

SUMMARY REPORT ON THE STATUS OF HUMAN RIGHTS AND FREEDOMS IN AZERBAIJAN



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Democratic Institutions and Human Rights Social Union
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The report outlines the current status of human rights and freedoms to 6 directions under the project for the period of the year 2009 and the first 4 months of the year 2010.

Summary report on the status of human rights and freedoms

The report is a part of the “Monitoring in the principle directions of human rights (political rights, court bodies, prisoner’s rights, media and gender), as well as provision of reports and recommendations” project, which was implemented by the organization from the mid of last year.

The main purpose of working out the report is to provide information to donor organization - Norwegian Foreign Ministry on political rights, freedom of speech of the Azerbaijani citizens, and also gender issues, level of court bodies, and the status of the bar institution and the prisoner rights.

The methodology for preparing the report

The report outlines the current status of human rights and freedoms to 6 directions under the project for the period of the year 2009 and the first 4 months of the year 2010. The report investigated to 6 directions the legislative basis of human rights and freedoms, the state of being democratic of the national legislation on those areas, and their conformity to the international acts, also the state of implementation of statutory acts, and analyzed the results of monitoring conducted on those areas. The report also tried to highlight the violations related to human rights and freedoms on the investigated areas, and the measures undertaken in order to eradicate them.

POLITICAL RIGHTS

a) Making amendments and additions to the national constitution:

Constitutional basis of political rights in the country are based on the main law of the country - Constitution which is in force since 1995. Some amendments and changes were made to the Constitution at referendums which were held in the years 2002 and 2009. Being inadequate to the socio-political development level of the country, the great majority of amendments beared no juridical character. The amendments mainly aimed at strengthening the authoritative leader – the power of the head of state, securing the presidency of one man for life and securing “legal” procedure for transferring the power to the “heir”. Amendments and changes made at the latest referendum had beared more reactionary character.

It is worth to note that the suggestion for making amendments and changes to the national Constitution in 2009 had been made by the New Azerbaijan Party (YAP) which has majority in the Parliament as well. The suggestion, after being supported by the YAP-controlled Constitutional Court, was not subject to public debates, and adopted at the nation-wide referendum on the date, 19th of March 2009. As the opportunities involvement of real opposition political forces who were against the mentioned referendum were prohibited, those political forces were not offered the opportunities to hold anti-agitation (promotion) on the mass media, also TV channels. Coarse falsification cases at the nation-wide elections with the poor turnout were sharply denounced by the international and local observers.

In spite of making around 40 amendments and changes to the Constitution at the referendum, most of them were just technical, and beared no juridical significance and content. But some amendments, as mentioned above, beared very reactionary character, it almost served to actual change of the administration shape of the country, limitation of the freedoms of speech and press, and the strengthening of the government's position. Those amendments are as follows:

1) Removal of the provision "Nobody can be elected the President of the Azerbaijan Republic more than twice" from the clause 101 of the Constitution. The removal of this provision was met with severe protests by the international organizations and local political forces.

With the removal of the provision "Nobody can be elected the President of the Azerbaijan Republic more than twice" from the 5th part of the clause 101 of the Constitution, there was established juridical provision for the present head of state for the be elected the president on a termless basis so that this does not base on normal juridical and logical basis from the viewpoint of demands of democratic society. This amendment is too dangerous for countries like Azerbaijan where strict authoritative regime reigns and brings serious damage to the rights of citizens to take an equal part in political life of state and society. Same time, it creates the basis for transition from republican-type management of the country to actual monarchy.

2) With the referendum, another reactionary amendment was made to the 3rd part of the clause 32. Under the mentioned amendment, "Except for lawful cases, nobody can be followed, and can be subject to video and photo shooting, audio recording and other similar actions". The mentioned amendment limits the freedom of getting information ("Freedom of Information" – Clause 50 of the Constitution) and mainly aims at prohibiting the opportunities of free press to work. Despite the mentioned amendment was directly related with the human rights and freedoms, and also contradicted with the another clause of Constitution "No suggestion intending to cancel human rights and freedoms or to more limit them than foreseen under international agreements supported by the Azerbaijan Republic can be taken to referendum", the rulings not paying significance to violation of the above demand succeeded in adding the suggestion to the clause 32 of Constitution. And this makes clear that the given amendment bears political character.

It is not casual that the rulings referring to the clause 32 of Constitution, made some amendments and changes to the statutory acts "On Mass Media", "On Freedom of Information" and other related acts which limited the rights and working space of journalists.

3) Another reactionary amendment made to the Constitution by referendum, which caused to disputes, to 5th part of clause 101 and 1st part of clause 84 "Increasing the period of power of president and parliament in case military operations in war state makes impossible the elections". The mentioned amendment does not arise from any necessity, but only bears political sense and just plays the role of establishing legal security for postponing the presidential and parliamentary elections in an undesirable conditions for government.

It is worth to note that there has been made a progressive amendment, adding to reactionary amendments and changes. For example, in accordance with the amendment made to the clause of Constitution 96.1, "Giving the legislative initiative to 40 thousand citizens, who have franchise, bears democratic character and serves to development of human rights and freedoms.

Starting from March 2010, a new discussions started at political clubs and mass media on making new amendments and changes to the Constitution. According to the content of discussions conducted, the ruling dynasty is going to hold a change in Constitution for completely prohibiting the legislative initiative of the members of Parliament and giving the same competence to the executive power, namely President's Office. However, making more significant amendments and changes to Constitution which meet the interests of local political forces, civil society organizations is very necessary. We reckon that making those mentioned amendments and changes might have offered bigger opportunities to the development of political pluralism and democracy. The amendments and changes that need to be made to the Constitution are as follows:

- 1) Decrease the authorities of executive power and activate the balancing principle among the branches of the state power;
- 2) Besides majority voting system, reflect the proportionate voting system etc.
- 3) Strengthen the independence of judicial power etc.

b) the right to unite in political parties

In accordance with the clause 58 of the Constitution of the Azerbaijan Republic, "Everybody has the right to establish association, also political party, trade union organization and other public union or to enter in the existing union. Same time, the same clause "shows that independence of all unions is secured". As seen, despite it is noted that the state secures the independent activity of political parties, very serious and unlawful obstacles are being made in the Azerbaijan context to parties, especially opposition parties. According to the information given by the Justice Ministry, despite 52 political parties have been publicly registered, the number of actively functioning parties is so few. The rest are just on paper.

The biggest party in the country with the highest membership is New Azerbaijan Part (YAP). According to the official statement of representatives of this party, its members have reached to 500 thousand. Being the ruling party, YAP owns wide opportunities to use administrative and material-economic resources of the state. Even great majority of employees paid by the state budget are involved in the party in various methods (threatening by firing from job, stimulating). YAP has modern headquarter in the downtown, and branch office buildings in districts. All opportunities are offered at the government expenses for functioning of the party members.

As regards the opposition parties, there are several parties functioning which own real capacity and power that can be counted as alternate to the political power. We can cite Musavat party (Equality Party), Azerbaijan Classic National Front Party (ACNFP) and Azerbaijan National Front Party (ANFP). The government creates obstacles to the independent functioning of these parties, since it considers them its main political rivals. Thus, the office buildings of both parties, which were located in the downtown, were forcefully taken from them and given to the government agencies. Businessmen, who donate to the mentioned parties, expose to severe punishment by the authorities. Those, who are relations of those parties, are fired from their jobs with various excuses. At present, many members of the mentioned parties are taking their punishment as prisoners in prisons.

c) voting rights:

Voting rights occupies one of the most significant places among political rights of citizens. By realizing the voting rights, the population take part in socio-political life of the country, elect respective authorities to various state and local self-governing bodies, and also they obtain the opportunity to take those posts by themselves.

