. policy toward the region reflects divisions between the executive and legislative branches. The most significant of these occurred in 1992, when Congress adopted the Freedom Support Act, a foreign assistance bill, whose Section 907 precludes direct U.S. assistance to the government of Azerbaijan "until the president determines that Azerbaijan has taken demonstrable steps to lift its blockade of Armenia and ceases offensive use of force against Armenia and Nagorno Karabakh." All humanitarian assistance must therefore be channeled through U.S. nongovernmental organizations. The Clinton Administration has repeatedly opposed Section 907. The Azerbaijani government deeply resents the restriction, which it views as indicative of Congress' bias in favor of Armenia in the Nagorno Karabakh conflict.

### **European Union and Council of Europe**

The European Union's (E.U.) stated policy focus is on promoting the long-term political and economic independence of countries in the region, and their full integration into the international community.<sup>23</sup> The E.U. is the single largest donor to the nations of the Caucasus, and by May 1998 Azerbaijan had received assistance totaling ECU 208 million in grants and ECU 51 million in loans.<sup>24</sup> In April 1996, Azerbaijan signed a partnership and cooperation agreement with the E.U. (which is conditioned on respect for human rights) that is expected to go into force after ratification by the parliaments of all E.U. member states in mid-1999. An interim agreement currently governs trade and economic cooperation between the E.U. and Azerbaijan, including participation in the E.U.'s Transport Corridor Europe Caucasus Central Asia (TRACECA) project. The project aims to increase the political and economic independence of the Caucasus and Central Asia from Russia by creating an East-West transport corridor with upgraded roads, port facilities, and other transportation networks, such as oil and gas pipelines. The E.U. has also been active in providing humanitarian assistance for refugees and reconstruction in an area near Fizuli, a region that until late 1993 had been occupied by ethnic Armenian forces.

The Council of Europe granted Azerbaijan guest status in June 1996, and Azerbaijan's application for full membership is pending. The council is a forty-one member international organization that views its main role as strengthening democracy, human rights, and the rule of law and since 1989 has played an increasingly active role in central and eastern Europe. The Council of Europe's Committee of Ministers has stated that a significant rapprochement between Azerbaijan and the Council of Europe would require implementation of major democratic reforms and a commitment by countries in the region to resolve their conflicts by peaceful means.<sup>25</sup>

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<sup>22</sup> March 31, 1998, hearing of the Foreign Operations Subcommittee of the Senate Appropriation Committee chaired by Sen. Mitch McConnell on Caspian Energy programs in Washington, D.C.

<sup>23</sup> See for example, "The European Union and Georgia: Promoting Regional Co-operation in the South Caucasus," speech by Hans van den Broek, member of the European Commission, on June 3, 1998, at Tbilisi State University.

<sup>24</sup> Cited in MEMO/98/41 E.U.-Azerbaijan relations, May 29, 1998, Brussels.

<sup>25</sup> "Parliamentary Assembly rapporteurs in Baku, Yerevan and Nagorno-Karabakh," Council of Europe Parliamentary Assembly press release issued in Strasbourg on June 12, 1998.

As part of the procedure governing Azerbaijan's accession, rapporteurs and parliamentarians from the council's Parliamentary Assembly have made several trips to Azerbaijan to review the compatibility of the country's legal system with international human rights instruments such as the European Convention on Human Rights. A September 19, 1997 report by Council of Europe lawyers noted in its conclusions that, "What is required above all is a change in mentality of those in power who do not tolerate any form of opposition."<sup>26</sup> The report further called for extensive reform of the judicial and legal system, a radical improvement in detention conditions for those in pretrial detention and for prisoners who were on death row at the time the report was written, and for judicial control of police and procurator actions during criminal investigations.

### **Multilateral Lending Institutions**

The International Monetary Fund (IMF) and multilateral development banks such as the World Bank and the European Bank for Reconstruction and Development (EBRD) are active in implementing economic stabilization and restructuring programs, and in sector-specific lending. By January 1999, the IMF had provided a total of U.S.\$320 million in credits, while by mid-1998 the World Bank had provided a total of U.S.\$290 million. In addition, the World Bank's International Financial Corporation, its private sector lending arm, and the EBRD, along with several commercial banks have committed a total of U.S.\$400 million in financing for the refurbishment of the Baku-Supsa pipeline; the pipeline through Russia; and other facilities.<sup>27</sup> The World Bank and IMF have made part of their lending conditional on the adoption of laws reforming the police and procuracy. The law on the police was under consideration in parliament in early 1999; no law on the procuracy had been adopted as of this writing. According to IMF and World Bank lending documents, these laws were projected for passage in June 1999.

## **TORTURE**

### **Overview**

The police and other security force personnel beat and torture detainees in pretrial custody to punish, humiliate, and intimidate, to gather information, to force confessions, and to compel corroborating testimony from witnesses. The procurator's office then uses coerced confessions and testimony as evidence to secure convictions at trials whose procedural rules are heavily weighted against defendants, in front of judges who rarely pursue defendants' torture allegations. Equally disturbing, in cases that usually do not go to trial, the police arbitrarily detain and beat individuals in custody to extort bribes from them and family members seeking their release. This abuse—at times shocking in its brutality—came to light, ironically, during the period in which Azerbaijan ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).<sup>28</sup>

In cases documented by Human Rights Watch involving those accused of treason or other political offenses, systematic abuse took place primarily in the lock-up of the Baku City Police Department, but also occurred in other holding facilities, including the Presidential Special Department. The police also routinely and severely beat those detained in holding cells of local precincts and district police departments on suspicion of offenses ranging from petty property crimes to drug possession or murder.<sup>29</sup> In one case we documented, the victim died; in another, the detainee

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<sup>26</sup> Rudolph Bernhardt and Marek A. Nowicki, *Report on the Conformity of the Legal Order of Azerbaijan with Council of Europe Standards* (Strasbourg: The Council of Europe, September 19, 1997), p. 46.

<sup>27</sup> February 17, 1999, press release issued by the World Bank International Finance Corporation.

<sup>28</sup> Azerbaijan acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) on August 16, 1996. Torture is also banned by the International Covenant on Civil and Political Rights (article 7) and by the Azerbaijani constitution, article 46, "Protection of Honor and Dignity" ("Every person shall have the right to protect his or her honor and dignity. The state shall protect personal dignity. Nothing can justify humiliation of personal dignity. No one may be tortured or tormented, no one shall suffer from treatment or punishment humiliating to human dignity. No person shall be experimented upon medically, scientifically or in any other way without his or her voluntary consent").

<sup>29</sup> In Baku and larger cities there are lock-ups in local police precincts (*otdeleniye*), and in district directorates (*rayonnye upravleniye*). The main city police department (*gorotdel*) has a temporary holding facility. There are also small police posts

required eight months of hospitalization. Such abuse occurs most commonly immediately after detention, but can continue for months throughout the prolonged period of detention prior to trial.

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(*uporniye punkty*) that do not have holding cells.



Detainees are frequently kept without charge in temporary holding facilities well beyond the three to ten days prescribed in Azerbaijani law, through frequent recourse to extensions. During this time (during the inquiry, or *doznaniye* phase),<sup>30</sup> police also frequently pressure detainees either not to seek counsel or to accept a state-appointed government lawyer who will not necessarily work in their interest. Human Rights Watch received numerous reports of cases involving suspects accused of nonpolitical criminal offenses, in which these state-appointed lawyers refuse to actively defend detainees' interests unless they are paid, despite their legal obligation to provide services free of charge.

The legal system envisions that detainees will be formally charged and transferred to a remand prison or "investigative isolator," commonly known by its Russian acronym SIzo<sup>31</sup> after the inquiry, during which the police or other investigator has established that a crime has occurred. Throughout the period of pretrial detention while in lock-ups and remand prisons, detainees are intended to be in "isolation" as a "restraining measure." Ministry of Internal Affairs staff told Human Rights Watch that the "restraining measure" of prolonged pretrial detention must be routinely applied to detainees because of the danger of a suspect's flight from Azerbaijan, the danger that the suspect will continue to engage in criminal activity and the risk that the suspect might hide evidence of the crime or otherwise obstruct the investigation. But in practice, the procuracy sanctions, unchallenged, lengthy custody indiscriminately—for even petty crimes and against first-time offenders. Such "isolation" during prolonged pretrial detention — which is a matter of routine in Azerbaijan — greatly contributes to abuse.

In cases when detainees or their families have the means to obtain a private defense lawyer, investigators have refused requests from lawyers for access to their clients in temporary holding facilities and remand prisons. Even if they should obtain such permission from the investigator, the Ministry of Internal Affairs has jurisdiction over—and thus controls physical access to—the majority of pretrial detention facilities in Azerbaijan, and simply can deny access.<sup>32</sup> Some lawyers reported that in certain facilities, such as the lock-up in the Ministry of Internal Affairs Unit to Combat Organized Crime, they are almost never allowed access to clients.

Even when lawyers do gain access, they do not have the right under Azerbaijani law to arrange forensic medical examinations for their clients to establish evidence of physical abuse. The police or procuracy investigator handling a case has the authority to approve or reject a detainee's and lawyer's request for forensic medical examinations by doctors from the Ministry of Health forensic medical examiner's office. This examination is necessary to serve later at trial to establish the nature and the cause of injuries, key evidence to substantiate a claim that a detainee's confession was coerced. A report or testimony after an examination by a private doctor or other examiner who is not an employee of the state forensic medical office is not acceptable in court to establish the cause of injuries. As detainees are routinely held for months or years in pretrial detention with no access to a judge to order the examination, physical evidence and

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<sup>30</sup> During the inquiry, police attempt to ascertain if a crime has been committed that requires forwarding a case to the procurator's office for further investigation. Once the police determine that a crime has been committed, the preliminary investigative phase officially begins (*predvaritelnoye rasledovaniye*). During the preliminary investigation period investigators from the police, Ministry of National Security or procurator's office, depending on the type of crime, begin to gather evidence for trial.

<sup>31</sup> SIzo is the Russian acronym for *sledstvenniy izolyator*.

<sup>32</sup> Other facilities are under the jurisdiction of the Ministry of National Security and other security forces.

marks of abuse and torture frequently fade and heal. Detainees do not have the right to be treated or visited by their own doctors while in pretrial detention as called for under international standards.<sup>33</sup>

It is the procuracy's duty to exercise oversight over Ministry of Internal Affairs staff by reviewing and, if deemed necessary, investigating complaints lodged by detainees, lawyers, human rights organizations, and accounts of detainee abuse that surface in the news media. In practice, the procuracy rarely investigates allegations, and even less frequently prosecutes them.

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<sup>33</sup> Rule 91 of the U.N. Standard Minimum Rules for the Treatment of Prisoners reads: "An untried prisoner shall be allowed to be visited and treated by his own doctor or dentist if there is reasonable ground for his application and he is able to pay any expenses incurred."

During the investigation, defendants have no access to a judge to protest mistreatment: their sole recourse lies with the procuracy. The Azerbaijani legal system also does not provide for the right to prompt judicial review of the legality of detention, a clear violation of Azerbaijan's obligations under article 9 of the International Covenant on Civil and Political Rights.<sup>34</sup> Although a minute number of suspects are freed on their own recognizance, the vast majority are kept in remand prisons.<sup>35</sup> This violates Article 9, which proscribes the routine detention in custody of those awaiting trial, and clearly states, "it shall not be the general rule that persons awaiting trial shall be detained in custody." The lack of prompt judicial review of detentions facilitates incommunicado detentions, an ideal condition for torture. It also results in severe overcrowding of SIZOs, where detainees remain for the duration of the preliminary investigation,<sup>36</sup> trial, and appeals in thoroughly wretched conditions.

