



**Commissioner for Human Rights
(Ombudsman) of the Republic of Azerbaijan**

**The First Annual Report
(Brief review)**

**Of the Commissioner for Human Rights
(Ombudsman) of the Republic of Azerbaijan**

**On Status of Provision and Protection of Human Rights and Freedoms
in Azerbaijan**

Baku-2003

A number of significant steps have been taken to improve the legislation in the area of human rights and freedoms and for ensuring provision of those rights in the framework of the consistent reforms held in our country in the latest decade.

Azerbaijan has assumed diverse obligations before the Council of Europe as a member-state of this organization; and one of its commitments pertained to the adoption of a law on commissioner for human rights (Ombudsman).

For this purpose, and as an constituent part and logical continuation of the continuous reforms held in the area of human rights and freedoms in Azerbaijan, a post of Ombudsman was established under the Constitution Law of the Azerbaijan Republic “On Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan” adopted by the Milli Majlis (Parliament) of the Azerbaijan Republic on 28 December 2001. In compliance with the Decree of the President of the Azerbaijan Republic on Implementation of this law dated 5 March 2002 certain activities relating to the establishment of the post of Ombudsman were conducted.

On 2 July 2002, Elmira Teymur (patronymic) Suleymanova was elected to the post of the first Ombudsman of Azerbaijan Republic.

On 2 July 2002, relevant legislative acts were revised and amended in connection with the implementation of the Law on Ombudsman, and provisions concerning Ombudsman institution were included into the Constitution through the referendum held on 24 August 2002.

For ensuring an efficient activity of the Commissioner, an Office of Ombudsman was created, and series of trainings and seminars were organized involving foreign and domestic experts and specialists in order to enhance the staff’s capacity in the field of human rights protection.

The Office of Ombudsman comprises two departments, a secretariat, and a supervisory division in charge of processing complaints and service documents and secondary sections.

Major function of the Department on Protection of Human Rights and Freedoms is consideration of the complaints on violation of human rights and freedoms and ensuring the measures falling under the scope of Ombudsman’s activity being undertaken in terms of restoring encroached rights and freedoms. This department includes five divisions: on protection of civic and political rights, protection of economic and social rights, protection of refugees and IDPs’ rights, protection of the rights of the imprisoned and protection of military servants’ rights.

Major functions of the Legal Awareness Raising, Scientific-Analytical, Public Information and International Relations Department

which includes four divisions in its turn pertain to raising legal awareness of population in order to prevent violation of human rights and freedoms, analyzing the cases of human rights and freedoms violations, ensuring public information, maintaining cooperation with the organizations engaged in protection of human rights, acting in the Azerbaijan Republic and abroad, as well as organizing the Commissioner's foreign relations.

Currently computerization carried out within the Office of Ombudsman has almost completed, a computer network has been established and an internet site is being created.

In order to facilitate people applying to the Ombudsman, eliminate the necessity for the complainants to cover long distances and cover post service costs, accelerate the investigation processes on sites, and ensure a more efficient awareness raising, in July 2003 with support of the United Nations Development Program Regional Ombudsman Offices were opened in three regions of the republic (even though these centers were not envisaged in the structure of the Office of Ombudsman) – Guba (encompasses Guba, Qusar, Khachmaz, Deveci, Siyezen, Khizi districts), Sheki (covers Sheki, Zaqatala, Balaken, Qakh, Oguz, Qabala districts), Jalilabad (covers Jalilabad, Masalli, Lankaran, Lerik, Astara, Yardimli, Bilesuvar, Salyan, Neftchala districts).

Thus, since 28 October 2002 the applicants were started being received and the complaints investigated.

On 28 October 2003, one year had passed since the beginning of this activity and as stipulated in Article 14 of the Constitution Law on 29 December the Ombudsman submitted the annual report to the President and Milli Majlis (Parliament) of the Azerbaijan Republic.

Under Article 1.1 of the Constitution Law a post of Ombudsman has been established with a view to restoring citizens', expatriates', stateless persons' and legal entities' rights and freedoms provided in the Constitution of the Azerbaijan Republic and the international instruments Azerbaijan is a party to and that have been violated by the state and local self-governance bodies of the Azerbaijan Republic and public officials.

From 28 October 2002, the date when the complaints were started being considered, until 29 December 2003 4500 applications were forwarded to the Commissioner and 93.5% out of those applications were complaints.

32.7% of those complaints were related to violation of civic and political rights (generally 9% of the complaints concerned the violation of a right of application, 1.3% of a right to freedom, 1.3% of a right to a safe life, 1% of a right to protection of dignity, 1% of rights of the detained, arrested

persons and individuals accused of a crime), and 67.3% related to economic and social rights (generally 16% of the complaints concerned the violation of labor rights, 14% of a property right, 11% of a right to social security, 9.2% of a right to accommodation, 4.3% of a free entrepreneurship right).

In addition, 6.6% of overall complaints were received from prisoners and their family members (including 3.6% pertaining to pardon), 7.1% from servicemen and their family members, as well as the former military transferred to the reserve or retired and 6.9% from refugees and IDPs.

The Ombudsman refused to consider 53.6% of the complaints and accepted 46.4% for consideration.

45.5% of the complaints accepted for consideration were connected to the violation of civic and political rights, and 54.5% of economic and social rights.

As a result of the work held by the Commissioner 23.1% of the complaints accepted for consideration was fully and 5.8% partially satisfied.

While examining the cases indicated in the complaints on violation of human rights, in accordance with Article 12.1 of the Constitution Law the Ombudsman have forwarded totally 2112 requests and appeals to different state authorities and organizations, including ministries and committees, local executive powers, judicial, public prosecutor and police entities in order to obtain the opinion of the state authority or official about whom a complaint had been filed; and all those requests were respectively examined and answered.

For the purpose of surveying the status of provision of human rights in different regions of Azerbaijan, receiving the complainants on sites and reexamining the cases specified in the complaints, the Commissioner has visited a number of regions in the country, met with various groups of people in tens of districts, received over 600 applicants in this process and settled a number of complaints on the place together with local executive powers, law enforcement bodies and municipalities, provided necessary consultation.

Protection of civic and political rights

Protecting civic and political rights and freedoms set forth in the Constitution of the Azerbaijan Republic and its other legislative acts, as well as in the international instruments Azerbaijan is a party to, restoring these rights is one of the core directions addressed by the Commissioner.

A right to life is one of the fundamental rights of human being. This right stands as a basis for all other major rights and freedoms. With a view to consolidating this foundation under the Law of the Azerbaijan Republic “On

amendments and additions to the Penal, Criminal-Procedural and Correctional-Labor Codes” of 10 February 1998, capital punishment was abolished and substituted with life-long deprivation of liberty.

Capability to move and choose a residence freely are the indicators demonstrating the level of provision of individual’s right to freedom and democratization in the society.

Under the Constitution of the Azerbaijan Republic, everyone lawfully within the territory of the Azerbaijan Republic shall have the right to liberty of movement and freedom to choose his residence and leave the territory of the Azerbaijan Republic. A citizen of the Azerbaijan Republic has a right to return without any hindrances to his country any time.

Possession of the relevant documents as stipulated by law is one of the main factors influencing substantially the individual’s ability to enjoy his right to liberty of movement and freedom to choose his residence and a number of other rights. In 2003 in connection with the presidential elections held in the Azerbaijan Republic and in order to ensure accurate and straightforward implementation of the instructions issued by the head of state in this area, competent police divisions commenced issuing the updated form of identification cards, and thus, massive scale of population was provided with an opportunity to receive ID cards. Meanwhile, following applications filed to the Commissioner by a number of citizens whose rights had been violated because of the hindrances created by a number of officials, a substantial share of such complaints were satisfied.

Complainant P. (2846-03) from Guba, north-east Azerbaijan, indicated in his complaint that he had applied to the Registration and ID card division of the District Police Department to obtain an identification card, but was not issued an ID card by A.Aliyev, the officer of the police division, due to the fact of district public prosecutor’s office issuing a search warrant on this person in 1996 which was abolished upon the dismissal of the criminal case instituted on that person in 1996 as indicated in the complaint. In the answer to the inquiry sent to Guba district Police Department in connection with this complaint it was indicated that there was a note regarding a search warrant issued on that person on the reverse side of form #1, and the search had been dismissed following respective investigation and the person had been issued an identification card.

More than 50 times, has the Commissioner personally visited together with the employees of her Office detention cells, distribution centers for juvenile and detention precincts for the administrative arrestees in district (city) police departments (divisions), and familiarized herself with

the documents confirming lawfulness of detention of the detainees, as well as the conditions they are detained in.

With a view to ensuring respective measures taken with regard to the infringements disclosed during those review visits the Ombudsman applied to the Ministry of Internal Affairs of the Azerbaijan Republic. A number of police officers were brought to disciplinary responsibility or dismissed from their posts due to the violations they had committed in connection with those cases.

Complainant J. (2621-03) from Kurdamir district, central Azerbaijan, stated in the telegram forwarded to the Commissioner that his son had been unlawfully detained and subjected to pressure in the Police Division #16 of the Baku City Narimanov District Police Department. The Ombudsman made a visit to Narimanov District Police Department in this connection, had a meeting with the complainant's son and applied to the Interior Ministry of the Azerbaijan Republic in order to ensure the examination of the disclosed circumstances of the case and the relevant measure taken against the violation. The reply from the ministry reported that the chief of Baku Head Police Department had issued three police officers a strict warning for the irregularities they had caused, and the chief of the Detention Precinct for Administrative Arrestees had been dismissed from his post.

Referring to the cases reflected in the received complaints, the Commissioner has made a suggestion on adjustments and additions to the respective legislative act regarding issuance of identification card of the Azerbaijan Republic or a nationality passport by the embassies (or consulates) of the Azerbaijan Republic to the nationals of the Azerbaijan Republic residing outside Azerbaijan, in particular in CIS countries. In addition, following the meetings with the ombudsmen of Russian Federation and its subjects, as well as Kirgizia and having taken into consideration their views pertaining to expediency of opening consulates in those countries, the Commissioner has made a respective suggestion to the Minister of Foreign Affairs of the Azerbaijan Republic.

In accordance with the instruction of the head of state, currently necessary measures are being taken to establish embassies of the Azerbaijan Republic in a number of countries.

The level of provision of the right to protection of human dignity and honor is an indicator demonstrating recognition and acceptance of each individual by the society.

Article 46 of the Constitution of the Azerbaijan Republic stipulates that everyone have a right to protect his honor and dignity. No circumstances

can justify insulting dignity of a person; no one can be subject to torture and torment, nor to degrading treatment or punishment. The right to protection of honor and dignity is provided through a right to liberty, security of person, secure life, as well as a number of social and economic rights. The legislation of the Azerbaijan Republic ensures necessary legal guarantee for protection of the honor and dignity of a person. This include the respective provisions of the Azerbaijan Republic Constitution prohibiting discrimination, unlawful interference with private life, dissemination of the religions insulting human dignity and contradicting humaneness principles, forced labor, degrading treatment and torture, as well as the provisions of diverse legislative acts aiming at protection of human honor and dignity.