Besides referendum-nationwide elections, there are held presidential, parliamentary and municipality elections in Azerbaijan. Last year, municipality elections were held in socio-political life of the country, and the present year, in autumn it is expected there shall be held parliamentary elections.

Let's note that municipality elections which are held from the end of 2009 are accompanied with gross law violations, and there were not offered necessary opportunities for voters to realize their

active and passive rights. The composition of the election commissions were made of the ruling party and those who are relations of the same party in full. The rulings still continue with ignoring the demands of the international organizations to establish the composition of Central Election Commission (CEC), Constituency Election Commissions (CEC) and Polling Station Election Commissions. No real political parties have their own representatives in both CEC and Constituency Election Commissions.

In conformity with the negative amendments made to the Election Code recently, “The duration of election campaign has been decreased twice, and the duration of agitation campaign was lowered from 60 to 28 days. Also, the procedure of registration of candidates by putting some deposit was cancelled.

In elections, there were not established equal opportunities for all of political forces, candidates, and the registration of candidates at CECs took place with the illegal coarse intervention of local executive officers. Those who wanted to nominate their candidacies from the real opposition parties were subject to sharp pressures.

Under the legislation, the elections envisaged the election of around 15.600 members to 1758 municipalities of the country. Paying attention to the quantity of candidates from political parties in elections, it is not difficult to imagine pre-election situation. Thus, the most realistic and leading opposition party – Musavat Party only achieved the registration of its 125 candidates, while the ruling New Azerbaijan Party nominated 15388 candidates to the municipality elections and had all of them been registered at election commissions. As regards another leading opposition party – Azerbaijan National Front Party succeeded in registration of its 238 candidates. The above depict the realistic picture of the conditions made for the political parties. In spite of obstacles made to the candidates from the realistic opposition parties in registration of candidates, there has been made no serious obstacle to some “dwarf” pro-government parties. In general, political parties and the figures on the candidates registered through party at election commissions in the 3rd municipality elections were as follows:

New Azerbaijan Party – 15388, Great Construction Party – 385, Umid Party – 375, United Azerbaijan National Front Party – 238, Civil Solidarity Party – 223, Musavat Party – 125, Motherland Party – 120, Democratic Azerbaijan World Party – 76, Democratic Reforms Party – 72, Civil Union Party – 31, Modern Musavat Party – 22, National Democrat Party – 10, Social Welfare Party – 8, Communist Party – 7, Azerbaijan Patriots Party – 4, Liberal Democratic Party – 4, Social Democratic Party – 1, Citizen and Development Party – 1 candidate.

There had been made serious obstacles to opposition political forces also in agitation-propoganda phase of election campaigns. The candidates were not allowed to realize their rights to assemble freely as in meetings, pickets and demonstrations. Those who wanted to organize mass event or their kin relations, also the participants of those events were subject to police violence, were arrested and exposed to various administrative punishments, they and their relatives were threatened with firing from their jobs etc. Besides, the government controlled public and private TV channels, radios didn't offer opportunities for the opposition to hold agitation. As a logical result of these, the election campaign was held on a very passive manner.

Finally, on the decisive period of the election process, the election day – 23rd of December, the number of unlawful cases reached its culmination. The following can be cited in this regard:

- Repeat voting;
- Ballot stuffing and Proxy voting;
- Removal of independent observers from the polling station in tabulation in most polling stations;
- Misfilling the protocols etc.

The totals of CEC on the election which were held with falsification and numerous law violations were very interesting too. Thus, according to the final disclosure of CEC, 97% of the ruling YAP and other related political forces and candidates, 0,1% (20 persons in total) of Musavat party were

elected members of municipality. Nobody from ANFP and ADP was elected to municipality. CEC also cancelled the results of elections at 9 municipalities.

Thus, totally 100 candidates from the real opposition political parties were not allowed to be elected as members to municipalities. This result indicates once again the scope of falsification in elections too.

It is worth to note that the international organizations didn't pay so much attention to municipality elections and missioned very few observers for observation mission. The opinions provided by the international organizations on the totals of elections, their reports show that elections were not held democratically, the interventions of executive officials and police were extremely high, and also there were not offered equal opportunities for all concerned parties.

For instance, Council of Europe, Congress of Local and Regional Authorities had indicated at its report and resolution on the municipality elections which was held on December 23, 2009 that there had been coarse law violations at registration of candidates, agitation-propoganda, also tabulation processes.

Azerbaijan lives its next election year. There is noticed a kind of enlivening with the functioning of civic society institutions, political parties regarding with the foreseen parliamentary elections this autumn. But the rulings still procede with their principle position, and don't display the will of offering equal opportunities for all political forces in elections. They ignore the challenges of the international organizations with regard to establishing Election Commissions on parity basis, apply the mixed election system (both majority and proportionate), secure the right of free assembly for holding election campaigns, also offer the air time to the opposition on TVs to make speech.

d) the freedom of free assembly:

1st part of the clause of the Azerbaijan Republic Constitution guarantees "everybody's freedom of free assembly together with the others". The 2nd part of the same clause of Constitution had also indicated "Everybody has the right, just by notifying the relevant authorities in advance, to organize peaceful, non-armed assemblies, hold meetings, gatherings, demonstrations, street rallies, and make pickets". Furthermore, the Law of the Azerbaijan Republic "On the freedom of free assembly", Law of Azerbaijan Republic "On Police" and other bills entail the norms which make possible the realization of the freedom of free assembly.

Azerbaijan is also a part of the some international agreements with regard to security of freedom of free assembly and has undertaken respective commitments. But in spite of all these, serious problems are still existing in the area of practical security of freedom of free assembly of citizens. Especially, the rulings display very aggressive attitude towards the intentions of opposition political forces to hold pickets, meetings and demonstrations. It was clearly noticed in the reaction of the law enforcement bodies to the various actions held in 2009.

Police and other law enforcement agencies seem decisive in not allowing opposition political forces to realize their freedom of free assembly. Basically, in election period, the police display special violence against those who want to hold picket, demonstrations and meetings. In March last year, the leading opposition parties of the country – Musavat and ANFP had wanted to hold protests against referendum. The authorities didn't allow to protests. The unsanctioned action was wrecked by the police and there happened numerous arrests. Thus:

In referendum time in 2009, two activists of Sabirabad branch of Azerbaijan National Front Party were arrested with the false accusations.

1. Asgarov Movsum Israyil

2. Sadigov Rovshan Balagardash

It was claimed the mentioned persons were found narcotics and both persons were arrested. They exposed to tortures at police departments. After international organizations dealt with the matter, ANFP members were freed with the provisional punishment.

In 2009, ANFP youth committee attempted to hold protests several times. But the police intervened the actions, and the party members were subject to violent treatment with special violence. Abulfaz Gurbanli, chairman of ANFP youth committee was arrested several times in 2009, and exposed to violent treatment at police departments. During actions, other members of the party were arrested too, and were freed after being warned.

In November 2009, Lankaran branch of the party was removed away from the headquarter with the rude intervention of the town police and executive power officials. The protesting Classic National Front Party (CNFP) members were subject to various pressures and threats.

The branch office headquarter was given to Lankaran representation of the State Committee on Family, Women and Children's Affairs.