Most detainees in Baku are sent either to the Bail SIzo or Shuvelan SIzo, where detainees are warehoused for months and sometimes years.<sup>37</sup> A visit in November 1997 by a Human Rights Watch investigator to Bail SIzo found that conditions in this facility amounted to cruel and inhuman treatment. Overcrowding in Bail forced detainees to sleep in shifts in cells that lack proper ventilation and light. Detainees in some cases were seen to be extremely thin and malnourished, raising concerns about lack of adequate food and vitamins. Former detainees in other SIZOs report that these facilities are equally or more overcrowded.

### **Baku City Police Department (Gorotdel)**

Testimony from detainees in custody during the 1993 to 1997 period has provided evidence that physical abuse of the government's real or imputed political opponents took place frequently at the Baku City Police Department, also known colloquially by the Russian acronym "Gorotdel."<sup>38</sup> Under Azerbaijani law, individuals suspected of especially serious criminal acts may be held at the Gorotdel for ten to thirteen days, which may be extended by the procuracy to a maximum of two months, after which detainees must be formally charged and transferred to a SIzo.<sup>39</sup> This notwithstanding, there are numerous reports of detainees being held incommunicado in the Gorotdel for months at a time without access to lawyers or family members.

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<sup>34</sup> Article 9 reads: "Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power. . . ."

<sup>35</sup> The justice system envisages that a detainee may be freed on the surety of another person or on his own recognizance, but to Human Rights Watch's knowledge, these provisions are almost never used.

<sup>36</sup> The preliminary investigation follows the inquiry. It is distinct from the court investigation.

<sup>37</sup> Bail is also known as Remand Prison No.1, and Shuvelan as Remand Prison No. 3.

<sup>38</sup> *Gorodskoye otdeleniye politsii*.

<sup>39</sup> A suspect may be detained in the Gorotdel's temporary holding facility without charge for up to ten days according to article 83 of the Azerbaijani criminal procedure code. However, the procuracy has the power to extend the period of inquiry or period during which the police determine if a crime has occurred for up two months under article 116. Police use these extensions (granted by the procuracy) of the inquiry period, which are supposedly only for "exceptional cases" as a basis to detain uncharged defendants in these facilities for prolonged periods.

Many witnesses who had been detained on political charges reported that beatings and torture took place on the fourth floor of the building, in the office of the chief of the detective unit,<sup>40</sup> whom they identified as Mammed Mikayilov, or in the offices of his deputies. Several former detainees told Human Rights Watch that Mikayilov personally took part in questioning them and was present during beatings. Among them was Elchin Behbudov, a former Ministry of Internal Affairs employee who worked at the Presidential Special Department at the time of his detention. Behbudov told Human Rights Watch that he was arrested on October 21, 1995, without a warrant, and was taken first to a holding cell in the basement of the Presidential Special Department, where he remained for two days without being allowed access to a lawyer or to notify his family.<sup>41</sup>

At 11:00 p.m. on the second day of his detention, Behbudov was transferred to the Gorotdel:

They put handcuffs on me, and I thought to myself, "But I'm not a criminal, why am I being taken to the Gorotdel?" I was brought there at 11:00 p.m. and immediately brought to the fourth floor of the criminal investigation department to the office of the deputy chief of the detective unit, Hussein Alakharov, and the chief of the detective unit himself, Mammed Mikayilov, was sitting there. ... There were seven of them. ...

As soon as I refused to [write a statement], we talked about this for two or three minutes, they started beating. ... They said I had to write it. ... I asked them, when they were [taking off my handcuffs] and putting them on behind my back, "what are you doing?" They said, "You'll see." They started punching me. There were seven men there and two punched me and I fell.

Behbudov described how police placed him on the floor on his back, put his feet on a wooden restrainer, and held his legs up as they beat him.

I was handcuffed with my hands behind my back. They have this [thing] called a *stanok*. It's wooden with a cord. ... They put it on your legs, so I couldn't move them at all... They raised my legs and started to beat me with night sticks on my legs, arms, neck and liver. They didn't beat me on the head ... I was shouting, "Don't kill me." ... They were telling me, "You will die, but you will write what we tell you." They were using curse words, and later they put a gas mask on my head and started to suffocate me. I lost consciousness twice. ... I was dark, beaten with bruises all over. I couldn't walk afterwards, they beat me [so much].

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<sup>40</sup> In Russian, this is *ugolovniy rozysk*.

<sup>41</sup> Human Rights Watch interview with Elchin Behbudov, Baku, November 11, 1997. Unless otherwise noted, all other information related to this case emanates from this interview. The Presidential Special Department was created and given its status as an investigative organ with powers to detain suspects by an unpublished presidential decree, a procedure that in its lack of transparency is conducive to abusive practices. During a visit to the facility on November 21, 1997, the head of the Presidential Special Department, Major General Elman B. Ganbarov, told Human Rights Watch investigators that the department had been created in 1992, and that a presidential decree adopted in 1995 provided for the department's legal status as an investigative organ to detain members of the security forces under suspicion of crimes. The Presidential Special Department is located in Baku on Azadlik Avenue, two blocks from the U.S. embassy. Its detention facilities, which were shown to Human Rights Watch, are located in the cellar of this building.

A procuracy investigator, Elyuvsar Aliyev, came to see Behbudov several days after his detention, but refused to take action about the abuse: "I showed him my body, you know, like, 'look what they did to me,' and said that the statement I gave was false, that it was dictated to me. He said, 'I can't open a criminal case against seven policemen on account of you.'"

Behbudov had been detained on suspicion of concealing information regarding the September 1994 murder of a fellow employee of the Presidential Special Department. He said he was kept in the Gorotdel for more than two months, and on January 3, 1996, was formally charged under article 186 of the Azerbaijani criminal code, with "concealing evidence of a crime." His lawyer obtained permission to see him on January 3, but investigators did not allow him to visit until January 6. At his subsequent trial, Behbudov was given a two-year suspended sentence.

In June 1996, a Human Rights Watch investigator viewed photographs that clearly showed the bruises that Ali Aliyev sustained during a beating in the Gorotdel in 1995.<sup>42</sup> His spouse, Fatima,<sup>43</sup> told Human Rights Watch that her husband was arrested on March 21, 1995, on suspicion of unlawful weapons possession (article 220 of the Azerbaijani criminal code), and taken to the investigative isolator on the sixth floor of the Ministry of National Security's headquarters in Baku. He was held in the ministry's facility for two months, and later transferred to the Gorotdel, where he spent four months. After her repeated complaints to procurators, he was transferred to a SIzo.<sup>44</sup>

However, she learned months later, the day after leaving the country on a business trip, that her husband had been taken once again to the Gorotdel and severely beaten by investigators who accused him of involvement in the March 1995 OPON revolt:

The day after my departure he was taken there. After I came back I learned from the lawyer and from Gorotdel staff that my husband was in critical condition, that he had been beaten by thirteen people in the Gorotdel and that his legs and arms were in handcuffs. ... I had a meeting with my husband and he described this to me himself.

She said that her husband received a concussion from the beatings and that she obtained pictures of him that were taken after he regained consciousness. Pictures shown to a Human Rights Watch investigator showed a large bruise under one eye, multiple bruises on the arms and legs, swelling on one arm, and traces of what appeared to be burns on the soles of the feet.

My husband told me if somebody were to come down [again] to the basement where he was being detained [to take him upstairs to be tortured], he would have simply hung himself. He had a jogging suit down there, with a cord at the ankle, and that he would get it and hang himself, because he couldn't take it anymore. They are kept in the basement and then they are taken upstairs to be interrogated, supposedly.... He described one day that he was taken to some floor into some room where there were several people and he could even name them. These names he also told to the lawyer in detail. They were Ministry of Internal Affairs staff of the Gorotdel...there were six or seven names.

In the wake of the two OPON revolts in October 1994 and March 1995, more than 700 people were initially arrested for questioning by the authorities, according to estimates made by the Human Rights Center of Azerbaijan (HRCA), an independent Azerbaijani nongovernmental human rights organization. Of those arrested, some were later released, while 373 had, according to HRCA information, been tried and convicted by March 1997. Several defendants who were part of one high-profile trial that began on October 1, 1996, in Baku reported that they had been subject to beatings and torture in the Gorotdel with the intention of coercing them into signing confessions.

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<sup>42</sup> This is not his real name.

<sup>43</sup> This is not her real name. All citations are from an interview with Human Rights Watch that took place in Baku on June 13, 1996.

<sup>44</sup> The name of the remand prison has been omitted to protect the identity of the detainee.

One of the defendants was twenty-seven-year-old Abulfat Kerimov, who reported being badly beaten in the Gorotdel in March or April 1996. Osman Kazimov, a lawyer who represented Kerimov, told Human Rights Watch that he saw his client in custody at the Gorotdel in April covered with bruises. According to Kazimov, Kerimov was arrested immediately after the revolt, spent almost eleven months in pretrial detention, was put on trial, released, and then rearrested in March 1996. Kazimov said that after the second arrest he was first able to see his client one month after he was taken into custody, in mid-April 1996, after strong and repeated complaints to the Procuracy General regarding the denial of access.

Kerimov had reportedly been taken immediately to the fourth floor of the Gorotdel after his arrest:

On the day of his arrest, March 16, at night about 3:00 a.m. or 4:00 a.m. he was taken to the fourth floor to the room that belongs to the detective unit [*ugolovniy rozysk*], this is the special room for punishment. ... When I saw him for the first time he was in very serious condition and couldn't walk. His whole body was covered in bruises and his eyes were swollen.<sup>45</sup>

Kazimov reported that he was allowed to meet with his client only in the presence of two investigators, and only for twelve to fifteen minutes. Kazimov told Human Rights Watch that upon seeing his client, he requested that Kerimov's clothes be removed during the meeting so he could see the extent of the bruising and other marks on Kerimov's body. One of the Gorotdel investigators called the guard on duty to try to prevent Kerimov from showing the lawyer the marks on his body. Only after Kazimov's strong protests was he allowed to view his client's body. "Both his arms, both his legs, almost his whole body was covered in bruises and swelling. He couldn't pick anything up with his hands and stand on his feet," he told Human Rights Watch.<sup>46</sup>

Kazimov noted that his client told him in the presence of Gorotdel investigators that he had lost consciousness briefly during a beating and that Gorotdel staff thought he would die and later discussed throwing him out the fourth floor window in order to claim that he had jumped to his death.

Kazimov's repeated requests to the Procuracy General to allow a forensic medical examination of his client were turned down.

Kazimov noted that an unrelated case he handled in 1996, in which a detainee had sent a letter to his parents complaining of abuse, made him curious about the detainee's claims that he was tortured with an electrical apparatus in the Gorotdel. He said acquaintances among the Gorotdel staff showed him torture implements in a room on the fourth floor of the Gorotdel in late April or early May 1996:

There is a device known as the *falatka*...this is a device in which a person is hung with his legs up. When a person is lying on the floor his legs are tied up, one person sits on his chest and they beat him with night sticks. Also there is a device with two parallel boards between which they place a person and they start to squeeze a person between these two boards. Also there is a special device, when they tie a person's hands and then subject him to electricity. There is special equipment that is electrified, they turn it and increase the voltage.<sup>47</sup>

Kazimov added, "I saw those things myself...I went there and saw, I have some acquaintances there [the Gorotdel] and they showed me. I studied together with some of those people."