It should be noticed that torture and other cruel, inhuman or degrading treatment and punishment is completely inadmissible in Azerbaijan which is continuing integrating into European space and is a party to European Convention for the Protection of Human Rights and Fundamental Freedoms and European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment as a member-state of the Council of Europe.

Under Article 5 of the Azerbaijan Republic Law “On Police”, the police are prohibited to treat any individual in a degrading manner. It is forbidden to coerce the persons who have committed or suspected of having committed a crime to provide information or confess to a crime, as well as to intimidate, inflict torture or any other kind of pressure, whether physical or mental, upon them and other persons for such purpose. Besides, under Article 133 of the Penal Code infliction of torture, under Article 145 unlawful deprivation of liberty and under Article 293 coercion to give testimony entails criminal responsibility.

However, a number of complaints reflect the cases of rude treatment, insult and other irregularities towards citizens by police officers.

In the latest decade the principles of freedom of thought and expression have been largely observed in the Azerbaijan Republic, including large legislative coverage of such issues as possibility for every individual to express his thoughts, ideas and opinion freely and to depart them via all lawful means, freedom of press which manifests itself in creation of the information agencies acting free of any censorship and enjoying freedom of thought, as well as a right to receive information aiming at ensuring access to new sources of information of public importance. Prohibition of censorship should be evaluated as a substantial guarantee for ensuring freedom of thought and expression.

Despite a number of steps taken with a view to meeting the commitment assumed before the Council of Europe regarding creation of public television, including passage of the draft law “On Public Television”, the President of the Azerbaijan Republic issued an objection and returned the draft. Currently the issue is being resolved.

After Azerbaijan regained its independence, there have been no cases of the interference by state bodies and officials with the citizens’ determination of their attitude and preferences towards religions, as well as with lawful activity of religious associations. Every national of Azerbaijan has a right to express and disseminate freely his religious views and belief both orally and through publishing and in other forms in manner as stipulated by law.

In the round table meeting organized by the Commissioner dedicated to the Role of Ombudsman in Provision of Freedom of Conscience in Azerbaijan and attended by the chair of the State Committee on Religious Entities of Azerbaijan Republic, representatives of the other public authorities and NGOs, as well as coordinator for Caucasus and Central Asia of Global Religion Network for Children a wide range of issues including ensuring freedom of religion in the country, international agreements concerning freedom of religion and participation of Azerbaijan in those agreements, the role of Ombudsman in providing freedom of conscience, parity in exercise of the rights by all human beings and the role and responsibility of every individual in ensuring protection of those rights were largely discussed, the Commissioner expresses her views with regard to these issues and made a number of suggestions.

The Commissioner proposed to conduct a monitoring in the country in order to reveal the level of observance of the requirements set forth in the provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

Nationality is the most important state and legal institute identifying mutual relations between an individual and government and constituting constitutional-legal status of a person.

In some of the complaints addressed to the Ombudsman, the persons registered as of their place of residence before the law of the Azerbaijan Republic “On Nationality of Azerbaijan Republic” became effective, i.e. prior to 7 October 1998 stated that they had been refused to be issued an identification card on the ground of absence of nationality. However, it should be noticed that under Article 5 of the above-mentioned law those persons are considered to be the nationals of the Azerbaijan Republic.

Complainant S. (265-02) from Guba, north-west Azerbaijan, informed that he had been born in 17 September, 1982 in Guba district and had lived together with his parents in Alekseyevka village of Guba district from 1991 until 1998 where he had received secondary education, and currently though residing in Guba district had not been able to obtain an ID card upon application to the registration and ID card division of Guba District Police Department on the ground of “not holding the nationality of the Azerbaijan Republic”. Under Article 5 of the Law of the Azerbaijan Republic “On Nationality of Azerbaijan Republic” of 30 September 1998 before this law comes into force, i.e. prior to 7 October, 1998 the persons registered in the Azerbaijan Republic as of their place of residence are considered to be the nationals of the Azerbaijan Republic. Based on a provision the Commissioner applied to the competent body to ensure issuance of the ID card to the complainant and after this, the person was issued an ID card.

In compliance with the decision of the Constitutional Court of the Azerbaijan Republic of 31 January, 2003 “On comments to the provisions of Article 5 of the Law of the Azerbaijan Republic “On registration as of the place of residence and place of location” and the provisions concerning “Description of identification card” approved by the Law of the Azerbaijan Republic “On Approval of the ID card of the national of the Azerbaijan Republic” the Cabinet of Ministers of the Azerbaijan Republic was recommended to register the persons without place of residence as of special places, and to arrange immediate issue of the ID cards confirming nationality of the Azerbaijan Republic to them. Under the Decree of the Cabinet of Ministers # 55s dated 9 April 2003, it was decided to ensure registration of the nationals of the Azerbaijan Republic without place of residence as of the address of the competent body of the Interior Ministry issuing ID cards and conditionally indicate this address in the “place of residence” section of the ID card; thus implementation of the respective decision of the Constitutional Court of the Azerbaijan Republic was ensured.

Because of the respective measures undertaken in compliance with the decision of the Constitutional Court of the Azerbaijan Republic restrictions of human rights existing in this field were eliminated, meanwhile the claims of the complainants who had applied to the Commissioner in relation to this matter were satisfied in conformity with law.

A right to participate in the political life of the state and society, as well as governance of the state is part of the fundamental rights and freedoms belonging to nationals.

The nationals of the Azerbaijan Republic have an opportunity to be employed to public agencies. In connection with the enactment of the Law of the Azerbaijan Republic “On Public Service”, the reforms were initiated in this field and since 1 September 2003, under the presidential decree, public servants have been issued supplementary payment based on the length of their service and their level of qualification.

There is a need to adopt new laws and revise the effective legislation regulating administrative procedures (general principles on mutual relations between public servants and citizens), as well as need for improvement and updating the rules for processing applications from citizens, awareness of citizens and lightening citizens’ access to the data from state and local self-governance authorities with a view to ensuring better conditions for the nationals to exercise their right to participate in the governance of the state.

In the round table meeting organized in the Commissioner’s Office and attended by the representatives of governmental and non-governmental organizations, the Commissioner made a suggestion regarding acceleration of the adoption of Anti-corruption Law in line with international standards in order to enhance the measures aiming at combating corruption causing violation of human rights. This law has already been adopted.

Exercise of franchise is a more massive and influential form of citizens’ participation in the political life of the state and society, as well as governance of the state.

Through elections are political leaders, trends, opinions elected, chosen and assessed (or replaced by others), the head of state elected, the parliament and local self-governance bodies formulated, the issues relating to people’s rights and interests determined, as well as the opinion of general population on a wide range of social problems identified.

Democratic elections ensure real manifestation of people’s sovereignty and determination of interior and foreign policies in consonance with people’s interests.

Elections are the major means for ensuring democratic governance. A sufficient legal framework has been created for conducting democratic and fair elections: the Electoral Code of the Azerbaijan Republic, approved by the experts of the Council of Europe and meeting international standards, adopted by the Milli Majlis (Parliament) of the Azerbaijan Republic on 27 May 2003 and outlining the regulations for organizing and holding the elections to the Parliament of the Azerbaijan Republic, to the post of the President of the Azerbaijan Republic and municipality elections, as well as conducting referendum has ensured a more transparent and fair conditions for holding elections.

Nationals of the Azerbaijan Republic enjoying their right to vote took part in the presidential elections held on 15 October 2003.

Involvement of a larger number of international and local observers that was one of the major features peculiar to those elections ensured an open, transparent and democratic election process. In all polling precincts over one thousand observers representing diverse countries, international and regional organizations, democratic institutions, as well as thousands of local observers from political parties and NGOs functioning in our country and different layers of society observed the election process.

For the purpose of ensuring adherence to law and disclosing shortcomings in the election process the Commissioner observed the polling process in a number of precincts in different districts of Baku. In addition, the Commissioner visited some penitentiaries and observed the course of elections in those institutions. In those institutions, the majority of polling precinct visitors was inmates. The observers from opposition parties, as well as international observers were also present in those polling precincts. The observers from OSCE watching the voting process in the female penitentiary #4 with mixed security had stated that the elections held in the penitentiary were in conformity with international standards.

It should be noticed that, in the polling precinct #28 of Surakhani-Sabunchu constituency #32 established in the penitentiary #4 with minimum-security 30 persons deprived of their liberty acted as observers and even the secretary of Precinct Election Commission was an imprisoned person.

Generally, no serious offences able to affect the outcome of the elections were disclosed in the voting stations attended by the Commissioner. Meanwhile, in a number of polling precincts there were cases when the names of some voters were not included into roll of electors and these cases were caused by inattentiveness of the employees of housing offices (apartment administration units). In some precincts the voters attempted to cast their vote by introducing not the ID document as envisaged by law but other documents, but such endeavors were prevented by the chairmen of Precinct Election Commissions, the voters were explained the necessity of introducing the documents required by law.

A more active participation of voters in these elections is a significant fact; even the voters whose names were not included in the voters' roll had applied to courts to be able to enjoy equal suffrage and were able to vote following respective court ruling.

The Commissioner issued a declaration relating to the 15-16 October, 2003 disorders that took place in Baku and calling upon all forces

to act in the name of common sense and justice and to pool efforts and cooperate in order to ameliorate stability and overall welfare in the country, ensure stable development of the country towards democracy, resolution of priority problems, as well as improvement of the country's international standing. The Ombudsman had applied to the competent authorities in relation to this matter, including Chief Public Prosecutor of the Azerbaijan Republic and the Minister of Internal Affairs and had notified that some of the individuals involved in those disorders and on whom an arrest warrant had been issued had confessed to their guilt, and there were women, elderly, young people and the persons lacking life experience and regretting their own deeds among them, and had stressed the importance of holding accountable only those who had perpetrated an offence, and fully ensuring the accused persons provision of their rights.

In connection with the information issued in media pertaining to infliction of torture to the persons detained in relation to the disorders and for the purpose of examining the veracity of these facts and the conditions the detainees kept in, several times did the Commissioner visit the investigation detention precinct #1, as well as the Department on Combating Organized Crime under the Interior Ministry, and had met the persons arrested in connection with 15-16 October events. During meetings with the Ombudsman the detainees stated that they had not been subjected to any violent treatment, meanwhile, were not provided with newspapers and held in cold cells. Following this meeting, the Commissioner applied to the head of the Chief Department on Execution of Judicial Decisions under the Ministry of Justice, and consequently some requests of the detainees were satisfied, including heating the cells to a normal temperature ahead of time.