On December 5, 2009 – at the picket of the party which was organized for Karabakh in front of the Ministry of Foreign Affairs, the picket participants exposed to violence of police officers. The action was scattered violently. Two participants of picket were arrested unlawfully:

1. Teyyublu Khazar Gardashali – CNFP Narimanov branch chairman.
2. Elman Turkoghlu – CNFP activist.

By not allowing not only political, but also non-political mass actions, the authorities seem persistent in not sanctioning the actions in the country. Those, who want to launch actions for any purpose, are heavily punished. Thus, the student's rally in honour of those who were killed savagely at the terror attack to the State Oil Academy of Azerbaijan last year was scattered, numerous students were arrested and taken to prison, and were subject to various punishment. Another youth event was dedicated to 91st years anniversary of Azerbaijan Democratic Republic. At the event, the peaceful picketers exposed to violent police treatment. In June, the youth of Musavat Party wanted to hold a picket in front of the Iranian Embassy in Baku to protest the violation of human rights in Iran, and the picket was intervened groundlessly.

In June 19 and 30, around 100 NGO representatives attempted to hold picket with various democratic slogans in front of the Parliament to protest against reactionary changes on the legislation on NGOs. But the police didn't allow the NGO representatives even to approach the Parliament building. Only 3 NGO representatives were allowed to submit the Resolution prepared to the Parliament.

Another police violence happened with the action of religious people in September. Many religious people protesting against the dismantle of the mosque were subject to police violence in front of Baku executive power and consequently, some people were wounded, arrested and even called to criminal account.

In December last year, the police intervened in the peaceful assembly of local population in Bananyar village of Nakhchivan Autonomous Republic while they were going to hold religious rites. The protesting village inhabitants were bound on the wood and savagely beaten, taken to psychiatric dispensary and exposed to tortures there. As a result of the incident, one man died, another one attempted to commit suicide by firing himself.

In spite of police violence, the political opposition forces of the country continued with their actions in 4 months of the year 2010 too and they are still doing it. Thus, in accordance with the legislation, and the authorities rejected the request of Musavat party and "Freedom" political block to allocate the space for holding meeting. Around 100 activists of Musavat party who protested against the resolution attempted to hold picket in front of Baku Executive Power building in the mid of 2010, and similar number of picketers of "Freedom" political block held the similar picket on April 27. Both actions were dispersed by police violently, tens of opposition

activists were taken to the police department and they were subject to various administrative punishment there.

In April this year, another political action took place with the anniversary of the terror attack at the State Oil Academy last year. Let's note that Tural Abbasli, leader of Musavat Party Youth Organization was stolen from street on April 28 and the place of his stay was kept unclear for some days. But in spite of preventive measures undertaken by the government, the picket under "No to Terror" slogan did take place. The police intervened in the peaceful picket, displayed extreme violence against picketers, the picketers were dispersed coarsely and a part of youth were taken to police departments and exposed to administrative arrest.

MEDIA FREEDOM:

As the political situation in the country had influenced each area, the media also has not remained aside from influence. In spite of numerous print media, TV and radio functioning, only some newspapers are independent or opposition-oriented. All the remaining mass media are controlled and serve to political interests of the government. Even Public TV, which was established with the claims of the Council of Europe, is totally far from civil society, and only serve to political interests of the rulings and various authoritative oligarchs.

Juridical basis of mass media are made of the Constitution, the Laws of the Azerbaijan Republic "On Mass Media", "On TV-radio broadcasts", "On getting the information" and other national bills, also international agreements that the Azerbaijan government joined. Despite the effective national statutory acts allow the freedom of expression, in accordance with the feature of the political regime, the mentioned rights of journalists were violated coarsely in 2009 and the first 4 months of 2010. The government keeps intervening in the functioning of the press by using its authoritative and violent methods. In spite of the political censor was officially annulled at the end of 90s of the last century, there is existing strict self-censorship among journalists and writers. Main motive of the self-censorship has been calculated to insure himself/herself from possible psychical and physical violence by the authorities for his/her written critical article, analytical report.

Despite more than 2000 print media (newspaper and journal) were established in the country, actually 50 print media are issued. Only some percentage of the newspapers and magazines are issued daily. Great majority of the issued newspapers are controlled by the government. There are only some independent or opposition newspapers so that the most edited of them don't exceed 30-40 thousand. Serious problems still remain in dissemination of newspapers and magazines to the districts.

The main challenge for low edition of print media mainly relates with the financial opportunities. The number of those who want to issue advertisement on newspapers (especially independent or opposition) is so limited. Businessmen are afraid of the possible pressures expected by the government and avoid issuing advertisements in independent newspapers.

Last year, Azerbaijani press took the one of the lowest place in the world as it had been in the previous year. International organizations put a very poor assessment to the press situation.

As regards TV-radio broadcast, the situation is too sorrowful. There are 8 nation-wide TV channels that has the country coverage. Furthermore, some local TV channels are operating in some districts and cities, but their coverage is limited with one or some regions. Both national and region TV channels are under government's control and promoting the government's policy. Opposition representatives, persons with alternate thinking are not allowed to TVs at all. Despite most TVs declare them independent, they are obvious to be managed by oligarchs.

All TVs, including Public TV face with challenges in allocating air time to political opposition in elections. There is required to have the permission of the President's Office for it. Mostly entertaining programs prevail on TVs. News and other programs are belauding the government's

internal and foreign policy, and severely criticize those with opposition thinking, even insult them. They pass pre-conceived information to the public. Consequently, the rights of citizens to get information are rudely infringed. All the above mentioned concern the radio stations too. The government's closing "Radio Liberty", "BBC" and "Voice of America" radio stations in FM frequency starting from the beginning of 2009 were met with the sharp critics of international and local communities, same time the government was warned to restore their functioning and those warnings are still being made.

The only source of getting fair and objective information for the citizens is Internet. But the government tries in various methods to control over Internet, and prohibit the rights of internet users. All of providers functioning in the country are under control of the Ministry of Communications and Information Technologies. The costs for internet use in comparison with the regional countries are higher, and the quality is so poor. Despite the government declared that it had increased the internet connection speed twice and decreased the costs in 2009, it did not take place.

In spite of poor quality and high cost of internet services, free-minded people, also political opposition representatives keep disseminating their views and benefit it broadly to get information. According to the official statistics, "Facebook" social network has more than 150 thousand users in the country. And those who create their accounts in Facebook and other social networks are growing. And even the leaders of the real opposition parties create their accounts, and spread their views and share them with their friends.

Besides with the views criticizing the government in Internet, the share of video tapes in Internet TVs surely irritate the authorities with the authoritative thinking. That is why, 2 bloggers – Adnan Hajizadeh and Emin Milli, founders of ANTV were arrested in summer of 2009 for their critics. The government seeked to frighten other internet users by arresting these two bloggers. The government gives statements on the necessity that Internet TVs should also function with the license.

Supervisory bodies:

Despite "Press Council" which is presented as civil society organization and supposed to defend the rights of journalists, it is working mainly under the control of the government. Great majority of those, who are represented at the management of the council, are distinguished with their close relations with the authorities. Therefore, this council cannot properly defend the rights of journalists, and they only get satisfied with giving "irresolute" statements that coincide with the position of the government.

TV-radio Broadcasting Council conducts control over TVs and radios. Being under the guidance of the President's Office, this council was established in order to prevent TVs and radios from preparing programs exceeding "the limits" already fixed for them. The council owns the authority of putting sanctions to TVs and radios broadcasting any program contradicting with the official policy, and even closing them.