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<sup>45</sup> Human Rights Watch interview with Osman Kazimov, Baku, November 13, 1997.

<sup>46</sup> Ibid.

<sup>47</sup> Ibid.

In at least two cases, police arbitrarily detained family members of suspects and subjected them to physical abuse in the Gorotdel.<sup>48</sup> Arif Arifov,<sup>49</sup> a Sumgait resident and the father of a defendant tried in relation to an alleged coup attempt who requested anonymity, stated that he was arrested in early August 1995 by officials who were looking for his son, who was then under suspicion of assisting participants in a coup attempt. "They came to our house. I said our son is not at home, and they asked where he was. They started to argue with each other. One said that I didn't need to be taken in, the other said, yes I did."<sup>50</sup>

The father told Human Rights Watch that he was then taken to Mammed Mikayilov's office at the Gorotdel. When he entered the office, Mikayilov and two deputies, who were sitting at a table, began questioning him regarding the whereabouts of his son. He told Human Rights Watch that after he answered that he did not know where his son was, Mikayilov stood up and dealt him a blow whose force landed him under a table in the office. "Mikayilov himself threw me under the table, he had two deputies there and all of them together started beating me, the three of them started beating me." For the first three days of his detention, he said that he was moved from office to office of various Gorotdel investigators without being given food while the beatings and questioning continued. On the fourth day he was taken downstairs to a holding cell in the basement of the building.

Then after this, they beat me in the basement of the Gorotdel. On the fourth day...They wanted to take me upstairs but I didn't want to, I refused to go upstairs, I said "I'm not able." After this they beat me. They threw a metal thing at me that was on top of the desk and it made a wound on my leg. My leg began to bleed.

Arifov said that the wound was not dressed, and he was returned to his cell and spent a further ten days in the Gorotdel's basement.

Arifov said he briefly shared a cell with another torture victim. He explained that he was kept in a cell with several other prisoners, one of whom was under suspicion of participating in the OPON revolt.

There was an OMON [sic] who was beaten everyday. He was from Rovshan Javadov's [unit], from Kazakh. He was taken upstairs everyday. He was taken from the basement to the fourth floor to Mammed Mikayilov and after that he was brought down again.

He said the OPON member was twenty-five to twenty-six years old. He was taken upstairs in the middle of the night, at approximately 2:00 a.m. or 3:00 a.m., and returned to the cell at about 4:00 a.m. "I saw him lying in a fetal position on the floor holding his head and he said that they had been beating him on the kidneys and on the head," he told Human Rights Watch.

### **Other Baku Police Stations**

Human Rights Watch found evidence of physical abuse and beatings at district police departments, local police precincts, and even neighborhood police posts; in some cases the abuse was so severe as to result in deaths in custody or required detainees to make long stays in the hospital for recuperation. Victims of torture at these police stations were

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<sup>48</sup> According to article 66 of the Constitution, "Prohibition on Forced Testimony Against Relatives," "No one can be forced to testify against him or herself, spouse, children, parents, brother, sister. A complete list of relatives against whom testifying is not imperative shall be determined by law." Yet, detention of family members in order to pressure suspects who are wanted by the police to surrender themselves is a widespread and alarming phenomenon in Azerbaijan. In January 1998, undisclosed Azerbaijani security forces kidnaped Mahir Ismailov in Ganja, and brought him to Baku. They were attempting to use him to locate and trap his relative Ali Gassanov, who had sought refuge in St. Petersburg, Russia. Russian authorities had turned down Azerbaijan's request to extradite Gassanov. Ismailov and Gassanov now have asylum in the Netherlands.

<sup>49</sup> Not his real name.

<sup>50</sup> Human Rights Watch interview with Arif Arifov, Baku, November 12, 1997.

suspects in common crimes, but Human Rights Watch found one case in which police detained and physically abused a political activist at a district station.

Police corruption is frequently associated with many of the reports about abuse in local police precincts and district departments that Human Rights Watch investigators received. In one such case, Baku resident Hussein Zulfuqarov stated that his family lacked the resources to pay a bribe demanded by police officials in sufficient time to secure the release of his son, Samir, before he died in police custody from the severe beatings he sustained.

Zulfuqarov told Human Rights Watch that on July 27, 1997, four employees of the Yasamal district police department detained Samir Zulfuqarov, a thirty-year-old resident of Baku, in the front yard of his home on suspicion of drug trafficking.<sup>51</sup> The next day Zulfuqarov went to the Yasamal police department and met with his son.

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<sup>51</sup> The elder and younger Zulfuqarov shared the same home.



He was in terrible condition, bloody, his shirt torn, he could barely stand. They beat him on the ribs and broke them, there was a dark mark on his forehead above one of his eyes. I asked my son if they had beaten him, and my son answered that if they had beaten him or not, it was not important, only if they had made a decision to release him.<sup>52</sup>

According to Zulfuqarov, shortly after this meeting three Yasamal police officers demanded a bribe of U.S.\$2,500 in cash for his son's release. Zulfuqarov said that he told the officers that he would not be able to raise the sum, and the officials lowered it to U.S.\$1,500. Zulfuqarov returned to his home, and attempted to raise the money by borrowing from relatives and neighbors and selling his wife's jewelry. When the police officers visited his home later that day, Zulfuqarov told them that he had not yet been able to raise the sum, and the police officers allegedly replied that due to his tardiness in paying the bribe, the amount required would be increased to U.S.\$5,000 because the procuracy was supposedly now aware of the case.

By July 29, Zulfuqarov stated he had raised U.S.\$3,800. He gave this sum to the police officers, who told him that he could pick up his son at the Yasamal district police department. He went to the station at 8:00 p.m., requested to see his son, and waited until 2:00 a.m. the next morning, but was refused.

Zulfuqarov stated that his son's arrest was not recorded in the police record log as required by Azerbaijani law and that the procuracy had not been officially notified. He said, "The next day I went to the Yasamal procurator's office and he [a procuracy investigator] told me that the police hadn't told him that my son had been arrested." Zulfuqarov added that a Yasamal procuracy investigator informed him that officials at the Yasamal district police department were under investigation in another matter and that his son had been transferred to the twenty-eighth police precinct.

Upon Zulfuqarov's arrival at the twentieth-eighth precinct, he was shown his son. "My son couldn't speak, he looked terrible, he had a temperature of 42 degrees [Celsius]." Zulfuqarov stated that emergency medical personnel had been called to examine his son. He returned to the Yasamal procuracy to complain about his son's condition and to request further medical attention for him, but the Yasamal procuracy investigator refused to investigate the matter or ascertain why the police has refused to provide further medical assistance.

On August 1, Zulfuqarov returned to the twenty-eighth police precinct, where he was told by police officials that Samir had been taken to Semashko Hospital, where he was pronounced dead. Zulfuqarov was notified later that he could come to the morgue to pick up his son's body.

In the morgue I saw my son's body covered in blood and bruises. There were bruises on his face and chest. His fingers were swollen, there were open wounds on his feet. It looked like he had been run through with something on his feet, there were open wounds with black edges. His testicles had been torn, and [they were] sewn up afterwards with sewing thread. I saw all this in the morgue.

A death certificate shown to Human Rights Watch investigators cited the cause of Samir Zulfuqarov's death as traumatic shock, accompanied by internal bleeding and a broken rib.

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<sup>52</sup> Human Rights Watch interview, Baku, November 17, 1997. Unless otherwise noted, all quotations cited in the case of Samir Zulfuqarov are from this interview.

Frequently after a suspect is detained, the family is not notified by police,<sup>53</sup> leading to a period of unacknowledged detention during which relatives frantically call and search hospitals, local police precincts, and holding facilities. Eldar Agayev, a forty-one-year-old musician, was arrested on September 23, 1993, at his workplace. He was told he was wanted for questioning in relation to a murder. However, police did not notify his family that he had been detained. His wife, Adela Agayeva noted, "The next day someone from his work called me, on the 24th. I started calling everywhere, the morgue, the police, and the hospitals and everywhere I was told there was no such person. At about twelve, [an acquaintance] called to say that Eldar was at the police station and gave me a number to call."<sup>54</sup>

Agayev's brother called the number and was told that Agayev was being held at the twentieth police precinct in Nasimi district. Agayev's brother asked an acquaintance at the Gorotdel to call the Nasimi police department and find out what he was charged with; but the Nasimi police officials reportedly refused to tell even this individual the charges on which he was being held.

Despite repeated requests, officials denied Agayev's wife permission to see him, but on September 30 or October 1, Nasimi district police reportedly called Mrs. Agayeva asking her to bring him clothing. "On the seventh or eighth day they called and said that I should bring him another pair of pants. They gave me his trousers, and when I unwrapped them I saw they were bloodstained," she told Human Rights Watch.<sup>55</sup>

After repeated visits and complaints to officials of the Gorotdel, Agayev's wife was allowed to see him on the tenth day of his detention. "They said that they didn't beat him, but he had a terrible, black face, and our relatives saw him when they led him to the hospital to change his bandages. They had to carry him to the hospital."<sup>56</sup> She said that Agayev received medical treatment at a hospital near the twentieth police precinct in Nasimi district, and that Agayev's visit to the hospital and the treatment he received were not recorded in order to conceal the fact that he had been beaten so badly that he was in need of medical attention. In October 1995, Agayev underwent minor surgery in a hospital for lesions on the soles of his feet from the severe beating he received, and he apparently remained in the hospital through May 1996. In order to preempt claims that the lesions might be the result of a prior injury, Agayev's lawyer told Human Rights Watch that in August 1996 he obtained a certificate of health from the military hospital where Agayev had previous check-ups, stating that he had never before sought medical attention for the problems with his feet.<sup>57</sup>

Prior to his first hospitalization, Agayev was coerced into signing an agreement stating that he accepted representation by a state-appointed lawyer suggested by the police investigator. Adele Agayev stated that this lawyer refused to request that a forensic medical examination be made. Agayev subsequently hired a different lawyer, Elton Guliyev. Guliyev filed a request for a forensic medical examination on December 20, 1996, but the investigator, Javid Ali-zade, denied the request because it was "irrelevant to the case."<sup>58</sup> Agayev was eventually convicted on murder charges.

In 1996, Khatai district police officials beat a sixteen-year-old boy who later told Human Rights Watch of his severe ill-treatment. Eldar Ibrahimov,<sup>59</sup> a Baku resident, said that on September 12, 1996 he was detained near an outdoor market in Baku where he worked. He was accused of stealing some things that had been left with him for delivery to another vendor, "Suleiman."<sup>60</sup>

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<sup>53</sup> Article 93 of the criminal procedure code grants the arresting authority up to three days to inform the detainee's family as to his or her whereabouts.

<sup>54</sup> Human Rights Watch interview with Adele Agayeva, November 12, 1997, Baku.

<sup>55</sup> Ibid.

<sup>56</sup> Ibid.

<sup>57</sup> Human Rights Watch interview with Elton Guliyev, Agayev's lawyer, November 20, 1997, Baku.

<sup>58</sup> Human Rights Watch interview with Elton Guliyev, November 20, 1997, Baku.

<sup>59</sup> Not his real name.

<sup>60</sup> Not his real name.

The police brought Ibrahimov to a neighborhood police post, took his passport and told him that he would be released after the matter was resolved. He spent the day in custody, but was not released. Ibrahimov told Human Rights Watch the police said:

“When Suleiman brings the things, we’ll let you out.” He started to beat me: “You didn’t give those things back to [Suleiman]!” They wanted me to confess to other thefts. Three guys beat me, I don’t know who they were. They were all in uniforms. Maybe one of them was the inspector’s assistant. ...