Adoption of the Electoral Code of the Azerbaijan Republic played a significant role in preventing the incidents that could hinder organization of democratic elections existing in previous electoral legislation and the legislation regulating organization of a referendum, as well as in preventing such cases in the course of the presidential elections held in 15 October, 2003, in particular the use of inadmissible forms and methods of conducting pre-election campaigns. In addition, the existing methods and procedures need to be improved gradually for ensuring timely and unimpeded judicial handling of the complaints filed by voters, avoidance of rude expressions in media in the course of pre-election campaigns, preventing dissemination of the false information and anonymous propaganda materials smearing political opponents.

Exercise of a right of application enables citizens to advance their personal initiative and interests in settlement of issues of state importance and social character.

Filing applications regarding suggestions, request or a complaint with state and local self-governance authorities, enterprises, organizations and other entities by citizens is not only means of restoring violated rights, but also a form of citizens' participation in resolution of different issues.

This right enables the citizens to apply to competent state authorities individually or collectively.

Some of the complaints forwarded to the Commissioner concern violation of a right of application. The applications filed by citizens to competent state authorities for clarifying their problems were not replied to in many cases, the issues concerning citizens were not examined and no answer was forwarded back to the citizens. The complaints indicate that a right of application is infringed upon by local executive powers, municipalities, courts, public prosecutors office and the police. A number of state authorities demonstrate arbitrary attitude to reception of citizens. Complainant F. (803-03) from Baku indicated to the Commissioner that his application to Social Protection Center regarding assignment of a pension had not been answered to. Following the Commissioner's involvement into the matter the issue was clarified and the application of that person was answered to.

Complainant I. (2412-03) from Oguz district stated that his applications to the Executive Power of Oguz district had not been answered, and afterwards he had gone to the executive authority personally, but had not been received on the visiting day. Following the Commissioner's application to the Chief of Executive Power of Oguz district in connection with this matter, the complainant was invited to the district executive power and received by the Chief of Executive Power and was told that his request regarding employment would be satisfied.

Some citizens requested the Commissioner to assist them to receive the answer to their application from respective state authorities. The Ombudsman acting in the framework of her authorities was able to ensure satisfaction of many similar complaints.

There are a number of other problems with regard to handling the applications from citizens.

In a great deal of the filed complaints the citizens are expressing their dissatisfaction with impossibility of making an appointment with the officials from different state authorities and that some public servants are impeding arrangement of such appointments.

The announcements regarding reception of citizens by state authorities and organizations should be issued on press and also put to visible places in the local (regional) offices of those entities as well as in local executive powers for the citizens to be able to read them regularly, this would contribute to solution of citizens' justified complaints, as well as to preventing loss of time and money of and the offence inflicted to the citizens forced to travel from different regions to the capital city.

A right of association ensures individual's participation in social-political life. This right enables the citizens to associate themselves lawfully within a certain union. Public unions are established based on the free will of the citizens united within their joint interests for the realization of their common goals.

In a number of complaints addressed to the Commissioner, the citizens are expressing their discontent with delays in registration of the non-governmental organizations (public unions and funds) they have established with respective state authorities.

The Ombudsman has proposed to reduce the time period required by law for state registration of legal entities and for registering legal entities with the state register.

With the initiative of the Ombudsman assisted by the Baku Office of OSCE, the proposals on state registration of legal entities were discussed with involvement of the representatives of Standing Commission on Legal Policy and State Building of the Milli Majlis (Parliament), the Presidential Administration, the Ministry of Justice, NGOs and the Experts Council of the Commissioner and those proposals were taken into consideration when the respective draft law was passed with the Parliament.

Judicial protection of the rights and freedoms of every individual is guaranteed. The performance of judicial authorities with regard to ensuring these rights has improved significantly following judicial reforms held in the country.

Under Article 1.3 of the Constitutional Law of the Azerbaijan Republic "On Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan" the Commissioner is not authorized to examine performance of the high-ranked officials of the Azerbaijan Republic. Meanwhile, under Article 1.6 of this law the Ombudsman is conferred an authority to consider the complaints on violation of human rights regarding practices of procrastination, loss and delayed submission of documents by the courts, as well as delayed execution of court rulings.

The complaints relating to performance of courts in the Azerbaijan Republic received by the Commissioner within the period of her activity comprise 30.7% of all complaints.

Complainant A. (1075-03) from Baku stated that the notification for participation in court hearing had been sent to him with delay. Further investigation disclosed that the notification paper was posted many days later than the date indicated on it. Thus, the citizen was not able to exercise the rights vested in him by the Constitution.

When meeting with the complainants in Guba district the Commissioner was informed that the chair of Guba district court rejected to receive the appeal filed against the decision of Guba district court on the civil case involving the members of 16 families. After interference of the Ombudsman, the appeal was received and referred to the Appeal Court.

The main reason for such occurrences is that some judges feel confident of their impunity; serious measures need to be taken in this connection by the Disciplinary Board of the Supreme Court and the Ministry of Justice.

In a meeting held in the Office of the Ombudsman with participation of judges from the Constitution Court and three trial courts, the Commissioner for human rights of the Azerbaijan Republic (Ombudsman) stated that the court-related complaints she had received were about unjust court rulings, judges' failure to follow the equality of the rights of the parties, partiality, acts outside the ethics of the judiciary, as well as procrastination, and recommended serious efforts to eliminate such occurrences. At the same time, she made suggestions that the Ombudsman's authority in accordance with Article 1.6 of the Constitution Law "On the Commissioner of Human Rights (Ombudsman) of the Azerbaijan Republic" to apply to the Disciplinary Board of the Supreme Court demanding disciplinary proceedings against judges in cases of court bureaucracy and loss or delay of documentation be reflected in the law "On Courts and Judges" of the Azerbaijan Republic and deemed it necessary to intensify cooperation with all three trial courts to ensure efficient protection of human rights and freedoms before courts.

At the same time, the Commissioner suggested defining regulations in the Code of Administrative Offences for filing cassation complaints on administrative cases with a view to ensuring the right to filing a complaint to the Supreme Court against court rulings involving administrative offences, as well as making adjustments and changes to the Azerbaijan Republic Law "On Administration of Court Rulings" and other legislative acts in order to

increase the powers and controlling functions of courts in ensuring administration of court rulings.

Receiving legal aid is one of the vital rights of the legal entity and a criterion established by the legal state for exercise of human rights. The status of ensuring this right as being a major constitutional one has been in the spotlight of the Commissioner.

The state bears certain commitments in ensuring that right, part of which is ensuring the quality of legal aid offered. From this viewpoint, it should be noted that the main purpose of legal reforms being implemented to establish the bar capable of providing powerful and highly professional legal protection is aimed towards ensuring high-quality legal aid. Although in the order of legislation that need further improvement, the currently enforceable Azerbaijan Republic Law “On Lawyers and Lawyers’ Activities” opens up sufficiently wide opportunities to draw on lawyers’ aid.

However, also felt is the presence of certain problems in the exercise of this right. As, there have been cases of detainees refusing this free legal aid, despite so provided by the state, during the Ombudsman’s review at investigation and detention cells. Those detainees stated their voluntarily denying lawyers providing free legal aid and explained their move with negligence of lawyers to free legal protection. A number of applications forwarded to the Commissioner also contain reports alleging lawyers acting more as mediators in court hearings rather than as defense attorneys. Undoubtedly, it is tied not to a flaw in legislation, but negligence of lawyers to their duties. *The bar is an institution serving provision of rights and needs further improvements.*

In this regard, certain measures need to be taken to prevent the bad occurrences and better deliver legal aid to the population.

The analysis of the current situation with the provision of human rights illustrate that large-scale legal reforms have been held in the Azerbaijan Republic, the legislation has been brought into conformity with international standards and international covenants Azerbaijan is a party to, the state has fulfilled its related commitments and thus a necessary legal base to ensure human rights has been established.

However, the problems pertaining to human rights in Azerbaijan are allied to not state policy and domestic legislation, but to abuses of some officials in the enforcement of the legislation, their corrupt practices and indifference to civic rights and freedoms. Medium and lower level state servants more often admit such cases. By violating human rights, these officials incite distrust in the state and the administration of the supremacy of law, as well as sour the country’s international standing.

Therefore, the leadership in state authorities need to intensify control over provision of human rights, improve administration in this area, heed involvement of new staff and ensure directing the activities of their subordinate officials towards realizing the supreme objective of the state.

A substantial part of the complaints forwarded to the Commissioner involves breach of the right of application, which, in turn, necessitates measures to be taken to prevent the breaches. It should also be noted that the decree of the President of the Azerbaijan Republic “On Measures to Accelerate Socio-Economic Development in Azerbaijan” dated 24 November 2003 assigns central and local authorities to ensure scheduled reception of citizens, timely consideration of their applications and complaints and resolution of their just demands and measures to intensify discipline in appropriate executive authorities.

Another occurrence in sight is that an upper body sends the application of complaint back to the complainant in breach of the requirements of the existing legislation and without taking any measures. In this connection, *administrative control over protection of human rights should be intensified and civil complaints be considered, comprehensive analysis be held and cases of these complaints be resolved, as well as constructive statutory steps be taken against those who infringe upon human rights.*

During her term of activity, the Commissioner has forged working relations with state authorities. Moreover, the Commissioner has also faced officials who do not reckon with her recommendations, show superficial attitude to complaint inquires and ordered audits and send incorrect responses. The deeds of such officials illustrate a low level of their legal thinking, preference of their personal interests to those of the state and its objectives and duties, as well as negligence to the responsibilities, powers and activities of the Commissioner. In this regard, *it is necessary to give appropriate assignments and take measures to increase the responsibility of state officials concerning the activities of the Commissioner in the area of provision of human rights.*

The issues of concern have been discovered in the following state authorities in the wake of the Commissioner’s activities for restoration of human rights:

For **local executive authorities** there have been complaints about failure to enforce statutory requirements in processing the applications of citizens and deprivation of a number of citizens of their franchise due to improper compilation of voter lists.

In **police authorities** failure to enforce statutory requirements and cases of rudeness and behavior diminishing human dignity during inquiry and preliminary investigation are notable.

One of the especially notorious cases is the demeanors of state traffic police. Complaints underline rude behavior of traffic police officers, reference to an actually uncommitted offence and over-fining. Although the relevant authorities are assigned to check the incoming complaints, they unambiguously state after the checks “the facts were never confirmed”.

Complainant I. (1885-03) informed the Commissioner that a police officer from the State Traffic Police Division of the Police Department in Goychay, central Azerbaijan, stopped his car and took it to a penalty area, demanding money for its release. After the Commissioner applied to the chief of the State Traffic Police Department of the Interior Ministry, the complainant was received by Goychay police department chiefs, got explanation of his committed administrative offence and had his car recovered.