Violence against journalists

Last year, tens of journalists were subject to physical and psychical violence. But nobody who tortures the journalists was called to any account. On the contrary, the journalists and bloggers who were subject to violence were themselves called to criminal account. Thus, in June last year, two bloggers - Adnan Hajizadeh and Emin Milli exposed to physical violence by several persons of the authorities, and consequently they were hurted on their bodies. Instead of detaining the guilty persons, the police arrested those two bloggers as if they violated public quiet and quarreled under the clause 221.2.1 of the Criminal Code (hooliganism by a group of young men).

As regards the main motive of the arrest of bloggers, this was because of their interview from "donkey" on the government's policy on their TV. The same interview was broadcast with a few minutes video tape and respectively the "donkey's" critical views were met with the government's fury.

Despite the arrest of bloggers and the subsequent unfair sentencing were criticized by the local and international community, both bloggers were sentenced to imprisonment. As a result of “joke with the donkey”, Adnan Hajizadeh and Emin Milli were sentenced to respectively 2 years and 2,6 years imprisonment. After arrest of bloggers on an unfair basis, under the freedom of expression, the number of journalists imprisoned reached 7 so that this is considered the high index in the world. And the character of so-called accusations on the arrested persons were almost similar. For instance, Ganimat Zahidov, editor-in-chief of “Azadlig” (Freedom) newspaper and those two bloggers were sentenced with the clause 221 of the Criminal Code (hooliganism), Mirza Sakit, writer of “Azadlig” newspaper (satirist) and M.Huseynov, officer of “Bizim yol” (Our way) with the clause 234.1 of the Criminal Code (Consuming narcotics), Eynulla Fatullayev, editor-in-chief of “Daily Azerbaijan” and “Realniy Azerbaijan” newspapers with the clause 214 (terrorism) and other clauses. Despite the government declared it had punished the arrested writers not for their professions, it is clear for both local and international communities that the declared accusations were false and the journalists were called to account for their critical views.

Although the government freed 3 out of 7 journalists who were arrested to the end of the last year and the beginning of this year with the decree of the head of state, 4 persons including 2 bloggers are still in arrest for the freedom of expression. One of them, Eynulla Fatullayev, so the European Court of Human Rights has the Resolution dated 22nd of March 2010 on immediate release and freeing from the punishment on him. But the government met with the given resolution aggression, called it political resolution and does not hurry to implement it. In order to keep the journalist to longer period, the government realized inadmissible diversion against him. Thus, he was called to criminal account by having been accused with bearing narcotics for consumption. At present, the trial procedure on the journalist with regard to the criminal case is underway in accordance with the clause 234.1 of the Criminal Code.

Media representatives were involved in numerous trial controversies (around 30) in 2009 with the clause 147 for humiliation and clause 148 for slander. The opposite party of those controversies basically were the state officials. In spite of no journalist was imprisoned in 2009 and the first 4 months of 2010, those clauses of the Criminal Code is still “Domoclus Sword” to journalist. In spite of the international demands, the government does not hurry to adopt “Law on Diffamation” which could exclude the account for humiliation and slander by journalists.

Furthermore, in 2009 and the first 4 months of 2010, there were raised numerous civic claims against under “Protection of honour, dignity and businesslike prestige” and they were claimed on a great amount, in million manats (US dollars). Courts in most cases at least ensured the claim partly. It is worth to note that even little amount of fines led to closure of newspapers or significant limiting their functioning. All of journalists involved in trial procedures on either criminal or civil cases were almost independent or opposition writers. The resolutions given by the courts in most cases were pre-conceived by bearing political character.

The right of journalists to get information

To get information from the public bodies, authorities still remains problem for journalists. Especially independent or opposition media representatives still have difficulties in getting necessary information from government officials. And the authorities don't want to give answers to journalist inquiries, which is contradicting with the demands of the Law “on getting information” in 2005. And the information placed in internet sites of government agencies are too outdated, and don't meet the modern demands. And in case the journalists inquiries are rejected with pre-conceived resolutions by the courts, or the same information becomes useless till the resolution is adopted.

As this year will hold parliamentary elections, the government is going to display its intention to prohibit the rights of media and journalists, like every sector. Thus, the beginning of this year, the Parliament added the norm on putting the limits to somebody's being taken photo or video tape without his permission and setting the account for this deed onto the Law “On Mass Media” and other similar legislations. This correction of the parliament was recognized by the international

and local communities as the oppression of media and limitation of journalist rights and pressure against them.

Council of Europe, European Union, “Human Rights Watch”, “Reporters without Borders Organization”, US Department of State and other influential international and regional organizations ranked Azerbaijan as a country with the freedom of expression being coarsely limited, and sharply criticized the government’s exposing free journalists to violences, their arrest. Early this year, the Council of Europe adopted the resolution criticizing the state of media in Azerbaijan. According to the demands of the same resolution, the government should immediately release the arrested journalists, and should create the necessary opportunities for the development of free press. According to the report of another international organization, Azerbaijani President was considered as the enemy of free press and journalists. But in spite of critical reports of influential international organizations, US Department of State, the government still continues with its reactionary position.

COURTS

Creation of fair and effective judicial system in the country which is based on supremacy of law still remain as problem in 2009 and the present year as well. Despite the courts in the country have been declared independent by the demands of legislation, the control of the executive power in the process of holding “judicial sentencing” is too strong. This control is noticeable in both appointment of judges, and making final verdicts in courts and execution of the verdicts. Dependence of judges raised the bribery in the judicial system to high level. According to the results of investigation held last year, the courts were considered the most corrupted organizations by both international and local civil society insitutions.

The main cause for the ineffective functioning of courts and numerous pre-conceived resolutions is the dependence of judges from the executive power, so the following can be mentioned as causes for unfair court resolutions:

- low quantity of judges and their work overload;

There are around 450 judges functioning in Azerbaijan now. This figure does not meet the demands of 9 million country, which is considered the lowest in Europe. Despite there were held regular competitions for judges under judicial reforms, the number of the judges is still unsatisfactory. Those 110 candidates for judge, who passed 3 stages and now involved in relevant courses, are expected to be appointed by the president for judges in autumn this year. Thus, there are expected judges grow to 550. The growth of judges in judicial system in number has led to no qualitative changes. Selection of judges is carried out untransparently and with no public engagement in further stages, despite it is done transparently in preliminary stages.

Commitment to political occupation and the existing power is seriously taken into account in selection of judges. Despite the independence of judges is declared with the Constitution, there are prettily more standards at low effect acts, also statutory acts “On Courts and Judges”, “On Forensic-Law Council” and other acts that put limits to the independence of judges. Judges are not selected constantly. Functioning of newly appointed judges should be evaluated (tested) by Forensic-Law Council once a year for 5 years. Appointment of judges to respective courts by the President, head of the executive power or Parliament on the base of presentation of Forensic-Law Council.

- Miserable wages for judges;

The wage scale for judges of lower instance courts of 1000 US dollars is considered lower than the living level in the country. Therefore, Council of Europe and other organizations consider

necessary to increase the wages of judges several times and offer necessary social opportunities in order to provide proper living for them. They consider that the growth of wages of judges, enhancing their social welfare can assist with the alleviation of corruption with the courts.

- Complexity of the punitive mechanism for judges who give pre-conceived and unfair resolutions and its dependence only on the executive power-Forensic-Law Council;

Forensic-Law Council is functioning as a structural unit of the President's Office and lays under the guidance of the Justice Ministry. Justice Minister is also Chairman of Forensic-Law Council. According to the information of official web-page of this organization, last year around 35 judges were taken to discipline process. The authority of some of them has been put an end. And some others were subject to various disciplinary measures. Chairs of some courts were dismissed.