[The inspector’s office is just] a small room. [They beat me] with night sticks. When I was sitting down they said, “Write that you didn’t give the things and that you stole other stuff.” I said no. They immediately hit me and I fell. There were three of them: one over my head, the other two were sitting. ...

They beat me like beasts. You know how they do it. At first they hit me so hard that I fell. And three of them started kicking me and hitting me with night sticks. They said “Don’t scream, people will hear, shut up.” Every one of them had their turn [beating me]. ...

Don’t ask me where they hit me. I’m ashamed to say where they beat me. It lasted about an hour. It was during the day. ... [It ended when] they gave me a paper to sign.

Ibrahimov was later transferred to the Khatai district police department, again accused of stealing the articles, and again beaten. He was brought to the deputy chief’s office:

His office is on the first floor. . . . When I came into his office there were three or four people in the room, then a few more came in. One of them was a senior lieutenant. The inspector [who had detained Ibrahimov] explained everything to him, and then the deputy chief said, “Why do you say that you gave the things back to Suleiman?” I said, “Yes, I gave the things back.” The deputy chief said, “Beat that asshole.” ...

Then they took me to the *dezhurka*,<sup>61</sup> it has a little cell. They beat me, then tossed me in there. Every one of them wanted to hit me. When I wanted to go to the toilet they would hit me.

I still have chest pains and pains in the ribs and stomach and kidneys. I had bruises on my shoulder, legs. ... I couldn’t see what was on my back. [I had blood] from my nose and mouth. [There was blood] on my shirt.

I had a bad tooth. When they beat me, they hit it and it broke off. [It was on the upper right hand side.]<sup>62</sup>

Ibrahimov said that he was forced to sign a confession, but the beatings continued for approximately seven days because the police wanted him to sign an additional confession stating that he had stolen other things. “After that they beat me, but not like the first day,” he told Human Rights Watch.

On September 19, 1996, he was taken in an unmarked car to Bail SIzo. Upon his arrival he was taken to an examination room for incoming detainees. “They saw my bruises, and said ‘When they look like that we don’t take them.’” Ibrahimov believed that police had slipped a bribe in the documents: “The policeman said, ‘open the case folder.’ The [prison official] looked in the folder and after that they took me [to be processed].”

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<sup>61</sup> *Dezhurka* is the Russian term for a duty room.

<sup>62</sup> Human Rights Watch interview, November 13, 1997 Baku. Unless otherwise noted all information regarding this case is from this interview.

Sixteen-year-old Ibrahimov was sentenced to six years of imprisonment in a trial that began on January 30, 1997. According to Mrs. Ibrahimov, her son's attorney, who had been appointed by the procurator's office, did not raise at trial the fact that Ibrahimov had been beaten. She also reported to Human Rights Watch that this state-appointed attorney, whose services should have been free, had told her, "bring one thousand dollars and we will help your son."<sup>63</sup> She did not have the money to pay the lawyer or to hire a private lawyer. After the trial, Mrs. Ibrahimov sold the family apartment and other possessions and used the money to "buy a judge." On appeal in October, Ibrahimov received a reduced sentence and was released in October 1997.

Human Rights Watch received information concerning one case in which a detainee was subject to abuse in both a local precinct and in a district police department related to her political activities. In this case, Taira, a forty-seven-year-old woman, was detained in Baku in August 1993 for possession of political leaflets.<sup>64</sup>

In August [1993] when the president wanted the republic of Azerbaijan to join the CIS, I was against joining it. We posted leaflets to protest this...I had some leaflets as well. One day on my way home, I picked up a leaflet and was reading it. I wanted to take the leaflet home with me, and when I got near my house they detained me. There were three of us and each of us was on our way home, but we were arrested. They accused us of being provocateurs, and took us to the Sabayil district, to the ninth police precinct.<sup>65</sup>

They took me to the Sabayil district police station. After about fifteen minutes, the minister of internal affairs came in.<sup>66</sup> He asked [about the leaflets]. I said that I agreed with everything that was written on the paper. If there will be any demonstrating or picketing I will join it.

He said, "You are a provocateur and I don't want any provocations." And he said, "There are a lot of people like you in Azerbaijan and we will catch them all. ... And then they started beating me...."

Taira recalled that on the first day of detention she was not beaten as badly as one of the women with whom she was detained.

They held her by the head and they slammed her leg into the wall and she was bleeding, I saw this and the minister was there. And he said, "Beat them they are provocateurs." I don't understand, if we are provocateurs, why didn't they charge us with that legally? Why did they beat us, women, so inhumanly?

They were beating us ... in front of the minister. They started with the woman next to me. I couldn't stop myself from shouting at the minister, "You are a minister. What did she do to you? She just picked up a leaflet from the street on her way home." Then he pointed at me and said, "Beat that ... bitch, she is the chief provocateur."

Taira told Human Rights Watch that the policemen who carried out the beating were not staff of the Sabayil district, but of the Narimanov district police department, where the minister had formerly been police chief. On the day of her arrest, after several hours at the Sabayil district police precinct, she was then taken to Narimanov district police department and interrogated and sexually abused by a woman investigator whom she identified:

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<sup>63</sup> Human Rights Watch interview, November 13, 1997, Baku, with Ibrahimov's mother. Her name has been changed to protect her identity.

<sup>64</sup> Shortly after President Elchibey's ouster in June 1993, supporters of the Azerbaijani Popular Front (and others opposed to President Aliyev's assumption of power on June 18) held public meetings and street demonstrations to protest the former president's ousting and some of the policies of the new Aliyev government. Ministry of Internal Affairs forces under the control of President Aliyev used mass arrests and beatings to suppress protesters during these demonstrations.

<sup>65</sup> Human Rights Watch interview, November 13, 1997, Baku. Her last name has been withheld by Human Rights Watch to protect her identity.

<sup>66</sup> At the time, this was Vagif Novrusov.

She came after eight in the evening. She was drunk or maybe she had smoked marijuana, because I had never seen her like this before. From her eyes, she looked like she was drunk.

We were alone and she called the policemen. She said to one of the policemen, "Son of a bitch, call our men. Do you know what I'm going to do to her?" Then she told me to take off my clothes. I wanted to protect myself, it was a very small room, there were tables, there was a samovar, and I wanted to take this samovar and throw it on myself, but they were holding me. They took off my clothes. She said, "Hold her." They were holding my legs and she put her hand inside me, and she had such long nails, I was screaming, it was so painful. She shouted at me, "I told you that you would forget that you were a woman, that you had a child and a husband. You won't be a woman any longer."

Taira said that for months subsequent to the attack she suffered from gynecological problems that were treated by a doctor who was a friend of hers. After her release in 1993, her sister went to the Narimanov and Nasimi district police stations to request a certificate allowing Taira to go to the state medical examiners office to obtain a forensic medical examination.

Of course, immediately after I was released my sister went to the police of the Narimanov district and said, "Give me the referral for [a forensic medical exam]." They laughed at her. Then we went to the Nasimi district, I lived in Nasimi district, they told me to go and ask at the police station where [I was] beaten.

Taira pursued the matter no further and claimed that, as of November 1997, the female police investigator who abused her continued to work for the Ministry of Internal Affairs.

### **Beyond Baku**

Violence in pretrial facilities in regions outside of Baku is especially troubling given the highly centralized nature of Ministry of Internal Affairs oversight functions. In most cases, family members and others must travel great distances to Baku, at significant personal expense, to complain about lack of access to detainees and other violations. The lack of news media in areas outside of Baku that could draw attention to complaints about treatment and conditions in the facilities, and of nongovernmental organizations able to assist family members, further contributes to detainees' isolation.

Lenkoran, a southern Azerbaijani district near the border with Iran and its surrounding region is home to approximately 300,000 Talish, an ethnic minority who speak a language related to Farsi. In June 1993, Alikram Gumbatov, a local militia leader and head of the Equality of Peoples Party, led a revolt and proclaimed himself a leader of the "Talish Mugan Autonomous Republic." He was detained in December 1993 on charges including treason and later in September 1994 escaped from the Ministry of National Security's holding facility in Baku, along with three other prisoners. More than forty of Gumbatov's relatives and associates were arrested in the wake of the uprising, according to a statement by General Procurator Eldar Gassanov on November 9, 1995.<sup>67</sup>

In August 1995 Gumbatov was rearrested after a campaign of harassment against his wife and other relatives. When his wife, Sudaba Rasulova, went into hiding after his arrest, authorities' attempts to learn her whereabouts went beyond the boundaries of a legitimate search.<sup>68</sup> In one incident in September 1995, police burned the arm of the

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<sup>67</sup> Cited in "Political Arrests and Trials in Azerbaijan: June 1993-November 1995," a report by the Human Rights Center of Azerbaijan, November 14, 1995.

<sup>68</sup> This campaign included repeated warrantless searches of their home and relatives' homes by heavily armed officials of the Lenkoran criminal investigation department.

couple's son, Ramal, who was fourteen years old at the time, in order to coerce him into telling police where his mother was hiding. His sister recounted that a group of heavily armed men from the Lenkoran criminal investigation department entered and searched their home. She knew one of the policemen previously by his first name, Rafik:

Then Rafik, who works for criminal investigation, beat my brother and asked him where my mother was. My brother didn't say anything, he just said that he didn't know...and then they burned him with cigarettes. My grandmother fainted, and then they took her away in a car. Two days she was kept, but you know, she didn't know anything, and they let her go. She was in a bad way for two months after that.<sup>69</sup>

Gumbatov's wife and children were granted political asylum in the Netherlands after the intervention of several human rights organizations.

In December 1993, police in Lenkoran brutally beat Elgar Elgarov,<sup>70</sup> who was sixteen years old at the time, to coerce him into confessing to robbery. Elgarov told Human Rights Watch that Lenkoran police officers detained him at school; he said the police had no warrant for his arrest and told him at the time of detention that they wanted him to answer some questions about a robbery and that he would be returned to his school shortly after. He was taken to the Lenkoran City Police Department, where he was kept for two weeks locked in the duty officer's room and repeatedly taken to one of the police official's offices for questioning and beatings.

They beat me starting on the first day. They beat me for fourteen days until I was put in the temporary holding cells. [The beatings took place] on the second floor, in a room. I don't know whose office it was. [The beatings would take place] during interrogations, whenever they felt like it. Even if someone just walked by [and wanted to] to get in on it.

Elgarov stated that the first time he was questioned about the robbery the Lenkoran police chief hit him so hard that he fell off his chair and the chair broke.

First the deputy, then the chief of the police station came into the room. The two women [the complainants] were also there. One of [the officers] asked if I knew these women. I said, "Yes, I know them." Then they asked me if I did it, if I stole their property. I said, "I didn't do it." They took me back to the duty officer's room. In the evening they took me back to see the police chief. They took the women to another room to give testimony. The chief said to me, "the women testified that you stole their things." I said I had nothing to do with it.

Elgarov reported that the beatings twice included the use of a thick wire cable approximately two feet long and 1.25 inches wide. He noted that the marks made by cables remained on his body for a year after his detention.

On the fifth or sixth day, he [the police investigator] put a piece of paper in front of me and made me write that I had stolen. Again, I said I hadn't taken anything. He took a pistol and put it to my head...I was afraid so I signed. He said, "If you don't confess I'll kill you and your blood will be wasted." My neighbor [the complainant] was also in the room and said, "Don't do it!" He didn't answer my neighbor; he put his pistol back.