In addition, there are cases of indifferent attitude of police officials to the activities of the Commissioner.

For **prosecuting bodies**, complaints reflect cases of failure to enforce statutory requirements in processing the applications of citizens, shortcomings during legal guidance over preliminary investigation and improper control over enforcement of laws during implementation of inquiry, investigation and search activities.

Moreover, there exist general shortcomings typical of the activities of most state authorities. Among these are such negative occurrences as non-consideration of applications of citizens and indifference, non-enforcement of court rulings, cases of abuse and corruption. It is required to take constructive measures and intensify administrative controls to eliminate such occurrences, prevent the reasons for their appearance and eventually to reliably provide human rights.

Since Azerbaijan attained independence our citizens have been more turning from observers of socio-political processes into independent subjects of political administration by having an opportunity to realize their civic, political, economic, social, and cultural rights, and a propitious environment should be set up to accelerate these processes.

Protection of economic and social rights

Economic and social rights occupy a unique place in the system of human rights. An important step in this direction was the adoption of the International Pact “On Economic and Social Rights”, concretization of these

rights and a more efficient stage for regulation of economic and social rights from the prospect of international law.

Economic and social rights are so vital that without them the traditional citizen and political rights sometimes lose their meanings. As, granting free disposal over the main factors of economic activity, the economic and social rights ensure a worthy level of life and social protection of people.

Unlike most countries, in Azerbaijan reforms are implemented step-by-step, taking into consideration the social security of the population. The consistent reforms being pursued and the growth secured have encouraged the strengthening of the social protection of the population.

Undoubtedly, our country has made uncountable progress as compared to 10 years ago, with reforms in all fields directed at bettering the wellbeing of the human, the core of every society. From this prospect, like in any country on the way of socially-oriented market economy, in Azerbaijan the human and his problems have taken center stage in social and economic policy and an important enforceable-legal base has been established, which is now being improved in accordance with the tempo of consistent growth.

Nowadays, more than 10 state programs, including the one for the development of small and medium-size entrepreneurship in the Azerbaijan Republic (2002-2005), the Poverty Reduction and Economic Growth program for the years 2003-2005, the norms envisioned in the European Social Charter, the program on ecologically sustainable socio-economic development and other programs are being implemented with a view of stepping up socio-economic development and comprehensively resolving the problems.

In order to strengthen and promote the positive trends in the economy in the aftermath of consistent reforms and accelerate the resolution of existing social problems the President of the Azerbaijan Republic Ilham Aliyev signed a decree dated 24 November 2003 "On Measures to Accelerate Socio-Economic Development in the Azerbaijan Republic" as a logical sequel to these efforts.

Being a passage to a new and important stage of the country's socio-economic development, this decree is a potent impetus to accelerated integration into the international community and the European space.

Naturally, as socio-economic growth continues, the scale of infringements upon human rights should spiral down. However, at the same time instances of breach of human rights are also observed in the socio-economic sphere.

In any socially oriented market, economy labor is considered not just a source of living, but also a pledge of participation in social life. After Azerbaijan attained its independence, primarily since 1994 essential steps have been taken to improve labor legislation, a number of laws and legal enforceable enactments regulating different areas of labor rights have been passed and important reforms in labor legislation have been underway to ensure state-sponsored protection of social and labor rights of the population.

Because of those reforms, the Labor Code of the Azerbaijan Republic was adopted on February 1 1999, which came into effect on July 1 of the same year. This very code reflected the multi-sidedness of labor relations that emerged in connection with changing socio-economic circumstances.

Labor policy and labor payment reforms have resulted in a consistent and consequent rise in the average salaries of working citizens. The salaries have been several times increased since the economic reforms were launched.

In spite of steps and serious efforts to protect the labor rights of citizens there are cases of violation of employee rights by employers.

Among the issues of violation of labor rights are non-payment of salaries, refusal to reinstate and pay for the damage inflicted from industrial traumas, irregularities in concluding and terminating labor contracts, delays in allocation of labor books, copy of a dismissal orders and final payment in cases of dismissal, etc.

Concrete steps have been taken to restore the violated human rights during investigations into complaints, issues have been raised in front of appropriate organizations and authorities as to payment of salaries, concrete efforts have been made based on these complaints to restore the violated rights and arrears on salaries have been paid off in some cases (For example, Complainant A. in Agjabadi District, a group of complainants (519-03) from Baku).

Unfortunately, cases of breach of labor rights by illegal dismissal occur not just in private sector, but also sometimes in state bodies.

Complaints forwarded to the Commissioner in connection with the violation of labor rights of employees by the Azerbaijan Railways, especially the management of the Carriage Depot (dismissal, groundless removal to another position, non-execution of court rulings, etc.) are also notable.

Most complaints filed to the Commissioner show that salary arrears in formerly state-owned enterprises, which were privatized into joint stock

companies following state programs for privatization of state property, are of large proportions.

The failure of employers of newly privatized enterprises to pay employees causes a number of problems. First of all, by not paying salaries, employers fail to make payments to the State Social Protection Fund. On the other hand, people who are already at a retirement age and apply to appropriate bodies for retirement are refused pensions because their enterprises failed to make payments to the State Social Protection Fund.

“Bayva West Energy” and “Bayva South Energy” limited liability companies under “Bayva Energy” Management Center owe not just former employees, who had been dismissed for different reasons, but also its current staff millions of manat in salaries. While confirming salary debts to their employees, these enterprises think their duties completed by providing such clichés and superficial wordings as “we guarantee to pay the salary arrears in installments due to the financial difficulties we have”.

Part of complaints to the Commissioner is about other aspects of salary payments. Two kinds of salary payments, or in other words two payrolls, are in place for small and medium-size private enterprises. One is an official payroll indicating the amount of staff salaries, while the other is a clandestine payroll, by which the employer pays the employee. The entrepreneur-employer settles tax and other mandatory payments in consonance with this official payroll. Given the volume of payments on the above-mentioned scheme, it is quite easy to assess the damage caused to the tax and social security systems. It is vital to take necessary and consistent measures to prevent this process.

There appears another problem. Some complainants express grievances over the scarcity of the alimony they have to get to sustain children according to court rulings, alleging that the people that have to pay alimonies work in profitable enterprises and are highly paid. Surveys held illustrate that the court-defined amount of the alimony conforms to the salary and other official incomes of the debtor. On the other hand, when receiving compensation for production trauma, the employee is baffled to see the official payroll applied. Under these circumstances, contributions are not made in accordance with the reality on the ground. Another problem is that employees turn a blind eye to such a payment mechanism in fear of losing their jobs. Thus, the future of separate individuals comes under risk. Taking into account the fact that the pension of anybody at a retirement age is paid in relation to their incomes covering certain parts of their work, it is easy to see what a deplorable situation is in store, from the viewpoint of social security, for those who were getting paid on the official payroll. With labor

being paid through this mechanism, people at a retirement age have a right to only a minimal pension payment and are forced to continue working to earn their livings.

Vendors working in various areas of service, including kiosks and shops, public transportation conductors, seasonal workers, craftsmen and workers hired for temporary labor through mutual agreement and verbal contract with different individuals, as well as many others put their future social protection into question by not registering their labor relations in line with legislation.

Sometimes, labor contracts are not concluded in a written form, while temporary labor contracts are widespread, despite being contradictory to labor legislation. Such cases are mostly observed in enterprises involving foreign capital. Complainant S. (367-02) from Baku wrote to the Commissioner, alleging that he had been illegally fired as chief of workshop at the Garadagh Cement joint stock company. In accordance with legislation, the Commissioner gave appropriate assignments to the State Labor Inspection to probe the complaint. It was discovered that the labor contract with the complainant, which had been signed on a temporary basis, was terminated after its expiry in compliance with the Labor Code.

In accordance with Article 65 of the Labor Code of the Azerbaijan Republic all employees, except those stipulated in Article 66 of the Code, can be subject to certification with a view to checking professionalism of staff and conformity of their qualifications to the position they hold. In this regard, the employer orders a certification commission comprising authoritative, highly professional and impartial members and a representative from the trade union.

The fact that the certification commission is set up by the employer and comprises that enterprise's employees in many cases questions the objectivity of the judgment made. Naturally, an employee that does not agree to the results of the certification has a remedy to protect his rights before court.

To prevent violation of labor rights in this area, *the criteria for the composition and organization of certification commissions should be reviewed and relevant adjustments and changes should be made to legislation in this connection.* When setting up a certification commission, the composition of this commission, from the viewpoint of democratic election and objectivity, should consist of an equal number of the staff of that particular enterprise, representatives of the enterprise's trade union and representatives of a state body pursuing direct state policy in the area of protection of labor rights, and "equal rights for all" should be defined as to

the organization, meeting and results of the certification commission irrespective of its organizational and legal form.

Reported cases of preparation of documentation in enterprises involving foreign capital in the language of the investing country or the founder of the enterprise and thus violation of the Azerbaijan Republic law “On State Language” and the presidential decree “On Application of State Language” eventually result in transgression of labor rights by employers’ inevitably signing documents without knowing their contents.

Cases of various violations of the Labor Code stipulations require that the protection of constitutionally guaranteed human and civic rights should not be left to only the employer and employee signing a labor contract. Though persistent in the area of protection of labor rights, substantial legal and enforceable remedies should be realized and improved as the order of the day.

Nowadays, most of the population works for small enterprises and violation of their labor rights is nearly out of the sight of the responsible authorities. As a result, the state budget is stripped of a mass amount of income taxes to be paid from their salaries. On the other hand, by getting rid of making payments to the State Social Protection Fund, such employers disqualify both young and average-aged individuals from consistent social protection when their retirement age comes.

One of the problems in the restoration of labor rights is that related court rulings are not executed.

Complainant H. (666-03) from Ganja complained to the Commissioner that a court ruling requiring his reinstatement as director of an enterprise of the Department for Privatization and Management of State Property under the Ministry of Economic Development and revocation of the decision to privatize the enterprise was not executed. After the Commissioner applied to the Minister for Economic Development to clarify the issue, the dismissal order was voided and the complainant was reinstated, while the decision of privatization of the enterprise was also overruled.

Sometimes, making employees redundant does not accommodate the requirements of labor legislation and privileges of workers, as well as those positions where redundancies are banned.

Complainant A. from Kurdamir (565-03) informed the Commissioner of being dismissed as clerk at a Kurdamir energy control unit following restructuring despite having two little children.