But the results of summarization of the forensic statistics and the monitorings conducted show that the number of judges who missed coarse law violations is too more than those who were subject to disciplinary measures. It would better to establish an independent organization for punishing the judges who miss coarse law violations. Only then the disciplinary measure on judges would be more effective.

- poor professionalism of judges;

Experts and observers reckon that poor professional rate of judges facilitate the passing pre-conceived and unfair resolutions by the courts and spreading of bribery as well. But in spite of numerous trainings and workshops held with the participation of judges and international organizations, the positive results are not observed yet. There are not shown effective, decisive efforts for eradication of abnormal conditions which remains for long years with the forensic system and serve to interests of the present government.

While judges review the case, they even ignore the instructions reflected with the resolutions of the Constitutional Court and experience difficulties in properly explaining the precedence right of the European Court. In most cases, they don't refer to precedence right of the European Court. Various and contradicting resolutions are being passed on similar disputable issues.

Fair forensic investigation:

Courts miss numerous procedural violations while realizing their both supervisory and investigative functions. These cases repeated in 2009 too. It can be seen from the interview of Supreme Court Chairman to mass media, monthly newsletter of the mentioned court. Thus, as for the statement of the Supreme Court Chairman, Azerbaijani Courts passed more than 14,500 final court resolutions on criminal cases only. Only for 21 cases, there were passed acquittal verdicts. There are more than 80 district courts of first instance, 1 Court of Heavy Crimes, 6 Courts of Appeals, Supreme Court and Constitutional Court functioning in the country. Considering that the effective legislation entails the authority of district courts, Court of Heavy Crimes and Courts of Appeals to consider the matter and pass respective verdict, we can make such a conclusion that 75% of the mentioned courts have passed no acquittal verdicts at all.

The more sorrowful case with the judicial system is the imprisonment measure taken for the accused person. The results of the monitorings conducted and the confession of the Supreme Court Chairman himself show that there have been taken imprisonment measure for 99% of the accused by the courts. Whereas, the legislation envisages other measures alternate to the arrest measure and courts are free to select other kind of measure on persons accused by the courts. As mentioned above, the factors of independence of courts, powerful state of guidance of prosecutor's office and others hinder other measure. Standards on warranty and guarantee are not applied despite they are foreseen under forensic-procedural legislation.

It is proof for complete and objective investigation with the judicial system the factors that the debating principles are not followed in trial procedure, the defense rights of the accused are not secured with its entire quality, and almost all solicitation of the defender are repudated. These cases proceed as it was in previous years. The defense rights in trial procedures bear formal character.

In most cases, the punishments appointed by the courts to the accused are related with the imprisonment. Azerbaijani courts hold one of the first places in Europe for appointing imprisonment punishment.

There still exist serious challenges with the implementation of court resolution. Especially, the implementation of court resolutions on civil, family and economic cases delay for years, or not implemented at all. Challenges with the implementation of court resolutions arise from both gaps in legislation and improper control of courts on the implementation process. The courts are given the authority of the controlling on the implementation process of court resolutions. But courts abstain from intervening in the work of the executive power under the Justice Ministry. Even there exist serious problems with the implementation of resolutions of European Court.

Since 2002, the year when Azerbaijan joined European Convention and entered in jurisdiction of European Court of Human Rights to May 2010, there have been made 25 resolutions so far from complaints given from the national court resolutions. 3 of those resolutions were made in March 2010 and the resolution on the journalist Eynulla Fatullayev for immediate release and giving him compensation of 28.000 Euros was met by the government with great aggression. The government called the resolution political, noted it was contradicting with the legislation of the country and stated they would appeal to Upper Chamber of European Court from the resolution. Unlike government authorities, civil society organizations and international organizations welcomed the resolution and accentuated the necessity of immediate release of journalist.

Most of resolutions passed by European Court was related with the violation of the 6th clause of the European Convention (the right of fair trial investigation). Afterward there were made resolutions on the 3rd clause of Convention (limiting tortures), 10th (the right of expression freedom), 11th (the right to unite) and other clauses.

Last year, “Administrative-Procedural Code” was adopted. The given Code shall regulate the administrative disputes between officials, civil servants and physical and juridical persons. To this end, the government started to establish administrative courts with the demand of Council of Europe and most probably there shall be given appointments to new judge positions in near future to consider administrative cases. Those appointments are greatly supposed to be made from new candidates to judges. But there exist major doubts to objective consideration of administrative processes and passing fair final resolutions on the background of independence of courts, dependence of judges on executive power.

The Bar institution

One of problematic areas that DIHRSU held the monitoring under the project is the bar institution. The bar institution existed in the country still in Soviet time, and there were held some reforms in independence years for conforming this structure to the demands of the modern time. Especially, legislative base of the organization was improved. The number of barristers was grown, new guidelines for the bar association membership were cleared, and also new types of management were formulated.

Despite there were made some amendments and changes to the Law of the Azerbaijan Republic “On the barristers and profession of barrister” which is effective since 2001, there still exist numerous shortages and gaps with the legislative documents. The legislation act completely does not meet the European standards. All rights and opportunities envisaged for barristers in democratic society are not reflected in the legislation.

The Bar Association (BA) which is functioning under the legislation, as a self-governing body, is considered a voluntary association of barristers. Its supreme governing units and officials (Presidium, Association Chairman, Discipline Committee etc.) are elected by vote for 5 years in General Assembly which is held once 3 years with participation of all barristers. But the Justice Ministry, President’s Office play major role in holding selections (appointments) to the mentioned organizations in practice. Presidium members of the BA supported by the executive authorities and its chairman attempt to avoid the demands of legislation and in most cases they exceed their power by succeeding it.

According to the demands of the legislation, chairman of the bar association and Presidium members are elected for 5 years and not more than twice. Despite the power periods of the association chairman and Presidium members who were elected (appointed) in 2004 end in autumn 2009, the association Presidium don't hurry to summon a new General Assembly. Instead of summoning General Assembly, and establish new management units, they have made request to the Parliament and President of the Azerbaijan Republic with the suggestion of making amendments and changes to the Law "On Barristers and Profession of Barrister". The suggestion is expected to make amendments and changes to the Law as follows:

- Give the powers of the general assembly of bar association members to the conference of the bar association members;
- Organize the conference of the bar association members in accordance with the number of persons elected to the local units of the association based on the representation standards etc.
- Put an end to the function of the association members (barristers) by the Presidium, but not court;
- Admission of those who worked at law enforcement agencies, investigation units before to the BA on direct competition, without passing written examination etc.

Despite the above mentioned suggestions are not subject to discussion of Parliament yet, the probability for their adoption is so high. Because, the government by all means tries to keep under control the function of the bar association and its governing bodies.

According to the information given by the Bar Association, the association has 778 members. Approximately, there is one barrister per 778 members of the association so that this figure is considered very low in comparison with the developed democratic countries of the world. Let's note that the association admits new members every second year. Under the legislation, the admission procedure consisting of written test and verbal interview can participate those who have experience (employment) as a lawyer for no less than 3 years. Despite there participated 510 candidates at the preliminary test exams, only 71 candidates managed to pass through the next round so that 68 of them were admitted members to the Association. Let's note that there were created opportunities for participation of local NGO and international organizations during admission procedure to the association.