Elgarov was allowed to meet with a lawyer on the fifth day of his detention, but was not allowed to see a parent for approximately twenty days. Elgarov told Human Rights Watch that after his trial his parents lodged a complaint with officials in Baku, and that Ministry of Internal Affairs officials were sent to Lenkoran from Baku to investigate.

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<sup>69</sup> Human Rights Watch interview, Moscow, October 1, 1997.

<sup>70</sup> Not his real name. Human Rights Watch interview, Lenkoran, November 14, 1997.

However, Elgarov's parents withdrew the complaint after the Lenkoran deputy police chief visited their home and persuaded his parents to drop it.

In Ganja, Azerbaijan's second largest city, descriptions of police ill-treatment are similarly alarming. Almost all of the approximately thirty local residents who spoke with a Human Rights Watch investigator expressed great fear of the police, and many stated that they were routinely and persistently approached by the police with demands for bribes. "In Ganja there seems to be one policeman for every five residents, they are always collecting money from people," said one.<sup>71</sup>

Members of the opposition Azerbaijan Popular Front and Musavat parties also reported police harassment, including arbitrary detentions, in attempts to prevent them from holding meetings. For example, during one incident, Ramiz Ramizolov, a member of the Musavat party, told Human Rights Watch that on May 24, 1997, Ganja police arrived and violently broke up an indoor meeting of approximately three hundred people.<sup>72</sup> Police reportedly detained him along with twenty other members of the Azerbaijan Popular Front and Musavat parties, and took them to the Ganja district police station at 11:00 a.m., where they were questioned and threatened, and later released at 7:00 p.m. According to Ramizolov, one activist from a nearby town of Garanboi, Kerim Kerimov, who was detained along with him, was taken into a separate room at about 4:00 p.m. and later described having been beaten. "After he was taken, a policeman said to me, 'Poor Kerimov, they have started to beat him.'...when Kerimov was returned, his jacket was ripped, his coat was dirty. He told me that he had been beaten, and I said I was sorry that I invited him to the conference."<sup>73</sup>

In one case in Ganja, physical abuse continued after the suspect had confessed to the crime he was charged with. Imram Kamal-oglu Verdiyev told Human Rights Watch that his son, twenty-four-year-old Vuqar Verdiyev, was arrested on April 29, 1996, by police in Baku on suspicion of murdering an official at the Ganja Agricultural Institute. Verdiyev told the police his son's whereabouts in Baku after he and his wife were detained and kept in a police temporary holding facility for eight hours and repeatedly threatened. Imram Verdiyev's uncle had also been arbitrarily detained as a hostage and threatened with being charged with weapons possession until Vuqar Verdiyev surrendered himself. Verdiyev told Human Rights Watch that police brought his son from Baku to Ganja. At first, the Ganja procuracy conducted the investigation, but "the relatives [of the deceased] started to complain and the case was forwarded to the Procuracy General in Baku."<sup>74</sup>

While in Baku his son was first taken to the Gorotdel and later to the Ministry of Internal Affairs' Special Unit to Combat Organized Crime. "In Baku, he was taken to the Gorotdel, and from the Gorotdel, they took him to the Department to Combat Organized Crime, where people are terribly abused. He was tied up to a radiator and they beat him. They poured hot and then cold water on him and again they beat him...They didn't allow me to see my son." Verdiyev said that his son confessed to the murder, but still continued to suffer physical abuse from the police. His son was moved once again, from Shuvelan remand prison back to Ganja.

And from there he was taken to Ganja again, [to the Ganja City Police Department] and since then they have been abusing him, they broke his shoulders and hand, and broke his toenails, they pushed nails under his toe nails. But he confessed to everything, yet still they abuse him....No lawyer was allowed to meet him and no doctor was allowed to see him.

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<sup>71</sup> Human Rights Watch interview, November 24, 1997, Ganja. Name withheld to protect the person's identity.

<sup>72</sup> Human Rights Watch interview with Ramiz Ramizolov, November 25, 1997, Ganja.

<sup>73</sup> Ramizolov told Human Rights Watch that the Popular Front attempted to hold a second meeting on July 31, 1997. However, the evening before the meeting, Ganja district police again detained him, and the police chief threatened him and accused him of passing out opposition leaflets in Ganja.

<sup>74</sup> Human Rights Watch interview with Kamal Verdiyev, Baku, November 19, 1997.

Verdiyev told Human Rights Watch that he believed that the abuse had continued after his son's confession to coerce him into signing testimony that he had an accomplice.

### **Remand Prisons (SIzos)**

This report has sought to document police abuse that had the specific purpose of intimidating detainees into providing testimony. But ill-treatment need not be purposive to be classified as such. Abysmal physical conditions in custody that may be the result of gross negligence may also constitute ill-treatment as defined in the Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment.<sup>75</sup> The lack of judicial review of detention, together with Ministry of Internal Affairs practice, leave detainees in Azerbaijan vulnerable to appalling conditions in pretrial facilities, or remand prisons, with no opportunity to protest their conditions.

Human Rights Watch sought access to Azerbaijani pretrial facilities because of alarming reports from Azerbaijani human rights organizations regarding squalid conditions, severe overcrowding, rampant tuberculosis, and deaths in custody due to withholding of medical attention, conditions which continue to threaten the health and life of detainees.<sup>76</sup> Severe overcrowding is attributable in large part to the fact that bail for those awaiting trial is rarely granted in Azerbaijan, and suspects are infrequently released on their own recognizance. While this section does not seek to represent a comprehensive picture of pretrial facilities in Azerbaijan, no discussion of torture in pretrial custody would be complete without reviewing conditions in these facilities.

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<sup>75</sup> For example, in 1994 the U.N. special rapporteur on torture issued a report condemning "torturous" conditions in Russia's pretrial facilities. United Nations, *Report of the Special Rapporteur, Mr. Nigel S. Rodley, submitted pursuant to Commission on Human Rights resolution 1994/37, Addendum, Visit by the Special Rapporteur to the Russian Federation* (New York: United Nations, 1994), E/CN.4/1995/34/Add.1.

<sup>76</sup> Several international treaties to which Azerbaijan is a state party recognize basic rights of prisoners. Article 10 of the ICCPR, for example, states: "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person." Several additional international documents enumerate the human rights of persons deprived of liberty, give guidance as to how governments may comply with their obligations under international law, and provide authoritative interpretations of the norms binding on governments. The most comprehensive such guidelines are the United Nations Standard Minimum Rules for the Treatment of Prisoners, approved by the Economic and Social Council in 1957.



In September 1997, the Council of Europe reported that a total of 3,750 inmates were in pretrial detention facilities of all types, mostly under the jurisdiction of the Ministry of Internal Affairs. These figures also included 119 in Ministry of Defense disciplinary facilities, and forty-nine held in the custody of the Ministry of State Security.<sup>77</sup>

During Human Rights Watch's mission in December 1997, the Azerbaijani government granted Human Rights Watch access to some post-conviction facilities, including Gobustan closed prison and several corrective labor colonies. It allowed access to only limited areas of one remand prison, Bail, a facility located in Baku where detainees are warehoused for months and sometimes years while they wait for police and prosecutors to complete investigations, and during trial and the completion of appeals procedures.<sup>78</sup>

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<sup>77</sup> Rudolf Bernhardt and Marek A. Nowicki, "Penitentiary Institutions," *Report on the Conformity of the Legal Order of Azerbaijan with Council of Europe Standards*, Strasbourg, September 19, 1997. Fouad Aleskerov, Chief of the State Law Department of the President's Office, cited 2,869 as the combined inmate population of Azerbaijan's three largest remand prisons, Shuvelan, Bail and Ganja. Human Rights Watch interview with Fouad Aleskerov, Baku, December 3, 1997.

<sup>78</sup> For example, one former Bail detainee convicted of car theft told Human Rights Watch that he was kept in the facility for eleven months *after* his conviction. Reports of detainees being held for lengthy periods in remand prisons after conviction are by no means rare in Azerbaijan. The criminal procedure code stipulates that they may be held in the facilities no longer than ten days after being sentenced. (According to article 345, seven days are granted to a prisoner to allow him to review and appeal his verdict and sentence. Under article 341, the verdict and sentence must be presented to him within three days.) However, should a prisoner wish to appeal his conviction or sentence, in practice he remains in pretrial detention. Moreover, prisoners told Human Rights Watch that if police have not completed investigations of other detainees suspected of involvement in the same crime, all detainees are held in pretrial detention until all those accused have been tried.

The Ministry of Internal Affairs allowed Human Rights Watch access to only eight cells, and, despite a prior verbal agreement, did not allow Human Rights Watch to speak to inmates in private. The overcrowding and poor light and ventilation in the limited area we were permitted to view clearly amounted to conditions of ill-treatment. The Bail SIzo was constructed in 1897 and, according to a previous Human Rights Watch investigation in 1991, officials at the time reported its capacity as 600 inmates.<sup>79</sup> In 1997, officials reported to the Council of Europe that its capacity was 1,200. Officials at Bail initially refused to state the actual number of those detained there during the Human Rights Watch visit, claiming that, "overcrowding was formerly a problem but now it is normal; the last amnesty released a lot of draft evaders."<sup>80</sup> Another official later stated that it held 1,424 inmates at the time of the visit.<sup>81</sup>

Detainees slept in shifts in dark, dank cells. Natural light and ventilation in the cells is provided by a small slit in the wall that is generally six inches in height and two and half feet long. Overcrowding was evident even in the limited area of Bail to which Human Rights Watch had access, and all of the eight cells shown to Human Rights Watch were overcrowded. One cell in Korpus 17, for example, contained eight beds but housed eleven inmates, who reported that they slept in shifts or stayed up all night. In addition, the air was stifling due to inadequate ventilation, and upon opening of cell doors detainees in darkened cells showed a strong reaction to natural daylight.<sup>82</sup> Ministry of Internal Affairs staff stated that detainees are allowed one hour of daily exercise in enclosed, windowless courtyards of approximately five meters by eight meters in size. The small courtyards, with walls approximately thirteen feet high, allowed natural daylight through wire-mesh roof covers. These exercise facilities were hardly larger than some of the cells in which detainees were normally held.

Ministry of Internal Affairs authorities showed kitchen and bakery facilities that appeared to be active, but detainees in some cases were extremely thin and appeared malnourished, raising concerns about adequate food and vitamins.<sup>83</sup> Ministry of Internal Affairs staff stated that detainees were allowed access to lawyers, but are not allowed to make or receive telephone calls. "A lawyer can come every day whenever he wants, if it's a working day," one official assured Human Rights Watch. However, the numerous complaints received from defense lawyers about restriction of access to clients in the facility does not support this statement.

Senior Ministry of Internal Affairs prison and other officials were uncooperative during the visit and hostile to the presence of a nongovernment monitor in detention facilities, in sharp contrast with the government's frequent public statements regarding their commitment to drastically-needed reform of pretrial facilities. Senior Ministry officials at Bail subjected a local human rights monitor, who was translating for the Human Rights Watch researcher, to questioning and verbal harassment during the visit regarding his activities.

Despite a prior agreement, the Human Rights Watch researcher was refused access to most of the facility, including Korpus No. 5, where death-row prisoners were being held under conditions sharply criticized by Council of Europe lawyers who had visited earlier in the year. The Council of Europe lawyers noted that the capacity of Korpus

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<sup>79</sup> Human Rights Watch/Helsinki, *Prison Conditions in the Soviet Union: A Report on Facilities in Russia and Azerbaidzhan* (New York: Human Rights Watch, 1991).

<sup>80</sup> Human Rights Watch interview with Ministry of Internal Affairs official Javansheer Mamedov, at the Bail SIzo, November 29, 1997.