Complainant M. from Goychay (156-03) complained to the Commissioner, saying that she was fired as controller at the Goychay Power Grid company on October 1 2002 in accordance with Clause A, Article 68 of

the Labor Code of the Azerbaijan Republic and denied salary for her work period in spite of being pregnant, having a little child and 14 year work experience. To have the complaint examined, the Commissioner applied to Azerenergy joint venture and the State Labor Inspection and 500,000 manat was allocated to pay the complainant. At the same time, it was recommended to adhere to legislation in connection with the dismissal.

Complainant A. from Sumgayit (2666-03) wrote that he was unilaterally sent to unpaid vacation without his own consent by the leadership of the Sumgayit Aluminum Plant, where the complainant is a design engineer.

Economic reforms underway in the country have led to restructuring of a number of state-owned enterprises that has resulted in redundancies and lay-offs.

The rights of employees to work in safe and healthy conditions are protected. Work is being done to establish a labor protection system conforming to the country's new economic and labor relations.

Regular improvements of labor legislation have provoked passage of new legislative acts and reduced the number of production accidents.

In order to fulfill state guarantees for the protection of labor and maintain the necessary social security of employees, it is appropriate to check the conformity of production facilities to the requirements of labor safety and hygiene and their certification, review harmful and hard working conditions of employees performing work associated with high sensitivity, excitement, mental and physical strains and types of harmful and hard production, professions and positions that give extra vacation rights.

Complainant H. from Baku (1503-03) emphasized to the Commissioner that he would not be paid compensations since January 1 2000 for production trauma he had got from Garadag Rolling open joint stock company, a legal successor of the Garadagh Non-Ferrous Metal Processing Plant. It was identified during the investigation that a Garadagh district court ruled that the plant pay the plaintiff 4,162,520 manat for production trauma, but the ruling had never been enforced.

Employers must follow the statutory requirements to exercise labor rights in a safe and hygienic environment. In many cases employers disregard legal commitments to pay compensation for work trauma and professional illness, confining themselves only to certain promises. This is the case mainly with privatized enterprises. Thus, heads of privatized enterprises avoid paying compensation for damage inflicted under the pretext of no-funds in the account, fail to fulfill their commitments and accordingly violate labor rights of the citizens.

Complainant H. from Mingachevir, north-west Azerbaijan, (367-02) complained that local court ruling 2-88 dated 12 July 2000 in Ali-Bayramli, central Azerbaijan; binding payment of compensation for the production trauma the complainant had been inflicted at SAG firm would not be enforced.

Refusal to pay for production damages caused to employees leads to transgression of their constitutionally embedded labor and social security rights.

Taking into account the seriousness of the issue, the Commissioner has suggested to the Minister for Economic Development that the State Social Protection Fund compulsorily withdraw compensations for damages to employees from enterprises and organizations.

The presidential decree “On Measures to Regulate Clearing Social Payment Debts of Privatized or Otherwise Managed Enterprises” dated 26 September 2003 approved the “Regulations for Payment of Social Payment Debts of Privatized and Otherwise Managed Enterprises”.

Formation of a state employment policy and purposeful utilization of labor resources are especially important factors in the process of market economy transition.

Besides recognizing the rights of the unemployed to government allowances, the government is also taking opportunities to root out unemployment.

Employment issues are regulated in the Azerbaijan Republic Law “On Employment” and a number of other legal enforceable enactments. Employment legislation has been brought into conformity with international norms, mutual relations of employers, government authorities and trade unions against a background of new economic relations have been defined and propitious conditions have been set up to efficiently pursue the government’s employment policy. At the same time, the recent successful economic reforms have been directed at efficiently using the human potential of these radical changes.

On the other hand, illegal use of cheap work force should be resolutely thwarted and socially secured jobs should be opened for all. Therefore, *it is necessary to prepare and implement a special state program to sweep out unemployment and pursue an efficient employment policy.*

“State Program for Social and Economic Development of Regions (2004-2008)”, approved in President Ilham Aliyev’s decree, will be substantial progress in eliminating unemployment by encouraging opening of 6000 new jobs over the 5 years to come.

Provision of social security rights of citizens as guaranteed in the Constitution of the Azerbaijan Republic and their enforcement is one of the most important and pressing issues facing the independent Azerbaijan.

Protection of the rights of vulnerable groups of the population should be in the fore of the government's social policy.

According to statistics, there are currently 1,169,085 pensioners in the country. The average monthly pensions have been raised 5.1 times over the past five years from 25,540 manat on January 1 1997 to 130,000 manat, with more than 1 trillion manat allocated for this purpose.

Timely payment of pensions and allowances is of special importance to the improvement of the pension provision of the population.

Besides, a number of issues pertaining to the pension provision and social protection of the population are still to be resolved.

Part of the complaints to the Commissioner includes cases of miscalculation of pensions, failure of pensions to certain social groups of people to be in conformity with actual needs and the amount of pensions being below the minimum subsistence level.

The government's significant social protection policy is palpable. Nevertheless, the government must take measures to restore the violated rights of pensioners. First of all, the situation of groups that need social protection should be clarified and important changes should be made to legislation in this regard. Naturally, these changes should be made in view of the actual situation – the country's economic development level and financial capabilities.

Complaints to the Commissioner normally reflect concerns about re-calculation of pensions and partial pension payments for working pensioners. Analyzing these complaints shows that some provisions of the Law "On Pension Provision of Citizens", the enforceable basis of pension provision, do not meet the contemporary socio-economic progress in the country.

As, some working pensioners express their grievances over the abolishment of Article 86 on "Re-calculation of pensions on higher incomes" of Azerbaijan Republic Law 358-IQD "On Changes and Amendments to the Law on Pension Provision of Citizens" dated 26 June 1997. Complainant R. from Tovuz, western Azerbaijan, (25-03), complainants H. and N. from Ali-Bayramli, central Azerbaijan, (299-02), complainant J. from Baku (211-02) and others tried to direct attention to this issue.

Non-working pensioners, in their turn, suggest that the existing difference related to non-conformity of the amount of their pensions to the current level of pensions be liquidated.

One of the problems pensioners raise is that in accordance with the Azerbaijan Republic Law “On Changes and Amendments to the Law on Pension Provision of Citizens”, which came into force on 1 August 1998, the amount of pensions doesn’t correspond to the average monthly salary of the retiring people. According to Article 78 of the Law, the amount of pensions is calculated at an average monthly salary rate that is not three times as much as the average monthly salary approved by the Cabinet of Ministers of the Azerbaijan Republic.

It is necessary to form and improve an efficient social security system based on the principle of division of responsibilities between government and people and between employers and employees. For this purpose, the amount of pension, a major source to sustain the elderly, should meet minimum social needs, the minimum level of pensions should be equalized with the minimum consumer basket and urgent statutory measures should be taken to involve independent entrepreneurs and free occupation holders in the pension insurance system. A draft law is being developed to better pension provision of the population. It is our hope that a number of issues raised in the complaints will be reflected in the new law.

One of the main factors in the building of a mighty and developed state is to ensure social security of people. The social protection and security of the population and the employee should envision bettering guarantee in the area of labor payment, establishing a social protection system that would meet the realities through developing social cooperation mechanism in enterprises, increasing the role of trade unions in both enterprises and the whole society, and encouraging their free and independent performance.

In accordance with the requirements of the socially oriented market, economy built in the country it is necessary to pursue an efficient social insurance policy. For this purpose, it is appropriate to improve the following priority directions:

- involvement of any employee in the social insurance system;
- increase in the level of material security meant for disability, illness, accidents, loss of family head, unemployment and elderliness and maintain sustainability;
- Improvement of legislation and legal base in insurance relations.

It should be taken into consideration that the interactive and dynamic growth of other types of insurance (personal, property, etc.) in the formation of the socially oriented market economy will eventually serve to better the wellbeing of our society.

A mobile meeting of the Standing Commission on Social Policy of the Milli Majlis (Parliament) was held at the Commissioner's Office in connection with provision of social rights and Azerbaijan's alignment to the European Social Charter. During the meeting, the Commissioner made suggestions as to the tasks set out in the presidential decree "On Measures to Accelerate Socio-Economic Development in Azerbaijan" dated 24 November 2003.

At the same time, participating in the discussions around Azerbaijan's alignment to the European Social Charter, the Commissioner stated that this charter will play an important role in the development of the country that has taken the socially-oriented market economy as the basis for its development, increase the government's responsibility for better life standards and social protection of the population and bring national legislation closer to international norms in terms of protection of human rights. She also suggested that Azerbaijan join Article 2 on labor terms, Article 3 on safe and healthy work conditions, Article 10 on the right to occupational training, Article 13 on the right to social and medical aid, Article 23 on the right of the elderly to social security, Article 30 on the right to protection from poverty and social isolation, and Article 31 on the right to place of residence of the Charter, explaining the prospects of such a move. Azerbaijan joined the Charter on January 6 this year.

Roundtables on social problems and their resolution, as well as significance of joining the European Social Charter on the Commissioner's initiative and at her office with participation of representatives from the Azerbaijan Confederation of Trade Unions, the Ministry of Labor and Social Security and the Ministry of Economic Development, various aspects of the problems were discussed and ways of their resolution, as well as joint education in the area of human rights were suggested.

During joint discussions with the Ministry of Labor and Social Security at the Commissioner's initiative and office, the Commissioner generalized the complaints, suggesting that the powers of the State Labor Inspection be increased with a view to having arrears related to compensations for production damage to employees, pension, salary and vacation arrears paid and the difference between the amounts paid to pensioners in the same category be eliminated.

It is necessary to eliminate extra hardships in mutual relations of citizens to utilities and improve related administrative regulations and procedures.

On January 1 2002 replacement of privileges to certain groups, including those who were disabled when protecting the territorial integrity, independence and constitutional order of Azerbaijan, widows of dead servicemen, people disabled at Chernobyl, and martyrs of the 20 January massacre, with allowances was somehow framed. The privileges of those who fought in the Garabag war were revoked.

Many people, who had been exempt from paying for utilities, had to start paying after January 1 2002, something that was caused by negligence of both staff of utilities providers and previous holders of privileges. The arrears for utilities remain to be on the shoulders of these people. Thus, *it needs to lawfully write off the debts of such formerly privileged people, as well as to bring the amount of allowances that replaced privileges for utilities, transport and other services to the level of today's prices.*

Recent hardships in fuel and power supplies to rural regions have led to deforestation. Certain efforts are being made in this area.

Residents from Guba, northeast Azerbaijan, and (2226-03) turned to the Commissioner, complaining that it had been two years natural gas was not sufficiently supplied although they paid for it. Their application to the gas consumption department of Guba was sterile, they said. The investigation following the Commissioner's lawful assignment to Azerigaz Joint Stock Company identified that the gas pipe along Narimanov Street was joined with the gas conduit of Ardabil and Sulh Streets in order to establish a circular system to provide same-level supplies to all the streets of Guba. At the same time, it was said that a new circular gas line would be built to better gas supplies to Guba. Thus, the problem of 600 families was resolved.