As regards procedural rights of barristers, the situation in this area is too sorrowful. Especially, the barristers cannot properly defend the accused in investigation or court in trial process. Despite a part of competencies for barristers as defenders arise from legislation, the main cause comes from arbitrariness with the courts, investigation units, and the wide-spread with those organizations. The participation on criminal cases bears formal character. Sound solicitations of barristers in courts are repudated groundlessly. The same situation reigns in investigation units too. The barristers are made serious obstacles to meet with the suspects or accused who are defended by the barristers, meet with them on a confidential manner, and make contacts. The final court resolutions made on the case don't include the speech of the defender.

One of the problems in the profession of barrister, which need urgent solution, is that the amount paid by the government to the barrister for the rendered service is so little. Before the end of last year, the same amount was 99 kopecks per hour (1 US dollar 20 cents). But according to the amendment made to the Resolution of the Cabinet of Ministers of the Azerbaijan Republic dated 2001 on the amount of payments to defenders, translators, specialists and experts, the same amount was increased to 2 manats (2,5 US dollars) in December 2009, which is so little. Also, the amount to be paid to the defenders counts the real time for the barrister's involvement in interrogation and court procedure. But the time spent for waiting the courts, also meeting with the suspects or accused persons at investigation cells, lock-up wards are not counted. Therefore, it would be credulity to wait professional legal aid from barrister appointed to the investigation or trial procedure at public funds.

It has been envisaged under Civic-Procedural Code (CPC) to render free of charge legal services with the funds of the state budget of the Azerbaijan Republic in civil sentencing execution for those who cannot afford to employ barrister at his/her own expenses. According to the amendments made to the CPC in 2009, with the matter of providing with barrister has been given to power of respective court. There had been serious gaps with the providing barrister at public

funds in civil process before the amendments were made. Therefore, those who wanted to make an appeal to the Supreme Court of Cassation or additional appeal of cassation to the Plenum of Supreme Court experienced difficulties in realization of those rights, and they didn't exactly know which organization they needed to appeal.

Despite the above mentioned amendment made to the legislation alleviated the problem to a certain degree, but has not solved it completely. Another considerable gap in legislation is related with the determination of financial status of person who applies for legal service at public funds. Criminal-Procedural Code, (clause 193.3) describes the necessity of checking property state, financial status of the accused by the judge before passing the resolution on appointing barrister at public funds.

In spite of low quantity of barrister per population, there is serious problem with the location of barristers in the republic. Thus, around 80% of all the association 778 members are in the registration at 16 legal advice offices and some barrister bureaus (firms) in Baku city and they are mainly functioning in Baku city. Also, the density at legal advice offices in the capital city is so high. In some cases, about 40 barristers are registered at 20 square meter offices. Of course, it is impossible to talk about quality legal aid and barrister's effective work under such circumstances. And the number of barristers beyond the capital city is too few. Even in some regions it is impossible to meet any barrister.

Logistic supply of legal advice centers of the Bar Association, especially in the regions is not heart-warming. There is no necessary conditions for using information technologies opportunities in most legal advice centers. Even there is no computer in most legal advice centers functioning beyond Baku city. The president's disposal "On measures of enhancing logistic supply of the Bar Association of the Azerbaijan Republic" is not followed. Despite several years passed after the disposal, neither relevant executive authorities nor Supreme Governing organizations of the Bar Association show interest to the implementation of its provisions. It seems the development of the bar institution as democratic and independent unit of civil society is completely contradicting with the notion of the authoritative regime.

The analyze of monitorings conducted by the organization in the area of the profession of the barrister show that the Bar Institution has become a challengous and useless organization. The Bar Association plays the role of structural unit of authoritative political regime rather than democratic, independent self-governing unit. Those who govern this organization try to make the barristers be silent by oppressing those who take independent and critical position, applying various disciplinary measures, and sometimes by putting an end to the work of their barrister functions. Thus, Mr.Hazi Mammadov, chairman of the Bar Association Discipline Committee was subject to disciplinary measure since he didn't agree with the chairman of the association, had critical approach on the developments with the Association, also made public statements on mass media about these developments, and addressed to the head of state.

Consequently, the presidium of the association appealed to the subject district court that the barrister functions of the discipline committee chairman were put an end groundlessly. The final resolution made by the court showed that Hazi Mammadov was prettily aged (87 years old), suffered from his health and other reasons. Whereas, the Azerbaijani legislation accepts no age limitation for dealing with the profession of barrister. Therefore, the mentioned resolution of the court is absolutely unlawful and groundless. The given case is currently laying at the Court of Appeals in accordance with the appeal based on the appeal of the party. Though this event was sharply reproached by various civil society organizations and independent media people and most barristers, the Association Chairman and Presidium ignored those public reproaches. It seems that the Association Chairman and Presidium had seeked the purpose of preventing those who would show similar attitude against the management by displaying its authoritative position over barristers.

The Azerbaijan Republic joined several international and regional agreements, and improved national statutory acts with regard to protection of the rights of prisoners detained by the law enforcement agencies for law violations and sentenced with the court resolutions after the country gained independence. But in spite of democratization of statutory acts, there still exist serious challenges with the protection and defense of rights of suspects or accused persons on any crime, also prisoners who were sentenced to imprisonment. The number of tortures and the cases of inhuman, cruel treatment and behaviour especially on the prisoners detained at lock up wards, interrogation cells and arrested in the prisons those which are under control of law enforcement agencies are growing instead of decreasing. There exist problems with the practical implementation of provisions of the “UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment”, and also Facultative Protocol adopted adding to the the same Convention, “European Penitentiary Rules”.

Consequently, mass media often highlight broad information on death cases of those who are in interrogation or punishment. Pursuant to the results of the monitoring held by the local law enforcement agencies, at least 137 persons, who were arrested in 2009, were subject to torture, various physical or psychological cruel, inhuman and degrading treatment by the law enforcement officers. 6 of them died. Let's note that, these are only the statistical information revealed based on the appeal of those, who were subject to torture, inhuman or cruel treatment, or their relatives. It is obvious that the number of victims, who were subject to torture, but didn't address to any organization is very high.

Based on the appeals of the victims of torture, we may conclude that the events of torture mainly happened at lock-up wards of Police. The main cause for putting tortures on the detainees was to take evidences of confession or bribes from the detainees. It is worth to note that despite in most cases the identity of the torturers was clear, and there was made an appeal to the law enforcement agencies on them, and mass media highlighted the given incident, but unfortunately nobody was called to criminal account with “putting torture” accusation.

During 4 months of the year 2010, there were revealed at least 4 facts on those detainees who died from tortures. 2 of those facts happened at Police lock-up wards, and the other 2 facts happened at Treatment Center of the Penitentiary Service. Only for one fact, several ordinary police officers were dismissed from their jobs. They were announced to lose their jobs not for having put tortures on detainees, but for having dealt with their jobs indifferently.

Last year, the UN Committee against Torture (UNCT), in conformity with the clause 19, “UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment”, received the 3rd periodical report on tortures from the Azerbaijani Government. In October 2009, the official representatives of the Azerbaijani government did their best to substantiate their 3rd periodical report at the meeting of the UNCT in Geneva, Switzerland. But the UNCT opinion on the 3rd periodical report which was issued in November mentioned that Azerbaijan didn't take into account its undertakings and most of UNCT recommendations provided with regard to the 2nd periodical report.