<sup>81</sup> Interview with Fouad Aleskerov, Baku, December 3, 1997.

<sup>82</sup> Article 9 (1) of the U.N. Standard Minimum Rules for the Treatment of Prisoners recommends that: "Where sleeping accommodation is in individual cells or rooms, each prisoner shall occupy by night a cell or room by himself. If for special reasons, such as temporary overcrowding, it becomes necessary for the central prison administration to make an exception to this rule, it is not desirable to have two prisoners in a cell or room." Rule 10 specifies lighting and ventilation conditions: "All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation."

<sup>83</sup> Inmates rely heavily on food parcels from home to provide for their nutritional needs. This places a heavy burden on families, especially indigents, most of whom must travel sometimes great distances to pretrial facilities. This burden is compounded in cases when the breadwinner is in custody, and by the long periods of pretrial custody.

No. 5 was twenty-six prisoners, but that 110 were held there at the time of their visit. Azerbaijani authorities state that they have made provisions to ease the overcrowding in Korpus No. 5 by moving some of its inmates to a newly constructed facility at Gobustan Prison.

Senior Ministry staff also refused Human Rights Watch access to other pretrial detention facilities, such as the Shuvelan SIzo, despite several requests. A former detainee who had been held in this facility told Human Rights Watch that it was equally or more overcrowded during his detention there in 1996, that access to family members and lawyers is severely restricted, and that drinking and washing water in the facility is sometimes unavailable and that inmates must pay guards bribes for drinking water.<sup>84</sup>

In addition, we received reports of ill-treatment in the facility. The mother of one detainee who requested that her name not be used, stated that her thirty-one-year-old son was arrested on March 5, 1994, on suspicion of theft. She told Human Rights Watch that he was taken to Khatai police precinct in Baku. A Khatai district procurator asked her for fifteen million Russian rubles in bribes (equivalent at the time to U.S.\$2,500) for her son's release. She stated that one month after his arrest he was transferred to Shuvelan SIzo, where he told her, he had been forced to remain in a water receptacle for a lengthy period in order to extract a confession from him. She said he reported other ill-treatment in the facility, and that following his trial she saw burn marks on his arms, but did not specify in which facility he had received the burns.

The Ministry of National Security also categorically refused to allow a visit to its sixth floor holding facility, a measure that is particularly disturbing given the serious recent allegations by detainees' lawyers of physical and psychological abuse in this facility.<sup>85</sup>

## **LACK OF JUDICIAL REDRESS**

### **The Procuracy and Judge's Treatment of Coerced Testimony**

Procuracy officials and judges have the duty under international law not to use testimony obtained through torture in criminal proceedings, and to investigate and prosecute reports of torture.<sup>86</sup> But among the cases researched by Human Rights Watch, no victim or defense attorney was successful in challenging the admissibility of testimony on the grounds of torture. An obstacle to such challenges in many cases was securing a forensic medical examination to document alleged torture during the preliminary investigation—a key piece of evidence to determine the nature and cause of detainees' injuries, and to establish criminal responsibility for them.

In no single case of abuse documented by Human Rights Watch did a detainee's report of torture cause a judge to exclude coerced testimony. In one case, the victim forbade his attorney from even requesting a forensic exam prior to trial because he feared for his life. The defense in this and other cases generally attempted at trial to gain a review of

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<sup>84</sup> The date of the interview and the name of the inmate, who is currently in a post-conviction facility, have been withheld to protect him from retaliation.

<sup>85</sup> For instance, the results into the investigation of one such report is discussed in the Azerbaijani government's letter to Human Rights Watch in Annex 3. The government stated in the letter that the allegations of physical and psychological abuse of former prime minister Surat Husseinov in this facility were unfounded.

<sup>86</sup> Article 15 of the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, reads: "Each party shall ensure in its legal system that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made."

torture and coerced testimony. However, in some cases judges refused to order the medical examinations to substantiate the claims, or in other cases medical examinations could not ascertain the cause of injuries after a lengthy period of pretrial detention.

Osman Kazimov was able to secure a forensic medical examination after making repeated requests to the Supreme Court after the trial of his client, Abulfat Kerimov, began on October 1, 1996. Twenty-four of the defendants tried along with Kerimov, in a major OPON case, stated during the proceedings that they had been subjected to physical abuse or mental duress during detention to extract testimony from them while in custody. According to Amnesty International, one defendant, Murshud Mahmudov, stated during the proceedings that he had been subject to electric shock; Kerimov stated that he had been hung upside down and beaten, while a third, Tahir Ragimov described regular and severe beatings during questioning sessions.<sup>87</sup>

According to Kazimov, forensic medical examinations showed that nine of the thirty-four other defendants in the case showed broken bones, but that the cause of the injuries was not clear. Kerimov was not among the nine. In this case, as well in other cases reviewed by Human Rights Watch, lengthy periods of pretrial detention delayed access to the forensic medical examinations, allowing for signs of physical abuse to fade.

Elton Guliyev petitioned the Supreme Court of Azerbaijan on February 4, 1996, for a forensic medical examination for his client, Eldar Agayev. Guliyev told Human Rights Watch:

The court had all the medical documents that testified to his beating, including his bloodied trousers. Nonetheless, the court denied the petition [together with our other petitions]. . . for a forensic medical examination . . . reasoning that it was irrelevant for the case and had no bearing on establishing the truth in the case.<sup>88</sup>

Guliyev stated that at trial Agayev identified and named the officers of the twentieth police precinct who had been involved in beating him. However, all the officers named denied beating him and some stated that they had never seen him before. Moreover, Agayev's sister-in-law testified at the trial that she had inadvertently seen him in the courtyard of the hospital as he was being taken to receive medical treatment for the injuries he sustained in custody.

Chairman of the Azerbaijan Supreme Court Khanlar I.F. Hajiev told Human Rights Watch that during the trial the judges' uncertainty regarding Agayev's guilt had caused them to hand down a twelve-year sentence rather than a more severe sentence usually given for murder. Hajiev stated that he believed that the testimony of two witnesses in the case who had been instrumental in proving Agayev's guilt was obtained from them through "violations of procedures."<sup>89</sup>

I have already been told that this was a serious case, and that even the judges' doubts led to the fact that he didn't receive a strict sentence. Apparently the judges had doubts, and didn't give the strictest sentence. The seriousness of this case is that there were two witnesses who say that they saw him shoot. But the testimony of those witnesses—to accept it or not—we are thinking about that. That testimony was gained by violations of procedures.<sup>90</sup>

Hajiev noted that the person who provided Agayev's alibi for the time of the murder was also beaten. "We are checking his alibi. At the trial, he said during the investigation that he was inside some shops and couldn't have been in the market. A second person was also beaten . . . the person that was ostensibly waiting for him."<sup>91</sup>

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<sup>87</sup> Amnesty International, "Azerbaijan: Time to Abolish the Death Penalty," London, March 1997, EUR 55/02/97.

<sup>88</sup> Human Rights Watch interview with Elton Guliyev, Baku, November 20, 1997.

<sup>89</sup> Human Rights Watch interview with Khanlar Hajiev, November 14, 1997.

<sup>90</sup> Ibid.

<sup>91</sup> Ibid.

While Hajiev's comments serve to acknowledge that torture does in fact occur, they also reflect the widespread disregard for the presumption of innocence in Azerbaijan. Doubts in the minds of the judges arising from insufficient evidence to convict should be grounds for dismissal of charges rather than lower penalties.

At the end of 1996, the trial of twenty-one defendants accused of mounting a coup attempt involving officials of the Defense Ministry, known as the Case of the Generals, shows a similar pattern of a judge's refusal to rule inadmissible confessions and other testimony that defendants claimed were taken under duress. Nineteen of the twenty-one defendants accused of the coup attempt wrote to Amnesty International and other organizations recanting testimony and stating that it had been extracted under duress.<sup>92</sup>

Among the accused were former deputy defense minister Vahid Mussayev, Rafik Agayev, and colonels Javal Mikayilov and Anatoly Sysoyev, the latter a Ukrainian citizen working in the Azerbaijani Defense Ministry. Sysoyev's lawyer, Rauf Abdulayev, told Human Rights Watch that Sysoyev was brutally mistreated while in the custody of the Presidential Special Department, and that Sysoyev's trial, begun in October 1996, was marred by glaring procedural irregularities.<sup>93</sup>

Sysoyev was detained at his home at the end of November 1995 by a group of officials who allegedly refused to identify themselves. The Azerbaijani government apparently made a public statement indicating that Sysoyev was in custody and under investigation for withholding information about the alleged coup attempt, but did not inform his family or the lawyer where he was being held. Abdulayev said that his client was taken to the Presidential Special Department holding cells, located in the cellar of its Azadlik Avenue headquarters. According to Abdulayev, the authorities did not record Sysoyev's presence in the facility, and did not make known to him the date of Sysoyev's transfer from this facility to the Shuvelan and then Bail Slzo.<sup>94</sup>

The first time Abdulayev was able to meet Sysoyev was in March 1996, four months after his arrest. The lawyer reported that Sysoyev was reluctant to elaborate on his treatment in the Presidential Special Department during their first meeting, which took place at Bail Slzo, and at subsequent meetings in May 1996. He said that they discussed the possibility of requesting that the investigator allow a forensic medical examination to verify the injuries Sysoyev had sustained while in custody. The lawyer explained, "The law allows me to do this. But Sysoyev didn't allow me. In May, he told me not to tell anyone about this or 'I shall not survive until the trial. I shall tell everything that happened at the trial.' And I did what my client told me."

According to Abdulayev, at the trial Sysoyev gave a detailed description of the treatment he had been subjected to while in the Presidential Special Department, including naming the officials who abused him.

At the trial he stated that he had been tortured in the Special Department. He was burnt by cigarettes on his hands and he was abused. His legs were tied and he was hung with his head hanging down and beaten with nightsticks that were broken over his body. And then he was beaten with the legs of a table. He was connected to electricity by his ears, with wires running into a box similar to a telephone. And when you turn the disc on the telephone the electricity passes through the wire and it beats your head. He named concrete persons, places, times, titles of who did this to him in the Special Department.

Abdulayev alleged that the authorities in the Presidential Special Department used Sysoyev to demonstrate to other suspects what could happen to them as a form of psychological pressure to extract confessions from them. Abdulayev

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<sup>92</sup> Amnesty International, "Azerbaijan: Time to Abolish the Death Penalty."

<sup>93</sup> Human Rights Watch interview with Rauf Abdulayev, Baku, November 11, 1997. All other citations on this case emanate from this interview.

<sup>94</sup> Under the Azerbaijani criminal procedure code, detaining officials must inform relatives of the detainee's whereabouts (article 93). Detaining officials are also obliged keep written records of a detainee's presence in a facility (article 121).

added that the visible marks of trauma still on Sysoyev's body caused him to make a request in October 1996 for a forensic medical examination.

The court denied the request. I was refused. I asked to allow a forensic medical examination regarding the marks of the crime on Sysoyev's body. His ear was ripped, his eyebrows, nose and lips were scraped, on his body there are traces of cigarette burns.

Abdulayev made a second request in December 1996 that was also rejected. "They told me, 'there is no need for this.'" The lawyer reported that judges in the case also ignored testimony from witnesses who came forward to testify about Sysoyev's condition.

Javal Mikayilov, a colonel who fought in Afghanistan in the Soviet Army who was at the trial as a future defendant, said that when he saw Sysoyev in the Special Department he became afraid, [he said] if they told me to write a confession that I was the one who killed Israeli Prime Minister Rabin, I would... .