Housing remains to be a social problem.

Difficulties arising in budgetary funding of residential construction hamper housing provision to people, in or out of the turn, having the right to apartments.

Thousands of Azerbaijani citizens badly need improving their housing conditions. Necessary measures are not being taken to eliminate the housing problem of people, except the Garabag war disabled and the families of the martyrs, though they have been eagerly waiting in the housing queue for many years.

But residential buildings in Baku, where the prices of apartment flats are in adverse proportion to the reserves of that part of the population, who

need housing most, residential construction in most of the regions is nearly not felt. People in the housing queue with executive authorities and having the right to housing cannot exercise this right.

In 2000 the earthquake in the country, especially in Baku has put several buildings out of use for living.

It is appropriate for the government to pursue a policy that fits the public interests and capabilities, using its immense possibilities in the housing market. For this purpose, possibilities like practicing long-term housing credits, including mortgages, allocating loans and developing private housing should be examined to better the housing conditions.

In the case of residential buildings that were started by some enterprises, which had established housing funds, but were not completed due to financial constraints, people in the housing queue have been deprived of the opportunities to get the apartments after some from outside were involved to pay for the construction following privatization of these enterprises. On the other hand, the rights of those who live in support houses (service-related apartments) on the balance of state-owned enterprises and dormitories are not regarded during privatization of those enterprises, leading to violations of the rights of such groups.

State-owned and private enterprises should encourage construction of affordable and modern-styled buildings in Baku, Sumgayit, Ganja, Nakhchivan, Lankaran, Mingachevir, as well as in town settlements, while the government as the guarantor of the housing rights should pursue an encouraging policy that would satisfy the needs of different families with miscellaneous incomes for housing.

Besides Baku and other towns, the housing process has nearly stuck in rural centers and villages, which is often tied to financial difficulties. However, many people in the housing queue suggest that land plots be provided to them instead of houses.

Some complain about other aspects of the housing problem, as groups of people from Baku complain that apartments are not repaired and housing offices do not fulfill their duties.

There are some other complaints about destruction of the property that was acquired at auctions following privatization by local executive authorities without any refund offered, an occurrence that causes distrust in the privatization policy being directed and the principles of the inviolability of property among the public. Such occurrences violate not just the civic rights to property and free ownership, but also labor and social security rights.

Privatization of apartments and legal bases for their registration are regulated in the Azerbaijan Republic Law “On Privatization of Housing Fund of Azerbaijan Republic” and other legal enforceable enactments. However, this statutorily granted opportunity sometimes faces bureaucratic obstacles by separate officials (complainant A. from Baku (548-03)).

It has been a necessity to prepare the principles of the government is housing policy and an appropriate program comprising the opportunities of housing acquisition and satisfactory maintenance and efficiently resolving the housing problem.

One of the most vexed issues is the problem of apartments occupied by IDPs.

In letters to the Commissioner people complain that their rights to free ownership along with their property rights are being violated by some officials and nothing is being done to thwart the violations (complainant H. from Agjabadi, central Azerbaijan, and (1436-03)).

There have also been complaints about non-payment of cash deposited in the national branches of the former Soviet State Savings Bank before 1992 and non-recovery of deposits made in various private banks lately after these banks were closed.

Viewing the numerous complaints filed and the main function of protecting property rights of citizens, the Commissioner applied to the Minister for Finance in connection with the efforts being made at the government level for the recovery of the deposits made in the national branches of the former Soviet State Savings Bank before 1992. In a response letter from the Ministry of Finance it was stated that a relevant draft law was debated at the Economic Policy Standing Commission of the Milli Majlis (Parliament) of the Azerbaijan Republic as to compensations for deposits made by Azerbaijani citizens, but was suspended due to lack of funding sources in the years to come. At the same time, it was decided to revisit the issue in the near future, for it is of great significance to the Azerbaijani public.

People who signed different mixed-type life insurance contracts at the national branch of the former Soviet Head State Insurance Department before 1992 are raising the issue of indexation of their indicated insurance amounts.

The economic reforms in the country have nearly fixed a stable level of Azeri manat, halted inflation and augmented public confidence in the government’s financial and economic pillars, including private banks that were set up and are functioning in accordance with legislation, and

cooperation with such banks has been out of scare. Yet, there are some flaws in this area (2334-03).

Formation and strengthening of a stable banking system and transformation of deposits into investments through the banking system are appropriate provided that they do not violate the rights of depositors.

There have been complaints from rural areas about agrarian issues and land property and use matters.

Significant work has been done, progress achieved and adequate legal base prepared to return land to its owners.

The majority of the complaints in this area focus on irregularities resulting from reformative liquidation of former collective and Soviet farms, including defining and division of individual property and land plots, payment of compensations for production trauma and salary arrears, lack of a government act on the right to land, and obstacles to ownership over leased lands.

Most complainants (I from Shamakhy (235-02) and J from Gadabay (251-02)) are unhappy with unequal division or inability of acquisition of property and land plots.

One of the problems that arose in the process of liquidation of collective and Soviet farms is non-payment of salary arrears, since before the agrarian reforms got underway some had neither been paid nor compensated with property. As a result, the salary arrears of Local Reform Commissions responsible for conducting reforms in collective and Soviet farms to separate people remained unpaid (complainant A. from Barda, central Azerbaijan, (609-02)).

In spite of the difficulty executing court rulings on agrarian issues in some cases these rulings are enforced, resolving the problem (complainant Z. from Khanlar, north-west Azerbaijan, (9-03)).

Recovery, re-division and redistribution of individual land plots, which were granted following agrarian reforms, as well as forcible appropriation of land plots by officials overstepping their authority have caused rightful complaints.

Complainant I. and others from Imishli, central Azerbaijan, (2954-03) informed the Commissioner that the local Agrarian Reform Commission of Bajravan Village filed a suit to the Imishli regional court for abolishment of the State Act on the Land Property Right in relation to 466 villagers, who had received land plots through this Act. The court ruled to quash the State Acts entitling these villagers to land property in their absence, but the Appeals Court overruled this ruling and the case was returned for re-examination. Later on, the Imishli court dismissed the case after the plaintiff

had withdrawn its claim. Although, the right to land property was restored, the villagers were not allowed to use their lands. The Commissioner applied to head of the Executive Body of Imishli to ensure the exercise of the rights of the complainants to the lands they had been granted in the State Act. However, the issue remains unsolved.

Complainant H. from Shamkir, north-west Azerbaijan, (1603-03) turned to the Commissioner for the same issue and his rightful claim was satisfied after the intervention of the Commissioner.

The Commissioner has suggested that long-term credits be allocated, social infrastructure in rural areas (schools, kindergartens, hospitals, libraries) be improved in order to encourage thriving of one-man farm units, as well as that the cases of abolishment of State Acts on land property rights and their replacement with new ones without court decisions be prevented.

The presidential decree “State Program for Social and Economic Development of Regions (2004-2008)” will truly make a turnaround in the resolution of problems and the development of the regions.

The significance of entrepreneurship, especially small and medium-size entrepreneurship as social bases of market economy and factor of stability is more and more deeply perceived by our society.

An important legal base has been set up for the development of entrepreneurship. Economic reforms underway since 1994 have given an impulse to the development of entrepreneurship and increased its role in bettering the lives of people and the growth of economy.

Assistance is vital in setting up more favorable conditions for the development of this sector of economy, strengthening its all-sided performance from the legislative point of view, protecting the rights of entrepreneurs and ensuring their harmonized activities. For this point, it has recently been especially attractive to analyze the problems of each region, enterprise and economic facility in Azerbaijan, define needed and priority forms and directions for small and medium-size entrepreneurship and search economic reserves.

The Azerbaijani President paid a special attention to these issues and gave appropriate assignments in a meeting with entrepreneurs.

Analysis of the complaints filed to the Commissioner illustrates that individuals intending to take up entrepreneurship are often confronted by indifference of officials on the ground.

One of the cases of consistent violation of the right to free entrepreneurship is that the payment to an entrepreneur for its work done and

services delivered as stipulated in a contract agreement is not either timely paid or paid at all.

Privatization as main factor of transition to market economy is of great importance in the economic development of the country. Privatization of state property is giving impetus to the development of entrepreneurship and gradual industrial rejuvenation.

The complaints to the Commissioner also reflect the cases in which worker collectives are not informed of the course of privatization in their enterprises and privatization commissions in enterprises commit drawbacks.

There are also observations that shareholders do not get dividends in a number of privatized and functioning enterprises.

Formation of a sound entrepreneurial environment is a vital precondition for political, economic and social stability in the society. The public wellbeing under market economy, Azerbaijan's integration into the world economic system and the position she will occupy in this system are opportunities for the development and economic competitiveness of entrepreneurship.

The following is recommended to strengthen the institutional bases that were set up to establish socially oriented market economy and ensure economic growth:

- *The government is relying on actually workable entrepreneurs, its protecting and propagandizing entrepreneurial trends and initiatives, as well as perseverance.*

- *Forming an improved environment for competition. The government should take regulatory measures to intensify fight against corruption and continue the policy of improvement in the administration system.*

For smooth development of entrepreneurship, it is necessary for controlling authorities to avert unlawful and groundless interventions in the operations of privatized enterprises.

The purpose of financial policy is to mobilize the country's financial reserves and use them efficiently. The success of this policy eventually depends on flexible and efficient fiscal policy.

The actual limits of taxes should be defined within the frames of the country's economy and the tax burden should be equally divided among economic sectors based on efficient economy with a view to stabilizing the financial status of taxpayers and increasing the investment capabilities of enterprises.

In accordance with Article 39 of the Constitution of the Azerbaijan Republic, everybody shall have the right to live in a healthy

environment. A roundtable was held at the Commissioner's Office on "Import, trial and use of pesticides and agrochemical substances, related ecological problems and their impact on human health" to ensure that people live in a healthy environment and accordingly study the ecological situation in the country. During the event with participation of authorized representatives from the Ministry of Public Health, the Ministry of Agriculture, the National Academy of Sciences, the Ministry of Ecology and Natural Wealth, and the State Agency for Standardization, Metrology and Patent, the Commissioner proposed that the enforcement mechanism for the Law "On Pesticides and Agrochemical Substances" be clarified, government control over import and use of pesticides and agrochemical substances be intensified, monitoring be held with appropriate authorities involved, agrochemical laboratories be restructured, hygienic norms be fulfilled when destroying harmful wastes of agrochemical substances, and control over the quality of foodstuffs and potable water be stepped up. Work is underway in this direction.

Like in other sectors, important measures have been taken in the health sector. However, despite the achievements following social reforms there are problems pertaining to the protection of public health.

The enlargement of the scope of paid services in public health has brought about commercialization of state-owned medical institutions, including hospitals and outpatient departments.