Despite UNCT opinion appreciated the improvements with the legislation, it was particularly noted that the content of the expression “Torture” under the clause 133 of the Criminal Code, “Putting torture” didn't conform with the 3rd clause of the Convention. The committee in his opinion mentioned the urgency of eradication of problems like punishing nobody for the torture event, not holding forensic-medical examination for recording the torture facts, not paying compensations for the victims of torture, not making necessary medical and other conditions at interrogation isolators and punishment cells, not moving “Gobustan” closed prison where those persons of lifetime imprisonment, putting limits to the access of public to the prisons and other challenges. Despite the government implemented some measures for solution of problems mentioned on the opinion, those actions can by no means be considered satisfactory from the viewpoint of demands of democratic society.

Ombudsman of the Azerbaijan Republic on Human Rights, pursuant to the disposal of the President of the Azerbaijan Republic dated 13th of January 2009, was determined as the organization for implementing the functions of national preventive mechanisms foreseen under

the Facultative Protocol of the “UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment”. But it is not convincing that Ombudsman institution will be able to properly perform the functions of the national preventive mechanism, since it bears formal character.

There are 3 interrogation isolation wards and around 20 punishment cells functioning under the Justice Ministry. The interrogation isolation wards mainly detain those who are under interrogation. The buildings of interrogation isolation ward N:3 located in Shuvalan suburb, in Baku and also “Ganja” interrogation isolation ward N:2 are too old and those wards have no necessary proper conditions for detaining the accused. One building of another interrogation isolation ward, “Baku” was opened to operation in summer last year. All of the detainees in “Bayil” interrogation isolation ward N:1 and a part of the detainees in “Shuvalan” isolation ward N:3 (around 1300 persons in total) had been moved to a new isolation ward by the autumn last year.

According to the local and international experts, the new isolation ward meets the European standards. According to the statements of the Penitentiary Service officials, other buildings of the new isolation ward, which are under construction now, will be completed in near future and those, who are detained in “Shuvalan” interrogation isolation ward, will be moved there in full too. It is worth to note that “Shuvalan” interrogation isolation ward also detains women defendants. There is being constructed a new interrogation isolation ward, “Baku” for them. Furthermore, a correctional institution is being constructed for adolescents, and also prison is being constructed for women in the area of “Baku” Interrogation isolation ward. According to the information given from the penitentiary service, the correctional institution designed for adolescent prisoners will have been completed for operation in June this year.

In general, the government disclosed to the mass media its intention of moving most old prisons located in Baku city and surrounding suburbs to the districts, as a main component of its reforms implemented in the area of penitentiary service. A new, mixed type Punishment Cell has already been constructed for operation in Nakhchivan Autonomous Republic in 2008. And another mixed type 900-men punishment cell is expected to have been completed and been given to operation this year on the north-west of the country, close to Sheki city. Same time, the construction of another mixed type punishment cell of 1100 men on the south part of the country, close to Lankaran city is to be completed. According to the statements of officials, it is designed to construct new Punishment Cells on the north part of the country, in Guba town, and on the west and center in Kurdamir as well. Besides with the mentioned punishment cells, it was announced to construct new interrogation isolation wards in those places too.

While speaking of the works carried out at Penitentiary Service, it would be relevant to mention particularly the combat with the tuberculosis at punishment cells. The death cases from tuberculosis were so high 5-6 years ago. But those cases of tuberculosis-sick persons diminished 10 times under DOTS program with the close support of the World Health Organization, International Committee of the Red Crescent. There has been given to operation a new tuberculosis dispensary equipped with medical facilities, which meet modern standards in April this year.

Monitorings carried out by the organization and journalist investigations revealed the wide-spread bribery with the Penitentiary Service like in other areas. Bribery was wide-spread in arranging meetings for the prisoners with his/her relatives, handing over foods, clothes or other permissible stuff to the accused, and for moving him/her to the treatment center and other cases. There was fixed cost per each service. There are claimed 4-5 manats for handing any stuff to the accused (5-6 dollars), 40-50 manats (50-60 dollars) for arranging meetings with the relatives, and higher amount for moving to the Treatment Center.

One of the most noteworthy challenges with the Penitentiary Service is the fact that functioning of the police lock-up wards, interrogation isolation wards and punishment cells is untransparent for civil society organizations, and the public. And the access of the public, also press representatives to the interrogation isolation wards, punishment cell buildings has become a challenging issue.

When paying attention to the composition of the Social Committee on the Penitentiary Service under the Justice Ministry, which was established some years ago, it is impossible not to see

representatives from non-government organizations as civil society representatives that are distinguished with their close relations to the government. Nobody from NGOs and human right defenders that are distinguished with their independent and critical position could find a place for themselves in the composition of the given Social Committee. In December last year, the fourth composition of the Social Committee was established. And it is unclear with what basis the new composition was formed, and which principles were based to make any NGO “elite” and the conformity of them to the democratic principles.

Pursuant to the legislation, the authorities of the Social Committee mainly include the issues like visits and monitorings to the penitentiary institutions, taking part in correctional works, establishing public relations, work on the improvement of standards regarding penitentiary institutions, educational activities and establishing international relations of the committee. But the Social Committee members, in their practical functioning, cannot avoid the rules made for them by the management of the Penitentiary Service of the Justice Ministry rather than the authorities given them under legislation. Therefore, in spite of several years passed after the establishment of the Social Committee, it could not undertake significant, considerable works in the area of Penitentiary Service. Shortly, it had no intention or capacity to perform the functions of the public. The Social Committee would be better to make of the human right defenders who are able to take severe critical position. Only in this case, it would be better to achieve close engagement of the public in the correctional activities for the prisoners, decrease bribery and torture facts, and prevent other negative cases.

The preparedness level and treatment culture of professional staff working at Interrogation Isolation wards and Punishment Cells also have great importance in prevention of unlawful cases with the Penitentiary Service. Despite the admission of professional staff to the Penitentiary Service is held on an examination-testing method, there exist serious challenges with the cultural treatment under ethical rules of the management and ordinary officers of the punishment cells in conformity with the legislation. Management and other officers of the punishment cells treat with the prisoners coarsely, humiliate them, beat them savagely with no reason or put them to one-man cell for long time. Because of unethical treatment with the prisoners, they tend to commit suicides, refuse to follow any order and internal procedures, create unrests in punishment cells, and raise uprisings. Both last year, and the beginning of this year, the management of the Penitentiary Service understanding the strictness of the matter dismissed some of managers and other officers of the punishment cells for their missed coarseness with the treatment with prisoners, and also other law violations happened at their managed punishment cells.

GENDER EQUALITY

Radical changes happened with socio-political, socio-economic life of Azerbaijan over 10-15 years have caused changes with the attitudes towards traditional social values established in the country. This renewal process has made necessary the changes with the status of women in society and in family. Democratization process in the country has become a question which is directly related with the provision of gender equality. The renewal process happening in social life has made necessary the improvement of statutory acts which regulate gender relations and also their conformity to the international standards.

Taking into account this necessity, the Azerbaijan Republic joined a number of international and regional agreements, and also Conventions. Besides joining the United Nations Organizations “World Human Rights Declaration”, and the International Convention “On eradication of all types of discrimination against women”, the government demonstrated its commitment to the worldwide ideas and principles of gender equality by taking respective commitments and undertakings in the area of provision of gender equality in conformity with the demands of the Beijing Action Plan adopted at the 4th World Women’s Conference. Beijing Conference on Women and ratification of the UN Convention “On eradication of all types of discrimination against women” were the starting point in the area of women’s development and empowerment, and this made necessary to establish institutional national mechanism in order to secure gender equality.