I was wearing a dark blue tie with red stripes. And he said, "Sysoyev was the same color as your tie."

The second witness, Capt. Elgan Assimov, also involved in this case, testified that when he was put into Sysoyev's cell [in order] to frighten him, he [Sysoyev] gave the impression of being a mental patient. And the third witness, Bala Husseinov, who stands accused of a terrorist act against Aliyev in August...He says that when he was taken to Sysoyev's cell in the Special Department, that Sysoyev was lying on the bare stone floor, "I saw he was moving and was blue." I asked, "Was he painted?" "No, he was beaten so much that his head was swollen like this."

At his trial on charges of concealing evidence, Elchin Behbudov recanted his testimony incriminating others, stating it had been obtained through torture. He told Human Rights Watch that he identified to the court some of the officials involved in the beatings by their first names, but the chief of the Gorotdel detective unit, Mammed Mikayilov, denied that he employed the staff Behbudov named. Behbudov's cell mate at the Gorotdel told the court about Behbudov's condition, in particular, about his bruises. The judge, however, ruled Behbudov's testimony as admissible, and handed him a two-year suspended sentence.

### **Lack of Procedural Safeguards**

*We can't say that this happens often.... You understand these are the remnants of Soviet society. The lawyers constantly say, "They are beaten..." This is one of the methods of the defense. You can say that this is one of the defense's methods, because if there is confession during the investigation, or the suspect admits his guilt and there is no reason to do this, then the lawyers say they were beaten or psychologically pressured, that is why he confessed. But you can't take this seriously.*

Khanlar Hajiev  
Chairman of the Azerbaijani Supreme Court<sup>95</sup>

The lack of procedural protections in Azerbaijani law for those under suspicion of criminal offenses combined with the lack of independence of the courts—neither of which have seen substantial reform since the Soviet period—offers some insight into how persistent and wide-scale torture of detainees occurs unchecked in Azerbaijan. Officials, including those of the Ministry of Internal Affairs, procuracy, and judges at the highest level were willing to allow that abuse occurred in extremely rare cases, but they scorned the credibility of most torture allegations. However, the lack of procedural safeguards in the Azerbaijani criminal procedure code combined with the Ministry of Internal Affairs practice of keeping detainees utterly isolated from society, makes it difficult for a detainee to prove abuse while he or she is in detention awaiting trial. Later at trial, judges frequently fail to exclude coerced testimony.

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<sup>95</sup> Human Rights Watch interview, Baku, November 13, 1997. At the time of the interview, Hajiev was the chairman of the Supreme Court; currently, he is chairman of Azerbaijan's Constitutional Court.

The criminal procedure code was adopted in 1961 and although it has been subject to minor amendment since, it is a holdover from the Soviet period. Under it, before completed criminal investigations are turned over to a court, there is no judicial review of detention and the ordering of forensic medical examinations is entirely up to the discretion of the procuracy. Since investigations are subject to extensions of indefinite lengths, in some cases for months or longer, this is a serious violation of Azerbaijan's obligations under the ICCPR's article 9(4), which states: "Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide *without delay* on the lawfulness of his detention and order his release if the detention is not lawful."<sup>96</sup> This practice also violates article 9(3) of the ICCPR, which states: "It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and should, occasion arise, for execution of the judgement."<sup>97</sup>

The criminal procedure code stipulates that once it has been established through an inquiry that a crime has occurred, the case investigator<sup>98</sup> has the responsibility during the preliminary investigation to order examination of all evidence related to the crime, including questioning the suspect and witnesses, ordering searches and seizures, and ordering expert analysis of any evidence.<sup>99</sup> This gives the investigator the right to approve or deny a lawyer's or detainee's request during the preliminary investigation for a forensic medical examination or any other type of expert examination while a detainee is being held or at any time until the case is handed over to a court.

The criminal procedure code in article 45 attempts to provide suspects some protection by stating that an investigator cannot reject a suspect's request to question a witness or to conduct expert analysis, such as by a forensic medical expert, if these are significant to the case. However, the term "significant" is open to the discretion of the investigator to interpret. Should the investigator refuse a detainee's request, he is obliged to provide an explanation. But should the defense wish to challenge such a refusal, article 61 stipulates it must submit the complaint not to a court, but to a higher-level procuracy official; otherwise the defense has recourse to judicial review only when the criminal case is sent to court. These provisions regarding the ordering of expert analysis have in practice the effect of cutting detainees off for long periods from access to forensic medical examinations that could substantiate their claims that they have been physically abused.

Further, since the code does not require detainees to be brought before a judge to determine the lawfulness of their detention, they can mount such a challenge only when their trial begins. Detainees are usually held in a detention facility while under investigation before trial, and may appeal custody only to higher levels of the procuracy.<sup>100</sup>

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<sup>96</sup> Emphasis added. Under article 237 of the criminal procedure code, once a case is handed over to a court, a judge has five days within which to decide if a case should be heard, returned for further investigation, or closed; judicial planning sessions have seven days to make this determination. Under the same article, a judge must hold a planning session (*rasporyaditelnoye zasedaniye*) in certain cases, including, inter alia, those in which it is necessary to change to restraining measure for the accused. Judges or judicial planning sessions rule on a number of issues including, inter alia, whether the case should be sent back to the procuracy for further investigation, whether the case should go to trial, the legality of custody and petitions to the court. The judge has seven days within which to hold the planning session from the day he received the case from the procuracy. Under article 256, if a judge decides that the case should go to trial, the case must be heard no later than fifteen days after the judge has decided that the case should be heard.

<sup>97</sup> Also applicable is the United Nations Standard Minimum Rules for Non-custodial Measures, adopted by General Assembly resolution 45/110 of December 14, 1990. Rule 6.1 states: "Pre-trial detention shall be used as a means of last resort in criminal proceedings, with due regard for the investigation of the alleged offence and for the protection of society and the victim." Rule 6.2 states: "Alternatives to pre-trial detention shall be employed at as early a stage as possible."

<sup>98</sup> The case investigator may be from the procuracy, Ministry of Internal Affairs, or Ministry of National Security, depending on the type of crime.

<sup>99</sup> Articles 181-188 of the criminal procedure code set out the investigator's powers and responsibilities.

<sup>100</sup> Council of Europe lawyers stated in their November 1997 report that detainees do not have access to judicial review of their detentions or access to any other external complaint mechanism during the entire time of their detention. They noted that the European Convention requires that detainees be brought promptly before a judge, and stated in their conclusions that an external

The Azerbaijani criminal justice system, as did the Soviet system, emphasizes the “isolation” of the detainee from society as a “restraining measure” pending the completion of the preliminary investigation. The “restraining measure” of pretrial detention is intended to prevent the suspect from obstructing the investigation, fleeing or continuing to engage in criminal activity. Under international law, authorities may detain a suspect prior to trial, but only in exceptional cases.

However, detention prior to trial in Azerbaijan is the norm rather than exception even for petty property crimes, and article 146 grants the procuracy unlimited power to extend the length of the preliminary investigative period, and thus the detention. This article states that preliminary investigation must be completed in two months, but then goes on to detail that extensions may be granted by higher-level procuracy officials for several months, and for an indefinite period in “exceptional cases” upon the authorization of the General Procurator. The granting of such exemptions in what are supposed to be “exceptional cases” leads to prolonged and routine periods of pretrial detention.

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complaint mechanism should be put into place. Rudolph Bernhardt and Marek A. Nowicki, *Report on the Conformity of the Legal Order of Azerbaijan with Council of Europe Standards*, (Strasbourg: September 19, 1997), p. 21.



Under the Soviet system, it was envisioned that as a rule a defense lawyer would begin work to mount a defense in a case only at the end of the preliminary investigation, shortly before the beginning of the trial.<sup>101</sup> Currently, the Azerbaijani criminal procedure code grants detainees the right to a lawyer no later than twenty-four hours after detention, or in the case of a suspect who has been investigated without being held in custody, from the moment charges have been pressed against the suspect (article 57). But resistance to allowing access to lawyers is still ingrained. Some lawyers complained to Human Rights Watch that investigators attempt to block access to suspects in custody by conflating these two parts of article 57, and claiming that access may be granted only after the suspect in custody has been formally charged. However, article 116 allows the procuracy to extend the period of inquiry for up to two months, thus delaying the pressing of formal charges while the detainee is in custody.

Once the investigator has completed the preliminary investigation of the case, composed a concluding report that includes evidence,<sup>102</sup> the defense may examine the case materials that have not been previously seen. The defense can petition the investigator to collect further exculpatory evidence in the case, but the procuracy investigator handling the case has the discretion to accept or deny requests for further gathering of such evidence at that time, including forensic medical examinations, and retains that exclusive power up until the case is sent to court. The investigator's refusal can only be appealed to a higher level procuracy official.

Azerbaijani law also provides that detainees may sign statements stating that they agree to be represented by state-appointed lawyers provided ostensibly free of charge. In practice, the police frequently obtain these documents under duress. Family members complained that the state-appointed lawyers, who are employees of the government and who are assigned to them by police or procuracy investigators, frequently do not work in the detainee's interest or request payment for their services.

The criminal procedure code's treatment of witnesses also raises alarm. The code gives the procuracy and police investigator the power to compel witnesses to present themselves and to give testimony (articles 70 and 170)<sup>103</sup> and makes refusal to testify a criminal offense under article 181 of the criminal code, but witnesses are not accorded the right to a lawyer while in police custody. Human Rights Watch found that police coerced false testimony from witnesses that was intended to corroborate coerced testimony from a suspect.

The Basic Principles on the Role of Lawyers guarantees all those who are in police custody the right to consult with a lawyer—even if they are neither under suspicion nor have been charged with a crime. Principle 8 states that, "All arrested, detained, or imprisoned persons shall be provided with adequate opportunities, time and facilities to be visited by and to communicate and consult with a lawyer, without delay, interception or censorship and in full confidentiality." It is essential that witnesses be accorded this right: the criminal procedure codes' failure to provide it facilitates conditions under which witnesses can be coerced to give false testimony.

### **Lack of Commitment to Accountability**

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<sup>101</sup> "Defence (Criminal Procedure)," *Encyclopedia of Soviet Law*, edited by F.J.M. Feldbrugge, Oceana Publications, Inc, Dobbs Ferry, N.Y., 1973, pg. 211.

<sup>102</sup> In Russian the concluding report is the *obvinitelnoe zaklyucheniye*.

<sup>103</sup> Article 170-1 states that investigators summon witnesses. Article 170-4 states: "The summons must indicate: whom is being summoned as a witness, where and to whom, the day and hour of the appearance, and the consequences for not appearing, under article 70 of the present Code. Article 70 states: "For declining to appear or refusing to testify, the witness and victim shall be held accountable under article 181 of the [criminal code] . . ."

To the degree that they recognized it at all, Azerbaijani officials downplayed the occurrence of torture as “isolated incidents” for which they had brought the perpetrators to justice; they categorically denied that police abuse was widespread. Senior officials in Procuracy General, which has oversight responsibility for Ministry of Internal Affairs personnel, in fact show little commitment to investigating the many allegations of ill-treatment against the police or their own investigators.

The procuracy receives written and oral complaints from members of the public, and is supposed to review and investigate complaints forwarded by the Ministry of Internal Affairs or lodged by detainees, lawyers, human rights organizations, and the accounts of detainee abuse that surface in the news media. In practice, the Minister of Internal Affairs rarely forwards complaints and the procuracy rarely performs a criminal investigation of the allegations, and even less frequently prosecutes them.