Like in many other countries, Azerbaijan has faced the problem of tuberculosis, contagious diseases, thalassemia, drug addiction and AIDS. The resolution of each of these problems required a special heed. Therefore, preparation and implementation of appropriate targeted state programs could help better protect public health.

Most medical institutions, especially in rural regions, are in a bad need for medicaments, bandages, chemical agents, medical tools and equipment.

Since most people cannot afford modern medicines, they are forced to buy cheaper drugs. It, in turn, opens up wide opportunities for smuggling and illegal circulation of weak effect drugs, including faked drugs. To prevent this, the government should intensify control over import and quality of medical preparations and heed regulation of their prices.

In general, it is a vital precondition that the government heighten its grip over the development of public health under socially oriented market economy.

Education is a strategic and priority development field of activity, standing at the base of the development of the society and the state.

It is stipulated in Article 42 of the Constitution of the Azerbaijan Republic that every citizen shall have a right to education, and the state shall guarantee the right to free, compulsory, general secondary education, shall exercise control over education system, shall guarantee continuation of education for talented people irrespective of their material situation, and shall define minimum education standards.

Teaching of different subjects at secondary and vocational schools allows students to make a choice between joining production and continuing education.

The principle of agreement with enterprises and their choosing specialists in employment of graduates of institutions of secondary, vocational and higher education should be developed, meeting the main directions of economic development.

Self-administration in education institutions should be encouraged, administration should be exercised through voting and the possibilities of teaching staff, students and their parents to influence the education process be enlarged.

The education system should be organized in such a way that everybody has the right to repeated education at average and older ages. Besides, it is appropriate to ensure repeated and free education at all levels.

A number of complaints filed to the Commissioner are related to different aspects of education.

A group of complainants from Khanlar, north-west Azerbaijan, (1048-03), informed the Commissioner that the building of the village school in Yeni Gyzylja was in a bad situation, the classrooms were small and children had to go to schools in nearby settlements. The application to the Ministry of Education on this issue had been sterile. In a response to the Commissioner's petition to the Minister for Education on the construction of a new school building in Yeni Gyzylja, it was stated that a program for enlarging and upgrading the network of secondary schools through 2003-2007 approved in a presidential decree also included overhaul at the Yeni Gyzylja school.

Complainant D. from Khachmaz, northeast Azerbaijan, (2411-03) wrote to the Commissioner about the health and financial difficulty buying textbooks for his/her two children who attended school #3 in Khudat town. Taking into account the plight of the complainant, the Commissioner applied to the Regional Education Division of Khachmaz to provide the textbooks.

In a response letter, it was noted that the children had been provided with the listed textbooks.

Cases of money collection from parents under the pretext of bad logistics at schools, plight of school buildings, lack of education aids, effects and technical equipment especially at rural schools, a dissatisfactory level of financial position of teaching staff, and organization of school funds, as well as indifference to education process from time to time are causing concern.

It is commendable that IDPs on paid tuition at state-owned institutions of secondary and higher education are exempt from tuition fee starting the academic year 2002/2003 according to the decree of the President of the Azerbaijan Republic dated 4 March 2004, as are the members of families of martyrs in accordance with the Law "On Amendments to the Law on Perpetuation of Martyrs and Concessions to Families of Martyrs" dated 12 September 2003.

In view of the responsibility both the government and the society bear for the development and level of education, well-off private sector enterprises and individuals interested in the development of education should be involved in logistical provisions of education institutions, mainly schools, and an education sponsoring system should be set up.

The Commissioner has also suggested that the consideration and approval of the draft education law be accelerated.

Issues pertaining to labor rights, as well as health, education, culture, physical culture, sports, social security and social protection, as well as provision of the rights in these areas should be under joint control of relevant authorities, including the Commissioner.

In order to have the rights of refugees and IDPs protected and their problems resolved, the Commissioner has suggested the following:

- Preparation and implementation of a future plan of action for employment of refugees and IDPs in their settled areas, their involvement in small entrepreneurship and agricultural activities;
- Accelerated move of refugees and IDPs from tent towns and railway carriages;
- Exemption of members of IDP and martyr families from tuition fee at state-owned institutions of secondary and higher education.

Hearing complaints and recommendations in meetings with IDPs at tent towns and newly constructed settlements, the Commissioner filed proposals to the State Committee on Refugees and IDPs, requesting a special attention to locating refugees from Fuzuli District who lived at Saatli-1 tent town under ecologically hard conditions and railway carriages in the

settlements built in Fuzuli District and liquidating this tent town. As a result, 242 IDP families from Saatli-1 tent town, 27 IDP families from Gara-Nuru tent town and 40 IDP families dwelling in railway carriages in Saatli District were moved to houses built in settlements in Fuzuli and Bilasuvar Districts. The tent town is being demolished.

It should be noted that all the refugee camps will be eventually demolished in the near future under the instruction from the President of the Azerbaijan Republic Ilham Aliyev.

With a view to protecting the rights of servicemen, the Commissioner attended military units at different times, reviewed the quarters of the staff, canteens, recreation facilities for soldiers, and hospitals, positively assessing the work done in this direction and expressing her reproaches and recommendations on some drawbacks.

Complaints from servicemen include facts that they are not disbanded from the army despite expiry of their contract terms, pecuniary compensations are not paid in return for material property, the Ministry of Defense fails to enforce court rulings, servicemen are not provided with housing while on and after active duty, and officers act out of the regulations.

In order to eliminate the reasons indicated in complaints from servicemen and their families, as well as disbanded servicemen about the violation of their rights and freedoms, the Commissioner has suggested the following:

- *allocation of funds to pay servicemen arrears on material property;*
- *state-sponsored construction of residential buildings and setting up of conditions for construction of individual residential houses (such as allocation of land, construction materials, etc.) to provide servicemen with housing;*
- *measures to bring the amount of pecuniary food compensations to servicemen into conformity with actual subsistence costs;*
- *preparation and implementation of a plan of action in conjunction with the Ministry of Defense on human rights, patriotism, moral and ethical behavior of soldiers, and off-regulations relations in military units.*

To resolve the controversial issue of compensatory payments to servicemen for material property, the Commissioner applied to the Cabinet of Ministers of the Azerbaijan Republic, as well as the Milli Majli (Parliament) for allocation of funds for this purpose, and filed

recommendations to the Ministry of Defense viewing the importance of housing provision to servicemen.

Part of the complaints about military service was related to conscription of draftees with deferment of military service and application of statutory concessions to those hurt during military service.

Complainant M. from Mingachevir, north-west Azerbaijan, (3459-03) wrote to the Commissioner that although he/she had submitted reference about his/her son doing 2-year clinical studies at Bashgirdistan State Medical University, Russian Federation, the Mingachevir Town Military Registration and Enlistment Office urged to have the son back into the country for military service. After the Commissioner applied to the Military Registration and Enlistment Office of the Azerbaijan Republic, the Mingachevir office got an instruction that the son of the complainant exercised deferment of military service until 01.10.2005 in accordance with Clause Q of Article 19 of the Law "On Bases of Conscription in the Azerbaijan Republic".

With a view of protecting the rights of the inmates, the Commissioner has over 50 times attended penitentiaries and investigation cells, got familiar with the documents certifying the validity of detaining those inmates and their detainment conditions, and detected no cases of torture or other acts diminishing human dignity. It should be noted that substantial work has been done to better the conditions of penitentiaries and investigation cells and a number of new buildings have been built or reconstructed in conformity with European standards.

The Commissioner has filed some suggestions as to the inmates to the Ministry of Justice:

- *organization of occupational training and opening of jobs in penitentiaries for inmates mastering professions;*
- *establishment of Guardian Councils comprising representatives of the public and parents within juvenile penitentiaries;*
- *setting up conditions for juvenile delinquents to meet their parents as long as statute allows;*
- *organization and realization of psychological rehabilitation of inmates;*
- *implementation of measures for released inmates to find accommodation and jobs, to get used to the society and family and to get recovered to a normal way of life;*

- *preparation of measures to accustom former juvenile delinquents to a healthy way of life, to have them continue education and find accommodation and jobs;*
- *strengthening of education on human rights among inmates;*
- *regular monitoring to better detention conditions and ensure human rights in penitentiaries and investigation cells;*

Last year, 159 inmates and their family members applied to the Commissioner for assisting in their pardon. All the complaints of inmates from penitentiaries, investigation cells and detention centers were ensured to be filed to the Commissioner within 24 hours without any censorship applied in accordance with the Constitution Law and have been urgently considered at the Commissioner's Office.

Using the authority stipulated in the Constitution Law, the Commissioner has at different times made suggestions as to the release of 124 (167 up to now) prisoners, including those labeled as political inmates, which resulted in the release of 23 inmates (33 up to date) following amnesties and pardons.

160 inmates were released, the imprisonment terms of 4 were remitted and the life sentence of 1 inmate was replaced with 20 years in jail, according to the decree of the President of the Azerbaijan Republic Ilham Aliyev dated 29 December 2003 "On Pardon of Some Inmates".

Another presidential decree has pardoned a further 129 people. Thus, during his short term of office, President Ilham Aliyev has signed two decrees to pardon 294 inmates.

These decrees were a logical continuation of the policy the national leader of the Azerbaijani people Heydar Aliyev had been pursuing, who signed seven amnesty and 32 pardon decrees since 1995, based on the principles of humaneness and humanism. Because of this policy, 3,102 inmates have been pardoned, while 77,199 have received amnesty.

Because of the amnesty acts and pardon decrees signed over the past ten years, the number of prisoners per a hundred thousand people in Azerbaijan has dwindled to below 200, which is a positive indication as compared to other countries.

Protection of woman rights. Recognition of preference of individualism as the objective of development and perception of human rights as supreme value were reflected in the General Declaration on Human Rights, which was adopted in 1948. By this Declaration, the UNO adhered to the idea of equality of men and women.

The protection of woman rights have also been highlighted in the UNO Convention “On Fight against Human Trafficking and Exploitation of Prostitution by Third Parties”, the International Pact “On Economic, Social and Cultural Rights” and the Convention “On Elimination of Discrimination against Woman”. In these documents woman rights are regarded as indispensable part of the general human rights.

Achieving equality in just economic relations is of strategic importance to elimination of discrimination against women. The international development strategy is greatly affecting the development of women in every country. These are consideration of the role of women in the protection of the environment and nature, their health, including reproductive health, ensuring their participation in administration and setting up equal conditions for gender equality. The ensuing Nairobi and Beijing strategies envisioned such provisions as changes to unequal legislation, concrete steps by governments for the development of women, efforts to amend unjust socio-economic structure, provision of equal conditions and opportunities for employment, reward, social security, public health and education, propaganda of equality of rights, establishment of government mechanisms to better the conditions of women, improvement of women statistics, and enhancement of collective family labor.