In accordance with the commitments arising from the international agreements of provision of the gender equality in the country in the following years, State Committee on Women's Affairs was established with the disposal of the President of the Azerbaijan Republic dated 14th of January 1998 for more organized implementation of the public policy on women the Cabinet of Ministers was charged to work out respective suggestions for enhancing the role of women in political, economic, cultural life of the country. Pursuant to the same assignment, the Cabinet of Ministers, in 2000, adopted National Action Plan of the Azerbaijan Republic on Women's Affairs covering five years (2000-2005).

Finally, as continuation and totals of the reforms implemented in the area of regulation of inter-sexual relations, there was adopted the Law "on provisions of Gender (men and women) equalities" in 2006 in order to secure gender equality by offering equal rights and opportunities for women and men in political, social, economic, cultural and other areas of social life. The mentioned law is not unanimously approached by the experts, despite it reflects numerous general worldwide principles and theoretical provisions. Great majority of experts reckon that there are many gaps and shortcomings on the Law regarding with regulation of gender relations. To their opinion, priority principles depicted on the international conventions and agreements were not reflected on the Law. The standards approved on the law are repeated with those in legislative documents, and new standards are so few.

But other experts say the Law meets all the international standards and legal documents Azerbaijan joined. They note the problem was related with the development rate of society and there exist significant shortcomings with its practical implementation because of weakness of social position and irrelevance of social attitude with the lawful demands. From this point of view, there is great need for promotion of the law on social consciousness.

In case the mentioned law reflects the standards which depict legal equality of sexes, the provisions reflecting the mechanism of functioning of those standards are almost missing. The law didn't include provisions for establishing equality in opportunities for both sexes.

Let's note that both gaps in legislation that is the absence of mechanism for equal opportunities for both sexes in the legislation, and also traditional culture affirming stereotype imaginations on social roles of women, patriarchal views on the roles of women in family and society make obstacle to gender equality in full. Therefore, it is impossible to achieve the realization of the most democratic law standards for actual gender equality, even if they would exist.

Despite social standards and patriarchal traditions determine lower social status for women than men, women's economic independence, social development and intellectual level enable to equalize the same social status. The conducted investigations show that the more women can secure their independence from economic aspect, and the more women possess intellectual level, the better they can live social status and the higher they can possess respect in family and society. On the contrary, the more women depend on their husbands or other relatives from economic point of view, the lower they possess intellectual rate, it is not worth to speak of equality on a sexual context. Passiveness of women rather than men as a citizen surely effects on the equality on a sexual context. It is unclear why Azerbaijani women are more inclined to be engaged in household, family affairs rather than social beneficial labor, socio-political activities.

According to the official statistics of last year, women comprise around 51% of the population in the country. It is shown that 745 of every thousand women possess complete secondary education. Economically active women are 2,82 million, employee women 1,963 million, hired women 615,1 thousand, businesswomen 1,348 million. There are 475,5 thousand women working in government sector, and 1,487.6 million women in non-government sector.

Furthermore, pursuant to the official information provided on the web-page of the State Statistics Committee (SSC), women who are engaged in agriculture are 838,7 thousand, in electric energy, gas and water supply 6,1 thousand, in construction 17 thousand, in commerce 432,3 thousand, hotels and restaurant sector 8,4 thousand, transportation and communication 31,9 thousand, public administration and defense, compulsory social protection 70,2 thousand. The number of women working in education (220,1 thousand) and public health (health and social services - 136,4 thousand) is higher than men. 73% of teachers working in secondary education institutions

comprise of women. This similar index reaches 74% in secondary vocational schools and 46% in high schools. 62% of doctors in Azerbaijan comprise of women.

SSC also notes that the women's role in the development of science is high. Thus, 33% of post graduates and candidates of science, and 59% of scientific workers are women. Over 5 years, the number of women who received the doctors of science increased 44%, and candidates of science 18%. 12 Associate Members of the Azerbaijan National Academy of Sciences, and also 3 academicians are women.

Numeral index (percentage) of women working in various government and social structures:

876 women are working in **Justice agencies**. 88 of them are senior post-holders. Those post-holders are chiefs of departments of registration of citizenship status acts, notary office chiefs, head of departments.

115 out of 778 members of the **Bar Association** are women. 6 of them are managers of legal advice offices, and 1 is the head of the barrister bureau.

Pursuant to the information obtained from Forensic-Law Council, 12% of judges are women, 5 woman-judges are chiefs of courts and association.

Pursuant to the information provided from the **Ministry of Internal Affairs**, 615 women officers are working at internal affairs agencies. 219 out of them are officers, 386 ordinary and medium chief personnel. 80 of women officers are lawyers. 19 of them were promoted in their service to senior management posts. Women officers working at senior management posts include deputy of the department chief, assistant of the department chief, and heads of chair, policlinic, department and unit.

Over last years, the number of women among members of the **parliament**, legislative body. If the ratio of women MPs comprised 4,3% in 1990, now this figure makes 11,2%. 4 of 16 members of the Central Election Commission are women, and 3 out of 125 Constituency Election Commission Heads are women. Women work at polling station commission too, but great majority of them are members.

Socially active women display more activity in non-government organizations. Thus, around 90 women's non-government organizations function in the country. The activity of women in **political parties** is so poor. Only one party leader is woman.

The number of women candidates in **municipality elections** had grown noticeably. This mainly targets at establishing such an image of gender equality of the ruling New Azerbaijan Party in the municipality election held in December 23 last year rather than socio-political activity of women in the results of which more women put forward their candidacies in elections. As a final returns of elections, it became clear that more than 26% of members elected to the board of municipalities were women.

In government agencies, almost no woman holds high post. There is no woman minister in the country, only except for the head of the State Committee on Family, Women and Children's Affairs, Ombudsman on Human Rights and some committee chairwomen at the Parliament. There is no woman head of the executive power in any district.

Pursuant to the information provided by the State Committee on Civil Service under the President of the Azerbaijan Republic, there have been held 5 competitions and 4 interviews so far for employing servants to the vacant posts at government agencies. The numeral composition of the mentioned women's participation in those interviews and competitions is also interesting. This statistical information also describes which professions women give more preference too. Women mainly preferred to State Committee on Family, Women and Children's Affairs (77 of 193 applicants, 72%), Ministry of Education (45 of 293 applicants, 05%), Ministry of Culture and Tourism (39 out of 345 applicants, 13%), Ministry of Ecology and Natural Resources (26 out of 457 applicants, 26%), State Migration Service (21 out of 791 applicants, 11%), Ministry of Economic Development (13 out of 1069 applicants, 94%).

According to the results of the conducted 4 competitions, 20,18% of 337 applicants, that is 68 applicants registered for 21 government agencies were women.

Only for two of these government agencies – Ministry of Labor and Social Protection of Population and Ministry of Economic Development, more women applicants had applied to find employment.

19,01% of those who were registered for Ministry of Labor and Social Protection of Population and 26% of those who were registered for the Ministry of Economic Development comprised women applicants.

In total, 1772 of 8109 applicants who were registered to take part in those competitions and interviews, and 68 applicants for interviews, in total 1840 women (22,69% of total number of the registered applicants).

As a result of competitions and interviews, 115 of those who were successful for the vacant civil service posts are women (22,33% of the appointed).

The obtained information also shows that women's activity in the regions is poor unlike Baku, Ganja and other big cities. Therefore, they had made less application to hold the vacant positions in regions, and from some regions, no woman applied to take part in competition and interviews.

At the end, it would be more logical to note that in order to achieve gender equality it is primarily needed to establish equal opportunities for both sexes. For holding appointed or elected positions, there should be taken as a main criteria not people's sexual occupation, but their professional training level, moral ethical values, qualities, worldwide thinking, and knowledge.