The small number of cases that have been investigated have led to few instances of prosecution, according to the Ministry of Internal Affairs’ own statistics. Although the criminal code makes it a criminal offense under article 177 to compel testimony from a suspect or witness by application of threats or other “illegal actions” on the part of an investigator, lack of commitment on the part of the procuracy and senior Ministry of Internal Affairs officials to investigate and to prosecute allegations of physical abuse sends a clear message to lower level officials that torture is tolerated and even encouraged during investigations in order to suppress opposition to the government and to lower the crime rate.

Statistics provided by the minister of internal affairs show that criminal cases were opened against seventeen members of the force in Baku for various infractions, of which only two were related to physical abuse.<sup>104</sup> Moreover, there is no indication that the ministry has increased its efforts to investigate and prosecute torture or police brutality. These statistics show that two staff members in Baku were prosecuted in 1996, while three were prosecuted in 1995. The government does investigate and prosecute officers alleged to have committed infractions, and even brutality, but official statistics show this response is relatively infrequent. Given the pervasive complaints Human Rights Watch encountered of mistreatment and brutality, it is unlikely that the paucity of vigorous investigations has fostered impunity for such abuse.

Regarding disciplinary actions taken against the police, according to Azerbaijani government statistics, 2,398 police officials were subject to disciplinary action in 1998, while 2,537 were in 1997. It is not clear what role, if any, physical abuse against detainees played in these disciplinary actions, as the categories listed by the government for types of offense included “disgraceful behavior,” “violations during consideration of citizen’s complaints,” and “other violations;” none specifically addressed physical abuse of detainees.<sup>105</sup>

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<sup>104</sup> Letter and statistics sent to Human Rights Watch by the Minister of Internal Affairs on March 18, 1998, are attached in their entirety in Annex 1.

<sup>105</sup> See Annex 3, letter from the government of Azerbaijan to Human Rights Watch, reproduced in its entirety .

But the perpetrators of some of the worst cases of abuse Human Rights Watch researched have not been held accountable. When Human Rights Watch raised the case of Samir Zulfuqarov, a Baku resident who had been beaten to death in the Yasamal district police department, Procuracy General officials attempted to discredit Zulfuqarov by stating he was a drug addict with a heart condition. They said that a medical examination had concluded that Zulfuqarov had sustained these injuries by banging his head on the window bars of his cell.<sup>106</sup> However, this is supported neither by the medical examiner's report shown to Human Rights Watch, which stated merely the cause of death as traumatic shock and internal bleeding, nor by testimony by Hussein Zulfuqarov, Samir's father, who saw his son's body in the morgue.<sup>107</sup> Zulfuqarov told Human Rights Watch that one of the three policemen who arrested his son was in fact investigated and detained in Bail SIzo for three months, but subsequently released. Amnesty International reported in July 1999 that an official had been tried in the case, but was acquitted after he testified that the death occurred in another police station.<sup>108</sup>

This kind of impunity also leaves police who have committed abuses at large to threaten complainants and witnesses. Zulfuqarov noted that as of November 1997, two of the police officers who arrested his son and demanded bribes from him continue to work at the Yasamal district police station. He added that he has been threatened by police demanding he cease his complaints about his son's death in custody lest his younger son also be arrested.

As detailed above, Human Rights Watch received numerous allegations that Mammed Mikayilov, a senior Gorotdel official, personally participated in beatings of detainees during questioning. Yet officials of General Procuracy told Human Rights Watch investigators that as of November 21, 1997, they had received no complaints regarding Mikayilov and that he continued to work at the Gorotdel.

At their trial, at least six OPON members charged in the 1995 coup attempt alleged that Adil Ismailov, chief of the Ministry of Internal Affairs group investigating the case, had taken part in their torture. The Ministry of Internal Affairs vigorously denied this, and the procuracy launched no investigation. In August 1997, Ismailov was fired from the ministry and sentenced to three years' imprisonment on rape and other charges.<sup>109</sup>

One procuracy official assured Human Right Watch investigators that, "In the twenty years I've worked here [the procuracy] I have not received even one complaint that [procuracy officials] have beaten someone." Procuracy officials also maintained that although Ministry of Internal Affairs personnel are occasionally guilty of physical abuse against detainees, that such actions are investigated and punished.<sup>110</sup>

But even during the Human Rights Watch mission in November 1997, Nina Ushenko, a Baku resident and adherent to the Jehovah's Witness faith, told Human Rights Watch investigators that from November 13 to November 20, 1997, at least five individuals were beaten during several questioning sessions at the Baku City Procuracy by a procuracy investigator she identified as Shakhin Ismailzade.<sup>111</sup> Ushenko said that she, along with approximately ten others, had been called to Ismailzade's office over a period of several days to answer questions regarding the activities of Jehovah's Witnesses in Azerbaijan. She said that Ismailzade threatened her and other adherents with the intention of forcing them to renounce their faith, and that he had beaten five other adherents to the faith during the questioning sessions. The individuals include Aleksandr Ushenko, a twenty-seven-year-old Baku resident, who was later charged with attempting to bribe a public official. Others included Rovshan Mursalov, who on November 20 was called in for

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<sup>106</sup> Human Rights Watch interview, Baku, November 21, 1997.

<sup>107</sup> See above, p. 20.

<sup>108</sup> Cited in Amnesty International, *Report 1999* (London: Amnesty International Publications, July 1999), p. 86.

<sup>109</sup> Adil Ismailov allegedly raped the mother of a suspect. Ismailov was at least aware that certain defendants were beaten. According to Osman Kazimov, a defense attorney, Ismailov was present when he saw his badly beaten client, Abulfaz Kerimov, at the Baku City Police Department holding facility in March 1996. In fact, Ismailov, who remained in the meeting room together with Ilgar Malyshev (another police investigator) would not allow Kazimov to see Kerimov in private. According to Kazimov, Kerimov's bruises, cuts, and swollen hands were in plain view.

<sup>110</sup> Human Rights Watch interview, Baku, November 21, 1997.

<sup>111</sup> Human Rights Watch interview with Nina Ushenko, Baku, November 22, 1997.

questioning. Mursalov told Human Rights Watch that he had been beaten on the ears and that he sought medical help at Ambulatory Hospital Number 4.<sup>112</sup>

The Baku City Procurator later wrote to Human Rights Watch to report that a review had been conducted and the allegations were determined to be unfounded. However, the rigor and impartiality of the investigation might be questioned, given that one of the alleged victims was treated at a hospital which kept records of the case.

## CONCLUSIONS

There is an urgent need for drastic reform of the criminal justice system in Azerbaijan to improve protections for detainees—a need that the government has largely ignored. This includes adoption of criminal procedures that afford detainees procedural safeguards in keeping with international law and standards, and a willingness on the part of the government to alter the climate of impunity for abuse in Azerbaijan.

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<sup>112</sup> Human Rights Watch interview with Rovshan Mursalov, Baku, October 21, 1998.

The Azerbaijani government has a history of delay and lukewarm commitment to enacting legal reforms, despite declarations indicating a commitment to such reform. For instance, in correspondence with Human Rights Watch, the government said that it intended to adopt revised criminal procedures, improved legislation on the police, and legislation to redefine the procuracy's power, among other legislation.<sup>113</sup> Yet in a recent letter, the government also noted that those who had contacted Human Rights Watch regarding abusive treatment had sufficient domestic remedies available to them within the Azerbaijani legal system, and characterized complaints as "exaggerations."<sup>114</sup>

In addition to the urgent need to adopt and implement legal reform, equally vital is a commitment on the part of the government to alter the climate of widespread impunity for torture and physical abuse. The Ministry of Internal Affairs' and General Prosecutor's Office's failure to prosecute torture as a criminal offense indicates an unwillingness to curb the practice. As such, the Ministry of Internal Affairs' continued jurisdiction over pretrial detention facilities is extremely troubling. The ministry's control of access to detainees in these facilities creates a conflict of interest, and pretrial detention facilities, including temporary holding facilities and remand prisons, should be transferred to the Ministry of Justice, as they have been in many other countries.

The lack of commitment to legal reform to provide such guarantees, combined with the widespread and systemic torture of political and nonpolitical detainees, indicates a profound disrespect for the rule of law and human rights.

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<sup>113</sup> See Appendix 2.

<sup>114</sup> See Appendix 3.

## APPENDIX 1

Azerbaijani Ministry of Internal Affairs Letter and Statistics on Disciplinary Actions  
[Not a Human Rights Watch translation. Received March 18, 1998.]

Executive Director  
Human Rights Watch  
Europe and Central Asia Division

**Ms. Holly Cartner**

Dear Director:

I am very grateful for your kind words expressed toward us in your letter, to seize an opportunity, I would like to assure you about the willingness of our Ministry to cooperate with the division under your authority.

Regarding the questions you expressed an interest in, I am able to inform you that the crime statistics, including malfeasance have been maintained by the appropriate departments of the Ministry of Internal Affairs for several years, on the basis of which level and trends in criminal activity are analyzed, its upward or downward trends ascertained, and the types of criminal charges which are brought or not brought during the time period in question are made clear.

The enclosed [statistics] are used for to make adjustments in criminal and criminal procedure reforms now in progress. Some examples being the recent elimination of number of articles from the criminal code, adoption of an amnesty for more than 17,000 convicted prisoners, and abolition of capital punishment.

The issue of observance of the law, and of strengthening it in regard to the activities of departments of the Ministry of Internal Affairs, is viewed by us as major component of democratic change, and humanization of the legal system. The Ministry of Internal Affairs includes a department whose work includes oversight of observance of the law and official discipline, and maintenance of contacts with the media and the public. Statements regarding complaints received as result of illegal actions of police staff are reviewed, investigated carefully, and appropriate decisions are made within a designated time period.

Corresponding analysis of general data received is carried out including that related to concrete violations and abuses. Taking the data into consideration every step is taken to correct deficiencies, to influence the culprits and their leaders.

Enclosed herein is the information you are interested in dealing with crime in Baku City from 1995 to 1997, and also with staff of the national police department SPD in Baku city and its subdivisions who are dismissed for infringements and brought to account for them .

Respectfully yours,

R. Usubov  
Minister [of Internal Affairs]

## Statistical Information On Criminal Cases in Baku City

	1995	1996	1997
1. Total number of persons who committed crimes	5,465	5,447	5,509
2. Number of government officials accused of criminal offenses	102	91	103
of which:			
crimes of violence	10	2	8
bribery	9	1	5

Information about infringements in operational-official activity of the SPD personnel in Baku city and the metropolitan area:

1. Number of infringements:	45	27	48
2. Number of police staff disciplined:	65	35	54
Of which were dismissed from their jobs:	10	15	10
3. Number of police officers against whom criminal proceedings were instigated:	10	16	17
Of which:			
bribery:	1	5	1
crimes of violence:		3	2

## APPENDIX 2

The Azerbaijani Government's Response to Human Rights Watch Regarding Reform of the Legal and Judicial System,  
[Received March 9, 1999.]









**APPENDIX 3**

Letter from the Azerbaijani Government Regarding Measures to Improve Human Rights Practices  
[Received May 12, 1999]





























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Human Rights Watch is dedicated to protecting the human rights of people around the world.

We stand with victims and activists to bring offenders to justice, to prevent discrimination, to uphold political freedom and to protect people from inhumane conduct in wartime.

We investigate and expose human rights violations and hold abusers accountable.

We challenge governments and those holding power to end abusive practices and respect international human rights law.

We enlist the public and the international community to support the cause of human rights for all.

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