The Fourth World Conference of Women in Beijing in 1995 defined 12 strategic directions for the improvement of the situation of women, which are pressing in the world as in Azerbaijan. Here includes such directions as women and poverty, education and vocational training, women and health, violence against women, women and military conflicts, women and economy, participation of women in decision-making, women and media, women and the environment, and maiden problems.

Opportunities for families built on equality, as well as cooperation and mutual assistance and inter-individual levels, labor and labor relations equally arranging salaries and recreation, freedom of speech, public field including joining public movement activities, information directed at liquidation of propaganda of inequality and its stereotype, curricula reflecting total equality of rights, involvement in preparation and adoption of political decisions and exercise of control over their enforcement, and active involvement of women in state administration should be full and comprehensive. It is also noted that these opportunities are branching out.

Necessary mechanisms should be set up for the fight and prevention against human trafficking, especially woman and child trafficking. For this purpose, it is appropriate for state authorities, NGOs and international organizations to join efforts. Recognition of human trafficking as separate

kind of crime restricts opportunities of effective national and international cooperation in this area. Therefore, important steps here could be inclusion of a separate article in the Criminal Code against human trafficking, especially woman and child trafficking, prevention of human trafficking and legislation on woman rights, gender equality and household violence. The Commissioner has mainly conducted some educational work against human trafficking and is planning to intensify its activities as one of the educating bodies on the “National Plan of Action against Human Trafficking in the Azerbaijan Republic”, which will be adopted soon.

The world community, especially the Azerbaijan republic is more heeding woman rights, including gender equality (setting up even opportunities to ensure equality between men and women).

A state committee on woman problems was established on January 14 1998 to pursue a policy directed towards resolving woman problems.

On 27 September 2003, the 2nd Congress of Azerbaijani Women was held.

In 2001, the Azerbaijan Republic was elected a member to the UN Commission on the Situation of Women for 4 years.

The society should seek to improve moral potential, creative activity and initiatives of women.

Women’s having equal rights as men in business life should be fully realized and real conditions should be created for their participation in state administration. Entrepreneurial activity by women should be supported with allocation of initial capital and loans.

Conditions should be created for more just division of time between work and family by drawing and implementing a flexible work time schedule, an incomplete work time, as well as improving labor conditions.

Protection of the rights of the elderly. Like youths and middle-aged individuals, elders should also take part in development processes, their capabilities should be used in the name of progress of our national priorities and their rights should be protected.

Benefiting from life experience, knowledge and skills of the elderly is vital from the viewpoint of narrowing gap and restoring inheritance link between generations. It is inadmissible, from the prospect of human rights, to be alienated from the society you live in. Employment of the elderly and their involvement in development processes at the same time means improvement of their both socio-economic and humanitarian situation.

Occupational training of the elderly is more pressing in Azerbaijan due to the transition period and social concerns. There are several conditions necessary to meet the education needs of the elderly, which are training and

improvement of professional skills, protection, preservation and improvement of health, ecological education, efficient use of leisure time, individual development, etc.

State authorities, NGOs, private entities, institutions of secondary and higher education, and trade unions should cooperate with and support the Ministry of Education in resolution of the problems of the elderly.

There are some aspects of the education problem of the elderly, which include qualifications in accordance with the priority areas of development, involvement of elders in public labor, their education in line with their interests, provision of moral rest (creation of special resource centers), and allocation of state and public opportunities for the service of the elderly.

A resource center for the elderly serves to be a charity, and the benefit, significance and success of this entity are an experience in the establishment and improvement of this area. Therefore, *formation and improvement of an efficient social security system, conformity of pensions as major source of supporting elderly period to actual social needs and allocation of special financial provisions such as personal residence or life insurance, medical, psychological, legal and social aid for the elderly, are appropriate measures to be taken.*

Protection of the rights of the child. The country is paying a serious attention to the rights of the child, as various state authorities have done significant work and measures in this area.

It is vital for our country to set up an effective system to protect the family, the child and the mother.

The Commissioner has suggested the following to organize and strengthen social security of orphans and children outside parental care, as well as resolve the problem gradually:

- *establishment of a network of organizations and services directly addressing orphaned and disowned, as well as street children;*
- *creation of social rehabilitation centers capable of undertaking social care for orphans and disowned children, as well as returning them to families, crisis centers for children subjected to violence, accommodation for children and teenagers, and assistance centers for children deprived of parental patronage within state-owned social protection bodies.*
- *increase in the amount of child allowances to the minimum level meeting actual social needs;*

- *preparation of a new mechanism to strip children of allowances due to lack of place of residence registration;*
- *increase in attention to the logistics of boarding schools and orphanages and creation of a network of patronage for this area*

Protection of the rights of the disabled. Disabled people are a group that more sharply feel inequality and infringement upon economic, social, cultural and political rights.

The rights granted to the disabled and the amount of funds allocated to exercise those rights lead to a social and legal contrast.

With a view to ensuring provision of government policy for equal opportunities to exercise economic, cultural, social, civic, and political rights stipulated in the Constitution of the Azerbaijan Republic in line with other citizens, as well as restoring social status and eliminating material dependence of the disabled, the Commissioner has suggested the following:

- *employment of disabled people in labor markets in view of their situation and potential to ensure their efficient exercise of labor rights;*
- *conformity of the amount of pensions paid to disabled people to actual social needs for their leading worthy lives*

Legal education of the population. A series of awareness raising workshops on “Role of Ombudsman in Protection and Restoration of Human Rights” and meetings with the public were held in a number of regions in Azerbaijan. Also attending the meeting were officials from local executive and municipal, court, prosecuting and police authorities, as well as media representatives. Legal education efforts have been shown in rural areas, refugee camps, military units, penitentiaries, secondary schools, disability and retirement homes and numerous handbooks and booklets have been printed and distributed among the public. In addition, for the first time an English-Russian-Azerbaijani glossary of legal terms has been prepared.

A library rich in legal literature has been set up at the Commissioner’s Office.

At the same time, the Commissioner thinks it necessary to devise a plan of national action on human rights and set up a “legal house” in Azerbaijan.

Scientific analytical work. First of all, a comparative analysis of international covenants Azerbaijan is a party to with national legislation has been conducted and suggestions have been prepared for joining some conventions and making changes to the Constitution Law of the Azerbaijan Republic “On the Commissioner of the Azerbaijan Republic on Human

Rights (Ombudsman)” with a view of improving the Ombudsman institution following the analysis of its performance. The following suggestions have also been made regarding the operations of the Ombudsman institution:

- amendments be made to the Criminal Procedure Code of the Azerbaijan Republic to ensure the right of the Commissioner to file complaints about the procedural handling and decisions;
- authority to study the materials about rejection of a particular case and get copies of those materials be reflected in the Azerbaijan Republic Law “On Prosecutor’s Office”;
- Names of officials of the Commissioner’s office are added to a list of state servants having a right to service passports under the Law “On Arrival, Departure and Passports”.

The Commissioner has also prepared special reports on a number of aspects of human rights, including “On protection of human rights of IDPs and refugees”, “On protection of human rights of inmates”, “On protection of human rights of servicemen”. In addition, leaflets entitled “Apply to the Commissioner on Human Rights for Their Violation”, “The General Declaration on Human Rights and the Constitution of the Azerbaijan Republic”, “Your Basic Rights and Freedoms”, “Legal State of the Damaged”, “Legal Status of the Suspect”, “Legal status of the Special Prosecutor and Civil Plaintiff”, “Legal Status of the Defendant”, and a notebook “Who is Ombudsman?” have been printed.

Interaction with media. Efficient cooperation has been forged with journalists to bring information on the activities of the Commissioner to the public.

In this period, competitions “On Protection of Human Rights” has been held among journalists and the winners have been rewarded.

Since the time the Commissioner started receiving complaints, over 700 articles and information have been printed in the press and nearly 100 TV and radio programs have been arranged. The Azerbaijan TV leadership has been approached for a program “Ombudsman Hour”.

During this period, many press conferences and briefings to update on the activities of the Commissioner have been organized and broadcasted both inside and outside the country.

The Commissioner has also raised issues in front of relevant authorities as to the articles on some cases of human rights violations.

Information is regularly supplied to the Council of Europe on the activities and measures of the Commissioner.

Public relations. During the reported period, wide contacts have been established with state authorities, NGOs and the public. A special

attention has been paid to the study of public opinion, creation of data banks, and preparation of print materials, relations with government bodies and important public institutions, and organization of competitions on human rights related topics.

In order to make this cooperation more useful and targeted, an independent consulting body, the Council of Experts has been set up under the Commissioner's Office and its regulations have been approved. Besides state authorities, government and opposition-minded NGOs have been represented in the Council, whose activities are directed at analyzing the provision and situation of human rights in Azerbaijan, as well as international conventions, making proposals on improving legislation and taking joint measures.

With financial support from the UNDP the Commissioner held a competition of child drawings, "My Rights" and "I with 161 children and teens participating on December 10 2002 and 2003 on the occasion of the International Day of Human Rights. The authors of the most valued drawings received money rewards and certificates.

International relations. On June 9-13 2003 the 1st International Baku Conference of Ombudsmen on "Role of Ombudsman in Legal State" with support from the European Union and on November 20-21 the 2nd International Roundtable of Ombudsmen with support of the UNDP were held.

The President of the Azerbaijan Republic Ilham Aliyev and the speaker of the Azerbaijani parliament Murtuz Alasgarov received groups of participants in the 2nd International Roundtable of Ombudsmen.

The Commissioner made a speech at the 59th Session of the UNHCHR held in Geneva on 13-18 April 2003 and participated in the 47th Session of the UN Commission on the Situation of Women in New York, which was dedicated to violence against women, and a number of other undertakings of Ombudsmen.

The Commissioner and 24 members of the Commissioner's Office have taken part in more than 40 international conferences and workshops on the system of human rights in the US, Great Britain, Norway, Poland, Russia, Sweden, Switzerland, France, Italy, Germany, Slovakia, Denmark, Austria, Kyrgyzstan, Georgia, and other countries, the rights of the child, the rights of national minorities, ecological rights and other topics, creating cooperation with various international organizations both inside and outside Azerbaijan, such as the UNDP, the UNICEF, the UNHCR, the OSCE, the Council of Europe, as well as foreign embassies accredited in Baku.

Agreements on cooperation with Ombudsmen in Moscow, Saratov and Sverdlovsk provinces, as well as Tartar Stan, Russia have been signed.

The activities of the Commissioner on the protection of human rights were rewarded the International Peace Award in 2003 by the United Cultural Convention Authority of the US Biography Institute.

The Commissioner has also been elected a member of the International and European Institutes of Ombudsmen, as well as the Association of Asian Ombudsmen.